

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To ensure border security results for the American people by achieving and maintaining operational control and full situational awareness of the Southern border.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 744**

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CORNYN

Viz:

- 1 On page 1, strike line 7 and all that follows through
- 2 page 60, line 25, and insert the following:
- 3 (b) TABLE OF CONTENTS.—The table of contents for
- 4 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Statement of congressional findings.
- Sec. 3. Effective date triggers.
- Sec. 4. Southern Border Security Commission.
- Sec. 5. Comprehensive Southern Border Security Strategy.
- Sec. 6. Border security metrics.
- Sec. 7. Comprehensive Immigration Reform Trust Fund.
- Sec. 8. Reference to the Immigration and Nationality Act.
- Sec. 9. Definitions.

TITLE I—BORDER SECURITY

- Sec. 1101. Definitions.
- Sec. 1102. Additional U.S. Customs and Border Protection officers.
- Sec. 1103. National Guard support to secure the Southern border.
- Sec. 1104. Enhancement of existing border security operations.

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- Sec. 1105. Border security on certain Federal land.
- Sec. 1106. Equipment and technology.
- Sec. 1107. Access to emergency personnel.
- Sec. 1108. Southwest border region prosecution initiative.
- Sec. 1109. Interagency collaboration.
- Sec. 1110. SCAAP reauthorization.
- Sec. 1111. Southern border security assistance grants.
- Sec. 1112. Use of force.
- Sec. 1113. Training for Border Security and Immigration Enforcement officers.
- Sec. 1114. Department of Homeland Security Border Oversight Task Force.
- Sec. 1115. Immigration ombudsman.
- Sec. 1116. Reports.
- Sec. 1117. Delegation.
- Sec. 1118. Severability.

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Immigrants

- Sec. 2101. Registered provisional immigrant status.
- Sec. 2102. Adjustment of status of registered provisional immigrants.
- Sec. 2103. The DREAM Act.
- Sec. 2104. Additional requirements.
- Sec. 2105. Criminal penalty.
- Sec. 2106. Grant program to assist eligible applicants.
- Sec. 2107. Conforming amendments to the Social Security Act.
- Sec. 2108. Government contracting and acquisition of real property interest.
- Sec. 2109. Long-term legal residents of the Commonwealth of the Northern  
Mariana Islands.
- Sec. 2110. Rulemaking.
- Sec. 2111. Statutory construction.

## Subtitle B—Agricultural Worker Program

- Sec. 2201. Short title.
- Sec. 2202. Definitions.

CHAPTER 1—PROGRAM FOR EARNED STATUS ADJUSTMENT OF  
AGRICULTURAL WORKERS

## SUBCHAPTER A—BLUE CARD STATUS

- Sec. 2211. Requirements for blue card status.
- Sec. 2212. Adjustment to permanent resident status.
- Sec. 2213. Use of information.
- Sec. 2214. Reports on blue cards.
- Sec. 2215. Authorization of appropriations.

## SUBCHAPTER B—CORRECTION OF SOCIAL SECURITY RECORDS

- Sec. 2221. Correction of social security records.

## CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISA PROGRAM

- Sec. 2231. Nonimmigrant classification for nonimmigrant agricultural workers.
- Sec. 2232. Establishment of nonimmigrant agricultural worker program.
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Sec. 2234. Reports to Congress on nonimmigrant agricultural workers.

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Sec. 2243. Effective date.

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Sec. 2309. Fiancée and fiancé child status protection.

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## CHAPTER 2— INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST H-1B EMPLOYERS

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- Sec. 4301. Prohibition on outplacement of L nonimmigrants.
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- Sec. 4702. Nonimmigrant classification for W nonimmigrants.
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- Sec. 4801. Nonimmigrant INVEST visas.
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## 1 **SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS.**

2 Congress makes the following findings:

- 3 (1) The passage of this Act recognizes that the
- 4 primary tenets of its success depend on securing the
- 5 sovereignty of the United States of America and es-
- 6 tablishing a coherent and just system for integrating
- 7 those who seek to join American society.

1           (2) We have a right, and duty, to maintain and  
2           secure our borders, and to keep our country safe and  
3           prosperous. As a nation founded, built, and sus-  
4           tained by immigrants we also have a responsibility  
5           to harness the power of that tradition in a balanced  
6           way that secures a more prosperous future for  
7           America.

8           (3) We have always welcomed newcomers to the  
9           United States and will continue to do so, but in  
10          order to qualify for the honor and privilege of even-  
11          tual citizenship, our laws must be followed. The  
12          world depends on America to be strong economically,  
13          militarily, and ethically. The establishment of a sta-  
14          ble, just, and efficient immigration system only sup-  
15          ports those goals. As a nation, we have the right and  
16          responsibility to make our borders safe, to establish  
17          clear and just rules for seeking citizenship, to con-  
18          trol the flow of legal immigration, and to eliminate  
19          illegal immigration, which in some cases has become  
20          a threat to our national security.

21          (4) All parts of this Act are premised on the  
22          right and need of the United States to achieve these  
23          goals, and to protect its borders and maintain its  
24          sovereignty.

1 **SEC. 3. EFFECTIVE DATE TRIGGERS.**

2 (a) DEFINITIONS.—In this section and sections 4  
3 through 8 of this Act:

4 (1) COMMISSION.—The term “Commission”  
5 means the Southern Border Security Commission es-  
6 tablished pursuant to section 4 of this Act.

7 (2) COMPREHENSIVE SOUTHERN BORDER SECU-  
8 RITY STRATEGY.—The term “Comprehensive South-  
9 ern Border Security Strategy” means the strategy  
10 established by the Secretary pursuant to section 5(a)  
11 of this Act to achieve and maintain operational con-  
12 trol and full situational awareness of the Southern  
13 border.

14 (3) CONSEQUENCE DELIVERY SYSTEM.—The  
15 term “Consequence Delivery System” means the se-  
16 ries of consequences applied to persons illegally en-  
17 tering the United States by U.S. Border Patrol to  
18 prevent illegal border crossing recidivism.

19 (4) EFFECTIVENESS RATE.—The term “effec-  
20 tiveness rate” means a metric, informed by situa-  
21 tional awareness, that measures the percentage cal-  
22 culated by dividing—

23 (A) the number of illegal border crossers  
24 who are apprehended or turned back during a  
25 fiscal year (excluding those who are believed to

1           have turned back for the purpose of engaging  
2           in criminal activity), by

3                   (B) the total number of illegal entries in  
4           the sector during such fiscal year.

5           (5) FULL SITUATIONAL AWARENESS.—The  
6           term “full situational awareness” means situational  
7           awareness of the entire Southern border, including  
8           the capability to conduct continuous, manned or un-  
9           manned, monitoring, sensing, or surveillance of each  
10          and every one-mile segment of the Southern border  
11          or its immediate vicinity.

12          (6) MAJOR VIOLATOR.—The term “major viola-  
13          tor” means a person or entity that has engaged in  
14          serious criminal activities at any port of entry along  
15          the Southern border, including possession of nar-  
16          cotics, smuggling of prohibited products, human  
17          smuggling, human trafficking, weapons possession,  
18          use of fraudulent United States documents, or other  
19          offenses serious enough to result in arrest.

20          (7) OPERATIONAL CONTROL.—The term “oper-  
21          ational control” means that, within each and every  
22          sector of the Southern border, a condition exists in  
23          which there is an effectiveness rate, informed by sit-  
24          uational awareness, of not lower than 90 percent.

1           (8) SITUATIONAL AWARENESS.—The term “sit-  
2           uational awareness” means knowledge and an under-  
3           standing of current illicit cross-border activity, in-  
4           cluding cross-border threats and trends concerning  
5           illicit trafficking and unlawful crossings along the  
6           international borders of the United States and in the  
7           maritime environment, and the ability to predict fu-  
8           ture shifts in such threats and trends.

9           (9) SOUTHERN BORDER.—The term “Southern  
10          border” means the international border between the  
11          United States and Mexico.

12          (b) BORDER SECURITY GOAL.—The border security  
13          goal of the Department shall be to achieve and maintain  
14          operational control and full situational awareness of the  
15          Southern border within 5 years of the date of the enact-  
16          ment of this Act.

17          (c) TRIGGERS.—

18                 (1) PROCESSING OF APPLICATIONS FOR REG-  
19                 ISTERED PROVISIONAL IMMIGRANT STATUS.—Not  
20                 earlier than the date upon which the Secretary has  
21                 submitted to Congress the Notice of Commencement  
22                 of implementation of the Comprehensive Southern  
23                 Border Security Strategy required by section 5 of  
24                 this Act, the Secretary may commence processing  
25                 applications for registered provisional immigrant sta-

1       tus pursuant to section 245B of the Immigration  
2       and Nationality Act, as added by section 2111 of  
3       this Act.

4               (2) ADJUSTMENT OF STATUS OF REGISTERED  
5       PROVISIONAL IMMIGRANTS.—The Secretary may not  
6       adjust the status of aliens who have been granted  
7       registered provisional immigrant status, except for  
8       aliens granted blue card status under section 2211  
9       of this Act or described in section 245D(b) of the  
10      Immigration and Nationality Act, as added by sec-  
11      tion 2103 of this Act, until the Secretary and the  
12      Comptroller General of the United States jointly  
13      submit to the President and Congress a written cer-  
14      tification that—

15               (A) the Secretary has achieved and main-  
16               tained full situational awareness of Southern  
17               border for not less than 1 year;

18               (B) the Secretary has achieved and main-  
19               tained operational control of the Southern bor-  
20               der for not less than 1 year;

21               (C) the Secretary has implemented the  
22               mandatory employment verification system re-  
23               quired by section 274A of the Immigration and  
24               Nationality Act (8 U.S.C. 1324a), as amended  
25               by section 3101 of this Act, for use by all em-



1           (E) One designee of the Governor of the  
2           State of Arizona who is not such official or  
3           such official's designee under subparagraph  
4           (A).

5           (F) One designee of the Governor of the  
6           State of California who is not such official or  
7           such official's designee under subparagraph  
8           (B).

9           (G) One designee of the Governor of the  
10          State of New Mexico who is not such official or  
11          such official's designee under subparagraph (C).

12          (H) One designee of the Governor of the  
13          State of Texas who is not such official or such  
14          official's designee under subparagraph (D).

15          (2) CHAIR.—At the first meeting of the Com-  
16          mission, a majority of the members of the Commis-  
17          sion present and voting shall elect the Chair of the  
18          Commission.

19          (3) RULES.—The Commission shall establish  
20          the rules and procedures of the Commission which  
21          shall require the approval of a majority of members  
22          of the Commission.

23          (4) MEETINGS.—Members of the Commission  
24          shall meet at the times and places of their choosing.

1           (5) NATURE OF REQUIREMENTS.—The tenure  
2           and terms of participation as a member of the Com-  
3           mission of any Governor or designee of a Governor  
4           under this subsection shall be subject to the sole dis-  
5           cretion of such Governor.

6           (c) CONSULTATION; FEDERALISM PROTECTIONS.—

7           (1) CONSULTATION.—The Secretary shall regu-  
8           larly consult with members of the Commission as to  
9           the substance and contents of any strategy, plan, or  
10          report required by section 5 of this Act.

11          (2) FEDERALISM PROTECTIONS.—The Sec-  
12          retary may make no rules, regulations, or conditions  
13          regarding the operation of the Commission, or the  
14          terms of service of members of the Commission.

15          (d) TRANSITION.—The Secretary shall no longer be  
16          required to consult with the Commission under subsection  
17          (d)(1) on the date which is the earlier of—

18               (1) 30 days after the date on which a certifi-  
19               cation is made by the Secretary and Comptroller  
20               General of the United States under section  
21               3(c)(2)(A) of this Act; or

22               (2) 10 years after the date of the enactment of  
23               this Act.

1 **SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY**  
2 **STRATEGY.**

3 (a) COMPREHENSIVE SOUTHERN BORDER SECURITY  
4 STRATEGY.—

5 (1) IN GENERAL.—Not later than 180 days  
6 after the date of the enactment of this Act, the Sec-  
7 retary shall submit a strategy, to be known as the  
8 “Comprehensive Southern Border Security Strat-  
9 egy” (in this section referred to as the “Strategy”),  
10 for achieving and maintaining operational control  
11 and full situational awareness of the Southern bor-  
12 der, to—

13 (A) the Committee on Homeland Security  
14 and Governmental Affairs of the Senate;

15 (B) the Committee on Homeland Security  
16 of the House of Representatives;

17 (C) the Committee on Appropriations of  
18 the Senate;

19 (D) the Committee on Appropriations of  
20 the House of Representatives; and

21 (E) the Comptroller General of the United  
22 States.

23 (2) ELEMENTS.—The Strategy shall include, at  
24 a minimum, a consideration of the following:

1 (A) The state of operational control and  
2 situational awareness of the Southern border,  
3 including a sector-by-sector analysis.

4 (B) An assessment of principal Southern  
5 border security threats.

6 (C) Efforts to analyze and disseminate  
7 Southern border security and Southern border  
8 threat information between Department border  
9 security components.

10 (D) Efforts to increase situational aware-  
11 ness of the Southern border in accordance with  
12 privacy, civil liberties, and civil rights protec-  
13 tions, including—

14 (i) surveillance capabilities developed  
15 or utilized by the Department of Defense,  
16 including any technology determined to be  
17 excess by the Department of Defense; and

18 (ii) use of manned aircraft and un-  
19 manned aerial systems, including the cam-  
20 era and sensor technology deployed on  
21 such assets.

22 (E) A Southern border fencing strategy  
23 that identifies where fencing, including double-  
24 layer fencing, infrastructure, and technology  
25 should be deployed along the Southern border.

1 (F) A comprehensive Southern border se-  
2 curity technology plan for detection technology  
3 capabilities, including a documented justifica-  
4 tion and rationale for the technologies selected,  
5 deployment locations, fixed versus mobile as-  
6 sets, and a timetable for procurement and de-  
7 ployment.

8 (G) Technology required to both enhance  
9 security and facilitate trade at Southern border  
10 ports of entry, including nonintrusive detection  
11 equipment, radiation detection equipment, bio-  
12 metric technology, and other sensors and tech-  
13 nology that the Secretary determines necessary.

14 (H) Operational coordination of Depart-  
15 ment Southern border security components, in-  
16 cluding efforts to ensure that a new border se-  
17 curity technology can be operationally inte-  
18 grated with existing technologies in use by the  
19 Department.

20 (I) Cooperative agreements other Federal  
21 law enforcement agencies and State, local, trib-  
22 al, and territorial law enforcement agencies that  
23 have jurisdiction on the Southern border, or in  
24 the maritime environment.

1           (J) Information received from consultation  
2 with other Federal law enforcement agencies  
3 and State, local, tribal, and territorial law en-  
4 forcement agencies that have jurisdiction on the  
5 Southern border, or the maritime environment,  
6 and from Southern border community stake-  
7 holders, including representatives from border  
8 agricultural and ranching organizations and  
9 representatives from business organizations  
10 within close proximity of the Southern border.

11           (K) Agreements with foreign governments  
12 that support the border security efforts of the  
13 United States.

14           (L) Efforts to detect and prevent terrorists  
15 and instruments of terrorism from entering the  
16 United States.

17           (M) Staffing requirements for all Southern  
18 border security functions.

19           (N) Metrics required by section 6 of this  
20 Act.

21           (O) An assessment of existing efforts and  
22 technologies used for border security and the ef-  
23 fect of the use of such efforts and technologies  
24 on civil rights, private property rights, privacy  
25 rights, and civil liberties.

1           (P) Resources and other measures nec-  
2           essary to achieve a 50 percent reduction in the  
3           average wait times of commercial and passenger  
4           vehicles at international land ports of entry  
5           along the Southern border.

6           (Q) A prioritized list of research and devel-  
7           opment objectives to enhance the security of the  
8           Southern border.

9           (3) IMPLEMENTATION PLAN.—Not later than  
10          60 days after the submission of the Strategy under  
11          paragraph (1), the Secretary shall submit to the  
12          committees of Congress specified in paragraph (1)  
13          an implementation plan for each of the border secu-  
14          rity components of the Department to carry out the  
15          Strategy. The plan shall include, at a minimum—

16           (A) a comprehensive border security tech-  
17           nology plan for continuous and systematic sur-  
18           veillance of the Southern border, including a  
19           documented justification and rationale for the  
20           technologies selected, deployment locations,  
21           fixed versus mobile assets, and a timetable for  
22           procurement and deployment;

23           (B) the resources, including personnel, in-  
24           frastructure, and technologies that must be de-  
25           veloped, procured, and successfully deployed, to

1 achieve and maintain operational control and  
2 full situational awareness of the Southern bor-  
3 der; and

4 (C) a set of interim goals and supporting  
5 milestones necessary for the Department to  
6 achieve and maintain operational control and  
7 full situational awareness of the Southern bor-  
8 der.

9 (4) SEMIANNUAL REPORTS.—

10 (A) IN GENERAL.—After the Strategy is  
11 submitted under paragraph (1), the Secretary  
12 shall submit to the committees of Congress  
13 specified in paragraph (1), not later than May  
14 15 and November 15 each year, a report on the  
15 status of the implementation of the Strategy by  
16 the Department, including a report on the state  
17 of operational control of the Southern border  
18 and the metrics required by section 6 of this  
19 Act.

20 (B) ELEMENTS.—Each report submitted  
21 under subparagraph (A) shall include—

22 (i) a detailed description of the steps  
23 the Department has taken, or plans to  
24 take, to execute the Strategy;

25 (ii) a detailed description of—

1 (I) any impediments identified in  
2 the Department's efforts to execute  
3 the strategy;

4 (II) the actions the Department  
5 has taken, or plans to take, to address  
6 such impediments; and

7 (III) any additional measures de-  
8 veloped by the Department to meas-  
9 ure the state of security along the  
10 Southern border;

11 (iii) for each U.S. Border Patrol sec-  
12 tor along the Southern border—

13 (I) the effectiveness rate for such  
14 sector;

15 (II) the number of recidivist ap-  
16 prehensions; and

17 (III) the recidivism rate for all  
18 unique subjects that received a crimi-  
19 nal consequence through the Con-  
20 sequence Delivery System process;

21 (iv) the aggregate effectiveness rate of  
22 all U.S. Border Patrol sectors along the  
23 Southern border;

24 (v) a resource allocation model for  
25 current and future year staffing require-

1           ments that includes optimal staffing levels  
2           at Southern border land, air, and sea ports  
3           of entry, and an explanation of U.S. Cus-  
4           toms and Border Protection methodology  
5           for aligning staffing levels and workload to  
6           threats and vulnerabilities across all mis-  
7           sion areas;

8                   (vi) detailed information on the level  
9           of manpower available at all Southern bor-  
10          der land, air, and sea ports of entry and  
11          between Southern border ports of entry,  
12          including the number of canine and agri-  
13          cultural officers assigned to each such port  
14          of entry; and

15                   (vii) detailed information that de-  
16          scribes the difference between the staffing  
17          the model suggests and the actual staffing  
18          at each Southern border port of entry and  
19          between the ports of entry.

20 **SEC. 6. BORDER SECURITY METRICS.**

21           (a) METRICS FOR SECURING THE SOUTHERN BOR-  
22          DER BETWEEN PORTS OF ENTRY.—Not later than 90  
23          days after the date of the enactment of this Act, the Sec-  
24          retary shall implement metrics to measure the effective-  
25          ness of security between ports of entry along the Southern

1 border. The metrics shall address, at a minimum, the fol-  
2 lowing:

3 (1) The effectiveness rate for the areas covered.

4 (2) Estimates, using alternate methodologies,  
5 including recidivism and survey data, of total at-  
6 tempted illegal border crossings, the rate of appre-  
7 hension of attempted illegal border crossings, and  
8 the inflow into the United States of illegal border  
9 crossers who evade apprehension.

10 (3) Estimates of the impacts of the Con-  
11 sequence Delivery System of U.S. Border Patrol on  
12 the rate of recidivism of illegal border crossers.

13 (4) The current level of situational awareness.

14 (5) Amount of narcotics seized between ports of  
15 entry.

16 (6) A narcotics interdiction rate which meas-  
17 ures the amount of narcotics seized against the total  
18 estimated amount of narcotics U.S. Border Patrol  
19 fails to seize.

20 (b) METRICS FOR SECURING THE BORDER AT PORTS  
21 OF ENTRY.—

22 (1) IN GENERAL.—Not later than 90 days after  
23 the date of the enactment of this Act, the Secretary  
24 shall implement metrics to measure the effectiveness

1 of security at Southern border ports of entry. The  
2 metrics shall address, at a minimum, the following:

3 (A) The effectiveness rate for such ports of  
4 entry.

5 (B) Estimates, using alternative meth-  
6 odologies, including recidivism data, survey  
7 data, known-flow data, and randomized sec-  
8 ondary screening data, of total attempted inad-  
9 missible border crossers, the rate of apprehen-  
10 sion of attempted inadmissible border crossers,  
11 and the inflow into the United States of inad-  
12 missible border crossers who evade apprehen-  
13 sion.

14 (C) A narcotics interdiction rate which  
15 measures the amount of narcotics seized  
16 against the total estimated amount of narcotics  
17 U.S. Customs and Border Protection fails to  
18 seize.

19 (D) The number of infractions related to  
20 personnel and cargo committed by major viola-  
21 tors who are apprehended by U.S. Customs and  
22 Border Protection at such ports of entry, and  
23 the estimated number of such infractions com-  
24 mitted by major violators who are not so appre-  
25 hended.

1                   (E) The effect of the border security appa-  
2                   ratus on crossing times.

3                   (2) COVERT TESTING.—The Inspector General  
4                   of the Department of Homeland Security shall carry  
5                   out covert testing at ports of entry along the South-  
6                   ern border and submit to the Secretary and the com-  
7                   mittees of Congress specified in section 5(a)(1) of  
8                   this Act a report that contains the results of such  
9                   tests. The Secretary shall use such results to assess  
10                  activities under this subsection.

11                  (c) INDEPENDENT ASSESSMENT BY NATIONAL LAB-  
12                  ORATORY WITHIN DEPARTMENT OF HOMELAND SECU-  
13                  RITY LABORATORY NETWORK.—The Secretary shall re-  
14                  quest the head of a national laboratory within the Depart-  
15                  ment laboratory network with prior expertise in border se-  
16                  curity to—

17                   (1) provide an independent assessment of the  
18                   metrics implemented in accordance with subsections  
19                   (a) and (b) to ensure each such metric’s suitability  
20                   and statistical validity; and

21                   (2) make recommendations for other suitable  
22                   metrics that may be used to measure the effective-  
23                   ness of border security along the Southern border.

24                  (d) EVALUATION BY GOVERNMENT ACCOUNTABILITY  
25                  OFFICE.—



1           (1) ESTABLISHMENT.—There is established in  
2           the Treasury an account, to be known as the Com-  
3           prehensive Immigration Reform Trust Fund (in this  
4           section referred to as the “Trust Fund”), consisting  
5           of—

6                   (A) amounts transferred from the general  
7                   fund of the Treasury under paragraph (2)(A);  
8                   and

9                   (B) proceeds from the fees described in  
10                  paragraph (2)(C).

11          (2) DEPOSITS.—

12                  (A) INITIAL FUNDING.—On the later of  
13                  the date of the enactment of this Act or Octo-  
14                  ber 1, 2013, \$6,500,000,000 shall be trans-  
15                  ferred from the general fund of the Treasury to  
16                  the Trust Fund.

17                  (B) START-UP COSTS.—On the later of the  
18                  date of the enactment of this Act or October 1,  
19                  2013, \$1,000,000,000 is hereby appropriated  
20                  from the general fund of the Treasury, to re-  
21                  main available until September 30, 2015, to the  
22                  Department of Homeland Security and the De-  
23                  partment of State to pay for one-time and  
24                  startup costs necessary to implement this Act  
25                  and the amendments made by this Act, includ-

1           ing application processing activities by U.S.  
2           Citizenship and Immigration Services.

3           (C) ONGOING FUNDING.—In addition to  
4           the funding described in subparagraph (A), the  
5           following amounts shall be deposited in the  
6           Trust Fund:

7                   (i) ELECTRONIC TRAVEL AUTHORIZA-  
8                   TION SYSTEM FEES.—Fees collected under  
9                   section 217(h)(3)(B)(i)(II) of the Immigra-  
10                  tion and Nationality Act, as added by sec-  
11                  tion 1102(c).

12                  (ii) REGISTERED PROVISIONAL IMMI-  
13                  GRANT PENALTIES.—Penalties collected  
14                  under section 245B(c)(10)(C) of the Immi-  
15                  gration and Nationality Act, as added by  
16                  section 2101.

17                  (iii) BLUE CARD PENALTY.—Penalties  
18                  collected under section 2211(b)(9)(C).

19                  (iv) FINE FOR ADJUSTMENT FROM  
20                  BLUE CARD STATUS.—Fines collected  
21                  under section 245F(a)(5) of the Immigra-  
22                  tion and Nationality Act, as added by sec-  
23                  tion 2212(a).

24                  (v) PENALTIES FOR FALSE STATE-  
25                  MENTS IN APPLICATIONS.—Fines collected

1 under section 245F(f) of the Immigration  
2 and Nationality Act, as added by section  
3 2212(a).

4 (vi) MERIT SYSTEM GREEN CARD  
5 FEES.—Fees collected under section  
6 203(e)(6) of the Immigration and Nation-  
7 ality Act, as amended by section  
8 2301(a)(2).

9 (vii) H-1B AND L VISA FEES.—Fees  
10 collected under section 281(d) of the Immi-  
11 gration and Nationality Act.

12 (viii) H-1B OUTPLACEMENT FEE.—  
13 Fees collected under section  
14 212(n)(1)(F)(ii) of the Immigration and  
15 Nationality Act, as amended by section  
16 4211(d).

17 (ix) H-1B NONIMMIGRANT DEPEND-  
18 ENT EMPLOYER FEES.—Fees collected  
19 under section 4233(a)(2).

20 (x) L NONIMMIGRANT DEPENDENT  
21 EMPLOYER FEES.—Fees collected under  
22 section 423(a)(2) 4305(a)(2).

23 (xi) J-1 VISA MITIGATION FEES.—  
24 Fees collected under section 281(e) of the

1 Immigration and Nationality Act, as added  
2 by section 4407.

3 (xii) F-1 VISA FEES.—Fees collected  
4 under section 281(f) of the Immigration  
5 and Nationality Act, as added by section  
6 4408.

7 (xiii) RETIREE VISA FEES.—Fees col-  
8 lected under section 214(w)(1)(B) of the  
9 Immigration and Nationality Act, as added  
10 by section 4504(b).

11 (xiv) VISITOR VISA FEES.—Fees col-  
12 lected under section 281(g) of the Immi-  
13 gration and Nationality Act, as added by  
14 section 4509.

15 (xv) H-2B VISA FEES.—Fees collected  
16 under section 214(x)(5)(A) of the Immi-  
17 gration and Nationality Act, as added by  
18 section 4602(a).

19 (xvi) NONIMMIGRANTS PERFORMING  
20 MAINTENANCE ON COMMON CARRIERS.—  
21 Fees collected under section 214(z) of the  
22 Immigration and Nationality Act, as added  
23 by section 4604.

24 (xvii) X-1 VISA FEES.—Fees collected  
25 under section 214(s)(6) of the Immigration

1           and Nationality Act, as added by section  
2           4801.

3           (3) USE OF FUNDS.—

4           (A) INITIAL FUNDING.—All funds trans-  
5           ferred to the Trust Fund pursuant to para-  
6           graph (2)(A) shall be made available to the Sec-  
7           retary for carrying out the Comprehensive  
8           Southern Border Security Strategy required by  
9           section 5 of this Act, including the Southern  
10          border fencing strategy required by section  
11          5(a)(2)(E) of this Act.

12          (B) REPAYMENT OF BORDER SECURITY  
13          ENHANCEMENT EXPENSES.—The first  
14          \$7,500,000,000 deposited into the Trust Fund  
15          pursuant to paragraph (2)(C) shall be trans-  
16          ferred to the general fund of the Treasury and  
17          used for Federal budget deficit reduction.

18          (C) ONGOING FUNDING.—After the trans-  
19          fer is made pursuant to subparagraph (B),  
20          amounts deposited into the Trust Fund pursu-  
21          ant to paragraph (2)(C) shall be made avail-  
22          able, subject to the availability of funds, for the  
23          following purposes:

24                  (i) \$50,000,000 shall be available dur-  
25                  ing each of fiscal years 2014 through 2018

1 to carry out the activities described in sec-  
2 tion 1104(a) of this Act.

3 (ii) \$50,000,000 shall be available  
4 during each of fiscal years 2014 through  
5 2018 to carry out the activities described  
6 in section 1104(b) of this Act.

7 (b) LIMITATION ON COLLECTION.—No fee described  
8 in paragraph (2)(B) may be collected under this Act ex-  
9 cept to the extent that the expenditure of the fee to pay  
10 the costs of activities and services for which the fee is im-  
11 posed is provided for in advance in an appropriations Act.

12 (c) RECEIPTS COLLECTED AS OFFSETTING RE-  
13 CEIPTS.—Notwithstanding section 3302 of title 31,  
14 United States Code, any fee collected under this Act—

15 (1) shall be credited as offsetting collections to  
16 the Trust Fund;

17 (2) shall be available for expenditure only to  
18 pay the costs of activities and services authorized  
19 from the Trust Fund; and

20 (3) shall remain available until expended.

21 (d) DETERMINATION OF BUDGETARY EFFECTS.—

22 (1) EMERGENCY DESIGNATION FOR CONGRES-  
23 SIONAL ENFORCEMENT.—In the Senate, amounts  
24 appropriated by or transferred to the general fund  
25 of the Treasury pursuant to this section are des-

1       ignated as an emergency requirement pursuant to  
2       section 403(a) of S. Con. Res. 13 (111th Congress),  
3       the concurrent resolution on the budget for fiscal  
4       year 2010.

5               (2) EMERGENCY DESIGNATION FOR STATUTORY  
6       PAYGO.—Amounts appropriated by or transferred to  
7       the general fund of the Treasury pursuant to this  
8       section are designated as an emergency requirement  
9       under section 4(g) of the Statutory Pay-As-You-Go  
10      Act of 2010 (Public Law 111–139; 2 U.S.C.  
11      933(g)).

12 **SEC. 8. REFERENCE TO THE IMMIGRATION AND NATION-**  
13                                   **ALITY ACT.**

14      Except as otherwise expressly provided, whenever in  
15      this Act an amendment or repeal is expressed in terms  
16      of an amendment to, or repeal of, a section or other provi-  
17      sion, the reference shall be considered to be made to a  
18      section or other provision of the Immigration and Nation-  
19      ality Act (8 U.S.C. 1101 et seq.).

20 **SEC. 9. DEFINITIONS.**

21      In this Act:

22               (1) DEPARTMENT.—Except as otherwise pro-  
23      vided, the term “Department” means the Depart-  
24      ment of Homeland Security.

1           (2) SECRETARY.—Except as otherwise provided,  
2           the term “Secretary” means the Secretary of Home-  
3           land Security.

## 4           **TITLE I—BORDER SECURITY**

### 5           **SEC. 1101. DEFINITIONS.**

6           In this title:

7           (1) NORTHERN BORDER.—The term “Northern  
8           border” means the international border between the  
9           United States and Canada.

10          (2) RURAL, HIGH-TRAFFICKED AREAS.—The  
11          term “rural, high-trafficked areas” means rural  
12          areas through which drugs and undocumented aliens  
13          are routinely smuggled, as designated by the Com-  
14          missioner of U.S. Customs and Border Protection.

15          (3) SOUTHERN BORDER.—The term “Southern  
16          border” means the international border between the  
17          United States and Mexico.

18          (4) SOUTHWEST BORDER REGION.—The term  
19          “Southwest border region” means the area in the  
20          United States that is within 100 miles of the South-  
21          ern border.

### 22          **SEC. 1102. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 23          **TECTION OFFICERS.**

24          (a) IN GENERAL.—Not later than September 30,  
25          2017, the Secretary shall increase the number of trained

1 U.S. Customs and Border Protection officers by not less  
2 than 10,000, not less than 5,000 of which shall be trained  
3 full-time active duty U.S. Border Patrol agents deployed  
4 to the Southern border, compared to the number of such  
5 officers as of the date of the enactment of this Act. The  
6 Secretary shall make progress in increasing such number  
7 of officers during each of fiscal years 2014 through 2017.

8 (b) CONSTRUCTION.—Nothing in subsection (a) may  
9 be construed to preclude the Secretary from reassigning  
10 or stationing U.S. Customs and Border Protection officers  
11 and U.S. Border Patrol agents from the Northern border  
12 to the Southern border.

13 (c) FUNDING.—Section 217(h)(3)(B) (8 U.S.C.  
14 1187(h)(3)(B)) is amended—

15 (1) in clause (i)—

16 (A) by striking “No later than 6 months  
17 after the date of enactment of the Travel Pro-  
18 motion Act of 2009, the” and inserting “The”;

19 (B) in subclause (I), by striking “and” at  
20 the end;

21 (C) by redesignating subclause (II) as sub-  
22 clause (III); and

23 (D) by inserting after subclause (I) the fol-  
24 lowing:

1                                   “(II) \$16 for border processing;  
2                                   and”;

3                   (2) in clause (ii), by striking “Amounts col-  
4                   lected under clause (i)(II)” and inserting “Amounts  
5                   collected under clause (i)(II) shall be deposited into  
6                   the Comprehensive Immigration Reform Trust Fund  
7                   established by section 7(a)(1) of the Border Secu-  
8                   rity, Economic Opportunity, and Immigration Mod-  
9                   ernization Act. Amounts collected under clause  
10                  (i)(III)”;

11                  (3) by striking clause (iii).

12 **SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE**  
13 **SOUTHERN BORDER.**

14           (a) IN GENERAL.—With the approval of the Sec-  
15           retary of Defense, the Governor of a State may order any  
16           units or personnel of the National Guard of such State  
17           to perform operations and missions under section 502(f)  
18           of title 32, United States Code, in the Southwest border  
19           region for the purposes of assisting U.S. Customs and  
20           Border Protection in securing the Southern border.

21           (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

22                  (1) IN GENERAL.—National Guard units and  
23                  personnel deployed under subsection (a) may be as-  
24                  signed such operations and missions specified in sub-

1 section (c) as may be necessary to secure the South-  
2 ern border.

3 (2) NATURE OF DUTY.—The duty of National  
4 Guard personnel performing operations and missions  
5 described in paragraph (1) shall be full-time duty  
6 under title 32, United States Code.

7 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-  
8 erations and missions assigned under subsection (b) shall  
9 include the temporary authority—

10 (1) to construct fencing, including double-layer  
11 and triple-layer fencing;

12 (2) to increase ground-based mobile surveillance  
13 systems;

14 (3) to deploy additional unmanned aerial sys-  
15 tems and manned aircraft sufficient to maintain  
16 continuous surveillance of the Southern border;

17 (4) to deploy and provide capability for radio  
18 communications interoperability between U.S. Cus-  
19 toms and Border Protection and State, local, and  
20 tribal law enforcement agencies;

21 (5) to construct checkpoints along the Southern  
22 border to bridge the gap to long-term permanent  
23 checkpoints; and

24 (6) to provide assistance to U.S. Customs and  
25 Border Protection, particularly in rural, high-traf-

1       ficked areas, as designated by the Commissioner of  
2       U.S. Customs and Border Protection.

3       (d) MATERIEL AND LOGISTICAL SUPPORT.—The  
4       Secretary of Defense shall deploy such materiel and equip-  
5       ment and logistical support as may be necessary to ensure  
6       success of the operations and missions conducted by the  
7       National Guard under this section.

8       (e) EXCLUSION FROM NATIONAL GUARD PER-  
9       SONNEL STRENGTH LIMITATIONS.—National Guard per-  
10      sonnel deployed under subsection (a) shall not be included  
11      in—

12           (1) the calculation to determine compliance  
13      with limits on end strength for National Guard per-  
14      sonnel; or

15           (2) limits on the number of National Guard  
16      personnel that may be placed on active duty for  
17      operational support under section 115 of title 10,  
18      United States Code.

19      **SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY**  
20                                      **OPERATIONS.**

21      (a) BORDER CROSSING PROSECUTIONS.—

22           (1) IN GENERAL.—From the amounts available  
23      pursuant to the authorization of appropriations in  
24      paragraph (3), funds shall be available—

1 (A) to increase the number of border cross-  
2 ing prosecutions in each and every sector of the  
3 Southwest border region by at least 50 percent  
4 per day, as calculated by the previous yearly av-  
5 erage on the date of the enactment of this Act,  
6 through increasing the funding available for—

7 (i) attorneys and administrative sup-  
8 port staff in offices of United States attor-  
9 neys;

10 (ii) support staff and interpreters in  
11 Court Clerks' Offices;

12 (iii) pre-trial services;

13 (iv) activities of the Federal Public  
14 Defenders Office; and

15 (v) additional personnel, including  
16 Deputy U.S. Marshals in United States  
17 Marshals' Offices to perform intake, co-  
18 ordination, transportation, and court secu-  
19 rity; and

20 (B) reimburse Federal, State, local, and  
21 tribal law enforcement agencies for any deten-  
22 tion costs related to the border crossing pros-  
23 ecutions carried out pursuant to subparagraph  
24 (A).

1           (2) ADDITIONAL MAGISTRATE JUDGES TO AS-  
2           SIST WITH INCREASED CASELOAD.—The chief judge  
3           of the United States district courts within sectors of  
4           the Southwest border region are authorized to ap-  
5           point additional full-time magistrate judges, who,  
6           consistent with the Constitution and laws of the  
7           United States, shall have the authority to hear cases  
8           and controversies in the judicial district in which the  
9           respective judges are appointed.

10           (3) FUNDING.—There are authorized to be ap-  
11           propriated from the Comprehensive Immigration Re-  
12           form Trust Fund established by section 7(a)(1) of  
13           this Act such sums as may be necessary to carry out  
14           this subsection.

15           (b) OPERATION STONEGARDEN.—

16           (1) IN GENERAL.—The Federal Emergency  
17           Management Agency shall enhance law enforcement  
18           preparedness and operational readiness along the  
19           borders of the United States through Operation  
20           Stonegarden.

21           (2) GRANTS AND REIMBURSEMENTS.—For pur-  
22           poses of paragraph (1), not less than 90 percent of  
23           the amounts made available pursuant to the author-  
24           ization of appropriations in paragraph (3) shall be  
25           allocated for grants and reimbursements to law en-

1        enforcement agencies in the States in the Southwest  
2        border region for personnel, overtime, travel, and  
3        other costs related combating to illegal immigration  
4        and drug smuggling in the Southwest border region.

5            (3) FUNDING.—There are authorized to be ap-  
6        propriated from the Comprehensive Immigration Re-  
7        form Trust Fund established by section  
8        7(a)(3)(C)(ii) of this Act such sums as may be nec-  
9        essary to carry out this subsection.

10        (c) PHYSICAL AND TACTICAL INFRASTRUCTURE IM-  
11        PROVEMENTS.—

12            (1) CONSTRUCTION, UPGRADE, AND ACQUISI-  
13        TION OF BORDER CONTROL FACILITIES.—The Sec-  
14        retary shall, consistent with the Southern Border  
15        Security Strategy required by section 5 of this Act,  
16        upgrade existing physical and tactical infrastructure  
17        of the Department, and construct and acquire addi-  
18        tional physical and tactical infrastructure, including,  
19        but not limited to, the following:

20            (A) U.S. Border Patrol stations.

21            (B) U.S. Border Patrol checkpoints.

22            (C) Forward operating bases.

23            (D) Monitoring stations.

24            (E) Mobile command centers.

25            (F) Field offices.

1 (G) All-weather roads.

2 (H) Lighting.

3 (I) Real property.

4 (J) Other necessary facilities, structures,  
5 and properties.

6 (2) REQUIRED USES OF FUNDS.—The Sec-  
7 retary, consistent with the Southern Border Security  
8 Strategy, shall do the following:

9 (A) U.S. BORDER PATROL STATIONS.—

10 (i) Construct additional U.S. Border  
11 Patrol stations in the Southwest border re-  
12 gion that U.S. Customs and Border Pro-  
13 tection determines are needed to provide  
14 full operational support in rural, high-traf-  
15 ficked areas.

16 (ii) Analyze the feasibility of creating  
17 additional U.S. Border Patrol sectors  
18 along the Southern border to interrupt  
19 drug trafficking operations.

20 (B) U.S. BORDER PATROL CHECK-  
21 POINTS.—Operate and maintain additional tem-  
22 porary or permanent checkpoints on roadways  
23 in the Southwest border region in order to  
24 deter, interdict, and apprehend terrorists,  
25 human traffickers, drug traffickers, weapons

1 traffickers, and other criminals before they  
2 enter the interior of the United States.

3 (C) U.S. BORDER PATROL FORWARD OPER-  
4 ATING BASES.—

5 (i) Establish additional permanent  
6 forward operating bases for U.S. Border  
7 Patrol, as needed.

8 (ii) Upgrade existing forward oper-  
9 ating bases to include modular buildings,  
10 electricity, and potable water.

11 (iii) Ensure that forward operating  
12 bases surveil and interdict individuals en-  
13 tering the United States unlawfully imme-  
14 diately after such individuals cross the  
15 Southern border.

16 (3) AUTHORIZATION OF APPROPRIATIONS.—

17 There is authorized to be appropriated for each of  
18 fiscal years 2014 through 2018, such sums as may  
19 be necessary to carry out this subsection.

20 **SEC. 1105. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

21 (a) DEFINITIONS.—In this section:

22 (1) FEDERAL LANDS.—The term “Federal  
23 lands” includes all land under the control of the Sec-  
24 retary concerned that is located within the South-

1 west border region in the State of Arizona along the  
2 Southern border.

3 (2) SECRETARY CONCERNED.—The term “Sec-  
4 retary concerned” means—

5 (A) with respect to land under the jurisdic-  
6 tion of the Secretary of Agriculture, the Sec-  
7 retary of Agriculture; and

8 (B) with respect to land under the jurisdic-  
9 tion of the Secretary of the Interior, the Sec-  
10 retary of the Interior.

11 (b) SUPPORT FOR BORDER SECURITY NEEDS.—To  
12 achieve effective control of Federal lands—

13 (1) the Secretary concerned, notwithstanding  
14 any other provision of law, shall authorize and pro-  
15 vide U.S. Customs and Border Protection personnel  
16 with immediate access to Federal lands for security  
17 activities, including—

18 (A) routine motorized patrols; and

19 (B) the deployment of communications,  
20 surveillance, and detection equipment;

21 (2) the security activities described in para-  
22 graph (1) shall be conducted, to the maximum ex-  
23 tent practicable, in a manner that the Secretary de-  
24 termines will best protect the natural and cultural  
25 resources on Federal lands; and

1           (3) the Secretary concerned may provide edu-  
2           cation and training to U.S. Customs and Border  
3           Protection personnel on the natural and cultural re-  
4           sources present on individual Federal land units.

5           (c) PROGRAMMATIC ENVIRONMENTAL IMPACT  
6 STATEMENT.—

7           (1) IN GENERAL.—After implementing sub-  
8           section (b), the Secretary, in consultation with the  
9           Secretaries concerned, shall prepare and publish in  
10          the Federal Register a notice of intent to prepare a  
11          programmatic environmental impact statement in  
12          accordance with the National Environmental Policy  
13          Act of 1969 (42 U.S.C. 4321 et seq.) to analyze the  
14          impacts of the activities described in subsection (b).

15          (2) EFFECT ON PROCESSING APPLICATION AND  
16          SPECIAL USE PERMITS.—The pending completion of  
17          a programmatic environmental impact statement  
18          under this section shall not result in any delay in the  
19          processing or approving of applications or special  
20          use permits by the Secretaries concerned for the ac-  
21          tivities described in subsection (b).

22          (3) AMENDMENT OF LAND USE PLANS.—The  
23          Secretaries concerned shall amend any land use  
24          plans, as appropriate, upon completion of the pro-

1       grammatic environmental impact statement de-  
2       scribed in subsection (b).

3               (4) SCOPE OF PROGRAMMATIC ENVIRONMENTAL  
4       IMPACT STATEMENT.—The programmatic environ-  
5       mental impact statement described in paragraph  
6       (1)—

7               (A) may be used to advise the Secretary on  
8       the impact on natural and cultural resources on  
9       Federal lands; and

10              (B) shall not control, delay, or restrict ac-  
11       tions by the Secretary to achieve effective con-  
12       trol on Federal lands.

13       (d) INTERMINGLED STATE AND PRIVATE LAND.—  
14       This section shall not apply to any private or State-owned  
15       land within the boundaries of Federal lands.

16       **SEC. 1106. EQUIPMENT AND TECHNOLOGY.**

17       (a) ENHANCEMENTS.—The Secretary, in consulta-  
18       tion with the Commissioner of U.S. Customs and Border  
19       Protection and consistent with the Southern Border Secu-  
20       rity Strategy required by section 5 of this Act, shall up-  
21       grade existing technological assets and equipment, procure  
22       and deploy additional technological assets and equipment,  
23       including, but not limited to, the following:

24              (1) Unarmed, unmanned aerial vehicles.

25              (2) Fixed-wing aircraft.

- 1 (3) Helicopters.
- 2 (4) Remote video surveillance camera systems.
- 3 (5) Mobile surveillance systems.
- 4 (6) Agent portable surveillance systems.
- 5 (7) Radar technology.
- 6 (8) Satellite technology.
- 7 (9) Fiber optics.
- 8 (10) Integrated fixed towers.
- 9 (11) Relay towers.
- 10 (12) Poles.
- 11 (13) Night vision equipment.
- 12 (14) Sensors, including imaging sensors and
- 13 unattended ground sensors.
- 14 (15) Biometric entry-exit systems.
- 15 (16) Contraband detection equipment.
- 16 (17) Digital imaging equipment.
- 17 (18) Document fraud detection equipment.
- 18 (19) Land vehicles.
- 19 (20) Officer and personnel safety equipment.
- 20 (21) Other technologies and equipment.

21 (b) REQUIRED USES OF FUNDS.—The Secretary,  
22 consistent with the Southern Border Security Strategy,  
23 shall—

- 24 (1) deploy additional mobile, video, and agent-  
25 portable surveillance systems, and unarmed, un-

1       manned aerial vehicles in the Southwest border re-  
2       gion as necessary to provide 24-hour operation and  
3       surveillance;

4             (2) operate unarmed unmanned aerial vehicles  
5       along the Southern border for 24 hours per day and  
6       for 7 days per week;

7             (3) deploy unarmed additional fixed-wing air-  
8       craft and helicopters along the Southern border;

9             (4) acquire new rotocraft and make upgrades to  
10       the existing helicopter fleet; and

11            (5) increase horse patrols in the Southwest bor-  
12       der region.

13       (c) **AUTHORIZATION OF APPROPRIATIONS.**—In addi-  
14       tion to amounts otherwise authorized to be appropriated,  
15       there is authorized to be appropriated for each of fiscal  
16       years 2014 through 2018 for U.S. Customs and Border  
17       Protection such sums as may be necessary to carry out  
18       this section.

19       **SEC. 1107. ACCESS TO EMERGENCY PERSONNEL.**

20       (a) **SOUTHWEST BORDER REGION EMERGENCY COM-**  
21       **MUNICATIONS GRANTS.**—

22             (1) **IN GENERAL.**—The Secretary, in consulta-  
23       tion with the Governors of the States in the South-  
24       west border region, shall establish a 2-year grant  
25       program, to be administered by the Secretary, to im-

1 prove emergency communications in the Southwest  
2 border region.

3 (2) ELIGIBILITY FOR GRANTS.—An individual  
4 is eligible to receive a grant under this subsection if  
5 the individual demonstrates that he or she—

6 (A) regularly resides or works in the  
7 Southwest border region; and

8 (B) is at greater risk of border violence  
9 due to the lack of cellular service at his or her  
10 residence or business and his or her proximity  
11 to the Southern border.

12 (3) USE OF GRANTS.—Grants awarded under  
13 this subsection may be used to purchase satellite  
14 telephone communications systems and service  
15 that—

16 (A) can provide access to 9–1–1 service;  
17 and

18 (B) are equipped with global positioning  
19 systems.

20 (4) AUTHORIZATION OF APPROPRIATIONS.—  
21 There is authorized to be appropriated such sums as  
22 may be necessary to carry out the grant program es-  
23 tablished under this subsection.

24 (b) INTEROPERABLE COMMUNICATIONS FOR LAW  
25 ENFORCEMENT.—

1           (1) FEDERAL LAW ENFORCEMENT.—There are  
2 authorized to be appropriated to the Department,  
3 the Department of Justice, and the Department of  
4 the Interior, during the 5-year period beginning on  
5 the date of the enactment of this Act, such sums as  
6 may be necessary—

7           (A) to purchase, through a competitive  
8 procurement process, P25-compliant radios,  
9 which may include a multi-band option, for  
10 Federal law enforcement agents working in the  
11 Southwest border region in support of the ac-  
12 tivities of U.S. Customs and Border Protection  
13 and U.S. Immigration and Customs Enforce-  
14 ment, including law enforcement agents of the  
15 Drug Enforcement Administration, the Bureau  
16 of Alcohol, Tobacco, Firearms, and Explosives,  
17 the Department of the Interior, and the Forest  
18 Service; and

19           (B) to upgrade, through a competitive pro-  
20 curement process, the communications network  
21 of the Department of Justice to ensure coverage  
22 and capacity, particularly when immediate ac-  
23 cess is needed in times of crisis, in the South-  
24 west border region for appropriate law enforce-  
25 ment personnel of the Department of Justice

1 (including the Drug Enforcement Administra-  
2 tion and the Bureau of Alcohol, Tobacco, Fire-  
3 arms, and Explosives), the Department (includ-  
4 ing U.S. Immigration and Customs Enforce-  
5 ment and U.S. Customs and Border Protec-  
6 tion), the United States Marshals Service, other  
7 Federal agencies, the State of Arizona, tribes,  
8 and local governments.

9 (2) STATE AND LOCAL LAW ENFORCEMENT.—

10 (A) AUTHORIZATION OF APPROPRIA-  
11 TIONS.—There is authorized to be appropriated  
12 to the Department of Justice, during the 5-year  
13 period beginning on the date of the enactment  
14 of this Act, such sums as may be necessary to  
15 purchase, through a competitive procurement  
16 process, P25-compliant radios, which may in-  
17 clude a multi-band option, for State and local  
18 law enforcement agents working in the South-  
19 west border region.

20 (B) ACCESS TO FEDERAL SPECTRUM.—If  
21 a State, tribal, or local law enforcement agency  
22 in the Southwest border region experiences an  
23 emergency situation that necessitates immediate  
24 communication with the Department of Justice,  
25 the Department, the Department of the Inte-

1           rior, or any of their respective subagencies,  
2           such law enforcement agency shall have access  
3           to the spectrum assigned to such Federal agen-  
4           cy for the duration of such emergency situation.

5 **SEC. 1108. SOUTHWEST BORDER REGION PROSECUTION**  
6                                   **INITIATIVE.**

7           (a) REIMBURSEMENT TO STATE AND LOCAL PROS-  
8 ECUTORS FOR FEDERALLY INITIATED IMMIGRATION-RE-  
9 LATED CRIMINAL CASES.—The Attorney General shall re-  
10 imburse State, county, tribal, and municipal governments  
11 for costs associated with the prosecution and pre-trial de-  
12 tention of Federally initiated criminal cases declined by  
13 local offices of the United States attorneys.

14           (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
15 authorized to be appropriated for each of fiscal years 2014  
16 through 2018 such sums as may be necessary to carry  
17 out this section.

18 **SEC. 1109. INTERAGENCY COLLABORATION.**

19           The Assistant Secretary of Defense for Research and  
20 Engineering shall collaborate with the Under Secretary of  
21 Homeland Security for Science and Technology to identify  
22 equipment and technology used by the Department of De-  
23 fense that could be used by U.S. Customs and Border Pro-  
24 tection to improve the security of the Southern border  
25 by—

- 1 (1) detecting border tunnels;
- 2 (2) detecting the use of ultralight aircraft;
- 3 (3) enhancing wide aerial surveillance; and
- 4 (4) otherwise improving the enforcement of
- 5 such border.

6 **SEC. 1110. SCAAP REAUTHORIZATION.**

7 Section 241(i) (8 U.S.C. 1231(i)) is amended—

- 8 (1) in paragraph (3)(A), by inserting “charged
- 9 with or” before “convicted”;
- 10 (2) in paragraph (4)(A)—
  - 11 (A) by striking “the Attorney General shall
  - 12 give” and inserting the following: “the Attorney
  - 13 General shall—
    - 14 “(i) give”; and
    - 15 (B) by striking the period at the end and
    - 16 inserting the following: “; and
    - 17 “(ii) ensure that a State, or a political
    - 18 subdivision of a State, is compensated for
    - 19 the costs of incarcerating all undocu-
    - 20 mented criminal aliens, including undocu-
    - 21 mented criminal aliens that the Attorney
    - 22 General has classified, designated, counted,
    - 23 or defined as an ‘unknown inmate’, whose
    - 24 immigration status has not been, or cannot

1                   be, confirmed by the Department of Home-  
2                   land Security.”;

3                   (3) in paragraph (5)(C), by striking “2011”  
4                   and inserting “2016”; and

5                   (4) by adding at the end the following:

6                   “(7) Any funds awarded to a State or a polit-  
7                   ical subdivision of a State, including a municipality,  
8                   for a fiscal year under this subsection shall be dis-  
9                   tributed to such State or political subdivision not  
10                  later than 120 days after the last day of the applica-  
11                  tion period for assistance under this subsection for  
12                  that fiscal year.”.

13 **SEC. 1111. SOUTHERN BORDER SECURITY ASSISTANCE**  
14                   **GRANTS.**

15                  (a) **AUTHORITY.**—

16                  (1) **IN GENERAL.**—The Secretary, in consulta-  
17                  tion with State and local law enforcement agencies,  
18                  may award border security assistance grants to law  
19                  enforcement agencies located in the Southwest bor-  
20                  der region for the purposes described in subsection

21                  (b).

22                  (2) **PRIORITY.**—In awarding grants under this  
23                  section, the Secretary shall give priority to law en-  
24                  forcement agencies located in a county that is lo-  
25                  cated within 25 miles of the Southern border.

1 (b) PURPOSES.—Each grant awarded under sub-  
2 section (a) shall be used to address drug trafficking,  
3 smuggling, and border violence—

4 (1) by obtaining law enforcement equipment  
5 and tools, including secure 2-way communication de-  
6 vices, portable laptops and office computers, license  
7 plate readers, unmanned aerial vehicles, unmanned  
8 aircraft systems, manned aircraft, cameras with  
9 night viewing capabilities, and any other appropriate  
10 law enforcement equipment;

11 (2) by hiring additional personnel, including ad-  
12 ministrative support personnel, dispatchers, and  
13 jailers, and to provide overtime pay for such per-  
14 sonnel;

15 (3) by purchasing law enforcement vehicles;

16 (4) by providing high performance aircraft and  
17 helicopters for border surveillance and other critical  
18 mission applications and paying for the operational  
19 and maintenance costs associated with such craft;

20 (5) by providing critical power generation sys-  
21 tems, infrastructure, and technological upgrades to  
22 support State and local data management systems  
23 and fusion centers; or

24 (6) by providing specialized training and paying  
25 for the direct operating expenses associated with de-

1 tecting and prosecuting drug trafficking, human  
2 smuggling, and other illegal activity or violence that  
3 occurs at or near the Southern border.

4 (c) APPLICATION.—

5 (1) REQUIREMENT.—A law enforcement agency  
6 seeking a grant under subsection (a), or a nonprofit  
7 organization or coalition acting as an agent for 1 or  
8 more such law enforcement entities, shall submit an  
9 application to the Secretary that includes the infor-  
10 mation described in paragraph (2) at such time and  
11 in such manner as the Secretary may require.

12 (2) CONTENT.—Each application submitted  
13 under paragraph (1) shall include—

14 (A) a description of the activities to be car-  
15 ried out with a grant awarded under subsection  
16 (a);

17 (B) if equipment will be purchased with  
18 the grant, a detailed description of—

19 (i) the type and quantity of such  
20 equipment; and

21 (ii) the personnel who will be using  
22 such equipment;

23 (C) a description of the need of the law en-  
24 forcement agency or agencies for the grant, in-  
25 cluding a description of the inability of the

1 agency or agencies to carry out the proposed  
2 activities without the grant; and

3 (D) an assurance that the agency or agen-  
4 cies will, to the extent practicable, seek, recruit,  
5 and hire women and members of racial and eth-  
6 nic minority groups in law enforcement posi-  
7 tions of the agency or agencies.

8 (d) REVIEW AND AWARD.—

9 (1) REVIEW.—Not later than 90 days after re-  
10 ceiving an application submitted under subsection  
11 (c), the Secretary shall review and approve or reject  
12 the application.

13 (2) AWARD OF FUNDS.—Subject to the avail-  
14 ability of appropriations, not later than 45 days  
15 after the date an application is approved under  
16 paragraph (1), the Secretary shall transmit the  
17 grant funds to the applicant.

18 (3) PRIORITY.—In distributing grant funds  
19 under this subsection, priority shall be given to high-  
20 intensity areas for drug trafficking, smuggling, and  
21 border violence.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
23 authorized to be appropriated for each of fiscal years 2014  
24 and 2015, \$300,000,000 for grants authorized under this  
25 section.

1 **SEC. 1112. USE OF FORCE.**

2 Not later than 180 days after the date of the enact-  
3 ment of this Act, the Secretary, in consultation with the  
4 Assistant Attorney General for the Civil Rights Division  
5 of the Department of Justice, shall issue policies gov-  
6 erning the use of force by all Department personnel that—

7 (1) require all Department personnel to report  
8 each use of force; and

9 (2) establish procedures for—

10 (A) accepting and investigating complaints  
11 regarding the use of force by Department per-  
12 sonnel;

13 (B) disciplining Department personnel who  
14 violate any law or Department policy relating to  
15 the use of force; and

16 (C) reviewing all uses of force by Depart-  
17 ment personnel to determine whether the use of  
18 force—

19 (i) complied with Department policy;

20 or

21 (ii) demonstrates the need for changes  
22 in policy, training, or equipment.

23 **SEC. 1113. TRAINING FOR BORDER SECURITY AND IMMI-  
24 GRATION ENFORCEMENT OFFICERS.**

25 (a) IN GENERAL.—The Secretary shall ensure that  
26 U.S. Customs and Border Protection officers, U.S. Border

1 Patrol agents, U.S. Immigration and Customs Enforce-  
2 ment officers and agents, United States Air and Marine  
3 Division agents, agriculture specialists, and , in consulta-  
4 tion with the Secretary of Defense, National Guard per-  
5 sonnel deployed to assist U.S. Customs and Border Pro-  
6 tection under section 1103(c)(6)) of this Act, stationed  
7 within 100 miles of any land or marine border of the  
8 United States or at any United States port of entry receive  
9 appropriate training, which shall be prepared in collabora-  
10 tion with the Assistant Attorney General for the Civil  
11 Rights Division of the Department of Justice, in—

12 (1) identifying and detecting fraudulent travel  
13 documents;

14 (2) civil, constitutional, human, and privacy  
15 rights of individuals;

16 (3) the scope of enforcement authorities, includ-  
17 ing interrogations, stops, searches, seizures, arrests,  
18 and detentions;

19 (4) the use of force policies issued by the Sec-  
20 retary pursuant to section 1112 of this Act;

21 (5) immigration laws, including screening, iden-  
22 tifying, and addressing vulnerable populations, such  
23 as children, victims of crime and human trafficking,  
24 and individuals fleeing persecution or torture;

1           (6) social and cultural sensitivity toward border  
2           communities;

3           (7) the impact of border operations on commu-  
4           nities; and

5           (8) any particular environmental concerns in a  
6           particular area.

7           (b) TRAINING FOR BORDER COMMUNITY LIAISON  
8           OFFICERS.—The Secretary shall ensure that border com-  
9           munities liaison officers in U.S. Border Patrol sectors  
10          along the Southern border and the Northern border re-  
11          ceive training to better—

12           (1) act as a liaison between border communities  
13           and the Office for Civil Rights and Civil Liberties of  
14           the Department and the Civil Rights Division of the  
15           Department of Justice;

16           (2) foster and institutionalize consultation with  
17           border communities;

18           (3) consult with border communities on Depart-  
19           ment programs, policies, strategies, and directives;  
20           and

21           (4) receive Department performance assess-  
22           ments from border communities.

23           **SEC. 1114. DEPARTMENT OF HOMELAND SECURITY BOR-**  
24           **DER OVERSIGHT TASK FORCE.**

25           (a) ESTABLISHMENT.—

1           (1) IN GENERAL.—There is established an inde-  
2           pendent task force, which shall be known as the De-  
3           partment of Homeland Security Border Oversight  
4           Task Force (referred to in this section as the “DHS  
5           Task Force”).

6           (2) DUTIES.—The DHS Task Force shall—

7                   (A) review and make recommendations re-  
8                   garding immigration and border enforcement  
9                   policies, strategies, and programs that take into  
10                  consideration their impact on border commu-  
11                  nities;

12                   (B) recommend ways in which the Border  
13                   Communities Liaison Offices can strengthen re-  
14                   lations and collaboration between communities  
15                   in the border regions and the Department, the  
16                   Department of Justice, and other Federal agen-  
17                   cies that carry out such policies, strategies, and  
18                   programs;

19                   (C) evaluate how the policies, strategies,  
20                   and programs of Federal agencies operating  
21                   along the Southern border and the Northern  
22                   border protect the due process, civil, and  
23                   human rights of border residents, visitors, and  
24                   migrants at and near such borders; and

1 (D) evaluate and make recommendations  
2 regarding the training of border enforcement  
3 personnel described in section 1113 of this Act.

4 (3) MEMBERSHIP.—

5 (A) IN GENERAL.—The DHS Task Force  
6 shall be composed of 26 members, appointed by  
7 the President, who have expertise in migration,  
8 local crime indices, civil and human rights,  
9 community relations, cross-border trade and  
10 commerce, quality of life indicators, or other  
11 pertinent experience, of whom—

12 (i) 11 members shall be from the  
13 Northern border region and shall include—

14 (I) 2 local government elected of-  
15 ficials;

16 (II) 2 local law enforcement offi-  
17 cial;

18 (III) 2 civil rights advocates;

19 (IV) 1 business representative;

20 (V) 1 higher education represent-  
21 ative;

22 (VI) 1 representative of a faith  
23 community; and

24 (VII) 2 representatives of U.S.  
25 Border Patrol; and

1 (ii) 15 members shall be from the  
2 Southern border region and include—

3 (I) 3 local government elected of-  
4 ficials;

5 (II) 3 local law enforcement offi-  
6 cials;

7 (III) 3 civil rights advocates;

8 (IV) 2 business representatives;

9 (V) 1 higher education represent-  
10 ative;

11 (VI) 1 representative of a faith  
12 community; and

13 (VII) 2 representatives of U.S.  
14 Border Patrol.

15 (B) TERM OF SERVICE.—Members of the  
16 Task Force shall be appointed for the shorter  
17 of—

18 (i) 3 years; or

19 (ii) the life of the DHS Task Force.

20 (C) CHAIR, VICE CHAIR.—The members of  
21 the DHS Task Force shall elect a Chair and a  
22 Vice Chair from among its members, who shall  
23 serve in such capacities for the life of the DHS  
24 Task Force or until removed by the majority  
25 vote of at least 14 members.

1 (b) OPERATIONS.—

2 (1) HEARINGS.—The DHS Task Force may,  
3 for the purpose of carrying out its duties, hold hear-  
4 ings, sit and act, take testimony, receive evidence,  
5 and administer oaths.

6 (2) RECOMMENDATIONS.—The DHS Task  
7 Force may make findings or recommendations to the  
8 Secretary related to the duties described in sub-  
9 section (a)(2).

10 (3) RESPONSE.—Not later than 180 days after  
11 receiving findings and recommendations from the  
12 DHS Task Force under paragraph (2), the Sec-  
13 retary shall issue a response that describes how the  
14 Department has addressed, or will address, such  
15 findings and recommendations. If the Secretary dis-  
16 agrees with any finding of the DHS Task Force, the  
17 Secretary shall provide an explanation for the dis-  
18 agreement.

19 (4) INFORMATION FROM FEDERAL AGENCIES.—  
20 The Chair, or 16 members of the DHS Task Force,  
21 may request statistics relating to the duties de-  
22 scribed in subsection (a)(2) directly from any Fed-  
23 eral agency, which shall, to the extent authorized by  
24 law, furnish such information, suggestions, esti-

1       mates, and statistics directly to the DHS Task  
2       Force.

3           (5) COMPENSATION.—Members of the DHS  
4       Task Force shall serve without pay, but shall be re-  
5       imbursed for reasonable travel and subsistence ex-  
6       penses incurred in the performance of their duties.

7       (c) REPORT.—Not later than 2 years after its first  
8       meeting, the DHS Task Force shall submit to the Presi-  
9       dent, the Secretary, and Congress a final report that con-  
10      tains—

11           (1) findings with respect to the duties of the  
12      DHS Task Force; and

13           (2) recommendations regarding border and im-  
14      migration enforcement policies, strategies, and pro-  
15      grams, including—

16           (A) a recommendation as to whether the  
17      DHS Task Force should continue to operate;  
18      and

19           (B) a description of any duties the DHS  
20      Task Force should be responsible for after the  
21      termination date described in subsection (e).

22      (d) SUNSET.—The DHS Task Force shall terminate  
23      operations 60 days after the date on which the DHS Task  
24      Force submits the report described in subsection (e).

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated for each of fiscal years  
3 2014 through 2017 such sums as may be necessary to  
4 carry out this section.

5 **SEC. 1115. IMMIGRATION OMBUDSMAN.**

6 (a) IN GENERAL.—Section 452 of the Homeland Se-  
7 curity Act (6 U.S.C. 272) is amended—

8 (1) by amending the section heading to read as  
9 follows:

10 **“SEC. 452. DEPARTMENT OF HOMELAND SECURITY IMMI-  
11 GRATION OMBUDSMAN.”;**

12 (2) in subsection (a), by striking “Citizenship  
13 and Immigration Services Ombudsman” and insert-  
14 ing “DHS Immigration Ombudsman”;

15 (3) in subsection (c)(2), by striking “Director  
16 of the Bureau of Citizenship and Immigration Serv-  
17 ices” and inserting “Director, U.S. Citizenship and  
18 Immigration Services, the Assistant Secretary, U.S.  
19 Immigration and Customs Enforcement, the Com-  
20 missioner, U.S. Customs and Border Protection”;

21 (4) in subsections (d)(4) and (f), by striking  
22 “Director of the Bureau of Citizenship and Immi-  
23 gration Services” each place such term appears and  
24 inserting “Director, U.S. Citizenship and Immigra-  
25 tion Services, the Assistant Secretary, U.S. Immi-

1       gration and Customs Enforcement, and the Commis-  
2       sioner, U.S. Customs and Border Protection”;

3           (5) in subsection (f), by striking “director”  
4       each place such term appears and inserting “offi-  
5       cial”; and

6           (6) by striking “the Bureau of Citizenship and  
7       Immigration Services” each place it appears and in-  
8       serting “U.S. Citizenship and Immigration Services,  
9       U.S. Immigration and Customs Enforcement, or  
10      U.S. Customs and Border Protection”.

11      (b) CLERICAL AMENDMENT.—The table of contents  
12   in section 1 of the Homeland Security Act (6 U.S.C. 101  
13   et seq.) is amended by striking the item relating to section  
14   452 and inserting the following:

“Sec. 452. Department of homeland security immigration ombudsman.”.

15   **SEC. 1116. REPORTS.**

16      (a) REPORT ON CERTAIN BORDER MATTERS.—The  
17   Secretary shall submit to the Committee on Homeland Se-  
18   curity and Governmental Affairs of the Senate and the  
19   Committee on Homeland Security of the House of Rep-  
20   resentatives a report that sets forth—

21           (1) the effectiveness rate (as defined in section  
22       3(a)(4) of this Act) for each U.S. Border Patrol sec-  
23       tor along the Northern border and the Southern bor-  
24       der;

1           (2) the number of miles along the Southern  
2 border that is under persistent surveillance;

3           (3) the monthly wait times per passenger, in-  
4 cluding data on averages and peaks, for crossing the  
5 Southern border, and the staffing of such border  
6 crossings; and

7           (4) the allocations at each port of entry along  
8 the Southern border.

9           (b) REPORT ON INTERAGENCY COLLABORATION.—

10 The Under Secretary of Defense for Acquisition, Tech-  
11 nology, and Logistics and the Under Secretary of Home-  
12 land Security for Science and Technology shall jointly sub-  
13 mit a report on the results of the interagency collaboration  
14 under section 1109 to—

15           (1) the Committee on Armed Services of the  
16 Senate;

17           (2) the Committee on Homeland Security and  
18 Governmental Affairs of the Senate;

19           (3) the Committee on Armed Services of the  
20 House of Representatives; and

21           (4) the Committee on Homeland Security of the  
22 House of Representatives.

23 **SEC. 1117. DELEGATION.**

24           The Secretary may delegate any authority provided  
25 to the Secretary under this Act or an amendment made

1 by this Act to the Secretary of Agriculture, the Attorney  
2 General, the Secretary of Defense, the Secretary of Health  
3 and Human Services, the Secretary of State, or the Com-  
4 missioner of Social Security.

5 **SEC. 1118. SEVERABILITY.**

6       If any provision of this Act or any amendment made  
7 by this Act, or any application of such provision or amend-  
8 ment to any person or circumstance, is held to be uncon-  
9 stitutional, the remainder of the provisions of this Act and  
10 the amendments made by this Act and the application of  
11 the provision or amendment to any other person or cir-  
12 cumstance shall not be affected.