To enforce law and order by establishing a program to authorize, fund, and otherwise assist local Sheriffs’ offices in designated counties to provide a second line of defense alongside and in close cooperation with the United States Customs Border Protection (CBP) and Immigration and Customs Enforcement, to conduct law enforcement operations in their counties along the southern international border of the United States, and to prevent lawlessness in border areas.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Law Enforce-
ment Act of 2005”.

SEC. 2. FINDINGS.

The Congress finds that:

(1) Federal officials do not have sufficient man-
power or resources to prevent criminals, terrorists,
and foreign nationals who have entered the United
States illegally from engaging in criminal activity.

Local and State law enforcement officials are being
overwhelmed by growing lawlessness along our
southern international border.

(2) There is a rapidly growing number of armed
and dangerous criminals, violent gang members,
drug smugglers, and potential terrorists entering the
United States illegally over our southern inter-
national border. These criminals are becoming in-
creasingly well organized, trained and equipped, and
in recent months a trend is developing which indi-
cates that the level of violence and the volume of
criminal activity along the Rio Grande is rapidly es-
calating to the level of open warfare between law en-
enforcement officials and organized criminal narco-terrorists.

(3) Federal and State law enforcement officials have identified an alarming increase in the number of foreign nationals from countries with known connections to terrorist organizations who are hiding among an immense and rapidly growing number of foreign nationals who are entering the United States illegally.

(4) The United States is at war with terrorist criminal organizations and with individuals from foreign nations who are fanatically committed to the destruction of the United States, who have repeatedly demonstrated their ability and willingness to hide their true identities and their evil purposes, and who may enter and move about the United States illegally and use sneak attacks and any criminal means or method available to them to cause the mass destruction of human life in the United States.

(5) The peace, security, and well being of the people of the United States are being placed at grave risk by the inability or unwillingness of Federal officials to protect our international borders and prevent individuals from entering and remaining in the United States illegally during our war on terror-
ists. The lawlessness along our southern inter-
national border is unacceptable, and presents a clear
and present danger to the nation.

SEC. 3. DESIGNATED COUNTY LAW ENFORCEMENT ASSIST-
ANCE PROGRAM.

(a) Authority and Statements of Policy.—

(1) The Congress recognizes that elected State
and local law enforcement officials are directly ac-
countable to State and local voters. Therefore, by
passage of this Act, Congress reaffirms the residual
full sovereign authority of the States to protect the
lives, safety, and property of the people within their
jurisdiction by preventing and punishing criminal ac-
tivity, subject only to judicial enforcement of min-
imum Federal standards of due process and equal
protection under the 14th Amendment.

(2) This Act authorizes the Sheriffs in des-
nignated counties adjacent to the southern inter-
national border area, who are the highest locally
elected law enforcement authority in those areas, to
coordinate law enforcement operations in support of
personnel of United States Customs and Border
Protection and Immigration and Customs Enforce-
ment, to conduct law enforcement operations in the
interior areas in their counties, including the areas
on and adjacent to the international border, to en-
ure, as determined by Federal law enforcement offic-
cials, that individuals detained or taken into custody
by the Sheriff are lawfully present in the United
States, and to otherwise authorize Sheriffs to as-
sume full and final sovereign authority to enforce
criminal laws and to protect the peace, safety, and
security of all persons and property in their coun-
ties.

(3) The Congress finds that the rapidly esca-
lating lawlessness on our Nation’s southern inter-
national border and interior areas adjacent to the
international border, and the inability of Federal offi-
cials to control this lawlessness, make the provi-
sions of this Act reaffirming full sovereign power to
enforce criminal law in State and local officials nec-
ecessary “to execute the Laws of the Union” and “to
insure domestic Tranquility, provide for the common
defense” and to “promote the general Welfare”.
Federal officials are directed to implement, enforce,
and carry out vigorously and promptly the intent of
Congress as expressed in this Act.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—A Designated County Law
Enforcement Assistance program is hereby estab-
lished jointly within the Department of Justice and
the Department of Homeland Security in order to
provide immediate and long term financial assistance
and authorization for the law enforcement oper-
ations of Sheriffs in counties adjacent to the southern
international border of the United States.

(2) Designated counties adjacent to the
southern border of the United States de-
finned.—In this Act, the term “designated counties
adjacent to the southern international border of the
United States” includes a county any part of which
is within 25 miles of the southern international bor-
der of the United States.

(e) Authority.—

(1) In general.—Any Sheriff or coalition or
group of Sheriffs from designated counties adjacent
to the southern international border of the United
States is authorized to perform the following duties
or functions, and shall be promptly paid for the
costs of performing such duties or functions by the
Attorney General or the Secretary of Homeland Se-
curity for any local or State funds previously ex-
pended or proposed to be spent by that Sheriff or
coalition or group of Sheriffs.
(A) To conduct law enforcement operations in the interior areas of their counties on and adjacent to the southern international border of the United States in order to enforce criminal laws, prevent and punish criminal activity, and protect the lives, property, and security of the people within the jurisdiction of the Sheriff.

(B) To transfer aliens detained or in the custody of the Sheriff who are not lawfully present in the United States to appropriate Federal law enforcement officials.

(C) To enforce State and Federal laws relating to controlled substance trafficking and enforce other State and Federal criminal laws (other than Federal immigration laws, except as provided pursuant to a written agreement entered into with the Secretary of Homeland Security relating to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers) under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g))) in interior areas of their counties on and adjacent to the southern international border of the United States.
(2) **PAYMENT OF COSTS.**—Payment of costs under paragraph (1) shall include payment—

(A) for costs of equipping, training, and otherwise controlling the operation and deployment of Sheriffs, deputy Sheriffs, reserve deputy Sheriffs, officers, and corrections officers, as well as the costs of paying overtime to such officials engaged in duties relating to activities authorized by this Act or necessary to protect the lives, safety, and property of persons in their counties; and

(B) for costs of detaining, housing, and transporting aliens who are not lawfully present in the United States or who have unlawfully entered the United States at a location other than a port of entry and who are taken into custody by the Sheriff.

(3) **LIMITATION TO FUTURE COSTS.**—In no case shall payment be made under this section for costs incurred before the date of the enactment of this Act.

(4) **ADVANCE PAYMENT OF COSTS.**—The Attorney General shall make an advance payment under this section upon a certification of anticipated costs for which payment may be made under this section,
but in no case shall such an advance payment cover
a period of costs of longer than 3 months.

(d) Designated County Law Enforcement Account.—

(1) Separate Account.—Reimbursement or
pre-payment under subsection (c) shall be made
promptly from funds deposited into a separate ac-
count in the Treasury of the United States to be en-
titled the “Designated County Law Enforcement Ac-
count”.

(2) Availability of Funds.—All deposits into
the Designated County Law Enforcement Account
shall remain available until expended to the Attorney
General to carry out the provisions of this Act.

(3) Promptly Defined.—For purposes of this
Act, the term “promptly” means within 60 days.

(e) Funds for the Designated County Law En-
forcement Account.—Only funds designated, author-
ized, or appropriated by Congress may be deposited or
transferred to the Designated County Law Enforcement
Account. The Designated County Law Enforcement Ac-
count is authorized to receive up to $100 million per year.

(f) Use of Funds.—

(1) In General.—Funds provided under this
section shall be payable directly to participating
Sheriff’s offices and may be used for the duties and functions described in subsection (c)(1), including the costs of personnel (such as overtime pay and costs for reserve deputies), costs of training of such personnel, equipment, and, subject to paragraph (2), the construction, maintenance, and operation of detention facilities to detain aliens who are unlawfully present in the United States. For purposes of this Act, an alien who is unlawfully present in the United States shall be deemed to be a Federal prisoner beginning upon determination by Federal law enforcement officials that such alien is unlawfully present in the United States, and such alien shall, upon such determination, be deemed to be in Federal custody. In order for costs to be eligible for payment, the Sheriff making such application shall personally certify under oath that all costs submitted in the application for reimbursement or advance payment meet the requirements of this section and are reasonable and necessary, and such certification shall be subject to all State and Federal laws governing statements made under oath, including the penalties of perjury, removal from office, and prosecution under State and Federal law.
(2) LIMITATION.—Not more than 20 percent of the amount of funds provided under this section may be used for the construction or renovation of detention or similar facilities.

(g) DISPOSITION AND DELIVERY OF DETAINED ALIENS.—All aliens detained or taken into custody by a Sheriff under this Act and with respect to whom Federal law enforcement officials determine are unlawfully present in the United States, shall be immediately delivered to Federal law enforcement officials. In accordance with subsection (f)(1), an alien who is in the custody of a Sheriff shall be deemed to be a Federal prisoner and in Federal custody.

SEC. 4. REGULATIONS; EFFECTIVE DATE; AUDIT; SUPPLEMENTAL FUNDING.

(a) REGULATIONS.—The Attorney General and the Secretary of Homeland Security shall jointly issue, on an interim final basis, regulations not later than 60 days after the date of the enactment of this Act—

(1) governing the distribution of funds under this Act for all reasonable and necessary costs and other expenses incurred or proposed to be incurred by a Sheriff or coalition or group of Sheriffs under this Act; and
(2) providing uniform standards that all other Federal law enforcement officials shall follow to cooperate with such Sheriffs and to otherwise implement the requirements of this Act.

(b) EFFECTIVE DATE.—The provisions of this Act shall take effect on its enactment. The promulgation of any regulations under subsection (a) is not a necessary precondition to the immediate deployment or work of Sheriffs personnel or corrections officers as authorized by this Act. Any reasonable and necessary expenses or costs authorized by this Act and incurred by such Sheriffs after the date of the enactment of this Act but prior to the date of the promulgation of such regulations are eligible for reimbursement under the terms and conditions of this Act.

(c) AUDIT.—All funds paid out under this Act are subject to audit by the Inspector General of the Department of Justice and abuse or misuse of such funds shall be vigorously investigated and prosecuted to the full extent of Federal law.

(d) SUPPLEMENTAL FUNDING.—All funds paid out under this Act must supplement, and may not supplant, State or local funds used for the same or similar purposes.