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

IN THE HOUSE OF REPRESENTATIVES

February 11, 2015

Mrs. Miller of Michigan (for herself, Mr. McCaul, and Mr. Vela) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Ways and Means and the Judiciary, 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 the Homeland Security Act of 2002 to establish United States Immigration and Customs Enforcement, 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 “United States Immigration and Customs Enforcement Authorization Act”.

SEC. 2. 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.

“(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.

“(c) Duties and Qualifications.—The Director shall—

“(1) have a minimum of five years professional experience in law enforcement, and a minimum of five years management experience;

“(2) have the power to investigate and, where appropriate, refer for prosecution, any criminal violation of Federal law relating to or involving—
“(A) border control and security, including the prevention of the entry or residence of terrorists, criminals, and human rights violators;

“(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, pornography, intellectual property, or monetary instruments;

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

“(D) immigration or naturalization;

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

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

“(G) the employment or abuse of an alien, including trafficking and peonage, labor violations, sexual exploitation, pornography, prostitution, or sex tourism;

“(H) identification, travel, or employment documents;
“(I) 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; and

“(J) travel security;

“(3) coordinate with Federal, State, local, tribal, and foreign agencies to promote the efficient—

“(A) investigation of criminal violations of the border security, terrorism, customs, immigration, naturalization, trade, travel, and transportation laws of the United States; and

“(B) civil enforcement of immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a));

“(4) 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;

“(5) establish, maintain, and administer appropriate interagency law enforcement centers in fur-
therance of the Director’s assigned duties, including the Centers specified in subparagraphs (B) and (C) of subsection (f)(3); and

“(6) carry out the duties and powers prescribed by law or delegated by the Secretary.

“(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 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 to enforce; and

“(7) issue civil detainers for purposes of immigration enforcement.

“(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 the 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) serve as the law enforcement office of United States Immigration and Customs Enforcement with primary responsibility to 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 functions 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) enforce Federal law relating to—

“(i) the unlawful employment of aliens; and

“(ii) immigration document fraud;

and

“(F) carry out other duties and powers prescribed by the Director.

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

“(1) IN GENERAL.—There is established in United States Immigration and Customs Enforcement the 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 remove aliens who—

“(i) engage in terrorist activities, are affiliated with a terrorist organization, or otherwise present a national security or public safety risk to the United States;

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

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

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

“(B) carry out other duties and powers prescribed by the Director.

“(h) OFFICE OF THE PRINCIPAL LEGAL ADVISOR.—

“(1) IN GENERAL.—There is established in United States Immigration and Customs Enforcement the 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 General Counsel of the Department.

“(3) DUTIES.—The Office of the Principal Legal Advisor shall provide specialized legal advice
and policy guidance to the Director and shall rep-
represent the Department in all exclusion, deportation,
and removal proceedings before the Executive Office
for Immigration Review.

“(i) Office of Professional Responsibility.—

“(1) In general.—There is established in the
United States Immigration and Customs Enforce-
ment the 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 Direc-
tor.

“(3) Duties.—The Office of Professional Re-
ponsibility shall—

“(A) investigate allegations of administra-
tive, civil, and criminal misconduct involving
any employee or contractor of United States
Immigration and Customs Enforcement, or, as
delegated by the Secretary, any employee or
contractor of the Department that are not sub-
ject to investigation by the Inspector General of
the Department;

“(B) inspect and review United States Im-
migration 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) 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, duties, functions, and authorities of United States Immigration and Customs Enforcement.

“(2) NOTIFICATION.—If the Secretary exercises the authority provided pursuant to paragraph (1), the Secretary shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days before exercising the authority described in paragraph (1).
“(k) 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) of this section, shall be treated as if included in 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 such date of enactment.

(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) CONTINUATION IN OFFICE.—

(1) DIRECTOR.—The individual serving as Assistant Secretary for United States Immigration and Customs Enforcement on the day before the date of the enactment of this Act may continue to serve as the Director of United States Immigration and Customs Enforcement in accordance with section 442 of the Homeland Security Act of 2002, as amended by this Act until the earlier of—

(A) the date on which such individual is no longer eligible to serve as Director; or

(B) the date on which a person nominated by the President to be the Director is confirmed
by the Senate in accordance with such amended section 442.

(2) OTHER POSITIONS.—The individuals serving as the Deputy Director, Executive Associate Directors, Assistant Directors, and other officers and employees under section 442 of the Homeland Security Act of 2002 on the day before the date of the enactment of this Act may serve as the appropriate Assistant Directors and other officers and employees under such section 442 as amended by subsection (a) of this section unless the Director of United States Immigration and Customs Enforcement determines that another individual should hold such position.

(d) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by striking the item relating to section 442 and inserting the following:

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

(e) 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,".

(f) CONFORMING AMENDMENTS.—
(1) **TITLE 5.**—Section 5314 of title 5, United States Code, is amended by inserting after “Director of the Bureau of Citizenship and Immigration Services.” the following new item: “Director of United States Immigration and Customs Enforcement.”.

(2) **HOMELAND SECURITY ACT OF 2002.**—The Homeland Security Act of 2002 is amended—

(A) in subsection (a)(2)(C) of section 451 (6 U.S.C. 271), by striking “at the same level as the Assistant Secretary of the Bureau of Border Security” and inserting “in accordance with section 5314 of title 5, United States Code”;

(B) in subsection (e) of section 459 (6 U.S.C. 276), by striking “Assistant Secretary of the Bureau of Border Security” and inserting “Director of United States Immigration and Customs Enforcement”;

(C) in subsection (b)(2)(A) of section 462 (6 U.S.C. 279), in the matter preceding clause (i), by striking “Assistant Secretary of the Bureau of Border Security” and inserting “Director of United States Immigration and Customs Enforcement”;}
(D) by repealing sections 443, 445, and 446 (6 U.S.C. 253, 255, and 256); and

(E) in section 1(b), by striking the items relating to sections 445 and 446.