

118TH CONGRESS
2D SESSION

S. _____

To provide for the effective use of immigration detainers to enhance public safety.

IN THE SENATE OF THE UNITED STATES

Mr. TILLIS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide for the effective use of immigration detainers to enhance public safety.

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 “Immigration Detainer
5 Enforcement Act of 2024”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

- 8 (1) the removal of criminal aliens promotes
9 public safety, national security, border security, and
10 the integrity of the immigration system;

1 (2) detainees have proven to be a useful law en-
2 forcement tool that serve to expedite and improve
3 the efficiency of the removal process by enabling the
4 Department of Homeland Security to assume cus-
5 tody in a timely manner of aliens in the custody of
6 Federal, State, tribal, or local law enforcement agen-
7 cies;

8 (3) several States and local governments have
9 limited—

10 (A) their cooperation with immigration de-
11 tainers issued by the Department of Homeland
12 Security; and

13 (B) the Department of Homeland Secu-
14 rity's access to information regarding the re-
15 lease of criminal aliens in their custody; and

16 (4) these actions by States and local govern-
17 ments have resulted in the release of dangerous
18 criminal aliens into local communities.

19 **SEC. 3. PURPOSES.**

20 The purposes of this Act are—

21 (1) to limit recidivist criminal activity through
22 the removal of criminal aliens released from Federal,
23 State, tribal, or local government custody;

24 (2) to facilitate cooperation between Federal,
25 State, tribal, and local law enforcement agencies

1 with regard to immigration enforcement and infor-
2 mation sharing; and

3 (3) to limit the burden on Federal, State, tribal,
4 and local law enforcement agencies that cooperate
5 with the Department of Homeland Security in its
6 prioritized immigration enforcement.

7 **SEC. 4. IMMIGRATION DETAINER AUTHORITIES OF THE DE-**
8 **PARTMENT OF HOMELAND SECURITY.**

9 Section 287 of the Immigration and Nationality Act
10 (8 U.S.C. 1357) is amended—

11 (1) in subsection (a)—

12 (A) in the matter preceding paragraph (1),
13 by striking “the Service authorized under regu-
14 lations prescribed by the Attorney General” and
15 inserting “the Department of Homeland Secu-
16 rity authorized under regulations prescribed by
17 the Secretary of Homeland Security”;

18 (B) by inserting “or her” after “his” each
19 place such term appears;

20 (C) in paragraph (2), by striking “and is
21 likely to escape before a warrant can be ob-
22 tained for his arrest”; and

23 (D) in the undesignated matter following
24 paragraph (5)—

1 (i) by striking “Attorney General”
2 each place such term appears and inserting
3 “Secretary of Homeland Security”; and

4 (ii) by striking “Service” each place
5 such term appears and inserting “Depart-
6 ment of Homeland Security”; and

7 (2) by amending subsection (d) to read as fol-
8 lows:

9 “(d) DETAINER OF CRIMINAL ALIENS.—

10 “(1) IN GENERAL.—If an individual is arrested
11 by a Federal, State, tribal, or local law enforcement
12 official for a violation of any criminal law, the Sec-
13 retary of Homeland Security (or the Secretary’s des-
14 ignee) may issue a detainer to the arresting agency
15 if there is reason to believe the individual is an alien
16 who may be removable from the United States. Not-
17 withstanding any other provision of law, no court
18 has jurisdiction to review the discretionary decision
19 or action by the Secretary of Homeland Security (or
20 the Secretary’s designee) to issue a detainer under
21 this paragraph.

22 “(2) TRANSFER OF CUSTODY.—Upon the
23 issuance of a detainer by the Secretary of Homeland
24 Security (or the Secretary’s designee) with respect to
25 an alien described in paragraph (1), the arresting

1 Federal, State, tribal, or local law enforcement agen-
2 cy is authorized to maintain custody of the alien for
3 a period not to exceed 48 hours in order to transfer
4 custody of the alien to the Department of Homeland
5 Security.

6 “(3) INDEMNIFICATION.—

7 “(A) IN GENERAL.—Under such regula-
8 tions as the Secretary of Homeland Security
9 shall prescribe, the Secretary (or the Sec-
10 retary’s designee) may enter into agreements
11 with State, tribal, and local law enforcement
12 agencies to indemnify such agencies against
13 claims (including reasonable expenses of litiga-
14 tion or settlement) by third parties for wrongful
15 detention resulting from detainers issued with-
16 out reason to believe that the individual is an
17 alien who may be removable from the United
18 States.

19 “(B) LIMITATION.—Indemnification under
20 subparagraph (A) does not extend to claims re-
21 lating to the negligence or willful misconduct of
22 a Federal, State, tribal, or local law enforce-
23 ment agency or the conditions of detention in
24 the facility used by such agency to detain the
25 individual subject to the detainer.

1 “(C) ADDITIONAL CONDITIONS.—Each in-
2 demnification agreement entered into pursuant
3 to subparagraph (A) shall—

4 “(i) require the State, tribal, or local
5 law enforcement agency to notify the
6 United States Government of any suit or
7 claim against such agency for wrongful de-
8 tention;

9 “(ii) authorize the United States Gov-
10 ernment, at its elections, to control or as-
11 sist in the defense of such suit or claim;
12 and

13 “(iii) limit the amount of indemnifica-
14 tion to a sum certified by the Secretary (or
15 his or her designee) that is just and rea-
16 sonable.”.

17 **SEC. 5. EFFECTIVE COORDINATION WITH STATE, TRIBAL,**
18 **AND LOCAL LAW ENFORCEMENT AGENCIES.**

19 (a) IN GENERAL.—Section 642 of the Illegal Immi-
20 gration Reform and Immigrant Responsibility Act of 1996
21 (8 U.S.C. 1373) is amended to read as follows:

1 **“SEC. 642. COMMUNICATION AND COOPERATION BETWEEN**
2 **GOVERNMENT AGENCIES AND THE DEPART-**
3 **MENT OF HOMELAND SECURITY.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of Federal, State, tribal, or local law, a Federal,
6 State, tribal, or local government entity or official may
7 not prohibit, or restrict in any way, any government entity
8 or official from sending to, or receiving from, the Depart-
9 ment of Homeland Security information regarding the citi-
10 zenship or immigration status (lawful or unlawful) of any
11 individual.

12 “(b) ADDITIONAL AUTHORITY OF GOVERNMENT EN-
13 TITIES.—Notwithstanding any other provision of Federal,
14 State, tribal, or local law, no person or agency may pro-
15 hibit, or restrict in any way, a Federal, State, tribal, or
16 local government entity from—

17 “(1) sending information regarding the citizen-
18 ship or immigration status (lawful or unlawful) of
19 any individual to, or requesting or receiving such in-
20 formation from, the Department of Homeland Secu-
21 rity;

22 “(2) exchanging citizenship or immigration sta-
23 tus information described in paragraph (1) with any
24 other Federal, State, tribal, or local government en-
25 tity;

1 “(3) providing the Department of Homeland
2 Security with access to information in Federal,
3 State, tribal, or local government databases regard-
4 ing individuals with respect to whom a detainer has
5 been issued, including when such individuals will be
6 released from criminal custody; or

7 “(4) maintaining custody of an individual pur-
8 suant to section 287(d)(2) of the Immigration and
9 Nationality Act (8 U.S.C. 1357(d)(2)).

10 “(c) OBLIGATION TO RESPOND TO INQUIRIES.—The
11 Secretary of Homeland Security shall respond to an in-
12 quiry by a Federal, State, tribal, or local government
13 agency that seeks to verify or ascertain the citizenship or
14 immigration status of any individual within the jurisdic-
15 tion of the agency for any purpose authorized by law, by
16 providing the requested verification or status informa-
17 tion.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 for the Illegal Immigration Reform and Immigrant Re-
20 sponsibility Act of 1996 (division C of Public Law 104–
21 208; 8 U.S.C. 1101 note) is amended by amending the
22 item relating to 642 to read as follows:

 “Sec. 642. Communication and cooperation between government agencies and
 the Department of Homeland Security.”.

1 **SEC. 6. COMPENSATING STATES FOR DETAINING CRIMINAL**
2 **ALIENS.**

3 Section 241(i) of the Immigration and Nationality
4 Act (8 U.S.C. 1231(i)) is amended to read as follows:

5 “(i) INCARCERATION OR DETENTION.—

6 “(1) DEFINED TERM.—In this subsection, the
7 term ‘undocumented criminal alien’ means an alien
8 who—

9 “(A) has been convicted of a felony or of
10 2 or more misdemeanors; and

11 “(B)(i) entered the United States without
12 inspection or at any time or place other than as
13 designated by the Secretary of Homeland Secu-
14 rity;

15 “(ii) was the subject of exclusion, deporta-
16 tion, or removal proceedings at the time the
17 alien was taken into custody by the State or a
18 political subdivision of the State; or

19 “(iii)(I) was admitted as a nonimmigrant;
20 and

21 “(II) at the time the alien was taken into
22 custody by the State or a political subdivision
23 of the State—

24 “(aa) failed to maintain the non-
25 immigrant status in which the alien was

1 admitted or to which it was changed under
2 section 248; or

3 “(bb) failed to comply with the condi-
4 tions of any such status.

5 “(2) IN GENERAL.—If the governor of a State
6 (or, if appropriate, the chief executive officer of a
7 political subdivision of the State), exercising author-
8 ity with respect to the incarceration or detention of
9 an undocumented criminal alien, submits a written
10 request to the Attorney General, the Attorney Gen-
11 eral may—

12 “(A) enter into a contractual arrangement
13 providing for compensation to the State or a
14 political subdivision of the State, as may be ap-
15 propriate, with respect to the incarceration or
16 detention of the undocumented criminal alien;
17 or

18 “(B) take the undocumented criminal alien
19 into the custody of the Federal Government and
20 incarcerate or detain the alien.

21 “(3) DETENTION SECURITY.—In carrying out
22 paragraph (2), the Attorney General shall—

23 “(A) give priority to the Federal incarcer-
24 ation of undocumented criminal aliens who have
25 committed aggravated felonies; and

1 “(B) ensure that undocumented criminal
2 aliens incarcerated or detained in Federal facili-
3 ties pursuant to this subsection are held in fa-
4 cilities that provide a level of security appro-
5 priate to the crimes for which they were
6 charged or convicted.

7 “(4) AMOUNT OF COMPENSATION.—

8 “(A) IN GENERAL.—Compensation pro-
9 vided for each day an undocumented criminal
10 alien is detained by a State or a political sub-
11 division of a State pursuant to a contract under
12 paragraph (2)(A) shall be equal to the average
13 daily cost of incarceration or detention of a
14 prisoner in the relevant State, as determined by
15 the Attorney General.

16 “(B) CERTIFICATION REQUIREMENT.—

17 “(i) IN GENERAL.—The Secretary of
18 Homeland Security shall—

19 “(I) promulgate regulations es-
20 tablishing detainer compliance cri-
21 teria; and

22 “(II) periodically submit a certifi-
23 cation to the Attorney General that
24 identifies which States and political
25 subdivisions of a State have not com-

1 plied with detainer requests received
2 from the Department of Homeland
3 Security.

4 “(ii) FUNDING LIMITATION.—Funds
5 may only be provided to States and polit-
6 ical subdivisions of States under this sub-
7 section that—

8 “(I) are not identified in a cer-
9 tification described in clause (i)(II);
10 and

11 “(II) are cooperating with the
12 Secretary of Homeland Security with
13 respect to each detainer lodged
14 against an individual in the custody of
15 the State or political subdivision of
16 the State in accordance with section
17 287(d) and the regulations promul-
18 gated pursuant to clause (i)(I).

19 “(C) EFFECT OF NONCOMPLIANCE.—Any
20 State or political subdivision of a State that
21 fails to substantially comply with detainers
22 issued by the Department of Homeland Secu-
23 rity shall be ineligible for any funding under
24 this subsection during the fiscal year in which
25 such failure occurs.

1 “(5) AUTHORIZATION OF APPROPRIATIONS.—

2 “(A) IN GENERAL.—There are authorized
3 to be appropriated to carry out this sub-
4 section—

5 “(i) \$750,000,000 for fiscal year
6 2025;

7 “(ii) \$850,000,000 for fiscal year
8 2026; and

9 “(iii) \$950,000,000 for each of the
10 fiscal years 2027 through 2031.

11 “(B) LIMITATION.—Amounts appropriated
12 pursuant to subparagraph (A) that are distrib-
13 uted to a State or a political subdivision of a
14 State may only be used for correctional pur-
15 poses.”.

16 **SEC. 7. PRIORITY FOR DISTRIBUTING FEDERAL FUNDING**
17 **AND PROPERTY TO STATE AND LOCAL LAW**
18 **ENFORCEMENT.**

19 (a) ANNUAL CERTIFICATION.—The Secretary of
20 Homeland Security shall annually submit a written certifi-
21 cation to the Attorney General that identifies the States
22 and units of local government that are not complying with
23 detainers issued pursuant to section 287(d) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1357(d)).

1 (b) PRIORITY FOR COMPLIANT JURISDICTIONS.—The
2 Attorney General shall give priority to the jurisdictions
3 that are not listed in the certification described in sub-
4 section (a) when selecting recipients of—

5 (1) funding from the Edward Byrne Memorial
6 Justice Assistance Grant Program authorized under
7 title I of the Omnibus Crime Control and Safe
8 Streets Act of 1968 (34 U.S.C. 10151 et seq.);

9 (2) excess Federal equipment purchased pursu-
10 ant to section 281 of title 10, United States Code
11 (commonly referred to as the “1122 Program”); and

12 (3) excess Federal property transferred pursu-
13 ant to section 2576a of title 10, United States Code
14 (commonly referred to as the “1033 Program”).