H. R. 2406

To amend section 442 of the Homeland Security Act of 2002 to authorize United States Immigration and Customs Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2017

Mr. GOODLATTE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, and Ways and Means, 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 amend section 442 of the Homeland Security Act of 2002 to authorize United States Immigration and Customs Enforcement, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Immigration and Customs Enforcement Authorization Act of 2017”.

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TITL LE I—UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

SEC. 101. ESTABLISHMENT OF UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.

(a) IN GENERAL.—Section 442 of the Homeland Security Act of 2002 (6 U.S.C. 252) is amended to read as follows:

“SEC. 442. ESTABLISHMENT OF UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.

“(a) ESTABLISHMENT.—There is established within the Department an agency to be known as ‘United States Immigration and Customs Enforcement’. The mission of United States Immigration and Customs Enforcement is to protect the United States by enforcing the full range of immigration and customs laws within the interior of the United States.

“(b) DIRECTOR OF UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.—There shall be at the head of United States Immigration and Customs Enforcement a Director of United States Immigration and Customs Enforcement (in this section referred to as the ‘Director’), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report to the Secretary of Homeland Security.
“(c) Duties and Qualifications.—The Director shall—

“(1) have a minimum of 5 years of professional experience in law enforcement (which may include enforcement of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), and a minimum of 5 years of management experience;

“(2) seek the removal of inadmissible and deportable aliens and otherwise enforce the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), other than through criminal prosecution;

“(3) investigate and, where appropriate, refer for prosecution, any criminal violation of Federal law relating to or involving—

“(A) the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)));

“(B) customs, trade, or import or export control, including the illicit possession, movement of, or trade in goods, services, property, contraband, arms, instruments of terrorism, items controlled or prohibited from export, por-
nography, intellectual property, or monetary instruments;

“(C) transnational money laundering or bulk cash smuggling;

“(D) gangs or criminal syndicates engaged in transnational criminal activity;

“(E) chapter 40 or 44 of title 18, United States Code, or other violation relating to firearms, explosives, or other destructive devices involving an alien;

“(F) the subjection of aliens to a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102);

“(G) identification, travel, or employment documents; or

“(H) unlawful use of personal information, including immigration document fraud, when such use relates to or affects border security, terrorism, customs, immigration, naturalization, trade, travel, or transportation security;

“(4) coordinate with Federal, State, local, tribal, and foreign agencies in carrying out the duties described in paragraphs (2) and (3);
“(5) in coordination with the Department of State and the Office of International Affairs of the Department, establish staff liaison offices and vetted units in appropriate foreign countries to support the counterterrorism efforts and other international activities and relationships of United States Immigration and Customs Enforcement;

“(6) establish, maintain, and administer appropriate interagency law enforcement centers in furtherance of the Director’s statutory duties, including the centers specified in subparagraphs (C) and (D) of subsection (f)(3); and

“(7) carry out other duties prescribed by statute, or delegated by the Secretary, if within the statutory authority of United States Immigration and Customs Enforcement.

“(d) GENERAL ENFORCEMENT POWERS.—The Director may authorize agents and officers of United States Immigration and Customs Enforcement to—

“(1) execute any warrants issued under the laws of the United States;

“(2) issue and serve administrative or judicial subpoenas and summonses;

“(3) carry firearms;
“(4) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony;

“(5) seize any property, whether real or personal, that is involved in any violation or attempted violation, or which constitutes proceeds traceable to a violation, of those provisions of law which United States Immigration and Customs Enforcement is authorized by statute to enforce;

“(6) offer and pay rewards for services and information leading to the apprehension of persons involved in the violation or attempted violation of those provisions of law which United States Immigration and Customs Enforcement is authorized by statute to enforce; and

“(7) issue civil detainers for purposes of the enforcement of the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))).

“(e) DEPUTY DIRECTOR.—There shall be in United States Immigration and Customs Enforcement a Deputy
Director who shall assist the Director in the management of United States Immigration and Customs Enforcement.

“(f) Office of Homeland Security Investigations.—

“(1) In general.—There is established in United States Immigration and Customs Enforcement an Office of Homeland Security Investigations.

“(2) Executive Associate Director.—There shall be at the head of the Office of Homeland Security Investigations an Executive Associate Director, who shall report to the Director.

“(3) Duties.—The Office of Homeland Security Investigations shall—

“(A) conduct investigations of terrorist organizations and other criminal organizations that threaten homeland or border security;

“(B) administer the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under such section, and use such information to carry out the enforcement func-
tions of United States Immigration and Customs Enforcement;

“(C) administer a National Intellectual Property Rights Coordination Center, which shall serve as the primary information sharing forum within the Federal Government to coordinate, promote, and assist Federal and international investigations of intellectual property offenses;

“(D) administer a National Export Enforcement Coordination Center, which shall serve as the primary information sharing forum within the Federal Government to coordinate, promote, and assist Federal and international investigations of export control offenses;

“(E) conduct investigations of alleged violations of, and make arrests under, section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), including referring for prosecution, or levying monetary penalties against, an employer found to be in violation of such section, and administratively arresting, and initiating removal proceeding against, any alien unlawfully employed;
“(F) administer a Human Smuggling and Trafficking Center, which shall serve as the primary information sharing forum within the Federal Government to coordinate, promote, and assist Federal and international investigations in human smuggling and trafficking investigations;

“(G) administer the Bulk Cash Smuggling Center, which shall serve to investigate domestic and international bulk cash smuggling activities and support law enforcement in efforts to investigate and restrict bulk cash smuggling;

“(H) investigate and refer for prosecution public safety matters involving—

“(i) large-scale operations prosecuted pursuant to chapter 96 (relating to racketeer influenced and corrupt organizations) of title 18, United States Code; and

“(ii) the smuggling into, and sale within, the United States of weapons;

“(I) investigate and refer for prosecution matters involving immigration benefits and document fraud; and

“(J) additional duties within the statutory authority of United States Immigration and
Customs Enforcement as assigned or delegated by the Director.

“(g) Office of Enforcement and Removal Operations.—

“(1) In general.—There is established in United States Immigration and Customs Enforcement an Office of Enforcement and Removal Operations.

“(2) Executive Associate Director.—There shall be at the head of the Office of Enforcement and Removal Operations an Executive Associate Director, who shall report to the Director.

“(3) Duties.—The Office of Enforcement and Removal Operations shall—

“(A) identify, arrest, detain, and seek the removal of aliens, and remove aliens ordered removed, who—

“(i) are inadmissible or deportable under section 212(a)(3) or 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3) or 1227(a)(4)), or otherwise present a national security risk to the United States;

“(ii) are inadmissible or deportable under section 212(a)(2) or 237(a)(2) of
the Immigration and Nationality Act (8 U.S.C. 1182(a)(2) or 1227(a)(2));

“(iii) undermine the border security efforts and operations of the United States;

“(iv) enter the United States in violation of Federal law;

“(v) are unlawfully present in the United States;

“(vi) are members of a criminal gang or participate in gang-related crimes, except as described in subsection (f)(3);

“(vii) constitute threats to the public safety; or

“(viii) are otherwise subject to exclusion, deportation, or removal from the United States;

“(B) refer for prosecution aliens described in subparagraph (A) or section 922(g)(5) of title 18, United States Code; and

“(C) additional duties within the statutory authority of United States Immigration and Customs Enforcement as assigned or delegated by the Director.

“(h) OFFICE OF THE PRINCIPAL LEGAL ADVISOR.—
“(1) IN GENERAL.—There is established in United States Immigration and Customs Enforcement an Office of the Principal Legal Advisor.

“(2) PRINCIPAL LEGAL ADVISOR.—There shall be at the head of the Office the Principal Legal Advisor a Principal Legal Advisor, who shall report to the Director.


“(A) provide specialized legal advice and policy guidance to the Director;

“(B) represent the Department in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review;

“(C) represent United States Immigration and Customs Enforcement in venues and fora as authorized by the Director or General Counsel of the Department of Homeland Security, or otherwise permitted by law; and

“(D) carry out other duties within the statutory authority of United States Immigra-
tion and Customs Enforcement as assigned or delegated by the Director or General Counsel.

“(i) **Office of Professional Responsibility.**—

“(1) **In General.**—There is established in United States Immigration and Customs Enforcement an Office of Professional Responsibility.

“(2) **Assistant Director.**—There shall be at the head of the Office of Professional Responsibility an Assistant Director, who shall report to the Director.

“(3) **Duties.**—The Office of Professional Responsibility shall—

“(A) investigate allegations of administrative, civil, and criminal misconduct involving any employee or contractor of United States Immigration and Customs Enforcement;

“(B) inspect and review United States Immigration and Customs Enforcement’s offices, operations, and processes, including detention facilities operated or used by United States Immigration and Customs Enforcement, and provide an independent review of United States Immigration and Custom Enforcement’s organizational health, effectiveness, and efficiency of mission; and
“(C) provide and manage the security programs and operations for United States Immigration and Customs Enforcement.

“(j) Office of Management and Administration.—

“(1) In general.—There is established in United States Immigration and Customs Enforcement an Office of Management and Administration.

“(2) Executive Associate Director.—There shall be at the head of the Office of Management and Administration an Executive Associate Director, who shall report to the Director.

“(3) Duties.—The Office of Management and Administration shall—

“(A) administer the Office of Human Capital to provide guidance to the agency and ensure compliance with human resources policies and practices;

“(B) administer the Office of Chief Financial Officer;

“(C) administer the Office of Policy to develop and communicate the agency policies and priorities;
“(D) create best practices to efficiently respond to all Freedom of Information Act requests received by the agency;

“(E) manage all information technology systems within the agency; and

“(F) carry out additional duties as assigned or delegated by the Director.

“(k) OTHER AUTHORITIES.—

“(1) IN GENERAL.—The Secretary may establish such other Executive Associate Directors, Assistant Directors, agents, officers, or other offices as the Secretary determines necessary to carry out the missions, functions, authorities, and duties of United States Immigration and Customs Enforcement within its statutory authority.

“(2) VICTIMS OF IMMIGRATION CRIME ENGAGEMENT OFFICE.—There is established a Victims of Immigration Crime Engagement Office that shall provide releasable information about a criminal alien to the victim and victim’s family and provide them with referrals to appropriate resources. This office shall also carry out additional duties within the statutory authority of United States Immigration and Customs Enforcement as assigned or delegated by the Director.
“(3) Prohibition on Office of Public Advocate.—Notwithstanding paragraph (1), United States Immigration and Customs Enforcement shall not operate any Office of Public Advocate or any successor office that carries out the same duties as the former Office of Public Advocate.

“(4) Departmental Evidence Databases.—Notwithstanding any other provision of this Act, all officers within the Office of Enforcement and Removal Operations shall be provided access to any Department database necessary for the proper collection, recordation, and retention of evidence collected as required to carry out the duties of the Office under subsection (g).

“(l) Other Federal Agencies.—Nothing in this section shall be construed to limit the existing authority of any other Federal agency.”.

(b) Special Rules.—

(1) Treatment.—Section 442 of the Homeland Security Act of 2002, as amended by subsection (a), shall be treated as if included in the enactment of such Act as of the date of the enactment of such Act, and, in addition to the functions, missions, duties, and authorities specified in such amended section 442, United States Immigration and Customs
Enforcement shall continue to perform and carry out the functions, missions, duties, and authorities under section 442 of such Act as in existence on the day before the date of the enactment of this Act.

(2) Rules of Construction.—

(A) Rules and Regulations.—Notwithstanding paragraph (1), nothing in this Act may be construed as affecting in any manner any rule or regulation issued or promulgated pursuant to any provision of law, including section 442 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such rule or regulation shall continue to have full force and effect on and after such date.

(B) Other Actions.—Notwithstanding paragraph (1), nothing in this Act may be construed as affecting in any manner any action, determination, policy, or decision pursuant to section 442 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such action, determination, policy, or decision shall continue to have full force and effect on and after such date.
(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by striking the item relating to section 442 and inserting the following:

"Sec. 442. Establishment of United States Immigration and Customs Enforcement."

(d) TRANSPORTATION.—Section 1344(b)(6) of title 31, United States Code, is amended by inserting "the Director of United States Immigration and Customs Enforcement, the Commissioner of Customs and Border Protection," after "the Administrator of the Drug Enforcement Administration,".

(e) CONFORMING AMENDMENTS.—

(1) TITLE 5.—Section 5314 of title 5, United States Code, is amended by inserting before the item relating to "Director of the Office of Government Ethics" the following:

"Director of United States Immigration and Customs Enforcement.".

(2) INSPECTOR GENERAL ACT.—Section 8I(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "the Bureau of Border Security," and inserting "United States Immigration and Customs Enforcement,".

(A) by striking “Assistant Secretary of the Bureau of Border Security” each place such term appears and inserting “Director of United States Immigration and Customs Enforcement”; and

(B) by striking “the Bureau of Border Security” and “U.S. Immigration and Customs Enforcement” each place such terms appear and inserting “United States Immigration and Customs Enforcement”.

TITLE II—AID TO IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

SEC. 201. ICE DEPORTATION OFFICERS.

(a) In General.—The Secretary of Homeland Security shall authorize all deportation officers of the Department of Homeland Security who have successfully completed basic immigration law enforcement training to exercise the powers conferred by—

(1) section 287(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(5)(A)) to arrest for any offense against the United States;
(2) section 287(a)(5)(B) of such Act (8 U.S.C. 1357(a)(5)(B)) to arrest for any felony;

(3) section 274(a) of such Act (8 U.S.C. 1324(a)) to arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;

(4) section 287(a) of such Act (8 U.S.C. 1357(a)) to execute warrants of arrest for administrative immigration violations issued under section 236 of such Act (8 U.S.C. 1226) or to execute warrants of criminal arrest issued under the authority of the United States; and

(5) section 287(a) of such Act (8 U.S.C. 1357(a)) to carry firearms, if they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force.

(b) ARREST POWERS.—Section 287(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(2)) is amended by striking “regulation and is likely to escape before a warrant can be obtained for his arrest,” and inserting “regulation,”.
SEC. 202. ICE DETENTION ENFORCEMENT OFFICERS.

(a) AUTHORIZATION.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active duty United States Immigration and Customs Enforcement detention enforcement officers by 2,500 above the number of full-time positions for which funds were appropriated for fiscal year 2017. The Secretary shall determine the rate at which the additional officers will be added with due regard to filling positions as expeditiously as possible without making any compromises in the selection or the training of the additional officers.

(b) DUTIES.—United States Immigration and Customs Enforcement detention enforcement officers who have successfully completed detention enforcement officers’ basic training shall be responsible for—

(1) taking and maintaining custody of any person who has been arrested by an immigration officer;

(2) transporting and guarding immigration detainees;

(3) securing Department of Homeland Security detention facilities; and

(4) assisting in the processing of detainees.
SEC. 203. ENSURING THE SAFETY OF ICE OFFICERS.

(a) BODY ARMOR.—The Secretary of Homeland Security shall ensure that every United States Immigration and Customs Enforcement deportation officer on duty is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Enough body armor must be purchased to cover every agent in the field.

(b) WEAPONS.—Such Secretary shall ensure that United States Immigration and Customs Enforcement deportation officers are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. Such weapons shall include, at a minimum, standard-issue handguns, M-4 (or equivalent) rifles, and Tasers.

(c) SPECIAL TRAINING FOR HIGH-RISK ENFORCEMENT OPERATIONS.—Such Secretary shall provide appropriate training and certification to selected United States Immigration and Customs Enforcement deportation officers, at each field office, to conduct high-risk enforcement operations requiring enhanced tactical capabilities effectively to combat known dangers, to assist in high-risk transports, or to participate in other special assignments as designated by the Secretary and consistent with law, except that nothing in this subsection shall be construed to impose a requirement that such training be completed,
or such certification be obtained, in order to participate
in such a high-risk enforcement operation.

(d) EFFECTIVE DATE.—This section shall take effect
90 days after the date of the enactment of this Act.

SEC. 204. ICE ADVISORY COUNCIL.

(a) ESTABLISHMENT.—An ICE Advisory Council
shall be established not later than 3 months after the date
of the enactment of this Act.

(b) MEMBERSHIP.—The ICE Advisor Council shall
be comprised of 7 members.

(c) APPOINTMENT.—Members shall be appointed in
the following manner:

(1) One member shall be appointed by the
President.

(2) One member shall be appointed by the
Chairman of the Judiciary Committee of the House
of Representatives.

(3) One member shall be appointed by the
Chairman of the Judiciary Committee of the Senate.

(4) One member shall be appointed by the
Local 511, the ICE prosecutor’s union.

(5) Three members shall be appointed by the
National Immigration and Customs Enforcement
Council.
(d) **TERM.**—Members shall serve renewable, 2-year terms.

(e) **VOLUNTARY.**—Membership shall be voluntary and non-remunerated, except that members will receive reimbursement from the Secretary of Homeland Security for travel and other related expenses.

(f) **RETAIliATION PROTECTION.**—Members who are employed by the Secretary of Homeland Security shall be protected from retaliation by their supervisors, managers, and other Department of Homeland Security employees for their participation on the Council.

(g) **PURPOSE.**—The purpose of the Council is to advise the Congress and the Secretary of Homeland Security on issues including the following:

(1) The current status of immigration enforcement efforts, including prosecutions and removals, the effectiveness of such efforts, and how enforcement could be improved.

(2) The effectiveness of cooperative efforts between the Secretary of Homeland Security and other law enforcement agencies, including additional types of enforcement activities that the Secretary should be engaged in, such as State and local criminal task forces.
(3) Personnel, equipment, and other resource needs of field personnel.

(4) Improvements that should be made to the organizational structure of the Department of Homeland Security, including whether the position of immigration enforcement agent should be merged into the deportation officer position.

(5) The effectiveness of specific enforcement policies and regulations promulgated by the Secretary of Homeland Security, and whether other enforcement priorities should be considered.

(h) Reports.—The Council shall provide quarterly reports to the Chairmen and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives and to the Secretary of Homeland Security. The Council members shall meet directly with the Chairmen and Ranking Members (or their designated representatives) and with the Secretary to discuss their reports every 6 months.

SEC. 205. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.

(a) In General.—The Secretary of Homeland Security shall establish a pilot program in at least 5 of the 10 United States Immigration and Customs Enforcement field offices with the largest removal caseloads to allow
United States Immigration and Customs deportation officers to—

(1) electronically process and serve charging documents, including notices to appear, while in the field;

(2) electronically process and place detainers while in the field; and

(3) electronically collect biometric data for the purpose of identifying an alien and establishing both immigration status and criminal history while in the field.

(b) DUTIES.—The pilot program described in subsection (a) shall be designed to allow deportation officers to use handheld or vehicle-mounted computers to—

(1) enter any required data, including personal information about the alien subject and the reason for issuing the document;

(2) apply the electronic signature of the issuing officer or agent;

(3) set the date the alien is required to appear before an immigration judge, in the case of notices to appear;

(4) print any documents the alien subject may be required to sign, along with additional copies of documents to be served on the alien; and
(5) interface with the ENFORCE database so that all data is stored and retrievable.

(c) CONSTRUCTION.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data-entry process used for issuing such charging documents and detainers.

(d) DEADLINE.—The Secretary shall initiate the pilot program described in subsection (a) not later than 6 months after the date of the enactment of this Act.

(e) REPORT.—The Government Accountability Office shall report to the Judiciary Committee of the Senate and the House of Representatives no later than 18 months after the date of the enactment of this Act on the effectiveness of the pilot program and provide recommendations for improving it.

(f) ADVISORY COUNCIL.—The ICE Advisory Council established by section 204 shall include recommendations on how the pilot program should work in the first quarterly report of the Council, and shall include assessments of the program and recommendations for improvement in each subsequent report.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.
SEC. 206. ADDITIONAL ICE DEPORTATION OFFICERS AND SUPPORT STAFF.

(a) IN GENERAL.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty United States Immigration and Customs Enforcement deportation officers by 10,000 above the number of full-time positions for which funds were appropriated for fiscal year 2017. The Secretary will determine the rate at which the additional officers will be added with due regard to filling the positions as expeditiously as possible without making any compromises in the selection or the training of the additional officers.

(b) SUPPORT STAFF.—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time support staff for United States Immigration and Customs Enforcement deportation officers by 700 above the number of full-time positions for which funds were appropriated for fiscal year 2017.

SEC. 207. ADDITIONAL ICE PROSECUTORS.

The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time trial attorneys working for United States Immigration and Customs Enforcement by 60 above the number of full-time positions.
for which funds were appropriated for fiscal year 2017. The Secretary shall determine the rate at which the additional trial attorneys will be added with due regard to filling positions as expeditiously as possible without making any compromises in the selection or the training of the additional attorneys.