To provide for enhanced enforcement of the Federal immigration laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2005

Mr. NEY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for enhanced enforcement of the Federal immigration laws, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keep Americans Safe Act of 2005”.

SEC. 2. FEDERAL AFFIRMATION OF STATE AND LOCAL ASSISTANCE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the existing inherent authority
of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the course of carrying out their routine duties for the purpose of assisting in the enforcement of the immigration laws of the United States.

(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement officers of a State or political subdivision of a State to—

(1) report the identity of victims of, or witnesses to, a criminal offense to the Secretary of Homeland Security; or

(2) arrest such victims or witnesses for immigration violations.

SEC. 3. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER (NCIC) DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and continually thereafter, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime
Information Center of the Department of Justice with such information as the Under Secretary may have on—

(A) all aliens against whom a final order of removal has been issued;

(B) all aliens who have signed a voluntary departure agreement; and

(C) all aliens whose visas have been revoked.

(2) CIRCUMSTANCES.—The information described in paragraph (1) shall be provided to the National Crime Information Center regardless of whether—

(A) the alien received notice of a final order of removal; or

(B) the alien has already been removed.

(b) INCLUSION OF INFORMATION IN NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:
“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and”.

(e) PERMISSION TO DEPART VOLUNTARILY.—Section 240B(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)(A)) is amended by striking “120” and inserting “30”.

SEC. 4. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

“(j) CUSTODY OF ILLEGAL ALIENS.—

“(1) IN GENERAL.—If the chief executive officer of a State or, if appropriate, a political subdivision of the State, exercising authority with respect to the apprehension of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

“(A) shall—

“(i) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging
or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

“(ii) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

“(B) shall designate at least 1 Federal, State, or local prison or jail, or a private contracted prison or detention facility, within each State as the central facility for that State to transfer custody of the criminal or illegal alien to the Secretary of Homeland Security.

“(2) Reimbursement.—

“(A) In general.—The Department of Homeland Security shall reimburse States and political subdivisions for all reasonable expenses, as determined by the Secretary of Homeland Security, incurred by a State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of paragraph (1).
“(B) Cost computation.—Compensation provided for costs incurred under subparagaphs (A) and (B) of paragraph (1) shall be the sum of—

“(i)(I) the average cost of incarceration of a prisoner per day in the relevant State, as determined by the chief executive officer of a State, or, as appropriate, a political subdivision of the State; multiplied by

“(II) the number of days that the alien was in the custody of the State or political subdivision; and

“(ii) the cost of transporting the criminal or illegal alien—

“(I) from the point of apprehension to the place of detention; and

“(II) if the place of detention and place of custody are different, to the custody transfer point.

“(3) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (2).”.
 SEC. 5. FELONIES COMMITTED BY ILLEGAL ALIENS.

(a) Offenses.—Title 18, United States Code, is amended by inserting after chapter 51 the following new chapter:

“CHAPTER 52—ENHANCED PENALTIES FOR FELONIES COMMITTED BY ILLEGAL ALIENS

§ 1131. Enhanced penalties for felonies committed by illegal aliens

“Whoever, being an alien who is unlawfully present in the United States, commits a felony shall be fined under this title and sentenced to not less than 5 years in prison. If the defendant was previously ordered removed under the Immigration and Nationality Act on the grounds of having committed a crime, the defendant shall be sentenced to not less than 15 years in prison. A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.”.

(b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following new item:
“CHAPTER 52—ENHANCED PENALTIES FOR FELONIES COMMITTED BY ILLEGAL ALIENS

‘1131. Enhanced penalties for felonies committed by illegal aliens.’.