DETENTION WATCH NETWORK

The Bipartisan American Affordability and Jobs Act Will Accelerate the Expansion of Deadly Immigration Detention Facilities

The Bipartisan American Affordability and Jobs Act (BAAJA) is slated for a vote soon after the midterm elections. As written, this bill would pave a path for detention expansion by making immigration detention facilities easier to build and much harder to stop. It would undermine years of work by organizations across the country to protect communities and resist detention expansion, weakening the tools we use to hold immigration agencies accountable.

The United States already operates the largest immigration detention system in the world, bolstered by an unprecedented $45 billion to expand immigration detention from H.R.1 last year. Immigration and Customs Enforcement (ICE) runs a growing network of more than 200 long-term detention centers, alongside hundreds of short-term facilities across the country. Every day, ICE holds tens of thousands of people in this system with an extensive, well-documented history of abuse and neglect. Since 2003, more than 300 people have died in ICE custody, including 60 people during the current Trump administration. As conditions worsen, ICE's footprint continues to grow dramatically, as written this bill would strip communities from tools used to fight back against this expansion.

How the Bill Accelerates Detention Expansion

NEPA has been one of the most effective tools for stopping detention facilities including expansion through warehouses.

- In early 2026, ICE spent $1 billion purchasing 11 mega-warehouses to convert into massive detention facilities, to meet their goal of detaining at least 100,000 people at a given time. The repurposing of these industrial warehouses to detention facilities was done without any of the environmental review that NEPA requires.
- The lack of environmental review provided the essential basis for states and communities across the country to challenge ICE's plans, resulting in NEPA lawsuits filed by the states of Arizona, Maryland, Michigan, and New Jersey; and cities in Texas, Georgia, and Utah.
- In April, the state of Maryland won a preliminary injunction blocking ICE from proceeding with construction because of the lack of compliance with NEPA. As a direct result of that victory and others in similar lawsuits, ICE's plans in Maryland and other states quickly stalled.
- ICE has placed many of its warehouses up for sale and has paused actions to open the remaining warehouses as it struggles to meet the environmental review requirements it previously ignored.

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How BAAJA Would Shield ICE Detention Projects from Accountability

As written, BAAJA would significantly reduce the scope of NEPA and all but eliminate judicial review. In the future, ICE could proceed with massive, irreversible projects like the warehouse detention expansion project with little oversight and no meaningful legal recourse.

- The bill narrows the definition of a "major federal action" to preclude NEPA review from applying to a vast array of projects, including grants and other forms of financial assistance (Section 1102, page 17). Going forward, the federal government may argue that providing financial assistance to a state to construct a detention facility, such as was proposed with the Alligator Alcatraz facility in Florida, would not trigger NEPA.
- The bill eliminates the ability of courts to vacate faulty decisions or order injunctions under NEPA—no matter how egregious the agency's failure (Section 1110, pages 69/70). As a result, no court could block a proposed detention center for failing to conduct the required review.
- The bill also restricts district courts from considering many NEPA violations, instead moving judicial review of those claims to the courts of appeals, which would have to decide claims without the usual development of a record in the district court (Section 1110, pages 68/69). BAAJA could also prevent future administrations from undoing or revising approvals for those detention centers and other facilities that the Trump administration does approve.
- The bill prevents the federal government from taking any action to "revoke, rescind, terminate, suspend, amend, or alter a Federal authorization or permit" once approved. While this provision may be intended to apply to energy projects, the definition of "Federal authorization or permit" could be read to cover approvals for almost any project, making it extremely difficult for a future administration to undo or even amend detention center approvals (Section 1401, page 158/159).
- The bill also prohibits an agency from taking any action that would "interfere with or prevent the construction or operation at full capacity of a project" outside of a few narrow circumstances (Section 1401, page 159). Again, while this language may be intended to be applied in the energy context, it is in no way limited to that context, raising significant concerns about what requiring the perpetual operation of detention centers "at full capacity" would mean for immigrant communities across the nation.

If this bill goes into effect, it will help solidify the expansion of harmful infrastructure made possible by more than $240 billion in reconciliation funding for the Trump administration's detention and deportation agenda. At a time when people are struggling to afford groceries, housing, and other necessities, BAAJA would make it easier to build detention facilities and continue pouring public dollars into a system that has already wasted billions. If passed as written, BAAJA would make detention expansion easier and accountability harder and would have a long-lasting impact, well beyond the current administration.