

110TH CONGRESS  
1ST SESSION

# H. R. 3494

To provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2007

Mrs. BLACKBURN (for herself, Mr. BROUN of Georgia, Mr. BLUNT, Mr. PUTNAM, Mr. ALEXANDER, Mr. BACHUS, Mr. BAKER, Mr. BARTLETT of Maryland, Mr. BILBRAY, Mrs. BIGGERT, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CAMPBELL of California, Mr. COBLE, Mrs. CUBIN, Mr. CULBERSON, Mr. DAVID DAVIS of Tennessee, Mrs. JO ANN DAVIS of Virginia, Mrs. DRAKE, Mr. DUNCAN, Mrs. EMERSON, Mr. EVERETT, Mr. FEENEY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Mr. GOODE, Mr. HAYES, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. ISSA, Mr. JONES of North Carolina, Mr. KELLER of Florida, Mr. KING of Iowa, Mr. KINGSTON, Mr. MARCHANT, Mr. McCaul of Texas, Mr. McHENRY, Mr. McKEON, Mr. MILLER of Florida, Mr. NEUGEBAUER, Mr. PETERSON of Pennsylvania, Mr. POE, Mr. PRICE of Georgia, Mr. REHBERG, Mr. ROYCE, Mrs. SCHMIDT, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SIMPSON, Mr. SULLIVAN, Mr. TANCREDO, Mr. WAMP, Mr. WESTMORELAND, Mr. WICKER, Mr. WALBERG, Mr. WILSON of South Carolina, Mr. BARTON of Texas, Mr. GOODLATTE, Mr. CANTOR, Mr. BARRETT of South Carolina, Mr. CRENSHAW, Mr. DOOLITTLE, Mr. FORBES, Mr. GALLEGLY, Mr. HALL of Texas, Mr. ROHRABACHER, Mr. LUCAS, Ms. GRANGER, Mr. LINDER, Mr. MCCRERY, Mr. McCOTTER, Mr. BOEHNER, Mr. BONNER, Mr. McHUGH, Mr. KLINE of Minnesota, Mr. SOUDER, Mr. THORNBERRY, Mr. HUNTER, Mr. MANZULLO, Mr. CAMP of Michigan, Mr. BOOZMAN, Mr. LAMBORN, Mr. LAHOOD, Mr. TURNER, Mr. PLATTS, Mr. CALVERT, Mr. GARY G. MILLER of California, Mr. SMITH of Texas, and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

# A BILL

To provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes.

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; TABLE OF CONTENTS; STATE DE-**  
 4 **FINED; SEVERABILITY.**

5       (a) **SHORT TITLE.**—This Act may be cited as the  
 6 “Clear Law Enforcement for Criminal Alien Removal Act  
 7 of 2007” or the “Charlie Norwood CLEAR Act of 2007”.  
 8       (b) **TABLE OF CONTENTS.**—The table of contents of  
 9 this Act is as follows:

- Sec. 1. Short title; table of contents; State defined; severability.
- Sec. 2. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 3. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 4. Listing of immigration violators in the National Crime Information Center database.
- Sec. 5. State and local law enforcement provision of information about apprehended aliens.
- Sec. 6. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 7. Increased Federal detention space.
- Sec. 8. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
- Sec. 9. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 10. Immunity.
- Sec. 11. Institutional removal program (IRP).
- Sec. 12. State criminal alien assistance program (SCAAP).
- Sec. 13. Authorization of appropriations.

1       (c) STATE DEFINED.—For purposes of this Act, the  
2 term “State” has the meaning given such term in section  
3 101(a)(36) of the Immigration and Nationality Act (8  
4 U.S.C. 1101(a)(36)).

5       (d) SEVERABILITY.—If any provision of this Act, or  
6 the application of such provision to any person or cir-  
7 cumstance, is held invalid, the remainder of this Act, and  
8 the application of such provision to other persons not simi-  
9 larly situated or to other circumstances, shall not be af-  
10 fected by such invalidation.

11 **SEC. 2. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IM-**  
12 **MIGRATION LAW ENFORCEMENT BY STATES**  
13 **AND POLITICAL SUBDIVISIONS OF STATES.**

14       Notwithstanding any other provision of law and re-  
15 affirming the existing inherent authority of States, law en-  
16 forcement personnel of a State, or of a political subdivision  
17 of a State, have the inherent authority of a sovereign enti-  
18 ty to investigate, identify, apprehend, arrest, detain, or  
19 transfer to Federal custody aliens in the United States  
20 (including the transportation of such aliens across State  
21 lines to detention centers), for the purposes of assisting  
22 in the enforcement of the immigration laws of the United  
23 States in the course of carrying out routine duties. This  
24 State authority has never been displaced or preempted by  
25 Congress.

1   **SEC. 3. STATE AUTHORIZATION FOR ASSISTANCE IN THE**  
2                   **ENFORCEMENT OF IMMIGRATION LAWS EN-**  
3                   **COURAGED.**

4       (a) **IN GENERAL.**—Effective two years after the date  
5   of the enactment of this Act, a State, or a political subdivi-  
6   sion of a State, that has in effect a statute, policy, or prac-  
7   tice that prohibits law enforcement officers of the State,  
8   or of a political subdivision of the State, from assisting  
9   or cooperating with Federal immigration law enforcement  
10   in the course of carrying out the officers' routine law en-  
11   forcement duties shall not receive any of the funds that  
12   would otherwise be allocated to the State under section  
13   241(i) of the Immigration and Nationality Act (8 U.S.C.  
14   1231(i)).

15       (b) **CONSTRUCTION.**—Nothing in this section shall  
16   require law enforcement officials from States, or from po-  
17   litical subdivisions of States, to report or arrest victims  
18   or witnesses of a criminal offense.

19       (c) **REALLOCATION OF FUNDS.**—Any funds that are  
20   not allocated to a State, or to a political subdivision of  
21   a State, due to the failure of the State, or of the political  
22   subdivision of the State, to comply with subsection (a)  
23   shall be reallocated to States, or to political subdivisions  
24   of States, that comply with such subsection.

1   **SEC. 4. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
2                   **TIONAL CRIME INFORMATION CENTER DATA-**  
3                   **BASE.**

4       (a) PROVISION OF INFORMATION TO THE NCIC.—  
5   Not later than 180 days after the date of the enactment  
6   of this Act and periodically thereafter as updates may re-  
7   quire, the Under Secretary for Border and Transportation  
8   Security of the Department of Homeland Security shall  
9   provide the National Crime Information Center of the De-  
10   partment of Justice with such information as the Under  
11   Secretary may possess regarding any aliens against whom  
12   a final order of removal has been issued, any aliens who  
13   have signed a voluntary departure agreement, any aliens  
14   who have overstayed their authorized period of stay, and  
15   any aliens whose visas have been revoked. The National  
16   Crime Information Center shall enter such information  
17   into the Immigration Violators File of the National Crime  
18   Information Center database, regardless of whether—

19                   (1) the alien concerned received notice of a final  
20                   order of removal;  
21                   (2) the alien concerned has already been re-  
22                   moved; or  
23                   (3) sufficient identifying information is avail-  
24                   able with respect to the alien concerned.

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

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

6 (2) by redesignating paragraph (4) as para-  
7 graph (5); and

10                     “(4) acquire, collect, classify, and preserve  
11 records of violations by aliens of the immigration  
12 laws of the United States, regardless of whether any  
13 such alien has received notice of the violation or  
14 whether sufficient identifying information is avail-  
15 able with respect to any such alien and even if any  
16 such alien has already been removed from the  
17 United States; and”.

18 SEC. 5. STATE AND LOCAL LAW ENFORCEMENT PROVISION  
19 OF INFORMATION ABOUT APPREHENDED  
20 ALIENS.

21 (a) PROVISION OF INFORMATION.—In compliance  
22 with section 642(a) of the Illegal Immigration Reform and  
23 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)  
24 and section 434 of the Personal Responsibility and Work  
25 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),

1 each State, and each political subdivision of a State, shall  
2 provide the Secretary of Homeland Security in a timely  
3 manner with the information specified in subsection (b)  
4 with respect to each alien apprehended in the jurisdiction  
5 of the State, or in the political subdivision of the State,  
6 who is believed to be in violation of the immigration laws  
7 of the United States.

8 (b) INFORMATION REQUIRED.—The information re-  
9 ferred to in subsection (a) is as follows:

10 (1) The alien's name.  
11 (2) The alien's address or place of residence.  
12 (3) A physical description of the alien.  
13 (4) The date, time, and location of the encoun-  
14 ter with the alien and reason for stopping, detaining,  
15 apprehending, or arresting the alien.

16 (5) If applicable, the alien's driver's license  
17 number and the State of issuance of such license.

18 (6) If applicable, the type of any other identi-  
19 fication document issued to the alien, any designa-  
20 tion number contained on the identification docu-  
21 ment, and the issuing entity for the identification  
22 document.

23 (7) If applicable, the license plate number,  
24 make, and model of any automobile registered to, or  
25 driven by, the alien.

3 (9) The alien's fingerprints, if available or read-  
4 ily obtainable.

5 (c) ANNUAL REPORT ON REPORTING.—The Sec-  
6 retary shall maintain and annually submit to Congress a  
7 detailed report listing the States, or the political subdivi-  
8 sions of States, that have provided information under sub-  
9 section (a) in the preceding year.

10 (d) REIMBURSEMENT.—The Secretary of Homeland  
11 Security shall reimburse States, and political subdivisions  
12 of a State, for all reasonable costs, as determined by the  
13 Secretary, incurred by the State, or the political subdivi-  
14 sion of a State, as a result of providing information under  
15 subsection (a).

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
17 authorized to be appropriated to the Secretary such sums  
18 as are necessary to carry out this section.

19 (f) CONSTRUCTION.—Nothing in this section shall re-  
20 quire law enforcement officials of a State, or of a political  
21 subdivision of a State, to provide the Secretary of Home-  
22 land Security with information related to a victim of a  
23 crime or witness to a criminal offense.

1     **SEC. 6. FINANCIAL ASSISTANCE TO STATE AND LOCAL PO-**  
2                   **LICE AGENCIES THAT ASSIST IN THE EN-**  
3                   **FORCEMENT OF IMMIGRATION LAWS.**

4     (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING  
5     AND PROCESSING CERTAIN ALIENS.—From amounts  
6     made available to make grants under this section, the Sec-  
7     retary of Homeland Security shall make grants to States,  
8     and to political subdivisions of States, for procurement of  
9     equipment, technology, facilities, and other products that  
10    facilitate and are directly related to investigating, appre-  
11    hending, arresting, detaining, or transporting aliens who  
12    have violated the immigration law of the United States,  
13    including additional administrative costs incurred under  
14    this Act.

15    (b) ELIGIBILITY.—To be eligible to receive a grant  
16    under this section, a State, or a political subdivision of  
17    a State, must have the authority to, and shall have a writ-  
18    ten policy and a practice to, assist in the enforcement of  
19    the immigration laws of the United States in the course  
20    of carrying out the routine law enforcement duties of such  
21    State or political subdivision of a State. Entities covered  
22    under this section may not have any policy or practice that  
23    prevents local law enforcement from inquiring about a sus-  
24    pect's immigration status.

25    (c) FUNDING.—There is authorized to be appro-  
26    priated to the Secretary for grants under this section such

1 sums as may be necessary for fiscal year 2008 and each  
2 subsequent fiscal year.

3 (d) GAO AUDIT.—Not later than three years after  
4 the date of the enactment of this Act, the Comptroller  
5 General of the United States shall conduct an audit of  
6 funds distributed to States, and to political subdivisions  
7 of a State, under subsection (a).

8 **SEC. 7. INCREASED FEDERAL DETENTION SPACE.**

9 (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
10 FACILITIES.—

11 (1) IN GENERAL.—The Secretary of Homeland  
12 Security shall construct or acquire, in addition to ex-  
13 existing facilities for the detention of aliens, 20 deten-  
14 tion facilities in the United States, with at least 500  
15 beds per facility, for aliens detained pending removal  
16 from the United States or a decision regarding such  
17 removal.

18 (2) DETERMINATIONS.—The location of any de-  
19 tention facility built or acquired in accordance with  
20 this subsection shall be determined by the Deputy  
21 Assistant Director of the Detention Management Di-  
22 vision of the Immigration and Customs Enforcement  
23 Office of Detention and Removal within United  
24 States Immigration and Customs Enforcement.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to the Secretary such  
12 sums as are necessary to carry out this section.

13 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
14 Section 241(g)(1) of the Immigration and Nationality Act  
15 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-  
16 pend” and inserting “shall expend”.

17 SEC. 8. FEDERAL CUSTODY OF ALIENS UNLAWFULLY  
18 PRESENT IN THE UNITED STATES APPRE-  
19 HENDED BY STATE OR LOCAL LAW ENFORCE-  
20 MENT.

21 (a) STATE APPREHENSION.—

22 (1) IN GENERAL.—Title II of the Immigration  
23 and Nationality Act (8 U.S.C. 1151 et seq.) is  
24 amended by inserting after section 240C the fol-  
25 lowing:

3       “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE  
4 AND LOCAL OFFICIALS.—If a State, or a political subdivi-  
5 sion of the State, exercising authority with respect to the  
6 apprehension or arrest of an alien who is unlawfully  
7 present in the United States submits to the Secretary of  
8 Homeland Security a request that the alien be taken into  
9 Federal custody, the Secretary—

10                           “(1) shall—

19                   “(B) request that the relevant State or  
20                   local law enforcement agency temporarily incar-  
21                   cerate or transport the alien for transfer to  
22                   Federal custody; and

23               “(2) shall designate at least one Federal, State,  
24               or local prison or jail or a private contracted prison  
25               or detention facility within each State as the central

1 facility for that State to transfer custody of aliens  
2 to the Department of Homeland Security.

3       **(b) POLICY ON DETENTION IN STATE AND LOCAL**  
4 **DETENTION FACILITIES.**—In carrying out section  
5 241(g)(1), the Attorney General or Secretary of Homeland  
6 Security shall ensure that an alien arrested under this Act  
7 shall be detained, pending the alien’s being taken for the  
8 examination under this section, in a State or local prison,  
9 jail, detention center, or other comparable facility. Not-  
10 withstanding any other provision of law or regulation,  
11 such facility is adequate for detention, if—

12           “(1) such a facility is the most suitably located  
13 Federal, State, or local facility available for such  
14 purpose under the circumstances;

15           “(2) an appropriate arrangement for such use  
16 of the facility can be made; and

17           “(3) such facility satisfies the standards for the  
18 housing, care, and security of persons held in cus-  
19 tody of a United States marshal.

20       **(c) REIMBURSEMENT.**—The Secretary of Homeland  
21 Security shall reimburse States, and political subdivisions  
22 of a State, for all reasonable expenses, as determined by  
23 the Secretary, incurred by the State, or political subdivi-  
24 sion, as a result of the incarceration and transportation  
25 of an alien who is unlawfully present in the United States

1 as described in subparagraphs (A) and (B) of subsection  
2 (a)(1). Compensation provided for costs incurred under  
3 such subparagraphs shall be the average cost of incarcera-  
4 tion of a prisoner in the relevant State, as determined  
5 by the chief executive officer of a State, or of a political  
6 subdivision of a State, plus the cost of transporting the  
7 alien from the point of apprehension to the place of deten-  
8 tion, and to the custody transfer point if the place of de-  
9 tention and place of custody are different.

10       “(d) SECURE FACILITIES.—The Secretary of Home-  
11 land Security shall ensure that aliens incarcerated in Fed-  
12 eral facilities pursuant to this Act are held in facilities  
13 that provide an appropriate level of security.

14       “(e) TRANSFER.—

15       “(1) IN GENERAL.—In carrying out this sec-  
16 tion, the Secretary of Homeland Security shall es-  
17 tablish a regular circuit and schedule for the prompt  
18 transfer of apprehended aliens from the custody of  
19 States, and political subdivisions of a State, to Fed-  
20 eral custody.

21       “(2) CONTRACTS.—The Secretary may enter  
22 into contracts, including appropriate private con-  
23 tracts, to implement this subsection.

1       “(f) DEFINITION.—For purposes of this section, the  
2 term ‘alien who is unlawfully present in the United States’  
3 means an alien who—

4           “(1) entered the United States without inspec-  
5 tion or at any time, manner or place other than that  
6 designated by the Secretary of Homeland Security;

7           “(2) was admitted as a nonimmigrant and who,  
8 at the time the alien was taken into custody by the  
9 State, or a political subdivision of the State, had  
10 failed to—

11           “(A) maintain the nonimmigrant status in  
12 which the alien was admitted or to which it was  
13 changed under section 248; or

14           “(B) comply with the conditions of any  
15 such status;

16           “(3) was admitted as an immigrant and has  
17 subsequently failed to comply with the requirements  
18 of that status; or

19           “(4) failed to depart the United States under a  
20 voluntary departure agreement or under a final  
21 order of removal.”.

22           (2) CLERICAL AMENDMENT.—The table of con-  
23 tents of such Act is amended by inserting after the  
24 item relating to section 240C the following new item:

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

1 (b) GAO AUDIT.—Not later than three years after  
2 the date of the enactment of this Act, the Comptroller  
3 General of the United States shall conduct an audit of  
4 compensation to States, and to political subdivisions of a  
5 State, for the incarceration of aliens unlawfully present  
6 in the United States under section 240D(a) of the Immig-  
7 ration and Nationality Act (as added by subsection  
8 (a)(1)).

9 SEC. 9. TRAINING OF STATE AND LOCAL LAW ENFORCE-  
10 MENT PERSONNEL RELATING TO THE EN-  
11 FORCEMENT OF IMMIGRATION LAWS.

12 (a) ESTABLISHMENT OF TRAINING MANUAL AND  
13 POCKET GUIDE.—Not later than 180 days after the date  
14 of the enactment of this Act, the Secretary of Homeland  
15 Security shall establish—

5 (b) AVAILABILITY.—The training manual and pocket  
6 guide established in accordance with subsection (a) shall  
7 be made available to all State and local law enforcement  
8 personnel.

9 (c) APPLICABILITY.—Nothing in this section shall be  
10 construed to require State or local law enforcement per-  
11 sonnel to carry the training manual or pocket guide with  
12 them while on duty.

13 (d) COSTS.—The Secretary of Homeland Security  
14 shall be responsible for any costs incurred in establishing  
15 the training manual and pocket guide.

## 16 (e) TRAINING FLEXIBILITY.—

1 learning through a secure, encrypted distributed  
2 learning system that has all its servers based in the  
3 United States, is scalable, survivable, and can have  
4 a portal in place not later than 30 days after the  
5 date of the enactment of this Act, shall be made  
6 available by the Federal Law Enforcement Training  
7 Center Distributed Learning Program for State and  
8 local law enforcement personnel.

9 (2) FEDERAL PERSONNEL TRAINING.—The  
10 training of State and local law enforcement per-  
11 sonnel under this section shall not displace the train-  
12 ing of Federal personnel.

13 (3) CLARIFICATION.—Nothing in this Act or  
14 any other provision of law shall be construed as  
15 making any immigration-related training a require-  
16 ment for, or prerequisite to, any State or local law  
17 enforcement officer to assist in the enforcement of  
18 Federal immigration laws in the normal course of  
19 carrying out the normal law enforcement duties of  
20 such officers.

21 In carrying out this section, priority funding shall be given  
22 for existing web-based immigration enforcement training  
23 systems.

1 **SEC. 10. IMMUNITY.**

2 (a) PERSONAL IMMUNITY.—Notwithstanding any  
3 other provision of law, a law enforcement officer of a State  
4 or local law enforcement agency who is acting within the  
5 scope of the officer's official duties shall be immune, to  
6 the same extent as a Federal law enforcement officer,  
7 from personal liability arising out of the performance of  
8 any duty described in this Act.

9 (b) AGENCY IMMUNITY.—Notwithstanding any other  
10 provision of law, a State or local law enforcement agency  
11 shall be immune from any claim for money damages based  
12 on Federal, State, or local civil rights law for an incident  
13 arising out of the enforcement of any immigration law,  
14 except to the extent a law enforcement officer of such  
15 agency committed a violation of Federal, State, or local  
16 criminal law in the course of enforcing such immigration  
17 law.

18 **SEC. 11. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

19 (a) CONTINUATION AND EXPANSION.—

20 (1) IN GENERAL.—The Secretary of Homeland  
21 Security shall continue to operate and implement the  
22 program known as the Institutional Removal Pro-  
23 gram (IRP) which—

24 (A) identifies removable criminal aliens in  
25 Federal and State correctional facilities;

1 (B) ensures such aliens are not released  
2 into the community; and

3 (C) removes such aliens from the United  
4 States after the completion of their sentences.

14 (C) promptly convey such information to  
15 officials of such Program as a condition of re-  
16 ceiving such funds.

17 (b) AUTHORIZATION FOR DETENTION AFTER COM-  
18 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
19 enforcement officers of a State, or of a political subdivision  
20 of a State, are authorized to—

1 alien is removable or not lawfully present in the  
2 United States; or

8 (c) TECHNOLOGY USAGE.—Technology such as video  
9 conferencing shall be used to the maximum extent prac-  
10 ticable in order to make the Institutional Removal Pro-  
11 gram available in remote locations. Mobile access to Fed-  
12 eral databases of aliens, such as IDENT, and live scan  
13 technology shall be used to the maximum extent prac-  
14 ticable in order to make these resources available to State  
15 and local law enforcement agencies in remote locations.

16 SEC. 12. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM  
17 (SCAAP).

18       Section 241(i)(5) of the Immigration and Nationality  
19   Act (8 U.S.C.1231(i)) is amended to read as follows:

20               “(5) There are authorized to be appropriated to  
21               carry out this subsection such sums as may be nec-  
22               essary for fiscal year 2008 and each subsequent fis-  
23               cal year.”.

**1 SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2        There are authorized to be appropriated to the Sec-  
3 retary for fiscal year 2008 and each subsequent fiscal year  
4 such sums as may be necessary to carry out this Act.

