

AMENDMENT TO H.R. 2278**OFFERED BY MR. WATT**

Beginning on page 21, strike line 10 through page 24, line 16, and insert the following:

1 **SEC. 112. IMPROVEMENT OF SECTION 287(g) PROGRAM.**

2 Section 287 of the Immigration and Nationality Act
3 (8 U.S.C. 1357) is amended by adding at the end the fol-
4 lowing:

5 “(11) The Secretary of Homeland Security may not
6 enter into a written agreement with a State, or any polit-
7 ical subdivision of a State, if such State or political sub-
8 division of a State is under investigation, engaged in litiga-
9 tion, or subject to court supervision in connection with a
10 civil rights violation.

11 “(12) An agreement under this subsection shall con-
12 tain a written certification that the State, or any political
13 subdivision of a State, that has entered into such an
14 agreement—

15 “(A) maintains adequate policies and proce-
16 dures designed to eliminate racial profiling that shall
17 include—

18 “(i) a prohibition on racial profiling con-
19 sistent with paragraph (13);

1 “(ii) training on racial profiling issues as
2 part of law enforcement training;

3 “(iii) the collection of data on all routine
4 or spontaneous investigatory activities; and

5 “(iv) participation in an administrative
6 complaint procedure or independent audit pro-
7 gram; and

8 “(B) has eliminated any existing practices that
9 permit or encourage racial profiling.

10 “(13)(A) For purposes of paragraph (12)(A), a pro-
11 hibition on racial profiling means that, in making routine
12 or spontaneous law enforcement decisions performing a
13 function under the agreement, such as ordinary traffic
14 stops, law enforcement officers may not use race, eth-
15 nicity, religion, or national origin to any degree, except
16 that officers may rely on race, ethnicity, religion, or na-
17 tional origin if a specific suspect description exists.

18 “(B) In conducting activities in connection with a
19 specific investigation, law enforcement officers may con-
20 sider race, ethnicity, religion, or national origin only to
21 the extent that there is trustworthy information, relevant
22 to the locality or time frame, that links persons of a par-
23 ticular race, ethnicity, religion, or national origin to an
24 identified criminal incident or scheme. This standard ap-

1 plies even where the use of race, ethnicity, religion, or na-
2 tional origin might otherwise be unlawful.

3 “(C) This section is not intended to and should not
4 impede the ability of Federal, State, and local law enforce-
5 ment officers to protect the United States and the people
6 of the United States from any threat, be it foreign or do-
7 mestic.

8 “(D)(i) Not later than 180 days after the date of the
9 enactment of this paragraph, the Secretary of Homeland
10 Security shall begin collecting from States or any political
11 subdivisions of States data regarding the individualized
12 immigration enforcement activities of law enforcement of-
13 ficers performing functions under an agreement made
14 under this subsection.

15 “(ii) .Not later than 180 days after data collection
16 under clause (i) commences, the Secretary shall complete
17 a study analyzing the data.

18 “(iii) Not later than 90 days after the date the study
19 required by clause (ii) is completed, the Secretary, in con-
20 sultation with the Attorney General, shall issue regula-
21 tions regarding the use of race, ethnicity, and any other
22 suspect classifications the Secretary deems appropriate by
23 covered law enforcement officers.

1 “(iv) Not later than 30 days after completion of the
2 study required by clause (ii), the Secretary shall submit
3 the study to—

4 “(I) the Committee on the Judiciary of the
5 House of Representatives;

6 “(II) the Committee on the Judiciary of the
7 Senate;

8 “(III) the Committee on Homeland Security of
9 the House of Representatives;

10 “(IV) the Committee on Homeland Security
11 and Governmental Affairs of the Senate;

12 “(V) the Committee on Appropriations of the
13 House of Representatives; and

14 “(VI) the Committee on Appropriations of the
15 Senate.

16 “(E)(i) In this paragraph, the term ‘law enforcement
17 officer’ means any Federal, State, local or Indian tribal
18 official responsible for enforcing criminal, immigration, or
19 customs laws, including police officers and other agents
20 of a law enforcement agency.

21 “(ii) In this subsection, the term ‘racial profiling’
22 means the practice of a law enforcement agent or agency
23 relying, to any degree, on race, ethnicity, national origin,
24 or religion in selecting which individual to subject to rou-
25 tine or spontaneous investigatory activities or in deciding

1 upon the scope and substance of law enforcement activity
2 following the initial investigatory procedure, except when
3 there is trustworthy information, relevant to the locality
4 and timeframe, that links a person of a particular race,
5 ethnicity, national origin, or religion to an identified criminal incident or scheme.

7 “(iii) In this subsection, the term ‘routine or spontaneous investigatory activities’ means the following activities by a law enforcement agent::

10 “(I) Interviews.

11 “(II) Traffic stops.

12 “(III) Pedestrian stops.

13 “(IV) Frisks and other types of body searches.

14 “(V) Consensual or nonconsensual searches of
15 the persons, property, or possessions (including vehicles) of individuals using any form of public or private transportation, including motorists and pedestrians.

19 “(VI) Data collection and analysis, assessments,
20 and predicated investigations.

21 “(VII) Inspections and interviews of entrants
22 into the United States that are more extensive than
23 those customarily carried out.

24 “(VIII) Immigration-related workplace investigations.
25

1 “(IX) Such other types of law enforcement en-
2 counters compiled for or by the Federal Bureau of
3 Investigation or the Department of Justice Bureau
4 of Justice Statistics.”.

