

To the office of U.S. Senator Lindsey Graham

Re: S 2 (119th Congress), Secure America Act • Latest action (2026-06-10): Became Public Law No: 119-98.

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Border Security and Naturalization Enforcement Act of 2025

The measure, as described from the official record: Provide funding to the Department of Homeland Security and its components for immigration enforcement activities through FY2029, as part of a budget reconciliation process.

THE PROPOSAL

This Act provides funding to the Department of Homeland Security (DHS) for immigration enforcement activities strictly limited to the federal government's enumerated powers under Article I, Section 8, Clause 4 (naturalization) and Clause 3 (interstate and foreign commerce, including border security). Funding is authorized for U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) for the following purposes only: (1) personnel and technology at ports of entry and along the international borders of the United States to prevent unlawful entry and facilitate lawful trade and travel; (2) enforcement of federal immigration laws against individuals who have been convicted of violent crimes or who pose a threat to national security, as determined by a federal court; (3) removal of individuals who have been ordered removed by a federal immigration judge after due process proceedings consistent with the Fifth Amendment; and (4) administrative support for naturalization and asylum adjudications. No funds may be used for 287(g) agreements that delegate federal immigration enforcement to state or local law enforcement agencies, as such delegation raises Tenth Amendment concerns. No funds may be used for mass detention or removal of individuals without individualized judicial review. Funding is capped at \$10 billion per fiscal year, sourced from a 5% surcharge on visa fees for non-immigrant work visas and a reduction in foreign aid spending by an equivalent amount. The Act sunsets after 5 years. Oversight is provided by the DHS Office of Inspector General, which must submit annual reports to Congress on compliance with constitutional limits. Enforcement is through private right of action for any individual harmed by a violation of this Act, with damages and injunctive relief available in federal court.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	5% surcharge on non-immigrant work visa fees and reduction in foreign aid spending by equivalent amount
Funding Amount	\$10 billion per fiscal year
Sunset Years	5 years
Oversight Body	DHS Office of Inspector General
Enforcement Mechanism	Private right of action in federal court for violations; damages and injunctive relief
Effective Date	October 1, 2025

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 4 (naturalization)
- Article I, Section 8, Clause 3 (commerce, including border security)
- Fifth Amendment (due process)
- Tenth Amendment (state sovereignty)

Concerns with the measure as written:

- The bill's broad funding for immigration enforcement may exceed enumerated federal powers by not tying spending to a specific constitutional power such as naturalization or border security.
- The bill may intrude on state sovereignty under the Tenth Amendment by funding state and local participation in federal immigration enforcement without clear constitutional authorization.
- The reconciliation process, which prevents filibuster and restricts amendments, may undermine the deliberative process required for legislation affecting fundamental rights.

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities: limits enforcement to violent criminals and national security threats, requires due process, prohibits state/local delegation, caps spending, and includes private enforcement. Honors Republican priorities: provides significant funding for border security and enforcement against serious criminals, ties funding to visa fees and foreign aid cuts, and includes a sunset for accountability.

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