To prohibit the expansion of immigration detention facilities, to improve the oversight of such facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. HARRIS introduced the following bill; which was read twice and referred to the Committee on

A BILL

To prohibit the expansion of immigration detention facilities, to improve the oversight of such facilities, 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 TITLES.

4 This Act may be cited as the “Detention Oversight, Not Expansion Act” or the “DONE Act”.

5 SEC. 2. FINDINGS.

6 Congress makes the following findings:

7 (1) Despite a significant decrease in border apprehensions, the Federal immigrant detention sys-

8 tem expanded dramatically between 1994 and 2019,
with the average daily population of detained non-citizens increasing from fewer than 7,000 during fiscal year 1994 to approximately 48,000 during fiscal year 2019. This population consists of increasing numbers of children and women, including pregnant women and asylum seekers.

(2) U.S. Immigration and Customs Enforcement (referred to in this section as “ICE”) inspections of detention facilities are performed by field offices, facility staff, or divisions within ICE headquarters and are not conducted by qualified independent third parties. Since the inspectors are not independent, they often misrepresent conditions inside the facilities and rarely impose consequences for violations. For example, an outside review of 8 facilities concluded that although ICE identified violations of medical standards as contributing factors to deaths in detention, routine ICE detention facility inspections before and even after the deaths failed to acknowledge (and even dismissed) those violations.

(3) Multiple Federal oversight bodies, including the Department of Homeland Security’s Office of Inspector General, ICE’s Advisory Committee on Family Residential Centers, and the Government Accountability Office, have documented poor conditions
and inhumane detainee treatment, including medical negligence, in immigration detention facilities. State oversight bodies, including the Office of the Attorney General of California, have also noted abuses at detention centers within their borders.

(4) Since 2003, more than 170 deaths have been reported in immigration detention facilities, a significant number of which resulted from egregious violations of ICE medical care standards, which were often overlooked during ICE inspections of facilities. Since the inauguration of President Trump, more than 24 people have died in ICE custody.

(5) The Department of Homeland Security Office for Civil Rights and Civil Liberties and the Office of Inspector General have received formal complaints and numerous allegations of inadequate medical care for pregnant women who are in custody in such facilities.

(6) Responses by the Department of Homeland Security to Freedom of Information Act requests suggest that fewer than 3 percent of the claims of sexual and physical abuse of detainees in such facilities have been investigated by the Office of Inspector General.
(7) Multiple Federal oversight bodies, including the Homeland Security Advisory Council, have documented limited oversight and management accountability of immigration detention facilities, including a lack of reasonable inspections and deficient contracting practices.

(8) Some immigration detention facilities have unreasonably restricted visitation and access by attorneys and community groups in violation of applicable requirements, raising serious due process concerns.

(9) The Department of Homeland Security seeks to vastly expand the immigration detention system despite the availability of a wide array of community-based alternatives to detention that provide cheaper, more compassionate, rights-respecting responses to migration.

(10) Although the Family Case Management Program operated at a fraction of the cost of detention and resulted in nearly a 100 percent compliance rate among participants, the Department of Homeland Security terminated the program without providing any justification.

SEC. 3. DEFINITIONS.

In this Act:
(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Appropriations of the House of Representatives;

(E) the Committee on Homeland Security of the House of Representatives; and

(F) the Committee on the Judiciary of the House of Representatives.

(2) EXPANSION.—The term “expansion”—

(A) means the acquisition of any new contract, contract addendum, modification, or rider that would increase current immigration detention bed usage or activate existing unused immigration detention bed capacity for existing or new contracts at any immigration detention facility, including—

(i) Bureau of Prison facilities;

(ii) contract detention facilities;
(iii) intergovernmental service agreements;

(iv) service processing centers;

(v) United States Marshals Service intergovernmental agreements on which U.S. Immigration and Customs Enforcement is an authorized user; and

(vi) juvenile or family detention facilities; and

(B) does not include improvements or renovations unrelated to the increase of current immigration bed usage or activation of unused immigration bed capacity.

(3) IMMIGRATION DETENTION FACILITY.—The term “immigration detention facility” means any site at which U.S. Immigration and Customs Enforcement holds noncitizens in custody for any period.

SEC. 4. MORATORIUM ON EXPANSION OF IMMIGRATION DETENTION FACILITIES.

(a) IN GENERAL.—The Secretary of Homeland Security may not use any Federal funds for the construction or expansion of immigration detention facilities.

(b) REPORTING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Home-
land Security shall submit a report to the appropriate congressional committees that contains a detailed plan on—

(1) how the number of immigration detention beds will be decreased to 50 percent of the number available during fiscal year 2018; and

(2) how to implement community-based alternatives to detention, as a substitute for detention in a facility, which is developed in consultation with stakeholders, including nonprofit legal service providers, nonprofit shelter providers, and detention visitation programs.

(c) Notification.—

(1) In general.—If the Secretary of Homeland Security determines that more immigration detention space will be needed, the Secretary, not later than 60 days before such anticipated need, shall submit a written justification of such need to the chair and ranking member of the appropriate congressional committees.

(2) Savings provision.—Nothing in this subsection may be construed to authorize the use of Federal funds to expand immigration detention facilities without explicit statutory authorization after the date of the enactment of this Act.
(d) ENDING A CONTRACT.—If a facility is deemed less than adequate in the 2 most recent inspections, audits, or investigations conducted by the Office of Inspector General of the Department of Homeland Security pursuant to section 5(a)(1), the Department of Homeland Security may not continue to contract with such facility.

SEC. 5. INCREASED OVERSIGHT OF IMMIGRATION DETENTION FACILITIES.

(a) INSPECTIONS; AUDITS; INVESTIGATIONS.—In addition to exercising its responsibilities and duties under the Inspector General Act of 1978 (5 U.S.C. App.), the Office of the Inspector General of the Department of Homeland Security shall—

(1) conduct—

(A) unannounced periodic inspections of immigration detention facilities not less frequently than annually;

(B) audits of immigration detention facilities to ensure compliance with the national standards established under the Violence Against Women Reauthorization Act of 2013 (Public Law 113–4) and the Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (79 Fed. Reg. 13099 et seq.), which were published by the De-
partment of Homeland Security on March 7, 2014; and

(C) investigations focused on health, safety, and due process concerns at immigration detention facilities, including—

(i) deaths in custody;

(ii) detainee access to medical and mental health care, including pregnant women and other vulnerable populations;

(iii) sexual assault and harassment;

and

(iv) compliance with legal visitation and access requirements;

(2) measure inspections, audits, and investigations conducted pursuant to paragraph (1) against the American Bar Association’s Civil Detention Standards, in addition to the U.S. Immigration and Customs Enforcement standards to which each facility is held;

(3) deliver a conclusion on adequacy at the conclusion of each inspection, audit, and investigation conducted pursuant to paragraph (1); and

(4) make publicly available the results of the inspections, audits, and investigations conducted pursuant to paragraph (1) without compromising the
confidentiality of individuals who submitted complaints.

(b) Civil Rights and Civil Liberties.—

(1) In General.—The Office for Civil Rights and Civil Liberties of the Department of Homeland Security shall conduct investigations of civil rights and civil liberties complaints in immigration detention facilities in accordance with section 8I(f) of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) Information Requests.—Each component agency of the Department of Homeland Security shall comply with all document and information requests from the Office for Civil Rights and Civil Liberties to facilitate investigations under this section.

(e) Reporting Requirements.—


(A) not later than 60 days after any inspection, audit, or investigation, submit a report to the appropriate congressional committees that summarizes the results, in accordance with subsection (a); and
(B) release aggregate data on its website
on a quarterly basis, without compromising con-
fidentiality, regarding—

(i) complaints lodged about or from
an immigration detention facility;

(ii) actions taken in response to such
complaints; and

(iii) investigation outcomes.

(2) Office of Civil Rights and Civil Lib-

erities.—The Office for Civil Rights and Civil Lib-

erities of the Department of Homeland Security
shall—

(A) not later than 60 days after the con-

clusion of any investigation under subsection
(b), submit a report to the appropriate congress-

ional committees that summarizes the results
of the investigation; and

(B) release aggregate data on its website
on a quarterly basis, without compromising con-
fidentiality, regarding—

(i) complaints lodged about or from
an immigration detention facility;

(ii) actions taken in response to such
complaints; and

(iii) investigation outcomes.
(d) Authorization of Appropriations.—In addition to amount otherwise authorized to be appropriated for such purposes, there is authorized to be appropriated to the Department of Homeland Security, for each of the fiscal years 2020 through 2028—

(1) $45,000,000 to conduct and report on the inspections, audits, and investigations required under subsection (a); and

(2) $10,000,000 to conduct and report on the investigations required under subsection (b).