

115TH CONGRESS
2D SESSION

H. R. 6415

To provide for border security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2018

Mr. FERGUSON introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, Transportation and Infrastructure, Oversight and Government Reform, Foreign Affairs, Agriculture, Armed Services, Natural Resources, the Budget, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for border security, 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 TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Border Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BORDER SECURITY

Sec. 1101. Definitions.

Subtitle A—Infrastructure and Equipment

- Sec. 1111. Strengthening the requirements for barriers along the southern border.
- Sec. 1112. Air and Marine Operations flight hours.
- Sec. 1113. Capability deployment to specific sectors and transit zone.
- Sec. 1114. U.S. Border Patrol activities.
- Sec. 1115. Border security technology program management.
- Sec. 1116. National Guard support to secure the southern border.
- Sec. 1117. Prohibitions on actions that impede border security on certain Federal land.
- Sec. 1118. Landowner and rancher security enhancement.
- Sec. 1119. Eradication of carrizo cane and salt cedar.
- Sec. 1120. Southern border threat analysis.
- Sec. 1121. Amendments to U.S. Customs and Border Protection.
- Sec. 1122. Agent and officer technology use.
- Sec. 1123. Integrated Border Enforcement Teams.
- Sec. 1124. Tunnel Task Forces.
- Sec. 1125. Pilot program on use of electromagnetic spectrum in support of border security operations.
- Sec. 1126. Foreign migration assistance.
- Sec. 1127. Biometric Identification Transnational Migration Alert Program.

Subtitle B—Personnel

- Sec. 1131. Additional U.S. Customs and Border Protection agents and officers.
- Sec. 1132. U.S. Customs and Border Protection retention incentives.
- Sec. 1133. Anti-Border Corruption Reauthorization Act.
- Sec. 1134. Training for officers and agents of U.S. Customs and Border Protection.

Subtitle C—Grants

- Sec. 1141. Operation Stonegarden.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND
INFRASTRUCTURE FUNDING

- Sec. 2101. Ports of entry infrastructure.
- Sec. 2102. Secure communications.
- Sec. 2103. Border security deployment program.
- Sec. 2104. Pilot and upgrade of license plate readers at ports of entry.
- Sec. 2105. Non-intrusive inspection operational demonstration.
- Sec. 2106. Biometric exit data system.
- Sec. 2107. Sense of Congress on cooperation between agencies.
- Sec. 2108. Authorization of appropriations.
- Sec. 2109. Definition.

TITLE III—TRANSNATIONAL CRIMINAL ORGANIZATION ILLICIT
SPOTTER PREVENTION AND ELIMINATION

- Sec. 3101. Short title.
- Sec. 3102. Illicit spotting.
- Sec. 3103. Unlawfully hindering immigration, border, and customs controls.

TITLE IV—BORDER SECURITY FUNDING

Sec. 4101. Border Security Funding.

Sec. 4102. Exclusion from PAYGO scorecards.

1 **TITLE I—BORDER SECURITY**

2 **SEC. 1101. DEFINITIONS.**

3 In this title:

4 (1) **ADVANCED UNATTENDED SURVEILLANCE**
5 **SENSORS.**—The term “advanced unattended surveil-
6 lance sensors” means sensors that utilize an onboard
7 computer to analyze detections in an effort to dis-
8 cern between vehicles, humans, and animals, and ul-
9 timately filter false positives prior to transmission.

10 (2) **COMMISSIONER.**—The term “Commis-
11 sioner” means the Commissioner of U.S. Customs
12 and Border Protection.

13 (3) **HIGH TRAFFIC AREAS.**—The term “high
14 traffic areas” has the meaning given such term in
15 section 102(e)(1) of the Illegal Immigration Reform
16 and Immigrant Responsibility Act of 1996, as
17 amended by section 1111 of this division.

18 (4) **OPERATIONAL CONTROL.**—The term “oper-
19 ational control” has the meaning given such term in
20 section 2(b) of the Secure Fence Act of 2006 (8
21 U.S.C. 1701 note; Public Law 109–367).

22 (5) **SECRETARY.**—The term “Secretary” means
23 the Secretary of Homeland Security.

1 (6) SITUATIONAL AWARENESS.—The term “sit-
2 uational awareness” has the meaning given such
3 term in section 1092(a)(7) of the National Defense
4 Authorization Act for Fiscal Year 2017 (Public Law
5 114–328; 6 U.S.C. 223(a)(7)).

6 (7) SMALL UNMANNED AERIAL VEHICLE.—The
7 term “small unmanned aerial vehicle” has the mean-
8 ing given the term “small unmanned aircraft” in
9 section 331 of the FAA Modernization and Reform
10 Act of 2012 (Public Law 112–95; 49 U.S.C. 40101
11 note).

12 (8) TRANSIT ZONE.—The term “transit zone”
13 has the meaning given such term in section
14 1092(a)(8) of the National Defense Authorization
15 Act for Fiscal Year 2017 (Public Law 114–328; 6
16 U.S.C. 223(a)(7)).

17 (9) UNMANNED AERIAL SYSTEM.—The term
18 “unmanned aerial system” has the meaning given
19 the term “unmanned aircraft system” in section 331
20 of the FAA Modernization and Reform Act of 2012
21 (Public Law 112–95; 49 U.S.C. 40101 note).

22 (10) UNMANNED AERIAL VEHICLE.—The term
23 “unmanned aerial vehicle” has the meaning given
24 the term “unmanned aircraft” in section 331 of the

1 FAA Modernization and Reform Act of 2012 (Public
2 Law 112–95; 49 U.S.C. 40101 note).

3 **Subtitle A—Infrastructure and**
4 **Equipment**

5 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-**
6 **RIERS ALONG THE SOUTHERN BORDER.**

7 Section 102 of the Illegal Immigration Reform and
8 Immigrant Responsibility Act of 1996 (Division C of Pub-
9 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

10 (1) by amending subsection (a) to read as fol-
11 lows:

12 “(a) IN GENERAL.—The Secretary of Homeland Se-
13 curity shall take such actions as may be necessary (includ-
14 ing the removal of obstacles to detection of illegal en-
15 trants) to design, test, construct, install, deploy, integrate,
16 and operate physical barriers, tactical infrastructure, and
17 technology in the vicinity of the United States border to
18 achieve situational awareness and operational control of
19 the border and deter, impede, and detect illegal activity
20 in high traffic areas.”;

21 (2) in subsection (b)—

22 (A) in the subsection heading, by striking
23 “FENCING AND ROAD IMPROVEMENTS” and in-
24 serting “PHYSICAL BARRIERS”;

25 (B) in paragraph (1)—

1 (i) in subparagraph (A)—

2 (I) by striking “subsection (a)”
3 and inserting “this section”;

4 (II) by striking “roads, lighting,
5 cameras, and sensors” and inserting
6 “tactical infrastructure, and tech-
7 nology”; and

8 (III) by striking “gain” inserting
9 “achieve situational awareness and”;
10 and

11 (ii) by amending subparagraph (B) to
12 read as follows:

13 “(B) PHYSICAL BARRIERS AND TACTICAL
14 INFRASTRUCTURE.—

15 “(i) IN GENERAL.—Not later than
16 September 30, 2023, the Secretary of
17 Homeland Security, in carrying out this
18 section, shall deploy along the United
19 States border the most practical and effec-
20 tive physical barriers and tactical infra-
21 structure available for achieving situational
22 awareness and operational control of the
23 border.

24 “(ii) CONSIDERATION FOR CERTAIN
25 PHYSICAL BARRIERS AND TACTICAL INFRA-

1 STRUCTURE.—The deployment of physical
2 barriers and tactical infrastructure under
3 this subparagraph shall not apply in any
4 area or region along the border where nat-
5 ural terrain features, natural barriers, or
6 the remoteness of such area or region
7 would make any such deployment ineffec-
8 tive, as determined by the Secretary, for
9 the purposes of achieving situational
10 awareness or operational control of such
11 area or region.”;

12 (iii) in subparagraph (C)—

13 (I) by amending clause (i) to
14 read as follows:

15 “(i) IN GENERAL.—In carrying out
16 this section, the Secretary of Homeland
17 Security shall consult with the Secretary of
18 the Interior, the Secretary of Agriculture,
19 appropriate representatives of Federal,
20 State, local, and tribal governments, and
21 appropriate private property owners in the
22 United States to minimize the impact on
23 the environment, culture, commerce, and
24 quality of life for the communities and
25 residents located near the sites at which

1 such physical barriers are to be con-
2 structed.”;

3 (II) by redesignating clause (ii)
4 as clause (iii);

5 (III) by inserting after clause (i),
6 as amended, the following new clause:

7 “(ii) NOTIFICATION.—Not later than
8 60 days after the consultation required
9 under clause (i), the Secretary of Home-
10 land Security shall notify the Committee
11 on Homeland Security of the House of
12 Representatives and the Committee on
13 Homeland Security and Governmental Af-
14 fairs of the Senate of the type of physical
15 barriers, tactical infrastructure, or tech-
16 nology the Secretary has determined is
17 most practical and effective to achieve situ-
18 ational awareness and operational control
19 in a specific area or region and the other
20 alternatives the Secretary considered be-
21 fore making such a determination.”; and

22 (IV) in clause (iii), as so redesign-
23 nated—

1 (aa) in subclause (I), by
2 striking “or” after the semicolon
3 at the end;

4 (bb) by amending subclause
5 (II) to read as follows:

6 “(II) delay the transfer of the
7 possession of property to the United
8 States or affect the validity of any
9 property acquisition by purchase or
10 eminent domain, or to otherwise affect
11 the eminent domain laws of the
12 United States or of any State; or”;
13 and

14 (cc) by adding at the end
15 the following new subclause:

16 “(III) create any right or liability
17 for any party.”; and

18 (iv) by striking subparagraph (D);

19 (C) in paragraph (2)—

20 (i) by striking “Attorney General”
21 and inserting “Secretary of Homeland Se-
22 curity”;

23 (ii) by striking “this subsection” and
24 inserting “this section”; and

1 (iii) by striking “construction of
2 fences” and inserting “the construction of
3 physical barriers”;

4 (D) by amending paragraph (3) to read as
5 follows:

6 “(3) AGENT SAFETY.—In carrying out this sec-
7 tion, the Secretary of Homeland Security, when de-
8 signing, constructing, and deploying physical bar-
9 riers, tactical infrastructure, or technology, shall in-
10 corporate such safety features into such design, con-
11 struction, or deployment of such physical barriers,
12 tactical infrastructure, or technology, as the case
13 may be, that the Secretary determines, in the Sec-
14 retary’s sole discretion, are necessary to maximize
15 the safety and effectiveness of officers or agents of
16 the Department of Homeland Security or of any
17 other Federal agency deployed in the vicinity of such
18 physical barriers, tactical infrastructure, or tech-
19 nology.”; and

20 (E) in paragraph (4), by striking “this
21 subsection” and inserting “this section”;

22 (3) in subsection (c), by amending paragraph
23 (1) to read as follows:

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law, the Secretary of Homeland Security

1 shall have the authority to waive all legal require-
2 ments the Secretary, in the Secretary’s sole discre-
3 tion, determines necessary to ensure the expeditious
4 design, testing, construction, installation, deploy-
5 ment, integration, and operation of the physical bar-
6 riers, tactical infrastructure, and technology under
7 this section. Such waiver authority shall also apply
8 with respect to any maintenance carried out on such
9 physical barriers, tactical infrastructure, or tech-
10 nology. Any such decision by the Secretary shall be
11 effective upon publication in the Federal Register.”;
12 and

13 (4) by adding after subsection (d) the following
14 new subsections:

15 “(e) TECHNOLOGY.—Not later than September 30,
16 2023, the Secretary of Homeland Security, in carrying out
17 this section, shall deploy along the United States border
18 the most practical and effective technology available for
19 achieving situational awareness and operational control of
20 the border.

21 “(f) LIMITATION ON REQUIREMENTS.—Nothing in
22 this section may be construed as requiring the Secretary
23 of Homeland Security to install tactical infrastructure,
24 technology, and physical barriers in a particular location
25 along an international border of the United States, if the

1 Secretary determines that the use or placement of such
2 resources is not the most appropriate means to achieve
3 and maintain situational awareness and operational con-
4 trol over the international border at such location.

5 “(g) DEFINITIONS.—In this section:

6 “(1) HIGH TRAFFIC AREAS.—The term ‘high
7 traffic areas’ means areas in the vicinity of the
8 United States border that—

9 “(A) are within the responsibility of U.S.
10 Customs and Border Protection; and

11 “(B) have significant unlawful cross-border
12 activity, as determined by the Secretary of
13 Homeland Security.

14 “(2) OPERATIONAL CONTROL.—The term ‘oper-
15 ational control’ has the meaning given such term in
16 section 2(b) of the Secure Fence Act of 2006 (8
17 U.S.C. 1701 note; Public Law 109–367).

18 “(3) PHYSICAL BARRIERS.—The term ‘physical
19 barriers’ includes reinforced fencing, border wall sys-
20 tem, and levee walls.

21 “(4) SITUATIONAL AWARENESS.—The term ‘sit-
22 uational awareness’ has the meaning given such
23 term in section 1092(a)(7) of the National Defense
24 Authorization Act for Fiscal Year 2017 (6 U.S.C.
25 223(a)(7); Public Law 114–328).

1 “(5) TACTICAL INFRASTRUCTURE.—The term
2 ‘tactical infrastructure’ includes boat ramps, access
3 gates, checkpoints, lighting, and roads.

4 “(6) TECHNOLOGY.—The term ‘technology’ in-
5 cludes border surveillance and detection technology,
6 including the following:

7 “(A) Tower-based surveillance technology.

8 “(B) Deployable, lighter-than-air ground
9 surveillance equipment.

10 “(C) Vehicle and Dismount Exploitation
11 Radars (VADER).

12 “(D) 3-dimensional, seismic acoustic detec-
13 tion and ranging border tunneling detection
14 technology.

15 “(E) Advanced unattended surveillance
16 sensors.

17 “(F) Mobile vehicle-mounted and man-
18 portable surveillance capabilities.

19 “(G) Unmanned aerial vehicles.

20 “(H) Other border detection, communica-
21 tion, and surveillance technology.

22 “(7) UNMANNED AERIAL VEHICLES.—The term
23 ‘unmanned aerial vehicle’ has the meaning given the
24 term ‘unmanned aircraft’ in section 331 of the FAA

1 Modernization and Reform Act of 2012 (Public Law
2 112–95; 49 U.S.C. 40101 note).”.

3 **SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

4 (a) INCREASED FLIGHT HOURS.—The Secretary
5 shall ensure that not fewer than 95,000 annual flight
6 hours are carried out by Air and Marine Operations of
7 U.S. Customs and Border Protection.

8 (b) UNMANNED AERIAL SYSTEM.—The Secretary,
9 after coordination with the Administrator of the Federal
10 Aviation Administration, shall ensure that Air and Marine
11 Operations operate unmanned aerial systems on the south-
12 ern border of the United States for not less than 24 hours
13 per day for five days per week.

14 (c) CONTRACT AIR SUPPORT AUTHORIZATION.—The
15 Commissioner shall contract for the unfulfilled identified
16 air support mission critical hours, as identified by the
17 Chief of the U.S. Border Patrol.

18 (d) PRIMARY MISSION.—The Commissioner shall en-
19 sure that—

20 (1) the primary missions for Air and Marine
21 Operations are to directly support U.S. Border Pa-
22 trol activities along the southern border of the
23 United States and Joint Interagency Task Force
24 South operations in the transit zone; and

1 (2) the Executive Assistant Commissioner of
2 Air and Marine Operations assigns the greatest pri-
3 ority to support missions established by the Commis-
4 sioner to carry out the requirements under this Act.

5 (e) HIGH-DEMAND FLIGHT HOUR REQUIRE-
6 MENTS.—In accordance with subsection (d), the Commis-
7 sioner shall ensure that U.S. Border Patrol Sector
8 Chiefs—

9 (1) identify critical flight hour requirements;
10 and

11 (2) direct Air and Marine Operations to sup-
12 port requests from Sector Chiefs as their primary
13 mission.

14 (f) SMALL UNMANNED AERIAL VEHICLES.—

15 (1) IN GENERAL.—The Chief of the U.S. Bor-
16 der Patrol shall be the executive agent for U.S. Cus-
17 toms and Border Protection’s use of small un-
18 manned aerial vehicles for the purpose of meeting
19 the U.S. Border Patrol’s unmet flight hour oper-
20 ational requirements and to achieve situational
21 awareness and operational control.

22 (2) COORDINATION.—In carrying out para-
23 graph (1), the Chief of the U.S. Border Patrol
24 shall—

1 (A) coordinate flight operations with the
2 Administrator of the Federal Aviation Adminis-
3 tration to ensure the safe and efficient oper-
4 ation of the National Airspace System; and

5 (B) coordinate with the Executive Assist-
6 ant Commissioner for Air and Marine Oper-
7 ations of U.S. Customs and Border Protection
8 to ensure the safety of other U.S. Customs and
9 Border Protection aircraft flying in the vicinity
10 of small unmanned aerial vehicles operated by
11 the U.S. Border Patrol.

12 (3) CONFORMING AMENDMENT.—Paragraph (3)
13 of section 411(e) of the Homeland Security Act of
14 2002 (6 U.S.C. 211(e)) is amended—

15 (A) in subparagraph (B), by striking
16 “and” after the semicolon at the end;

17 (B) by redesignating subparagraph (C) as
18 subparagraph (D); and

19 (C) by inserting after subparagraph (B)
20 the following new subparagraph:

21 “(C) carry out the small unmanned aerial
22 vehicle requirements pursuant to subsection (f)
23 of section 1112 of the Border Security for
24 America Act of 2018; and”.

1 (g) SAVING CLAUSE.—Nothing in this section shall
2 confer, transfer, or delegate to the Secretary, the Commis-
3 sioner, the Executive Assistant Commissioner for Air and
4 Marine Operations of U.S. Customs and Border Protec-
5 tion, or the Chief of the U.S. Border Patrol any authority
6 of the Secretary of Transportation or the Administrator
7 of the Federal Aviation Administration relating to the use
8 of airspace or aviation safety.

9 **SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
10 **TORS AND TRANSIT ZONE.**

11 (a) IN GENERAL.—Not later than September 30,
12 2023, the Secretary, in implementing section 102 of the
13 Illegal Immigration Reform and Immigrant Responsibility
14 Act of 1996 (as amended by section 1111 of this division),
15 and acting through the appropriate component of the De-
16 partment of Homeland Security, shall deploy to each sec-
17 tor or region of the southern border and the northern bor-
18 der, in a prioritized manner to achieve situational aware-
19 ness and operational control of such borders, the following
20 additional capabilities:

21 (1) SAN DIEGO SECTOR.—For the San Diego
22 sector, the following:

23 (A) Tower-based surveillance technology.

24 (B) Subterranean surveillance and detec-
25 tion technologies.

1 (C) To increase coastal maritime domain
2 awareness, the following:

3 (i) Deployable, lighter-than-air surface
4 surveillance equipment.

5 (ii) Unmanned aerial vehicles with
6 maritime surveillance capability.

7 (iii) U.S. Customs and Border Protec-
8 tion maritime patrol aircraft.

9 (iv) Coastal radar surveillance sys-
10 tems.

11 (v) Maritime signals intelligence capa-
12 bilities.

13 (D) Ultralight aircraft detection capabili-
14 ties.

15 (E) Advanced unattended surveillance sen-
16 sors.

17 (F) A rapid reaction capability supported
18 by aviation assets.

19 (G) Mobile vehicle-mounted and man-port-
20 able surveillance capabilities.

21 (H) Man-portable unmanned aerial vehi-
22 cles.

23 (I) Improved agent communications capa-
24 bilities.

1 (2) EL CENTRO SECTOR.—For the El Centro
2 sector, the following:

3 (A) Tower-based surveillance technology.

4 (B) Deployable, lighter-than-air ground
5 surveillance equipment.

6 (C) Man-portable unmanned aerial vehi-
7 cles.

8 (D) Ultralight aircraft detection capabili-
9 ties.

10 (E) Advanced unattended surveillance sen-
11 sors.

12 (F) A rapid reaction capability supported
13 by aviation assets.

14 (G) Man-portable unmanned aerial vehi-
15 cles.

16 (H) Improved agent communications capa-
17 bilities.

18 (3) YUMA SECTOR.—For the Yuma sector, the
19 following:

20 (A) Tower-based surveillance technology.

21 (B) Deployable, lighter-than-air ground
22 surveillance equipment.

23 (C) Ultralight aircraft detection capabili-
24 ties.

1 (D) Advanced unattended surveillance sen-
2 sors.

3 (E) A rapid reaction capability supported
4 by aviation assets.

5 (F) Mobile vehicle-mounted and man-port-
6 able surveillance systems.

7 (G) Man-portable unmanned aerial vehi-
8 cles.

9 (H) Improved agent communications capa-
10 bilities.

11 (4) TUCSON SECTOR.—For the Tucson sector,
12 the following:

13 (A) Tower-based surveillance technology.

14 (B) Increased flight hours for aerial detec-
15 tion, interdiction, and monitoring operations ca-
16 pability.

17 (C) Deployable, lighter-than-air ground
18 surveillance equipment.

19 (D) Ultralight aircraft detection capabili-
20 ties.

21 (E) Advanced unattended surveillance sen-
22 sors.

23 (F) A rapid reaction capability supported
24 by aviation assets.

1 (G) Man-portable unmanned aerial vehi-
2 cles.

3 (H) Improved agent communications capa-
4 bilities.

5 (5) EL PASO SECTOR.—For the El Paso sector,
6 the following:

7 (A) Tower-based surveillance technology.

8 (B) Deployable, lighter-than-air ground
9 surveillance equipment.

10 (C) Ultralight aircraft detection capabili-
11 ties.

12 (D) Advanced unattended surveillance sen-
13 sors.

14 (E) Mobile vehicle-mounted and man-port-
15 able surveillance systems.

16 (F) A rapid reaction capability supported
17 by aviation assets.

18 (G) Mobile vehicle-mounted and man-port-
19 able surveillance capabilities.

20 (H) Man-portable unmanned aerial vehi-
21 cles.

22 (I) Improved agent communications capa-
23 bilities.

24 (6) BIG BEND SECTOR.—For the Big Bend sec-
25 tor, the following:

- 1 (A) Tower-based surveillance technology.
- 2 (B) Deployable, lighter-than-air ground
3 surveillance equipment.
- 4 (C) Improved agent communications capa-
5 bilities.
- 6 (D) Ultralight aircraft detection capabili-
7 ties.
- 8 (E) Advanced unattended surveillance sen-
9 sors.
- 10 (F) A rapid reaction capability supported
11 by aviation assets.
- 12 (G) Mobile vehicle-mounted and man-port-
13 able surveillance capabilities.
- 14 (H) Man-portable unmanned aerial vehi-
15 cles.
- 16 (I) Improved agent communications capa-
17 bilities.
- 18 (7) DEL RIO SECTOR.—For the Del Rio sector,
19 the following:
- 20 (A) Tower-based surveillance technology.
- 21 (B) Increased monitoring for cross-river
22 dams, culverts, and footpaths.
- 23 (C) Improved agent communications capa-
24 bilities.

1 (D) Improved maritime capabilities in the
2 Amistad National Recreation Area.

3 (E) Advanced unattended surveillance sen-
4 sors.

5 (F) A rapid reaction capability supported
6 by aviation assets.

7 (G) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

9 (H) Man-portable unmanned aerial vehi-
10 cles.

11 (I) Improved agent communications capa-
12 bilities.

13 (8) LAREDO SECTOR.—For the Laredo sector,
14 the following:

15 (A) Tower-based surveillance technology.

16 (B) Maritime detection resources for the
17 Falcon Lake region.

18 (C) Increased flight hours for aerial detec-
19 tion, interdiction, and monitoring operations ca-
20 pability.

21 (D) Increased monitoring for cross-river
22 dams, culverts, and footpaths.

23 (E) Ultralight aircraft detection capability.

24 (F) Advanced unattended surveillance sen-
25 sors.

1 (G) A rapid reaction capability supported
2 by aviation assets.

3 (H) Man-portable unmanned aerial vehi-
4 cles.

5 (I) Improved agent communications capa-
6 bilities.

7 (9) RIO GRANDE VALLEY SECTOR.—For the Rio
8 Grande Valley sector, the following:

9 (A) Tower-based surveillance technology.

10 (B) Deployable, lighter-than-air ground
11 surveillance equipment.

12 (C) Increased flight hours for aerial detec-
13 tion, interdiction, and monitoring operations ca-
14 pability.

15 (D) Ultralight aircraft detection capability.

16 (E) Advanced unattended surveillance sen-
17 sors.

18 (F) Increased monitoring for cross-river
19 dams, culverts, footpaths.

20 (G) A rapid reaction capability supported
21 by aviation assets.

22 (H) Increased maritime interdiction capa-
23 bilities.

24 (I) Mobile vehicle-mounted and man-port-
25 able surveillance capabilities.

1 (J) Man-portable unmanned aerial vehi-
2 cles.

3 (K) Improved agent communications capa-
4 bilities.

5 (10) BLAINE SECTOR.—For the Blaine sector,
6 the following:

7 (A) Increased flight hours for aerial detec-
8 tion, interdiction, and monitoring operations ca-
9 pability.

10 (B) Coastal radar surveillance systems.

11 (C) Increased maritime interdiction capa-
12 bilities.

13 (D) Mobile vehicle-mounted and man-port-
14 able surveillance capabilities.

15 (E) Advanced unattended surveillance sen-
16 sors.

17 (F) Ultralight aircraft detection capabili-
18 ties.

19 (G) Man-portable unmanned aerial vehi-
20 cles.

21 (H) Improved agent communications capa-
22 bilities.

23 (11) SPOKANE SECTOR.—For the Spokane sec-
24 tor, the following:

1 (A) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (B) Increased maritime interdiction capa-
5 bilities.

6 (C) Mobile vehicle-mounted and man-port-
7 able surveillance capabilities.

8 (D) Advanced unattended surveillance sen-
9 sors.

10 (E) Ultralight aircraft detection capabili-
11 ties.

12 (F) Completion of six miles of the Bog
13 Creek road.

14 (G) Man-portable unmanned aerial vehi-
15 cles.

16 (H) Improved agent communications sys-
17 tems.

18 (12) HAVRE SECTOR.—For the Havre sector,
19 the following:

20 (A) Increased flight hours for aerial detec-
21 tion, interdiction, and monitoring operations ca-
22 pability.

23 (B) Mobile vehicle-mounted and man-port-
24 able surveillance capabilities.

1 (C) Advanced unattended surveillance sen-
2 sors.

3 (D) Ultralight aircraft detection capabili-
4 ties.

5 (E) Man-portable unmanned aerial vehi-
6 cles.

7 (F) Improved agent communications sys-
8 tems.

9 (13) GRAND FORKS SECTOR.—For the Grand
10 Forks sector, the following:

11 (A) Increased flight hours for aerial detec-
12 tion, interdiction, and monitoring operations ca-
13 pability.

14 (B) Mobile vehicle-mounted and man-port-
15 able surveillance capabilities.

16 (C) Advanced unattended surveillance sen-
17 sors.

18 (D) Ultralight aircraft detection capabili-
19 ties.

20 (E) Man-portable unmanned aerial vehi-
21 cles.

22 (F) Improved agent communications sys-
23 tems.

24 (14) DETROIT SECTOR.—For the Detroit sec-
25 tor, the following:

1 (A) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (B) Coastal radar surveillance systems.

5 (C) Increased maritime interdiction capa-
6 bilities.

7 (D) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

9 (E) Advanced unattended surveillance sen-
10 sors.

11 (F) Ultralight aircraft detection capabili-
12 ties.

13 (G) Man-portable unmanned aerial vehi-
14 cles.

15 (H) Improved agent communications sys-
16 tems.

17 (15) BUFFALO SECTOR.—For the Buffalo sec-
18 tor, the following:

19 (A) Increased flight hours for aerial detec-
20 tion, interdiction, and monitoring operations ca-
21 pability.

22 (B) Coastal radar surveillance systems.

23 (C) Increased maritime interdiction capa-
24 bilities.

1 (D) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

3 (E) Advanced unattended surveillance sen-
4 sors.

5 (F) Ultralight aircraft detection capabili-
6 ties.

7 (G) Man-portable unmanned aerial vehi-
8 cles.

9 (H) Improved agent communications sys-
10 tems.

11 (16) SWANTON SECTOR.—For the Swanton sec-
12 tor, the following:

13 (A) Increased flight hours for aerial detec-
14 tion, interdiction, and monitoring operations ca-
15 pability.

16 (B) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.

18 (C) Advanced unattended surveillance sen-
19 sors.

20 (D) Ultralight aircraft detection capabili-
21 ties.

22 (E) Man-portable unmanned aerial vehi-
23 cles.

24 (F) Improved agent communications sys-
25 tems.

1 (17) HOULTON SECTOR.—For the Houlton sec-
2 tor, the following:

3 (A) Increased flight hours for aerial detec-
4 tion, interdiction, and monitoring operations ca-
5 pability.

6 (B) Mobile vehicle-mounted and man-port-
7 able surveillance capabilities.

8 (C) Advanced unattended surveillance sen-
9 sors.

10 (D) Ultralight aircraft detection capabili-
11 ties.

12 (E) Man-portable unmanned aerial vehi-
13 cles.

14 (F) Improved agent communications sys-
15 tems.

16 (18) TRANSIT ZONE.—For the transit zone, the
17 following:

18 (A) Not later than two years after the date
19 of the enactment of this Act, an increase in the
20 number of overall cutter, boat, and aircraft
21 hours spent conducting interdiction operations
22 over the average number of such hours during
23 the preceding three fiscal years.

24 (B) Increased maritime signals intelligence
25 capabilities.

1 (C) To increase maritime domain aware-
2 ness, the following:

3 (i) Unmanned aerial vehicles with
4 maritime surveillance capability.

5 (ii) Increased maritime aviation patrol
6 hours.

7 (D) Increased operational hours for mari-
8 time security components dedicated to joint
9 counter-smuggling and interdiction efforts with
10 other Federal agencies, including the
11 Deployable Specialized Forces of the Coast
12 Guard.

13 (E) Coastal radar surveillance systems
14 with long range day and night cameras capable
15 of providing full maritime domain awareness of
16 the United States territorial waters surrounding
17 Puerto Rico, Mona Island, Desecheo Island,
18 Vieques Island, Culebra Island, Saint Thomas,
19 Saint John, and Saint Croix.

20 (b) TACTICAL FLEXIBILITY.—

21 (1) SOUTHERN AND NORTHERN LAND BOR-
22 DERS.—

23 (A) IN GENERAL.—Beginning on Sep-
24 tember 30, 2022, or after the Secretary has de-
25 ployed at least 25 percent of the capabilities re-

1 required in each sector specified in subsection (a),
2 whichever comes later, the Secretary may devi-
3 ate from such capability deployments if the Sec-
4 retary determines that such deviation is re-
5 quired to achieve situational awareness or oper-
6 ational control.

7 (B) NOTIFICATION.—If the Secretary exer-
8 cises the authority described in subparagraph
9 (A), the Secretary shall, not later than 90 days
10 after such exercise, notify the Committee on
11 Homeland Security and Governmental Affairs
12 of the Senate and the Committee on Homeland
13 Security of the House of Representatives re-
14 garding the deviation under such subparagraph
15 that is the subject of such exercise. If the Sec-
16 retary makes any changes to such deviation, the
17 Secretary shall, not later than 90 days after
18 any such change, notify such committees re-
19 garding such change.

20 (2) TRANSIT ZONE.—

21 (A) NOTIFICATION.—The Secretary shall
22 notify the Committee on Homeland Security
23 and Governmental Affairs of the Senate, the
24 Committee on Commerce, Science, and Trans-
25 portation of the Senate, the Committee on

1 Homeland Security of the House of Representa-
2 tives, and the Committee on Transportation
3 and Infrastructure of the House of Representa-
4 tives regarding the capability deployments for
5 the transit zone specified in paragraph (18) of
6 subsection (a), including information relating
7 to—

8 (i) the number and types of assets
9 and personnel deployed; and

10 (ii) the impact such deployments have
11 on the capability of the Coast Guard to
12 conduct its mission in the transit zone re-
13 ferred to in paragraph (18) of subsection
14 (a).

15 (B) ALTERATION.—The Secretary may
16 alter the capability deployments referred to in
17 this section if the Secretary—

18 (i) determines, after consultation with
19 the committees referred to in subpara-
20 graph (A), that such alteration is nec-
21 essary; and

22 (ii) not later than 30 days after mak-
23 ing a determination under clause (i), noti-
24 fies the committees referred to in such

1 subparagraph regarding such alteration,
2 including information relating to—

3 (I) the number and types of as-
4 sets and personnel deployed pursuant
5 to such alteration; and

6 (II) the impact such alteration
7 has on the capability of the Coast
8 Guard to conduct its mission in the
9 transit zone referred to in paragraph
10 (18) of subsection (a).

11 (c) EXIGENT CIRCUMSTANCES.—

12 (1) IN GENERAL.—Notwithstanding subsection
13 (b), the Secretary may deploy the capabilities re-
14 ferred to in subsection (a) in a manner that is incon-
15 sistent with the requirements specified in such sub-
16 section if, after the Secretary has deployed at least
17 25 percent of such capabilities, the Secretary deter-
18 mines that exigent circumstances demand such an
19 inconsistent deployment or that such an inconsistent
20 deployment is vital to the national security interests
21 of the United States.

22 (2) NOTIFICATION.—The Secretary shall notify
23 the Committee on Homeland Security of the House
24 of Representative and the Committee on Homeland
25 Security and Governmental Affairs of the Senate not

1 later than 30 days after making a determination
2 under paragraph (1). Such notification shall include
3 a detailed justification regarding such determination.

4 (d) INTEGRATION.—In carrying out subsection (a),
5 the Secretary shall, to the greatest extent practicable, inte-
6 grate, within each sector or region of the southern border
7 and northern border, as the case may be, the deployed ca-
8 pabilities specified in such subsection as necessary to
9 achieve situational awareness and operational control of
10 such borders.

11 **SEC. 1114. U.S. BORDER PATROL ACTIVITIES.**

12 The Chief of the U.S. Border Patrol shall prioritize
13 the deployment of U.S. Border Patrol agents to as close
14 to the physical land border as possible, consistent with
15 border security enforcement priorities and accessibility to
16 such areas.

17 **SEC. 1115. BORDER SECURITY TECHNOLOGY PROGRAM**
18 **MANAGEMENT.**

19 (a) IN GENERAL.—Subtitle C of title IV of the
20 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
21 is amended by adding at the end the following new section:

22 **“SEC. 435. BORDER SECURITY TECHNOLOGY PROGRAM**
23 **MANAGEMENT.**

24 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
25 this section, the term ‘major acquisition program’ means

1 an acquisition program of the Department that is esti-
2 mated by the Secretary to require an eventual total ex-
3 penditure of at least \$300,000,000 (based on fiscal year
4 2018 constant dollars) over its life cycle cost.

5 “(b) PLANNING DOCUMENTATION.—For each border
6 security technology acquisition program of the Depart-
7 ment that is determined to be a major acquisition pro-
8 gram, the Secretary shall—

9 “(1) ensure that each such program has a writ-
10 ten acquisition program baseline approved by the
11 relevant acquisition decision authority;

12 “(2) document that each such program is meet-
13 ing cost, schedule, and performance thresholds as
14 specified in such baseline, in compliance with rel-
15 evant departmental acquisition policies and the Fed-
16 eral Acquisition Regulation; and

17 “(3) have a plan for meeting program imple-
18 mentation objectives by managing contractor per-
19 formance.

20 “(c) ADHERENCE TO STANDARDS.—The Secretary,
21 acting through the Under Secretary for Management and
22 the Commissioner of U.S. Customs and Border Protection,
23 shall ensure border security technology acquisition pro-
24 gram managers who are responsible for carrying out this
25 section adhere to relevant internal control standards iden-

1 tified by the Comptroller General of the United States.
2 The Commissioner shall provide information, as needed,
3 to assist the Under Secretary in monitoring management
4 of border security technology acquisition programs under
5 this section.

6 “(d) PLAN.—The Secretary, acting through the
7 Under Secretary for Management, in coordination with
8 the Under Secretary for Science and Technology and the
9 Commissioner of U.S. Customs and Border Protection,
10 shall submit to the appropriate congressional committees
11 a plan for testing, evaluating, and using independent
12 verification and validation resources for border security
13 technology. Under the plan, new border security tech-
14 nologies shall be evaluated through a series of assess-
15 ments, processes, and audits to ensure—

16 “(1) compliance with relevant departmental ac-
17 quisition policies and the Federal Acquisition Regu-
18 lation; and

19 “(2) the effective use of taxpayer dollars.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of the Homeland Security Act of 2002 is
22 amended by inserting after the item relating to section
23 433 the following new item:

“Sec. 435. Border security technology program management.”.

24 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
25 OF APPROPRIATIONS.—No additional funds are author-

1 ized to be appropriated to carry out section 435 of the
2 Homeland Security Act of 2002, as added by subsection
3 (a). Such section shall be carried out using amounts other-
4 wise authorized for such purposes.

5 **SEC. 1116. NATIONAL GUARD SUPPORT TO SECURE THE**
6 **SOUTHERN BORDER.**

7 (a) NATIONAL GUARD SUPPORT.—

8 (1) AUTHORITY TO REQUEST.—The Secretary
9 may, pursuant to chapter 15 of title 10, United
10 States Code, request that the Secretary of Defense
11 support the Secretary’s efforts to secure the south-
12 ern border of the United States. The Secretary of
13 Defense may authorize the provision of such support
14 under section 502(f) of title 32, United States Code.

15 (2) APPROVAL AND ORDER.—With the approval
16 of the Secretary and the Secretary of Defense, the
17 Governor of a State may order any units or per-
18 sonnel of the National Guard of such State to per-
19 form operations and missions under section 502(f)
20 of title 32, United States Code, for the purpose of
21 securing the southern border of the United States.

22 (b) TYPES OF SUPPORT AUTHORIZED.—The support
23 provided in accordance with subsection (a) may include—

24 (1) construction of reinforced fencing or other
25 physical barriers;

1 (2) operation of ground-based surveillance sys-
2 tems;

3 (3) deployment of manned aircraft, unmanned
4 aerial surveillance systems, and ground-based sur-
5 veillance systems to support continuous surveillance
6 of the southern border; and

7 (4) intelligence analysis support.

8 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
9 retary of Defense may deploy such materiel, equipment,
10 and logistics support as may be necessary to ensure the
11 effectiveness of the assistance provided under subsection
12 (a).

13 (d) READINESS.—To ensure that the use of units and
14 personnel of the National Guard of a State authorized
15 pursuant to this section does not degrade the training and
16 readiness of such units and personnel, the Secretary of
17 Defense shall consider the following requirements when
18 authorizing or approving support under subsection (a):

19 (1) The performance of such support may not
20 affect adversely the quality of such training or readi-
21 ness or otherwise interfere with the ability of a unit
22 or personnel of the National Guard of a State to
23 perform the military functions of such member or
24 unit.

1 (2) The performance of such support may not
2 degrade the military skills of the units or personnel
3 of the National Guard of a State performing such
4 support.

5 (e) REPORT ON READINESS.—Upon the request of
6 the Secretary, the Secretary of Defense shall provide to
7 the Secretary a report on the readiness of units and per-
8 sonnel of the National Guard that the Secretary of De-
9 fense determines are capable of providing such support.

10 (f) REIMBURSEMENT NOTIFICATION.—Prior to pro-
11 viding any support under subsection (a), the Secretary of
12 Defense shall notify the Secretary whether the requested
13 support will be reimbursed under section 277 of title 10,
14 United States Code.

15 (g) REIMBURSEMENT TO STATES.—The Secretary of
16 Defense may reimburse a State for costs incurred in the
17 deployment of any units or personnel of the National
18 Guard pursuant to subsection (a).

19 (h) RELATIONSHIP TO OTHER LAWS.—Nothing in
20 this section may be construed as affecting the authorities
21 under chapter 9 of title 32, United States Code.

22 (i) REPORTS.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of the enactment of this Act and bian-
25 nually thereafter through December 31, 2021, the

1 Secretary of Defense shall submit to the appropriate
2 congressional defense committees (as defined in sec-
3 tion 101(a)(16) of title 10, United States Code) a
4 report regarding any support provided pursuant to
5 subsection (a) for the six-month period preceding
6 each such report.

7 (2) ELEMENTS.—Each report under paragraph
8 (1) shall include a description of—

9 (A) the support provided; and

10 (B) the sources and amounts of funds obli-
11 gated and expended to provide such support.

12 **SEC. 1117. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
13 **DER SECURITY ON CERTAIN FEDERAL LAND.**

14 (a) PROHIBITION ON INTERFERENCE WITH U.S.
15 CUSTOMS AND BORDER PROTECTION.—

16 (1) IN GENERAL.—The Secretary concerned
17 may not impede, prohibit, or restrict activities of
18 U.S. Customs and Border Protection on covered
19 Federal land to carry out the activities described in
20 subsection (b).

21 (2) APPLICABILITY.—The authority of U.S.
22 Customs and Border Protection to conduct activities
23 described in subsection (b) on covered Federal land
24 applies without regard to whether a state of emer-
25 gency exists.

1 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
2 BORDER PROTECTION.—

3 (1) IN GENERAL.—U.S. Customs and Border
4 Protection shall have immediate access to covered
5 Federal land to conduct the activities described in
6 paragraph (2) on such land to prevent all unlawful
7 entries into the United States, including entries by
8 terrorists, unlawful aliens, instruments of terrorism,
9 narcotics, and other contraband through the south-
10 ern border or the northern border.

11 (2) ACTIVITIES DESCRIBED.—The activities de-
12 scribed in this paragraph are—

13 (A) carrying out section 102 of the Illegal
14 Immigration Reform and Immigrant Responsi-
15 bility Act of 1996 (Division C of Public Law
16 104–208; 8 U.S.C. 1103 note), as amended by
17 section 1111 of this division;

18 (B) the execution of search and rescue op-
19 erations;

20 (C) the use of motorized vehicles, foot pa-
21 trols, and horseback to patrol the border area,
22 apprehend illegal entrants, and rescue individ-
23 uals; and

1 (D) the remediation of tunnels used to fa-
2 cilitate unlawful immigration or other illicit ac-
3 tivities.

4 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
5 ITY.—

6 (1) IN GENERAL.—The activities of U.S. Cus-
7 toms and Border Protection described in subsection
8 (b)(2) may be carried out without regard to the pro-
9 visions of law specified in paragraph (2).

10 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
11 visions of law specified in this section are all Fed-
12 eral, State, or other laws, regulations, and legal re-
13 quirements of, deriving from, or related to the sub-
14 ject of, the following laws:

15 (A) The National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.).

17 (B) The Endangered Species Act of 1973
18 (16 U.S.C. 1531 et seq.).

19 (C) The Federal Water Pollution Control
20 Act (33 U.S.C. 1251 et seq.) (commonly re-
21 ferred to as the “Clean Water Act”).

22 (D) Division A of subtitle III of title 54,
23 United States Code (54 U.S.C. 300301 et seq.)
24 (formerly known as the “National Historic
25 Preservation Act”).

1 (E) The Migratory Bird Treaty Act (16
2 U.S.C. 703 et seq.).

3 (F) The Clean Air Act (42 U.S.C. 7401 et
4 seq.).

5 (G) The Archaeological Resources Protec-
6 tion Act of 1979 (16 U.S.C. 470aa et seq.).

7 (H) The Safe Drinking Water Act (42
8 U.S.C. 300f et seq.).

9 (I) The Noise Control Act of 1972 (42
10 U.S.C. 4901 et seq.).

11 (J) The Solid Waste Disposal Act (42
12 U.S.C. 6901 et seq.).

13 (K) The Comprehensive Environmental
14 Response, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9601 et seq.).

16 (L) Chapter 3125 of title 54, United
17 States Code (formerly known as the “Archae-
18 ological and Historic Preservation Act”).

19 (M) The Antiquities Act (16 U.S.C. 431 et
20 seq.).

21 (N) Chapter 3203 of title 54, United
22 States Code (formerly known as the “Historic
23 Sites, Buildings, and Antiquities Act”).

24 (O) The Wild and Scenic Rivers Act (16
25 U.S.C. 1271 et seq.).

1 (P) The Farmland Protection Policy Act
2 (7 U.S.C. 4201 et seq.).

3 (Q) The Coastal Zone Management Act of
4 1972 (16 U.S.C. 1451 et seq.).

5 (R) The Wilderness Act (16 U.S.C. 1131
6 et seq.).

7 (S) The Federal Land Policy and Manage-
8 ment Act of 1976 (43 U.S.C. 1701 et seq.).

9 (T) The National Wildlife Refuge System
10 Administration Act of 1966 (16 U.S.C. 668dd
11 et seq.).

12 (U) The Fish and Wildlife Act of 1956 (16
13 U.S.C. 742a et seq.).

14 (V) The Fish and Wildlife Coordination
15 Act (16 U.S.C. 661 et seq.).

16 (W) Subchapter II of chapter 5, and chap-
17 ter 7, of title 5, United States Code (commonly
18 known as the “Administrative Procedure Act”).

19 (X) The Otay Mountain Wilderness Act of
20 1999 (Public Law 106–145).

21 (Y) Sections 102(29) and 103 of the Cali-
22 fornia Desert Protection Act of 1994 (Public
23 Law 103–433).

1 (Z) Division A of subtitle I of title 54,
2 United States Code (formerly known as the
3 “National Park Service Organic Act”).

4 (AA) The National Park Service General
5 Authorities Act (Public Law 91–383, 16 U.S.C.
6 1a–1 et seq.).

7 (BB) Sections 401(7), 403, and 404 of the
8 National Parks and Recreation Act of 1978
9 (Public Law 95–625).

10 (CC) Sections 301(a) through (f) of the
11 Arizona Desert Wilderness Act (Public Law
12 101–628).

13 (DD) The Rivers and Harbors Act of 1899
14 (33 U.S.C. 403).

15 (EE) The Eagle Protection Act (16 U.S.C.
16 668 et seq.).

17 (FF) The Native American Graves Protec-
18 tion and Repatriation Act (25 U.S.C. 3001 et
19 seq.).

20 (GG) The American Indian Religious Free-
21 dom Act (42 U.S.C. 1996).

22 (HH) The National Forest Management
23 Act of 1976 (16 U.S.C. 1600 et seq.).

24 (II) The Multiple Use and Sustained Yield
25 Act of 1960 (16 U.S.C. 528 et seq.).

1 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
2 LAWS.—If a provision of law specified in paragraph
3 (2) was repealed and incorporated into title 54,
4 United States Code, after April 1, 2008, and before
5 the date of the enactment of this Act, the waiver de-
6 scribed in paragraph (1) shall apply to the provision
7 of such title that corresponds to the provision of law
8 specified in paragraph (2) to the same extent the
9 waiver applied to that provision of law.

10 (4) SAVINGS CLAUSE.—The waiver authority
11 under this subsection may not be construed as af-
12 fecting, negating, or diminishing in any manner the
13 applicability of section 552 of title 5, United States
14 Code (commonly referred to as the “Freedom of In-
15 formation Act”), in any relevant matter.

16 (d) PROTECTION OF LEGAL USES.—This section may
17 not be construed to provide—

18 (1) authority to restrict legal uses, such as
19 grazing, hunting, mining, or recreation or the use of
20 backcountry airstrips, on land under the jurisdiction
21 of the Secretary of the Interior or the Secretary of
22 Agriculture; or

23 (2) any additional authority to restrict legal ac-
24 cess to such land.

1 (e) EFFECT ON STATE AND PRIVATE LAND.—This
2 section shall—

3 (1) have no force or effect on State lands or
4 private lands; and

5 (2) not provide authority on or access to State
6 lands or private lands.

7 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
8 may be construed to supersede, replace, negate, or dimin-
9 ish treaties or other agreements between the United States
10 and Indian tribes.

11 (g) MEMORANDA OF UNDERSTANDING.—The re-
12 quirements of this section shall not apply to the extent
13 that such requirements are incompatible with any memo-
14 randum of understanding or similar agreement entered
15 into between the Commissioner and a National Park Unit
16 before the date of the enactment of this Act.

17 (h) DEFINITIONS.—In this section:

18 (1) COVERED FEDERAL LAND.—The term “cov-
19 ered Federal land” includes all land under the con-
20 trol of the Secretary concerned that is located within
21 100 miles of the southern border or the northern
22 border.

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

1 (A) with respect to land under the jurisdic-
2 tion of the Department of Agriculture, the Sec-
3 retary of Agriculture; and

4 (B) with respect to land under the jurisdic-
5 tion of the Department of the Interior, the Sec-
6 retary of the Interior.

7 **SEC. 1118. LANDOWNER AND RANCHER SECURITY EN-**
8 **HANCEMENT.**

9 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
10 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
11 lish a National Border Security Advisory Committee,
12 which—

13 (1) may advise, consult with, report to, and
14 make recommendations to the Secretary on matters
15 relating to border security matters, including—

16 (A) verifying security claims and the bor-
17 der security metrics established by the Depart-
18 ment of Homeland Security under section 1092
19 of the National Defense Authorization Act for
20 Fiscal Year 2017 (Public Law 114–328; 6
21 U.S.C. 223); and

22 (B) discussing ways to improve the secu-
23 rity of high traffic areas along the northern
24 border and the southern border; and

1 (2) may provide, through the Secretary, rec-
2 ommendations to Congress.

3 (b) CONSIDERATION OF VIEWS.—The Secretary shall
4 consider the information, advice, and recommendations of
5 the National Border Security Advisory Committee in for-
6 mulating policy regarding matters affecting border secu-
7 rity.

8 (c) MEMBERSHIP.—The National Border Security
9 Advisory Committee shall consist of at least one member
10 from each State who—

11 (1) has at least five years practical experience
12 in border security operations; or

13 (2) lives and works in the United States within
14 80 miles from the southern border or the northern
15 border.

16 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
17 COMMITTEE ACT.—The Federal Advisory Committee Act
18 (5 U.S.C. App.) shall not apply to the National Border
19 Security Advisory Committee.

20 **SEC. 1119. ERADICATION OF CARRIZO CANE AND SALT**
21 **CEDAR.**

22 (a) IN GENERAL.—Not later than September 30,
23 2023, the Secretary, after coordinating with the heads of
24 the relevant Federal, State, and local agencies, shall begin
25 eradicating the carrizo cane plant and any salt cedar along

1 the Rio Grande River that impedes border security oper-
2 ations.

3 (b) EXTENT.—The waiver authority under subsection
4 (c) of section 102 of the Illegal Immigration Reform and
5 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103
6 note), as amended by section 1111 of this division, shall
7 extend to activities carried out pursuant to this section.

8 **SEC. 1120. SOUTHERN BORDER THREAT ANALYSIS.**

9 (a) THREAT ANALYSIS.—

10 (1) REQUIREMENT.—Not later than 180 days
11 after the date of the enactment of this Act, the Sec-
12 retary shall submit to the Committee on Homeland
13 Security of the House of Representatives and the
14 Committee on Homeland Security and Governmental
15 Affairs of the Senate a Southern border threat anal-
16 ysis.

17 (2) CONTENTS.—The analysis submitted under
18 paragraph (1) shall include an assessment of—

19 (A) current and potential terrorism and
20 criminal threats posed by individuals and orga-
21 nized groups seeking—

22 (i) to unlawfully enter the United
23 States through the Southern border; or

24 (ii) to exploit security vulnerabilities
25 along the Southern border;

1 (B) improvements needed at and between
2 ports of entry along the Southern border to pre-
3 vent terrorists and instruments of terror from
4 entering the United States;

5 (C) gaps in law, policy, and coordination
6 between State, local, or tribal law enforcement,
7 international agreements, or tribal agreements
8 that hinder effective and efficient border secu-
9 rity, counterterrorism, and anti-human smug-
10 gling and trafficking efforts;

11 (D) the current percentage of situational
12 awareness achieved by the Department along
13 the Southern border;

14 (E) the current percentage of operational
15 control achieved by the Department on the
16 Southern border; and

17 (F) traveler crossing times and any poten-
18 tial security vulnerability associated with pro-
19 longed wait times.

20 (3) ANALYSIS REQUIREMENTS.—In compiling
21 the Southern border threat analysis required under
22 this subsection, the Secretary shall consider and ex-
23 amine—

24 (A) the technology needs and challenges,
25 including such needs and challenges identified

1 as a result of previous investments that have
2 not fully realized the security and operational
3 benefits that were sought;

4 (B) the personnel needs and challenges, in-
5 cluding such needs and challenges associated
6 with recruitment and hiring;

7 (C) the infrastructure needs and chal-
8 lenges;

9 (D) the roles and authorities of State,
10 local, and tribal law enforcement in general bor-
11 der security activities;

12 (E) the status of coordination among Fed-
13 eral, State, local, tribal, and Mexican law en-
14 forcement entities relating to border security;

15 (F) the terrain, population density, and cli-
16 mate along the Southern border; and

17 (G) the international agreements between
18 the United States and Mexico related to border
19 security.

20 (4) CLASSIFIED FORM.—To the extent possible,
21 the Secretary shall submit the Southern border
22 threat analysis required under this subsection in un-
23 classified form, but may submit a portion of the
24 threat analysis in classified form if the Secretary de-
25 termines such action is appropriate.

1 (b) U.S. BORDER PATROL STRATEGIC PLAN.—

2 (1) IN GENERAL.—Not later than 180 days
3 after the submission of the threat analysis required
4 under subsection (a) or June 30, 2019, and every
5 five years thereafter, the Secretary, acting through
6 the Chief of the U.S. Border Patrol, shall issue a
7 Border Patrol Strategic Plan.

8 (2) CONTENTS.—The Border Patrol Strategic
9 Plan required under this subsection shall include a
10 consideration of—

11 (A) the Southern border threat analysis re-
12 quired under subsection (a), with an emphasis
13 on efforts to mitigate threats identified in such
14 threat analysis;

15 (B) efforts to analyze and disseminate bor-
16 der security and border threat information be-
17 tween border security components of the De-
18 partment and other appropriate Federal depart-
19 ments and agencies with missions associated
20 with the Southern border;

21 (C) efforts to increase situational aware-
22 ness, including—

23 (i) surveillance capabilities, including
24 capabilities developed or utilized by the
25 Department of Defense, and any appro-

1 appropriate technology determined to be excess
2 by the Department of Defense; and

3 (ii) the use of manned aircraft and
4 unmanned aerial systems, including cam-
5 era and sensor technology deployed on
6 such assets;

7 (D) efforts to detect and prevent terrorists
8 and instruments of terrorism from entering the
9 United States;

10 (E) efforts to detect, interdict, and disrupt
11 aliens and illicit drugs at the earliest possible
12 point;

13 (F) efforts to focus intelligence collection
14 to disrupt transnational criminal organizations
15 outside of the international and maritime bor-
16 ders of the United States;

17 (G) efforts to ensure that any new border
18 security technology can be operationally inte-
19 grated with existing technologies in use by the
20 Department;

21 (H) any technology required to maintain,
22 support, and enhance security and facilitate
23 trade at ports of entry, including nonintrusive
24 detection equipment, radiation detection equip-
25 ment, biometric technology, surveillance sys-

1 tems, and other sensors and technology that the
2 Secretary determines to be necessary;

3 (I) operational coordination unity of effort
4 initiatives of the border security components of
5 the Department, including any relevant task
6 forces of the Department;

7 (J) lessons learned from Operation
8 Jumpstart and Operation Phalanx;

9 (K) cooperative agreements and informa-
10 tion sharing with State, local, tribal, territorial,
11 and other Federal law enforcement agencies
12 that have jurisdiction on the Northern border
13 or the Southern border;

14 (L) border security information received
15 from consultation with State, local, tribal, terri-
16 torial, and Federal law enforcement agencies
17 that have jurisdiction on the Northern border
18 or the Southern border, or in the maritime en-
19 vironment, and from border community stake-
20 holders (including through public meetings with
21 such stakeholders), including representatives
22 from border agricultural and ranching organiza-
23 tions and representatives from business and
24 civic organizations along the Northern border
25 or the Southern border;

1 (M) staffing requirements for all depart-
2 mental border security functions;

3 (N) a prioritized list of departmental re-
4 search and development objectives to enhance
5 the security of the Southern border;

6 (O) an assessment of training programs,
7 including training programs for—

8 (i) identifying and detecting fraudu-
9 lent documents;

10 (ii) understanding the scope of en-
11 forcement authorities and the use of force
12 policies; and

13 (iii) screening, identifying, and ad-
14 dressing vulnerable populations, such as
15 children and victims of human trafficking;
16 and

17 (P) an assessment of how border security
18 operations affect border crossing times.

19 **SEC. 1121. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
20 **PROTECTION.**

21 (a) DUTIES.—Subsection (c) of section 411 of the
22 Homeland Security Act of 2002 (6 U.S.C. 211) is amend-
23 ed—

24 (1) in paragraph (18), by striking “and” after
25 the semicolon at the end;

1 (2) by redesignating paragraph (19) as para-
2 graph (21); and

3 (3) by inserting after paragraph (18) the fol-
4 lowing new paragraphs:

5 “(19) administer the U.S. Customs and Border
6 Protection public private partnerships under subtitle
7 G;

8 “(20) administer preclearance operations under
9 the Preclearance Authorization Act of 2015 (19
10 U.S.C. 4431 et seq.; enacted as subtitle B of title
11 VIII of the Trade Facilitation and Trade Enforce-
12 ment Act of 2015; 19 U.S.C. 4301 et seq.); and”.

13 (b) OFFICE OF FIELD OPERATIONS STAFFING.—
14 Subparagraph (A) of section 411(g)(5) of the Homeland
15 Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by
16 inserting before the period at the end the following: “com-
17 pared to the number indicated by the current fiscal year
18 work flow staffing model”.

19 (c) IMPLEMENTATION PLAN.—Subparagraph (B) of
20 section 814(e)(1) of the Preclearance Authorization Act
21 of 2015 (19 U.S.C. 4433(e)(1); enacted as subtitle B of
22 title VIII of the Trade Facilitation and Trade Enforce-
23 ment Act of 2015; 19 U.S.C. 4301 et seq.) is amended
24 to read as follows:

1 “(B) a port of entry vacancy rate which
2 compares the number of officers identified in
3 subparagraph (A) with the number of officers
4 at the port at which such officer is currently as-
5 signed.”.

6 (d) DEFINITION.—Subsection (r) of section 411 of
7 the Homeland Security Act of 2002 (6 U.S.C. 211) is
8 amended—

9 (1) by striking “this section, the terms” and in-
10 serting the following: “this section:

11 “(1) the terms”;

12 (2) in paragraph (1), as added by subparagraph
13 (A), by striking the period at the end and inserting
14 “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(2) the term ‘unmanned aerial systems’ has
18 the meaning given the term ‘unmanned aircraft sys-
19 tem’ in section 331 of the FAA Modernization and
20 Reform Act of 2012 (Public Law 112–95; 49 U.S.C.
21 40101 note).”.

22 **SEC. 1122. AGENT AND OFFICER TECHNOLOGY USE.**

23 In carrying out section 102 of the Illegal Immigration
24 Reform and Immigrant Responsibility Act of 1996 (as
25 amended by section 1111 of this division) and section

1 1113 of this division, the Secretary shall, to the greatest
2 extent practicable, ensure that technology deployed to gain
3 situational awareness and operational control of the bor-
4 der be provided to front-line officers and agents of the De-
5 partment of Homeland Security.

6 **SEC. 1123. INTEGRATED BORDER ENFORCEMENT TEAMS.**

7 (a) IN GENERAL.—Subtitle C of title IV of the
8 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
9 as amended by section 1115 of this division, is further
10 amended by adding at the end the following new section:

11 **“SEC. 436. INTEGRATED BORDER ENFORCEMENT TEAMS.**

12 “(a) ESTABLISHMENT.—The Secretary shall estab-
13 lish within the Department a program to be known as the
14 Integrated Border Enforcement Team program (referred
15 to in this section as ‘IBET’).

16 “(b) PURPOSE.—The Secretary shall administer the
17 IBET program in a manner that results in a cooperative
18 approach between the United States and Canada to—

19 “(1) strengthen security between designated
20 ports of entry;

21 “(2) detect, prevent, investigate, and respond to
22 terrorism and violations of law related to border se-
23 curity;

1 “(3) facilitate collaboration among components
2 and offices within the Department and international
3 partners;

4 “(4) execute coordinated activities in further-
5 ance of border security and homeland security; and

6 “(5) enhance information-sharing, including the
7 dissemination of homeland security information
8 among such components and offices.

9 “(c) COMPOSITION AND LOCATION OF IBETs.—

10 “(1) COMPOSITION.—IBETs shall be led by the
11 United States Border Patrol and may be comprised
12 of personnel from the following:

13 “(A) Other subcomponents of U.S. Cus-
14 toms and Border Protection.

15 “(B) U.S. Immigration and Customs En-
16 forcement, led by Homeland Security Investiga-
17 tions.

18 “(C) The Coast Guard, for the purpose of
19 securing the maritime borders of the United
20 States.

21 “(D) Other Department personnel, as ap-
22 propriate.

23 “(E) Other Federal departments and agen-
24 cies, as appropriate.

1 “(F) Appropriate State law enforcement
2 agencies.

3 “(G) Foreign law enforcement partners.

4 “(H) Local law enforcement agencies from
5 affected border cities and communities.

6 “(I) Appropriate tribal law enforcement
7 agencies.

8 “(2) LOCATION.—The Secretary is authorized
9 to establish IBETs in regions in which such teams
10 can contribute to IBET missions, as appropriate.
11 When establishing an IBET, the Secretary shall con-
12 sider the following:

13 “(A) Whether the region in which the
14 IBET would be established is significantly im-
15 pacted by cross-border threats.

16 “(B) The availability of Federal, State,
17 local, tribal, and foreign law enforcement re-
18 sources to participate in an IBET.

19 “(C) Whether, in accordance with para-
20 graph (3), other joint cross-border initiatives al-
21 ready take place within the region in which the
22 IBET would be established, including other De-
23 partment cross-border programs such as the In-
24 tegrated Cross-Border Maritime Law Enforce-
25 ment Operation Program established under sec-

1 tion 711 of the Coast Guard and Maritime
2 Transportation Act of 2012 (46 U.S.C. 70101
3 note) or the Border Enforcement Security Task
4 Force established under section 432.

5 “(3) DUPLICATION OF EFFORTS.—In deter-
6 mining whether to establish a new IBET or to ex-
7 pand an existing IBET in a given region, the Sec-
8 retary shall ensure that the IBET under consider-
9 ation does not duplicate the efforts of other existing
10 interagency task forces or centers within such re-
11 gion, including the Integrated Cross-Border Mari-
12 time Law Enforcement Operation Program estab-
13 lished under section 711 of the Coast Guard and
14 Maritime Transportation Act of 2012 (46 U.S.C.
15 70101 note) or the Border Enforcement Security
16 Task Force established under section 432.

17 “(d) OPERATION.—

18 “(1) IN GENERAL.—After determining the re-
19 gions in which to establish IBETs, the Secretary
20 may—

21 “(A) direct the assignment of Federal per-
22 sonnel to such IBETs; and

23 “(B) take other actions to assist Federal,
24 State, local, and tribal entities to participate in
25 such IBETs, including providing financial as-

1 sistance, as appropriate, for operational, admin-
2 istrative, and technological costs associated with
3 such participation.

4 “(2) LIMITATION.—Coast Guard personnel as-
5 signed under paragraph (1) may be assigned only
6 for the purposes of securing the maritime borders of
7 the United States, in accordance with subsection
8 (c)(1)(C).

9 “(e) COORDINATION.—The Secretary shall coordinate
10 the IBET program with other similar border security and
11 antiterrorism programs within the Department in accord-
12 ance with the strategic objectives of the Cross-Border Law
13 Enforcement Advisory Committee.

14 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
15 retary may enter into memoranda of understanding with
16 appropriate representatives of the entities specified in sub-
17 section (e)(1) necessary to carry out the IBET program.
18 Such memoranda with entities specified in subparagraph
19 (G) of such subsection shall be entered into with the con-
20 currence of the Secretary of State.

21 “(g) REPORT.—Not later than 180 days after the
22 date on which an IBET is established and biannually
23 thereafter for the following six years, the Secretary shall
24 submit to the Committee on Homeland Security of the
25 House of Representatives and the Committee on Home-

1 land Security and Governmental Affairs of the Senate,
2 and in the case of Coast Guard personnel used to secure
3 the maritime borders of the United States, additionally to
4 the Committee on Transportation and Infrastructure of
5 the House of Representatives, a report that—

6 “(1) describes the effectiveness of IBETs in ful-
7 filling the purposes specified in subsection (b);

8 “(2) assess the impact of certain challenges on
9 the sustainment of cross-border IBET operations,
10 including challenges faced by international partners;

11 “(3) addresses ways to support joint training
12 for IBET stakeholder agencies and radio interoper-
13 ability to allow for secure cross-border radio commu-
14 nications; and

15 “(4) assesses how IBETs, Border Enforcement
16 Security Task Forces, and the Integrated Cross-Bor-
17 der Maritime Law Enforcement Operation Program
18 can better align operations, including interdiction
19 and investigation activities.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of the Homeland Security Act of 2002 is
22 amended by adding after the item relating to section 435
23 the following new item:

“Sec. 436. Integrated Border Enforcement Teams.”.

1 **SEC. 1124. TUNNEL TASK FORCES.**

2 The Secretary is authorized to establish Tunnel Task
3 Forces for the purposes of detecting and remediating tun-
4 nels that breach the international border of the United
5 States.

6 **SEC. 1125. PILOT PROGRAM ON USE OF ELECTRO-**
7 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
8 **DER SECURITY OPERATIONS.**

9 (a) IN GENERAL.—The Commissioner, in consulta-
10 tion with the Assistant Secretary of Commerce for Com-
11 munications and Information, shall conduct a pilot pro-
12 gram to test and evaluate the use of electromagnetic spec-
13 trum by U.S. Customs and Border Protection in support
14 of border security operations through—

15 (1) ongoing management and monitoring of
16 spectrum to identify threats such as unauthorized
17 spectrum use, and the jamming and hacking of
18 United States communications assets, by persons en-
19 gaged in criminal enterprises;

20 (2) automated spectrum management to enable
21 greater efficiency and speed for U.S. Customs and
22 Border Protection in addressing emerging challenges
23 in overall spectrum use on the United States border;
24 and

25 (3) coordinated use of spectrum resources to
26 better facilitate interoperability and interagency co-

1 operation and interdiction efforts at or near the
2 United States border.

3 (b) REPORT TO CONGRESS.—Not later than 180 days
4 after the conclusion of the pilot program conducted under
5 subsection (a), the Commissioner shall submit to the Com-
6 mittee on Homeland Security and the Committee on En-
7 ergy and Commerce of the House of Representatives and
8 the Committee on Homeland Security and Governmental
9 Affairs and the Committee on Commerce, Science, and
10 Transportation of the Senate a report on the findings and
11 data derived from such program.

12 **SEC. 1126. FOREIGN MIGRATION ASSISTANCE.**

13 (a) IN GENERAL.—Subtitle C of title IV of the
14 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
15 as amended by sections 1115 and 1123 of this division,
16 is further amended by adding at the end the following new
17 section:

18 **“SEC. 437. FOREIGN MIGRATION ASSISTANCE.**

19 “(a) IN GENERAL.—The Secretary, with the concur-
20 rence of the Secretary of State, may provide to a foreign
21 government financial assistance for foreign country oper-
22 ations to address migration flows that may affect the
23 United States.

24 “(b) DETERMINATION.—Assistance provided under
25 subsection (a) may be provided only if such assistance

1 would enhance the recipient government’s capacity to ad-
2 dress irregular migration flows that may affect the United
3 States, including through related detention or removal op-
4 erations by the recipient government, including procedures
5 to screen and provide protection for certain individuals.

6 “(c) REIMBURSEMENT OF EXPENSES.—The Sec-
7 retary may, if appropriate, seek reimbursement from the
8 receiving foreign government for the provision of financial
9 assistance under this section.

10 “(d) RECEIPTS CREDITED AS OFFSETTING COLLEC-
11 TIONS.—Notwithstanding section 3302 of title 31, United
12 States Code, any reimbursement collected pursuant to
13 subsection (c) shall—

14 “(1) be credited as offsetting collections to the
15 account that finances the financial assistance under
16 this section for which such reimbursement is re-
17 ceived; and

18 “(2) remain available until expended for the
19 purpose of carrying out this section.

20 “(e) EFFECTIVE PERIOD.—The authority provided
21 under this section shall remain in effect until September
22 30, 2023.

23 “(f) DEVELOPMENT AND PROGRAM EXECUTION.—
24 The Secretary and the Secretary of State shall jointly de-

1 velop and implement any financial assistance under this
2 section.

3 “(g) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion may be construed as affecting, augmenting, or dimin-
5 ishing the authority of the Secretary of State.

6 “(h) **AUTHORIZATION OF APPROPRIATIONS.**—In ad-
7 dition to amounts otherwise authorized to be appropriated
8 for such purpose, there is authorized to be appropriated
9 \$50,000,000 for fiscal years 2019 through 2023 to carry
10 out this section.”.

11 (b) **CLERICAL AMENDMENT.**—The table of contents
12 in section 1(b) of the Homeland Security Act of 2002 is
13 amended by inserting after the item relating to section
14 436 the following new item:

“Sec. 437. Foreign migration assistance.”.

15 **SEC. 1127. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
16 **MIGRATION ALERT PROGRAM.**

17 (a) **IN GENERAL.**—Subtitle D of title IV of the
18 Homeland Security Act of 2002 (6 U.S.C. 251 et seq.)
19 is amended by adding at the end the following new section:

20 **“SEC. 447. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
21 **MIGRATION ALERT PROGRAM.**

22 “(a) **ESTABLISHMENT.**—There is established in the
23 Department a program to be known as the Biometric
24 Identification Transnational Migration Alert Program (re-
25 ferred to in this section as ‘BITMAP’) to address and re-

1 duce national security, border security, and public safety
2 threats before such threats reach the international border
3 of the United States.

4 “(b) DUTIES.—In carrying out BITMAP operations,
5 the Secretary, acting through the Director of U.S. Immi-
6 gration and Customs Enforcement, shall—

7 “(1) provide, when necessary, capabilities,
8 training, and equipment, to the government of a for-
9 eign country to collect biometric and biographic
10 identification data from individuals to identify, pre-
11 vent, detect, and interdict high risk individuals iden-
12 tified as national security, border security, or public
13 safety threats who may attempt to enter the United
14 States utilizing illicit pathways;

15 “(2) provide capabilities to the government of a
16 foreign country to compare foreign data against ap-
17 propriate United States national security, border se-
18 curity, public safety, immigration, and counter-ter-
19 rorism data, including—

20 “(A) the Federal Bureau of Investigation’s
21 Terrorist Screening Database, or successor
22 database;

23 “(B) the Federal Bureau of Investigation’s
24 Next Generation Identification database, or suc-
25 cessor database;

1 “(C) the Department of Defense Auto-
2 mated Biometric Identification System (com-
3 monly known as ‘ABIS’), or successor database;

4 “(D) the Department’s Automated Biomet-
5 ric Identification System (commonly known as
6 ‘IDENT’), or successor database; and

7 “(E) any other database, notice, or means
8 that the Secretary, in consultation with the
9 heads of other Federal departments and agen-
10 cies responsible for such databases, notices, or
11 means, designates; and

12 “(3) ensure biometric and biographic identifica-
13 tion data collected pursuant to BITMAP are incor-
14 porated into appropriate United States Government
15 databases, in compliance with the policies and proce-
16 dures established by the Privacy Officer appointed
17 under section 222.

18 “(c) COLLABORATION.—The Secretary shall ensure
19 that BITMAP operations include participation from rel-
20 evant components of the Department, and, as appropriate,
21 request participation from other Federal agencies.

22 “(d) COORDINATION.—The Secretary shall coordi-
23 nate with the Secretary of State, appropriate representa-
24 tives of foreign governments, and the heads of other Fed-

1 eral agencies, as appropriate, to carry out paragraph (1)
2 of subsection (b).

3 “(e) AGREEMENTS.—Before carrying out BITMAP
4 operations in a foreign country that, as of the date of the
5 enactment of this section, was not a partner country de-
6 scribed in this section, the Secretary, with the concurrence
7 of the Secretary of State, shall enter into an agreement
8 or arrangement with the government of such country that
9 outlines such operations in such country, including related
10 departmental operations. Such country shall be a partner
11 country described in this section pursuant to and for pur-
12 poses of such agreement or arrangement.

13 “(f) NOTIFICATION TO CONGRESS.—Not later than
14 60 days before an agreement with the government of a
15 foreign country to carry out BITMAP operations in such
16 foreign country enters into force, the Secretary shall pro-
17 vide the Committee on Homeland Security of the House
18 of Representatives and the Committee on Homeland Secu-
19 rity and Governmental Affairs of the Senate with a copy
20 of the agreement to establish such operations, which shall
21 include—

22 “(1) the identification of the foreign country
23 with which the Secretary intends to enter into such
24 an agreement;

1 “(2) the location at which such operations will
2 be conducted; and

3 “(3) the terms and conditions for Department
4 personnel operating at such location.”.

5 (b) REPORT.—Not later than 180 days after the date
6 on which the Biometric Identification Transnational Mi-
7 gration Alert Program (BITMAP) is established under
8 section 447 of the Homeland Security Act of 2002 (as
9 added by subsection (a) of this section) and annually
10 thereafter for the following five years, the Secretary of
11 Homeland Security shall submit to the Committee on
12 Homeland Security of the House of Representatives and
13 the Committee on Homeland Security and Governmental
14 Affairs of the Senate a report that details the effectiveness
15 of BITMAP operations in enhancing national security,
16 border security, and public safety.

17 (c) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by inserting after the item relating to section
20 446 the following new item:

“Sec. 447. Biometric Identification Transnational Migration Alert Program.”.

21 **Subtitle B—Personnel**

22 **SEC. 1131. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 23 **TECTION AGENTS AND OFFICERS.**

24 (a) BORDER PATROL AGENTS.—Not later than Sep-
25 tember 30, 2023, the Commissioner shall hire, train, and

1 assign sufficient agents to maintain an active duty pres-
2 ence of not fewer than 26,370 full-time equivalent agents.

3 (b) CBP OFFICERS.—In addition to positions author-
4 ized before the date of the enactment of this Act and any
5 existing officer vacancies within U.S. Customs and Border
6 Protection as of such date, the Commissioner shall hire,
7 train, and assign to duty, not later than September 30,
8 2023—

9 (1) sufficient U.S. Customs and Border Protec-
10 tion officers to maintain an active duty presence of
11 not fewer than 27,725 full-time equivalent officers;
12 and

13 (2) 350 full-time support staff distributed
14 among all United States ports of entry.

15 (c) AIR AND MARINE OPERATIONS.—Not later than
16 September 30, 2023, the Commissioner shall hire, train,
17 and assign sufficient agents for Air and Marine Oper-
18 ations of U.S. Customs and Border Protection to maintain
19 not fewer than 1,675 full-time equivalent agents and not
20 fewer than 264 Marine and Air Interdiction Agents for
21 southern border air and maritime operations.

22 (d) U.S. CUSTOMS AND BORDER PROTECTION K–9
23 UNITS AND HANDLERS.—

24 (1) K–9 UNITS.—Not later than September 30,
25 2023, the Commissioner shall deploy not fewer than

1 300 new K–9 units, with supporting officers of U.S.
2 Customs and Border Protection and other required
3 staff, at land ports of entry and checkpoints, on the
4 southern border and the northern border.

5 (2) USE OF CANINES.—The Commissioner shall
6 prioritize the use of canines at the primary inspec-
7 tion lanes at land ports of entry and checkpoints.

8 (e) U.S. CUSTOMS AND BORDER PROTECTION
9 HORSEBACK UNITS.—

10 (1) INCREASE.—Not later than September 30,
11 2023, the Commissioner shall increase the number
12 of horseback units, with supporting officers of U.S.
13 Customs and Border Protection and other required
14 staff, by not fewer than 100 officers and 50 horses
15 for security patrol along the Southern border.

16 (2) HORSEBACK UNIT SUPPORT.—The Commis-
17 sioner shall construct new stables, maintain and im-
18 prove existing stables, and provide other resources
19 needed to maintain the health and well-being of the
20 horses that serve in the horseback units of U.S. Cus-
21 toms and Border Protection.

22 (f) U.S. CUSTOMS AND BORDER PROTECTION
23 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
24 September 30, 2023, the Commissioner shall increase by

1 not fewer than 50 the number of officers engaged in
2 search and rescue activities along the southern border.

3 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
4 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
5 later than September 30, 2023, the Commissioner shall
6 increase by not fewer than 50 the number of officers as-
7 sisting task forces and activities related to deployment and
8 operation of border tunnel detection technology and appre-
9 hensions of individuals using such tunnels for crossing
10 into the United States, drug trafficking, or human smug-
11 gling.

12 (h) AGRICULTURAL SPECIALISTS.—Not later than
13 September 30, 2023, the Secretary shall hire, train, and
14 assign to duty, in addition to the officers and agents au-
15 thorized under subsections (a) through (g), 631 U.S. Cus-
16 toms and Border Protection agricultural specialists to
17 ports of entry along the southern border and the northern
18 border.

19 (i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
20 Not later than September 30, 2023, the Commissioner
21 shall hire, train, and assign sufficient Office of Profes-
22 sional Responsibility special agents to maintain an active
23 duty presence of not fewer than 550 full-time equivalent
24 special agents.

1 (j) U.S. CUSTOMS AND BORDER PROTECTION OF-
2 FICE OF INTELLIGENCE.—Not later than September 30,
3 2023, the Commissioner shall hire, train, and assign suffi-
4 cient Office of Intelligence personnel to maintain not fewer
5 than 700 full-time equivalent employees.

6 (k) GAO REPORT.—If the staffing levels required
7 under this section are not achieved by September 30,
8 2023, the Comptroller General of the United States shall
9 conduct a review of the reasons why such levels were not
10 achieved.

11 **SEC. 1132. U.S. CUSTOMS AND BORDER PROTECTION RE-**
12 **TENTION INCENTIVES.**

13 (a) IN GENERAL.—Chapter 97 of title 5, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 9702. U.S. Customs and Border Protection tem-**
17 **porary employment authorities**

18 “(a) DEFINITIONS.—In this section—

19 “(1) the term ‘CBP employee’ means an em-
20 ployee of U.S. Customs and Border Protection de-
21 scribed under any of subsections (a) through (h) of
22 section 1131 of the Border Security for America Act
23 of 2018;

24 “(2) the term ‘Commissioner’ means the Com-
25 missioner of U.S. Customs and Border Protection;

1 “(3) the term ‘Director’ means the Director of
2 the Office of Personnel Management;

3 “(4) the term ‘Secretary’ means the Secretary
4 of Homeland Security; and

5 “(5) the term ‘appropriate congressional com-
6 mittees’ means the Committee on Oversight and
7 Government Reform, the Committee on Homeland
8 Security, and the Committee on Ways and Means of
9 the House of Representatives and the Committee on
10 Homeland Security and Governmental Affairs and
11 the Committee on Finance of the Senate.

12 “(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND
13 RELOCATION BONUSES; RETENTION BONUSES.—

14 “(1) STATEMENT OF PURPOSE AND LIMITA-
15 TION.—The purpose of this subsection is to allow
16 U.S. Customs and Border Protection to expedi-
17 tiously meet the hiring goals and staffing levels re-
18 quired by section 1131 of the Border Security for
19 America Act of 2018. The Secretary shall not use
20 this authority beyond meeting the requirements of
21 such section.

22 “(2) DIRECT HIRE AUTHORITY.—The Secretary
23 may appoint, without regard to any provision of sec-
24 tions 3309 through 3319, candidates to positions in

1 the competitive service as CBP employees if the Sec-
2 retary has given public notice for the positions.

3 “(3) RECRUITMENT AND RELOCATION BO-
4 NUSES.—The Secretary may pay a recruitment or
5 relocation bonus of up to 50 percent of the annual
6 rate of basic pay to an individual CBP employee at
7 the beginning of the service period multiplied by the
8 number of years (including a fractional part of a
9 year) in the required service period to an individual
10 (other than an individual described in subsection
11 (a)(2) of section 5753) if—

12 “(A) the Secretary determines that condi-
13 tions consistent with the conditions described in
14 paragraphs (1) and (2) of subsection (b) of
15 such section 5753 are satisfied with respect to
16 the individual (without regard to the regula-
17 tions referenced in subsection (b)(2)(B(ii)(I) of
18 such section or to any other provision of that
19 section); and

20 “(B) the individual enters into a written
21 service agreement with the Secretary—

22 “(i) under which the individual is re-
23 quired to complete a period of employment
24 as a CBP employee of not less than 2
25 years; and

1 “(ii) that includes—

2 “(I) the commencement and ter-
3 mination dates of the required service
4 period (or provisions for the deter-
5 mination thereof);

6 “(II) the amount of the bonus;
7 and

8 “(III) other terms and conditions
9 under which the bonus is payable,
10 subject to the requirements of this
11 subsection, including—

12 “(aa) the conditions under
13 which the agreement may be ter-
14 minated before the agreed-upon
15 service period has been com-
16 pleted; and

17 “(bb) the effect of a termi-
18 nation described in item (aa).

19 “(4) RETENTION BONUSES.—The Secretary
20 may pay a retention bonus of up to 50 percent of
21 basic pay to an individual CBP employee (other than
22 an individual described in subsection (a)(2) of sec-
23 tion 5754) if—

24 “(A) the Secretary determines that—

1 “(i) a condition consistent with the
2 condition described in subsection (b)(1) of
3 such section 5754 is satisfied with respect
4 to the CBP employee (without regard to
5 any other provision of that section); and

6 “(ii) in the absence of a retention
7 bonus, the CBP employee would be likely
8 to leave—

9 “(I) the Federal service; or

10 “(II) for a different position in
11 the Federal service, including a posi-
12 tion in another agency or component
13 of the Department of Homeland Secu-
14 rity; and

15 “(B) the individual enters into a written
16 service agreement with the Secretary—

17 “(i) under which the individual is re-
18 quired to complete a period of employment
19 as a CBP employee of not less than 2
20 years; and

21 “(ii) that includes—

22 “(I) the commencement and ter-
23 mination dates of the required service
24 period (or provisions for the deter-
25 mination thereof);

1 “(II) the amount of the bonus;
2 and

3 “(III) other terms and conditions
4 under which the bonus is payable,
5 subject to the requirements of this
6 subsection, including—

7 “(aa) the conditions under
8 which the agreement may be ter-
9 minated before the agreed-upon
10 service period has been com-
11 pleted; and

12 “(bb) the effect of a termi-
13 nation described in item (aa).

14 “(5) RULES FOR BONUSSES.—

15 “(A) MAXIMUM BONUS.—A bonus paid to
16 an employee under—

17 “(i) paragraph (3) may not exceed
18 100 percent of the annual rate of basic pay
19 of the employee as of the commencement
20 date of the applicable service period; and

21 “(ii) paragraph (4) may not exceed 50
22 percent of the annual rate of basic pay of
23 the employee.

24 “(B) RELATIONSHIP TO BASIC PAY.—A
25 bonus paid to an employee under paragraph (3)

1 or (4) shall not be considered part of the basic
2 pay of the employee for any purpose, including
3 for retirement or in computing a lump-sum pay-
4 ment to the covered employee for accumulated
5 and accrued annual leave under section 5551 or
6 section 5552.

7 “(C) PERIOD OF SERVICE FOR RECRUIT-
8 MENT, RELOCATION, AND RETENTION BO-
9 NUSES.—

10 “(i) A bonus paid to an employee
11 under paragraph (4) may not be based on
12 any period of such service which is the
13 basis for a recruitment or relocation bonus
14 under paragraph (3).

15 “(ii) A bonus paid to an employee
16 under paragraph (3) or (4) may not be
17 based on any period of service which is the
18 basis for a recruitment or relocation bonus
19 under section 5753 or a retention bonus
20 under section 5754.

21 “(c) SPECIAL RATES OF PAY.—In addition to the cir-
22 cumstances described in subsection (b) of section 5305,
23 the Director may establish special rates of pay in accord-
24 ance with that section to assist the Secretary in meeting
25 the requirements of section 1131 of the Border Security

1 for America Act of 2018. The Director shall prioritize the
2 consideration of requests from the Secretary for such spe-
3 cial rates of pay and issue a decision as soon as prac-
4 ticable. The Secretary shall provide such information to
5 the Director as the Director deems necessary to evaluate
6 special rates of pay under this subsection.

7 “(d) OPM OVERSIGHT.—

8 “(1) Not later than September 30 of each year,
9 the Secretary shall provide a report to the Director
10 on U.S. Custom and Border Protection’s use of au-
11 thorities provided under subsections (b) and (c). In
12 each report, the Secretary shall provide such infor-
13 mation as the Director determines is appropriate to
14 ensure appropriate use of authorities under such
15 subsections. Each report shall also include an assess-
16 ment of—

17 “(A) the impact of the use of authorities
18 under subsections (b) and (c) on implementa-
19 tion of section 1131 of the Border Security for
20 America Act of 2018;

21 “(B) solving hiring and retention chal-
22 lenges at the agency, including at specific loca-
23 tions;

1 “(C) whether hiring and retention chal-
2 lenges still exist at the agency or specific loca-
3 tions; and

4 “(D) whether the Secretary needs to con-
5 tinue to use authorities provided under this sec-
6 tion at the agency or at specific locations.

7 “(2) CONSIDERATION.—In compiling a report
8 under paragraph (1), the Secretary shall consider—

9 “(A) whether any CBP employee accepted
10 an employment incentive under subsection (b)
11 and (c) and then transferred to a new location
12 or left U.S. Customs and Border Protection;
13 and

14 “(B) the length of time that each employee
15 identified under subparagraph (A) stayed at the
16 original location before transferring to a new lo-
17 cation or leaving U.S. Customs and Border
18 Protection.

19 “(3) DISTRIBUTION.—In addition to the Direc-
20 tor, the Secretary shall submit each report required
21 under this subsection to the appropriate congress-
22 sional committees.

23 “(e) OPM ACTION.—If the Director determines the
24 Secretary has inappropriately used authorities under sub-
25 section (b) or a special rate of pay provided under sub-

1 section (c), the Director shall notify the Secretary and the
2 appropriate congressional committees in writing. Upon re-
3 ceipt of the notification, the Secretary may not make any
4 new appointments or issue any new bonuses under sub-
5 section (b), nor provide CBP employees with further spe-
6 cial rates of pay, until the Director has provided the Sec-
7 retary and the appropriate congressional committees a
8 written notice stating the Director is satisfied safeguards
9 are in place to prevent further inappropriate use.

10 “(f) IMPROVING CBP HIRING AND RETENTION.—

11 “(1) EDUCATION OF CBP HIRING OFFICIALS.—

12 Not later than 180 days after the date of the enact-
13 ment of this section, and in conjunction with the
14 Chief Human Capital Officer of the Department of
15 Homeland Security, the Secretary shall develop and
16 implement a strategy to improve the education re-
17 garding hiring and human resources flexibilities (in-
18 cluding hiring and human resources flexibilities for
19 locations in rural or remote areas) for all employees,
20 serving in agency headquarters or field offices, who
21 are involved in the recruitment, hiring, assessment,
22 or selection of candidates for locations in a rural or
23 remote area, as well as the retention of current em-
24 ployees.

1 “(2) ELEMENTS.—Elements of the strategy
2 under paragraph (1) shall include the following:

3 “(A) Developing or updating training and
4 educational materials on hiring and human re-
5 sources flexibilities for employees who are in-
6 volved in the recruitment, hiring, assessment, or
7 selection of candidates, as well as the retention
8 of current employees.

9 “(B) Regular training sessions for per-
10 sonnel who are critical to filling open positions
11 in rural or remote areas.

12 “(C) The development of pilot programs or
13 other programs, as appropriate, consistent with
14 authorities provided to the Secretary to address
15 identified hiring challenges, including in rural
16 or remote areas.

17 “(D) Developing and enhancing strategic
18 recruiting efforts through the relationships with
19 institutions of higher education, as defined in
20 section 102 of the Higher Education Act of
21 1965 (20 U.S.C. 1002), veterans transition and
22 employment centers, and job placement pro-
23 gram in regions that could assist in filling posi-
24 tions in rural or remote areas.

1 “(E) Examination of existing agency pro-
2 grams on how to most effectively aid spouses
3 and families of individuals who are candidates
4 or new hires in a rural or remote area.

5 “(F) Feedback from individuals who are
6 candidates or new hires at locations in a rural
7 or remote area, including feedback on the qual-
8 ity of life in rural or remote areas for new hires
9 and their families.

10 “(G) Feedback from CBP employees, other
11 than new hires, who are stationed at locations
12 in a rural or remote area, including feedback on
13 the quality of life in rural or remote areas for
14 those CBP employees and their families.

15 “(H) Evaluation of Department of Home-
16 land Security internship programs and the use-
17 fulness of those programs in improving hiring
18 by the Secretary in rural or remote areas.

19 “(3) EVALUATION.—

20 “(A) IN GENERAL.—Each year, the Sec-
21 retary shall—

22 “(i) evaluate the extent to which the
23 strategy developed and implemented under
24 paragraph (1) has improved the hiring and
25 retention ability of the Secretary; and

1 “(ii) make any appropriate updates to
2 the strategy under paragraph (1).

3 “(B) INFORMATION.—The evaluation con-
4 ducted under subparagraph (A) shall include—

5 “(i) any reduction in the time taken
6 by the Secretary to fill mission-critical po-
7 sitions, including in rural or remote areas;

8 “(ii) a general assessment of the im-
9 pact of the strategy implemented under
10 paragraph (1) on hiring challenges, includ-
11 ing in rural or remote areas; and

12 “(iii) other information the Secretary
13 determines relevant.

14 “(g) INSPECTOR GENERAL REVIEW.—Not later than
15 two years after the date of the enactment of this section,
16 the Inspector General of the Department of Homeland Se-
17 curity shall review the use of hiring and pay flexibilities
18 under subsections (b) and (c) to determine whether the
19 use of such flexibilities is helping the Secretary meet hir-
20 ing and retention needs, including in rural and remote
21 areas.

22 “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-
23 retary shall report to the appropriate congressional com-
24 mittees on the number of requests the Secretary receives
25 from any other Federal agency for the file of an applicant

1 for a position in U.S. Customs and Border Protection that
2 includes the results of a polygraph examination.

3 “(i) EXERCISE OF AUTHORITY.—

4 “(1) SOLE DISCRETION.—The exercise of au-
5 thority under subsection (b) shall be subject to the
6 sole and exclusive discretion of the Secretary (or the
7 Commissioner, as applicable under paragraph (2) of
8 this subsection), notwithstanding chapter 71 and
9 any collective bargaining agreement.

10 “(2) DELEGATION.—The Secretary may dele-
11 gate any authority under this section to the Com-
12 missioner.

13 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to exempt the Secretary or the Di-
15 rector from applicability of the merit system principles
16 under section 2301.

17 “(k) SUNSET.—The authorities under subsections (b)
18 and (c) shall terminate on September 30, 2023. Any bonus
19 to be paid pursuant to subsection (b) that is approved be-
20 fore such date may continue until such bonus has been
21 paid, subject to the conditions specified in this section.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—
23 The table of sections for chapter 97 of title 5, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

“9702. U.S. Customs and Border Protection temporary employment authorities.”.

1 **SEC. 1133. ANTI-BORDER CORRUPTION REAUTHORIZATION**

2 **ACT.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Anti-Border Corruption Reauthorization Act of 2018”.

5 (b) **HIRING FLEXIBILITY.**—Section 3 of the Anti-
6 Border Corruption Act of 2010 (6 U.S.C. 221) is amended
7 by striking subsection (b) and inserting the following new
8 subsections:

9 “(b) **WAIVER AUTHORITY.**—The Commissioner of
10 U.S. Customs and Border Protection may waive the appli-
11 cation of subsection (a)(1)—

12 “(1) to a current, full-time law enforcement of-
13 ficer employed by a State or local law enforcement
14 agency who—

15 “(A) has continuously served as a law en-
16 forcement officer for not fewer than three
17 years;

18 “(B) is authorized by law to engage in or
19 supervise the prevention, detection, investiga-
20 tion, or prosecution of, or the incarceration of
21 any person for, any violation of law, and has
22 statutory powers for arrest or apprehension;

23 “(C) is not currently under investigation,
24 has not been found to have engaged in criminal

1 activity or serious misconduct, has not resigned
2 from a law enforcement officer position under
3 investigation or in lieu of termination, and has
4 not been dismissed from a law enforcement offi-
5 cer position; and

6 “(D) has, within the past ten years, suc-
7 cessfully completed a polygraph examination as
8 a condition of employment with such officer’s
9 current law enforcement agency;

10 “(2) to a current, full-time Federal law enforce-
11 ment officer who—

12 “(A) has continuously served as a law en-
13 forcement officer for not fewer than three
14 years;

15 “(B) is authorized to make arrests, con-
16 duct investigations, conduct searches, make sei-
17 zures, carry firearms, and serve orders, war-
18 rants, and other processes;

19 “(C) is not currently under investigation,
20 has not been found to have engaged in criminal
21 activity or serious misconduct, has not resigned
22 from a law enforcement officer position under
23 investigation or in lieu of termination, and has
24 not been dismissed from a law enforcement offi-
25 cer position; and

1 “(D) holds a current Tier 4 background
2 investigation or current Tier 5 background in-
3 vestigation; and

4 “(3) to a member of the Armed Forces (or a re-
5 serve component thereof) or a veteran, if such indi-
6 vidual—

7 “(A) has served in the Armed Forces for
8 not fewer than three years;

9 “(B) holds, or has held within the past five
10 years, a Secret, Top Secret, or Top Secret/Sen-
11 sitive Compartmented Information clearance;

12 “(C) holds, or has undergone within the
13 past five years, a current Tier 4 background in-
14 vestigation or current Tier 5 background inves-
15 tigation;

16 “(D) received, or is eligible to receive, an
17 honorable discharge from service in the Armed
18 Forces and has not engaged in criminal activity
19 or committed a serious military or civil offense
20 under the Uniform Code of Military Justice;
21 and

22 “(E) was not granted any waivers to ob-
23 tain the clearance referred to subparagraph
24 (B).

1 “(c) TERMINATION OF WAIVER AUTHORITY.—The
2 authority to issue a waiver under subsection (b) shall ter-
3minate on the date that is four years after the date of
4 the enactment of the Border Security for America Act of
5 2018.”.

6 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
7 DEFINITIONS.—

8 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
9 ITY.—Section 4 of the Anti-Border Corruption Act
10 of 2010 is amended to read as follows:

11 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

12 “(a) NON-EXEMPTION.—An individual who receives
13 a waiver under section 3(b) is not exempt from other hir-
14 ing requirements relating to suitability for employment
15 and eligibility to hold a national security designated posi-
16 tion, as determined by the Commissioner of U.S. Customs
17 and Border Protection.

18 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
19 vidual who receives a waiver under section 3(b) who holds
20 a current Tier 4 background investigation shall be subject
21 to a Tier 5 background investigation.

22 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
23 TION.—The Commissioner of U.S. Customs and Border
24 Protection is authorized to administer a polygraph exam-
25 ination to an applicant or employee who is eligible for or

1 receives a waiver under section 3(b) if information is dis-
2 covered before the completion of a background investiga-
3 tion that results in a determination that a polygraph ex-
4 amination is necessary to make a final determination re-
5 garding suitability for employment or continued employ-
6 ment, as the case may be.”.

7 (2) REPORT.—The Anti-Border Corruption Act
8 of 2010, as amended by paragraph (1), is further
9 amended by adding at the end the following new sec-
10 tion:

11 **“SEC. 5. REPORTING.**

12 “(a) ANNUAL REPORT.—Not later than one year
13 after the date of the enactment of this section and annu-
14 ally thereafter while the waiver authority under section
15 3(b) is in effect, the Commissioner of U.S. Customs and
16 Border Protection shall submit to Congress a report that
17 includes, with respect to each such reporting period—

18 “(1) the number of waivers requested, granted,
19 and denied under section 3(b);

20 “(2) the reasons for any denials of such waiver;

21 “(3) the percentage of applicants who were
22 hired after receiving a waiver;

23 “(4) the number of instances that a polygraph
24 was administered to an applicant who initially re-
25 ceived a waiver and the results of such polygraph;

1 “(5) an assessment of the current impact of the
2 polygraph waiver program on filling law enforcement
3 positions at U.S. Customs and Border Protection;
4 and

5 “(6) additional authorities needed by U.S. Cus-
6 toms and Border Protection to better utilize the
7 polygraph waiver program for its intended goals.

8 “(b) ADDITIONAL INFORMATION.—The first report
9 submitted under subsection (a) shall include—

10 “(1) an analysis of other methods of employ-
11 ment suitability tests that detect deception and could
12 be used in conjunction with traditional background
13 investigations to evaluate potential employees for
14 suitability; and

15 “(2) a recommendation regarding whether a
16 test referred to in paragraph (1) should be adopted
17 by U.S. Customs and Border Protection when the
18 polygraph examination requirement is waived pursu-
19 ant to section 3(b).”.

20 (3) DEFINITIONS.—The Anti-Border Corrup-
21 tion Act of 2010, as amended by paragraphs (1) and
22 (2), is further amended by adding at the end the fol-
23 lowing new section:

24 **“SEC. 6. DEFINITIONS.**

25 “In this Act:

1 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—
2 The term ‘Federal law enforcement officer’ means a
3 ‘law enforcement officer’ defined in section 8331(20)
4 or 8401(17) of title 5, United States Code.

5 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—
6 The term ‘serious military or civil offense’ means an
7 offense for which—

8 “(A) a member of the Armed Forces may
9 be discharged or separated from service in the
10 Armed Forces; and

11 “(B) a punitive discharge is, or would be,
12 authorized for the same or a closely related of-
13 fense under the Manual for Court-Martial, as
14 pursuant to Army Regulation 635–200 chapter
15 14–12.

16 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
17 ‘Tier 5’ with respect to background investigations
18 have the meaning given such terms under the 2012
19 Federal Investigative Standards.

20 “(4) VETERAN.—The term ‘veteran’ has the
21 meaning given such term in section 101(2) of title
22 38, United States Code.”.

23 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
24 tember 30, 2022, the Secretary shall increase to not fewer
25 than 150 the number of trained full-time equivalent poly-

1 graph examiners for administering polygraphs under the
2 Anti-Border Corruption Act of 2010, as amended by this
3 subtitle.

4 **SEC. 1134. TRAINING FOR OFFICERS AND AGENTS OF U.S.**
5 **CUSTOMS AND BORDER PROTECTION.**

6 (a) IN GENERAL.—Subsection (l) of section 411 of
7 the Homeland Security Act of 2002 (6 U.S.C. 211) is
8 amended to read as follows:

9 “(l) TRAINING AND CONTINUING EDUCATION.—

10 “(1) MANDATORY TRAINING.—The Commis-
11 sioner shall ensure that every agent and officer of
12 U.S. Customs and Border Protection receives a min-
13 imum of 21 weeks of training that are directly re-
14 lated to the mission of the U.S. Border Patrol, Air
15 and Marine, and the Office of Field Operations be-
16 fore the initial assignment of such agents and offi-
17 cers.

18 “(2) FLETC.—The Commissioner shall work
19 in consultation with the Director of the Federal Law
20 Enforcement Training Centers to establish guide-
21 lines and curriculum for the training of agents and
22 officers of U.S. Customs and Border Protection
23 under subsection (a).

24 “(3) CONTINUING EDUCATION.—The Commis-
25 sioner shall annually require all agents and officers

1 of U.S. Customs and Border Protection who are re-
2 quired to undergo training under subsection (a) to
3 participate in not fewer than eight hours of con-
4 tinuing education annually to maintain and update
5 understanding of Federal legal rulings, court deci-
6 sions, and Department policies, procedures, and
7 guidelines related to relevant subject matters.

8 “(4) LEADERSHIP TRAINING.—Not later than
9 one year after the date of the enactment of this sub-
10 section, the Commissioner shall develop and require
11 training courses geared towards the development of
12 leadership skills for mid- and senior-level career em-
13 ployees not later than one year after such employees
14 assume duties in supervisory roles.”.

15 (b) REPORT.—Not later than 180 days after the date
16 of the enactment of this Act, the Commissioner shall sub-
17 mit to the Committee on Homeland Security and the Com-
18 mittee on Ways and Means of the House of Representa-
19 tives and the Committee on Homeland Security and Gov-
20 ernmental Affairs and the Committee on Finance of the
21 Senate a report identifying the guidelines and curriculum
22 established to carry out subsection (l) of section 411 of
23 the Homeland Security Act of 2002, as amended by sub-
24 section (a) of this section.

1 (c) ASSESSMENT.—Not later than four years after
2 the date of the enactment of this Act, the Comptroller
3 General of the United States shall submit to the Com-
4 mittee on Homeland Security and the Committee on Ways
5 and Means of the House of Representatives and the Com-
6 mittee on Homeland Security and Governmental Affairs
7 and the Committee on Finance of the Senate a report that
8 assesses the training and education, including continuing
9 education, required under subsection (l) of section 411 of
10 the Homeland Security Act of 2002, as amended by sub-
11 section (a) of this section.

12 **Subtitle C—Grants**

13 **SEC. 1141. OPERATION STONEGARDEN.**

14 (a) IN GENERAL.—Subtitle A of title XX of the
15 Homeland Security Act of 2002 (6 U.S.C. 601 et seq.)
16 is amended by adding at the end the following new section:

17 **“SEC. 2009. OPERATION STONEGARDEN.**

18 “(a) ESTABLISHMENT.—There is established in the
19 Department a program to be known as ‘Operation
20 Stonegarden’, under which the Secretary, acting through
21 the Administrator, shall make grants to eligible law en-
22 forcement agencies, through the State administrative
23 agency, to enhance border security in accordance with this
24 section.

1 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
2 ceive a grant under this section, a law enforcement agen-
3 cy—

4 “(1) shall be located in—

5 “(A) a State bordering Canada or Mexico;

6 or

7 “(B) a State or territory with a maritime
8 border; and

9 “(2) shall be involved in an active, ongoing,
10 U.S. Customs and Border Protection operation co-
11 ordinated through a U.S. Border Patrol sector of-
12 fice.

13 “(c) PERMITTED USES.—The recipient of a grant
14 under this section may use such grant for—

15 “(1) equipment, including maintenance and
16 sustainment costs;

17 “(2) personnel, including overtime and backfill,
18 in support of enhanced border law enforcement ac-
19 tivities;

20 “(3) any activity permitted for Operation
21 Stonegarden under the Department of Homeland
22 Security’s Fiscal Year 2018 Homeland Security
23 Grant Program Notice of Funding Opportunity; and

24 “(4) any other appropriate activity, as deter-
25 mined by the Administrator, in consultation with the

1 Commissioner of U.S. Customs and Border Protec-
2 tion.

3 “(d) PERIOD OF PERFORMANCE.—The Secretary
4 shall award grants under this section to grant recipients
5 for a period of not less than 36 months.

6 “(e) REPORT.—For each of fiscal years 2019 through
7 2023, the Administrator shall submit to the Committee
8 on Homeland Security and Governmental Affairs of the
9 Senate and the Committee on Homeland Security of the
10 House of Representatives a report that contains informa-
11 tion on the expenditure of grants made under this section
12 by each grant recipient.

13 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated \$110,000,000 for each
15 of fiscal years 2019 through 2023 for grants under this
16 section.”.

17 (b) CONFORMING AMENDMENT.—Subsection (a) of
18 section 2002 of the Homeland Security Act of 2002 (6
19 U.S.C. 603) is amended to read as follows:

20 “(a) GRANTS AUTHORIZED.—The Secretary, through
21 the Administrator, may award grants under sections 2003,
22 2004, and 2009 to State, local, and tribal governments,
23 as appropriate.”.

24 (c) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002 is

1 amended by inserting after the item relating to section
2 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

3 **TITLE II—EMERGENCY PORT OF**
4 **ENTRY PERSONNEL AND IN-**
5 **FRASTRUCTURE FUNDING**

6 **SEC. 2101. PORTS OF ENTRY INFRASTRUCTURE.**

7 (a) ADDITIONAL PORTS OF ENTRY.—

8 (1) AUTHORITY.—The Administrator of Gen-
9 eral Services may, subject to section 3307 of title
10 40, United States Code, construct new ports of entry
11 along the northern border and southern border at lo-
12 cations determined by the Secretary.

13 (2) CONSULTATION.—

14 (A) REQUIREMENT TO CONSULT.—The
15 Secretary and the Administrator of General
16 Services shall consult with the Secretary of
17 State, the Secretary of the Interior, the Sec-
18 retary of Agriculture, the Secretary of Trans-
19 portation, and appropriate representatives of
20 State and local governments, and Indian tribes,
21 and property owners in the United States prior
22 to determining a location for any new port of
23 entry constructed pursuant to paragraph (1).

24 (B) CONSIDERATIONS.—The purpose of
25 the consultations required by subparagraph (A)

1 shall be to minimize any negative impacts of
2 constructing a new port of entry on the environ-
3 ment, culture, commerce, and quality of life of
4 the communities and residents located near
5 such new port.

6 (b) EXPANSION AND MODERNIZATION OF HIGH-PRI-
7 ORITY SOUTHERN BORDER PORTS OF ENTRY.—Not later
8 than September 30, 2023, the Administrator of General
9 Services, subject to section 3307 of title 40, United States
10 Code, and in coordination with the Secretary, shall expand
11 or modernize high-priority ports of entry on the southern
12 border, as determined by the Secretary, for the purposes
13 of reducing wait times and enhancing security.

14 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
15 structing any new ports of entry pursuant to subsection
16 (a), the Administrator of General Services shall complete
17 the expansion and modernization of ports of entry pursu-
18 ant to subsection (b) to the extent practicable.

19 (d) NOTIFICATIONS.—

20 (1) RELATING TO NEW PORTS OF ENTRY.—Not
21 later than 15 days after determining the location of
22 any new port of entry for construction pursuant to
23 subsection (a), the Secretary and the Administrator
24 of General Services shall jointly notify the Members
25 of Congress who represent the State or congressional

1 district in which such new port of entry will be lo-
2 cated, as well as the Committee on Homeland Secu-
3 rity and Governmental Affairs, the Committee on
4 Finance, the Committee on Commerce, Science, and
5 Transportation, and the Committee on the Judiciary
6 of the Senate, and the Committee on Homeland Se-
7 curity, the Committee on Ways and Means, the
8 Committee on Transportation and Infrastructure,
9 and the Committee on the Judiciary of the House of
10 Representatives. Such notification shall include in-
11 formation relating to the location of such new port
12 of entry, a description of the need for such new port
13 of entry and associated anticipated benefits, a de-
14 scription of the consultations undertaken by the Sec-
15 retary and the Administrator pursuant to paragraph
16 (2) of such subsection, any actions that will be taken
17 to minimize negative impacts of such new port of
18 entry, and the anticipated time-line for construction
19 and completion of such new port of entry.

20 (2) RELATING TO EXPANSION AND MODERNIZA-
21 TION OF PORTS OF ENTRY.—Not later than 180
22 days after enactment of this Act, the Secretary and
23 the Administrator of General Services shall jointly
24 notify the Committee on Homeland Security and
25 Governmental Affairs, the Committee on Finance,

1 the Committee on Commerce, Science, and Trans-
2 portation, and the Committee on the Judiciary of
3 the Senate, and the Committee on Homeland Secu-
4 rity, the Committee on Ways and Means, the Com-
5 mittee on Transportation and Infrastructure, and
6 the Committee on the Judiciary of the House of
7 Representatives of the ports of entry on the south-
8 ern border that are the subject of expansion or mod-
9 ernization pursuant to subsection (b) and the Sec-
10 retary's and Administrator's plan for expanding or
11 modernizing each such port of entry.

12 (e) SAVINGS PROVISION.—Nothing in this section
13 may be construed to—

14 (1) create or negate any right of action for a
15 State, local government, or other person or entity af-
16 fected by this section;

17 (2) delay the transfer of the possession of prop-
18 erty to the United States or affect the validity of
19 any property acquisitions by purchase or eminent
20 domain, or to otherwise affect the eminent domain
21 laws of the United States or of any State; or

22 (3) create any right or liability for any party.

23 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion may be construed as providing the Secretary new au-

1 thority related to the construction, acquisition, or renova-
2 tion of real property.

3 **SEC. 2102. SECURE COMMUNICATIONS.**

4 (a) IN GENERAL.—The Secretary shall ensure that
5 each U.S. Customs and Border Protection and U.S. Immi-
6 gration and Customs Enforcement officer or agent, if ap-
7 propriate, is equipped with a secure radio or other two-
8 way communication device, supported by system interoper-
9 ability, that allows each such officer to communicate—

10 (1) between ports of entry and inspection sta-
11 tions; and

12 (2) with other Federal, State, tribal, and local
13 law enforcement entities.

14 (b) U.S. BORDER PATROL AGENTS.—The Secretary
15 shall ensure that each U.S. Border Patrol agent or officer
16 assigned or required to patrol on foot, by horseback, or
17 with a canine unit, in remote mission critical locations,
18 and at border checkpoints, has a multi- or dual-band
19 encrypted portable radio.

20 (c) LTE CAPABILITY.—In carrying out subsection
21 (b), the Secretary shall acquire radios or other devices
22 with the option to be LTE-capable for deployment in areas
23 where LTE enhances operations and is cost effective.

1 **SEC. 2103. BORDER SECURITY DEPLOYMENT PROGRAM.**

2 (a) EXPANSION.—Not later than September 30,
3 2023, the Secretary shall fully implement the Border Se-
4 curity Deployment Program of the U.S. Customs and Bor-
5 der Protection and expand the integrated surveillance and
6 intrusion detection system at land ports of entry along the
7 southern border and the northern border.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
9 tion to amounts otherwise authorized to be appropriated
10 for such purpose, there is authorized to be appropriated
11 \$33,000,000 for fiscal years 2019 through 2023 to carry
12 out subsection (a).

13 **SEC. 2104. PILOT AND UPGRADE OF LICENSE PLATE READ-**
14 **ERS AT PORTS OF ENTRY.**

15 (a) UPGRADE.—Not later than two years after the
16 date of the enactment of this Act, the Commissioner shall
17 upgrade all existing license plate readers in need of up-
18 grade, as determined by the Commissioner, on the north-
19 ern and southern borders on incoming and outgoing vehi-
20 cle lanes.

21 (b) PILOT PROGRAM.—Not later than 90 days after
22 the date of the enactment of this Act, the Commissioner
23 shall conduct a one-month pilot program on the southern
24 border using license plate readers for one to two cargo
25 lanes at the top three high-volume land ports of entry or
26 checkpoints to determine their effectiveness in reducing

1 cross-border wait times for commercial traffic and tractor-
2 trailers.

3 (c) REPORT.—Not later than 180 days after the date
4 of the enactment of this Act, the Secretary shall report
5 to the Committee on Homeland Security and Govern-
6 mental Affairs, the Committee on the Judiciary, and the
7 Committee on Finance of the Senate, and the Committee
8 on Homeland Security, and Committee on the Judiciary,
9 and the Committee on Ways and Means of the House of
10 Representatives the results of the pilot program under
11 subsection (b) and make recommendations for imple-
12 menting use of such technology on the southern border.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
14 tion to amounts otherwise authorized to be appropriated
15 for such purpose, there is authorized to be appropriated
16 \$125,000,000 for fiscal years 2019 through 2020 to carry
17 out subsection (a).

18 **SEC. 2105. NONINTRUSIVE INSPECTION OPERATIONAL**
19 **DEMONSTRATION.**

20 (a) IN GENERAL.—Not later than six months after
21 the date of the enactment of this Act, the Commissioner
22 shall establish a six-month operational demonstration to
23 deploy a high-throughput nonintrusive passenger vehicle
24 inspection system at not fewer than three land ports of
25 entry along the United States-Mexico border with signifi-

1 cant cross-border traffic. Such demonstration shall be lo-
2 cated within the pre-primary traffic flow and should be
3 scalable to span up to 26 contiguous in-bound traffic lanes
4 without re-configuration of existing lanes.

5 (b) REPORT.—Not later than 90 days after the con-
6 clusion of the operational demonstration under subsection
7 (a), the Commissioner shall submit to the Committee on
8 Homeland Security and the Committee on Ways and
9 Means of the House of Representatives and the Committee
10 on Homeland Security and Governmental Affairs and the
11 Committee on Finance of the Senate a report that de-
12 scribes the following:

13 (1) The effects of such demonstration on legiti-
14 mate travel and trade.

15 (2) The effects of such demonstration on wait
16 times, including processing times, for non-pedestrian
17 traffic.

18 (3) The effectiveness of such demonstration in
19 combating terrorism and smuggling.

20 **SEC. 2106. BIOMETRIC EXIT DATA SYSTEM.**

21 (a) IN GENERAL.—Subtitle B of title IV of the
22 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
23 is amended by inserting after section 415 the following
24 new section:

1 **“SEC. 416. BIOMETRIC ENTRY-EXIT.**

2 “(a) ESTABLISHMENT.—The Secretary shall—

3 “(1) not later than 180 days after the date of
4 the enactment of this section, submit to the Com-
5 mittee on Homeland Security and Governmental Af-
6 fairs and the Committee on the Judiciary of the
7 Senate and the Committee on Homeland Security
8 and the Committee on the Judiciary of the House of
9 Representatives an implementation plan to establish
10 a biometric exit data system to complete the inte-
11 grated biometric entry and exit data system required
12 under section 7208 of the Intelligence Reform and
13 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
14 including—

15 “(A) an integrated master schedule and
16 cost estimate, including requirements and de-
17 sign, development, operational, and mainte-
18 nance costs of such a system, that takes into
19 account prior reports on such matters issued by
20 the Government Accountability Office and the
21 Department;

22 “(B) cost-effective staffing and personnel
23 requirements of such a system that leverages
24 existing resources of the Department that takes
25 into account prior reports on such matters

1 issued by the Government Accountability Office
2 and the Department;

3 “(C) a consideration of training programs
4 necessary to establish such a system that takes
5 into account prior reports on such matters
6 issued by the Government Accountability Office
7 and the Department;

8 “(D) a consideration of how such a system
9 will affect arrival and departure wait times that
10 takes into account prior reports on such matter
11 issued by the Government Accountability Office
12 and the Department;

13 “(E) information received after consulta-
14 tion with private sector stakeholders, including
15 the—

16 “(i) trucking industry;

17 “(ii) airport industry;

18 “(iii) airline industry;

19 “(iv) seaport industry;

20 “(v) travel industry; and

21 “(vi) biometric technology industry;

22 “(F) a consideration of how trusted trav-
23 eler programs in existence as of the date of the
24 enactment of this section may be impacted by,
25 or incorporated into, such a system;

1 “(G) defined metrics of success and mile-
2 stones;

3 “(H) identified risks and mitigation strate-
4 gies to address such risks;

5 “(I) a consideration of how other countries
6 have implemented a biometric exit data system;
7 and

8 “(J) a list of statutory, regulatory, or ad-
9 ministrative authorities, if any, needed to inte-
10 grate such a system into the operations of the
11 Transportation Security Administration; and

12 “(2) not later than two years after the date of
13 the enactment of this section, establish a biometric
14 exit data system at the—

15 “(A) 15 United States airports that sup-
16 port the highest volume of international air
17 travel, as determined by available Federal flight
18 data;

19 “(B) 10 United States seaports that sup-
20 port the highest volume of international sea
21 travel, as determined by available Federal travel
22 data; and

23 “(C) 15 United States land ports of entry
24 that support the highest volume of vehicle, pe-

1 pedestrian, and cargo crossings, as determined by
2 available Federal border crossing data.

3 “(b) IMPLEMENTATION.—

4 “(1) PILOT PROGRAM AT LAND PORTS OF
5 ENTRY.—Not later than six months after the date of
6 the enactment of this section, the Secretary, in col-
7 laboration with industry stakeholders, shall establish
8 a six-month pilot program to test the biometric exit
9 data system referred to in subsection (a)(2) on non-
10 pedestrian outbound traffic at not fewer than three
11 land ports of entry with significant cross-border traf-
12 fic, including at not fewer than two land ports of
13 entry on the southern land border and at least one
14 land port of entry on the northern land border. Such
15 pilot program may include a consideration of more
16 than one biometric mode, and shall be implemented
17 to determine the following:

18 “(A) How a nationwide implementation of
19 such biometric exit data system at land ports of
20 entry shall be carried out.

21 “(B) The infrastructure required to carry
22 out subparagraph (A).

23 “(C) The effects of such pilot program on
24 legitimate travel and trade.

1 “(D) The effects of such pilot program on
2 wait times, including processing times, for such
3 non-pedestrian traffic.

4 “(E) The effects of such pilot program on
5 combating terrorism.

6 “(F) The effects of such pilot program on
7 identifying visa holders who violate the terms of
8 their visas.

9 “(2) AT LAND PORTS OF ENTRY.—

10 “(A) IN GENERAL.—Not later than five
11 years after the date of the enactment of this
12 section, the Secretary shall expand the biomet-
13 ric exit data system referred to in subsection
14 (a)(2) to all land ports of entry.

15 “(B) EXTENSION.—The Secretary may ex-
16 tend for a single two-year period the date speci-
17 fied in subparagraph (A) if the Secretary cer-
18 tifies to the Committee on Homeland Security
19 and Governmental Affairs and the Committee
20 on the Judiciary of the Senate and the Com-
21 mittee on Homeland Security and the Com-
22 mittee on the Judiciary of the House of Rep-
23 resentatives that the 15 land ports of entry that
24 support the highest volume of passenger vehi-
25 cles, as determined by available Federal data,

1 do not have the physical infrastructure or char-
2 acteristics to install the systems necessary to
3 implement a biometric exit data system. Such
4 extension shall apply only in the case of non-pe-
5 destrian outbound traffic at such land ports of
6 entry.

7 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
8 later than five years after the date of the enactment
9 of this section, the Secretary shall expand the bio-
10 metric exit data system referred to in subsection
11 (a)(2) to all air and sea ports of entry.

12 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
13 TATION.—The Secretary, in consultation with appropriate
14 private sector stakeholders, shall ensure that the collection
15 of biometric data under this section causes the least pos-
16 sible disruption to the movement of people or cargo in air,
17 sea, or land transportation, while fulfilling the goals of im-
18 proving counterterrorism efforts and identifying visa hold-
19 ers who violate the terms of their visas.

20 “(d) TERMINATION OF PROCEEDING.—Notwith-
21 standing any other provision of law, the Secretary shall,
22 on the date of the enactment of this section, terminate
23 the proceeding entitled ‘Collection of Alien Biometric Data
24 Upon Exit From the United States at Air and Sea Ports
25 of Departure; United States Visitor and Immigrant Status

1 Indicator Technology Program (“US-VISIT”)', issued on
2 April 24, 2008 (73 Fed. Reg. 22065).

3 “(e) DATA-MATCHING.—The biometric exit data sys-
4 tem established under this section shall—

5 “(1) match biometric information for an indi-
6 vidual, regardless of nationality, citizenship, or im-
7 migration status, who is departing the United States
8 against biometric data previously provided to the
9 United States Government by such individual for the
10 purposes of international travel;

11 “(2) leverage the infrastructure and databases
12 of the current biometric entry and exit system estab-
13 lished pursuant to section 7208 of the Intelligence
14 Reform and Terrorism Prevention Act of 2004 (8
15 U.S.C. 1365b) for the purpose described in para-
16 graph (1); and

17 “(3) be interoperable with, and allow matching
18 against, other Federal databases that—

19 “(A) store biometrics of known or sus-
20 pected terrorists; and

21 “(B) identify visa holders who violate the
22 terms of their visas.

23 “(f) SCOPE.—

24 “(1) IN GENERAL.—The biometric exit data
25 system established under this section shall include a

1 requirement for the collection of biometric exit data
2 at the time of departure for all categories of individ-
3 uals who are required by the Secretary to provide bi-
4 ometric entry data.

5 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
6 UALS.—This section shall not apply in the case of an
7 individual who exits and then enters the United
8 States on a passenger vessel (as such term is defined
9 in section 2101 of title 46, United States Code) the
10 itinerary of which originates and terminates in the
11 United States.

12 “(3) EXCEPTION FOR LAND PORTS OF
13 ENTRY.—This section shall not apply in the case of
14 a United States or Canadian citizen who exits the
15 United States through a land port of entry.

16 “(g) COLLECTION OF DATA.—The Secretary may not
17 require any non-Federal person to collect biometric data,
18 or contribute to the costs of collecting or administering
19 the biometric exit data system established under this sec-
20 tion, except through a mutual agreement.

21 “(h) MULTI-MODAL COLLECTION.—In carrying out
22 subsections (a)(1) and (b), the Secretary shall make every
23 effort to collect biometric data using multiple modes of
24 biometrics.

1 “(i) FACILITIES.—All facilities at which the biometric
2 exit data system established under this section is imple-
3 mented shall provide and maintain space for Federal use
4 that is adequate to support biometric data collection and
5 other inspection-related activity. For non-federally owned
6 facilities, such space shall be provided and maintained at
7 no cost to the Government. For all facilities at land ports
8 of entry, such space requirements shall be coordinated
9 with the Administrator of General Services.

10 “(j) NORTHERN LAND BORDER.—In the case of the
11 northern land border, the requirements under subsections
12 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through
13 the sharing of biometric data provided to the Department
14 by the Canadian Border Services Agency pursuant to the
15 2011 Beyond the Border agreement.

16 “(k) FULL AND OPEN COMPETITION.—The Sec-
17 retary shall procure goods and services to implement this
18 section via full and open competition in accordance with
19 the Federal Acquisition Regulations.

20 “(l) OTHER BIOMETRIC INITIATIVES.—Nothing in
21 this section may be construed as limiting the authority of
22 the Secretary to collect biometric information in cir-
23 cumstances other than as specified in this section.

24 “(m) CONGRESSIONAL REVIEW.—Not later than 90
25 days after the date of the enactment of this section, the

1 Secretary shall submit to the Committee on Homeland Se-
2 curity and Governmental Affairs of the Senate, the Com-
3 mittee on the Judiciary of the Senate, the Committee on
4 Homeland Security of the House of Representatives, and
5 Committee on the Judiciary of the House of Representa-
6 tives reports and recommendations regarding the Science
7 and Technology Directorate’s Air Entry and Exit Re-En-
8 gineering Program of the Department and the U.S. Cus-
9 toms and Border Protection entry and exit mobility pro-
10 gram demonstrations.

11 “(n) SAVINGS CLAUSE.—Nothing in this section shall
12 prohibit the collection of user fees permitted by section
13 13031 of the Consolidated Omnibus Budget Reconciliation
14 Act of 1985 (19 U.S.C. 58c).”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of the Homeland Security Act of 2002 is
17 amended by inserting after the item relating to section
18 415 the following new item:

“Sec. 416. Biometric entry-exit.”.

19 **SEC. 2107. SENSE OF CONGRESS ON COOPERATION BE-**
20 **TWEEN AGENCIES.**

21 (a) FINDING.—Congress finds that personnel con-
22 straints exist at land ports of entry with regard to sanitary
23 and phytosanitary inspections for exported goods.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that, in the best interest of cross-border trade and
3 the agricultural community—

4 (1) any lack of certified personnel for inspection
5 purposes at ports of entry should be addressed by
6 seeking cooperation between agencies and depart-
7 ments of the United States, whether in the form of
8 a memorandum of understanding or through a cer-
9 tification process, whereby additional existing agents
10 are authorized for additional hours to facilitate and
11 expedite the flow of legitimate trade and commerce
12 of perishable goods in a manner consistent with
13 rules of the Department of Agriculture; and

14 (2) cross designation should be available for
15 personnel who will assist more than one agency or
16 department of the United States at land ports of
17 entry to facilitate and expedite the flow of increased
18 legitimate trade and commerce.

19 **SEC. 2108. AUTHORIZATION OF APPROPRIATIONS.**

20 In addition to any amounts otherwise authorized to
21 be appropriated for such purpose, there is authorized to
22 be appropriated \$4,250,000,000 for each of fiscal years
23 2019 through 2023 to carry out this title, of which
24 \$250,000,000 in each such fiscal year is authorized to be
25 made available to implement the biometric exit data sys-

1 tem described in section 416 of the Homeland Security
2 Act of 2002, as added by section 2106 of this division.

3 **SEC. 2109. DEFINITION.**

4 In this title, the term “Secretary” means the Sec-
5 retary of Homeland Security.

6 **TITLE III—TRANSNATIONAL**
7 **CRIMINAL ORGANIZATION IL-**
8 **LICIT SPOTTER PREVENTION**
9 **AND ELIMINATION**

10 **SEC. 3101. SHORT TITLE.**

11 This title may be cited as the “Transnational Crimi-
12 nal Organization Illicit Spotter Prevention and Elim-
13 nation Act”.

14 **SEC. 3102. ILLICIT SPOTTING.**

15 Section 1510 of title 18, United States Code, is
16 amended by adding at the end the following:

17 “(f) Any person who knowingly transmits, by any
18 means, to another person the location, movement, or ac-
19 tivities of any officer or agent of a Federal, State, local,
20 or tribal law enforcement agency with the intent to further
21 a criminal offense under the immigration laws (as such
22 term is defined in section 101 of the Immigration and Na-
23 tionality Act), the Controlled Substances Act, or the Con-
24 trolled Substances Import and Export Act, or that relates
25 to agriculture or monetary instruments shall be fined

1 under this title or imprisoned not more than 10 years, or
2 both.”.

3 **SEC. 3103. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
4 **DER, AND CUSTOMS CONTROLS.**

5 (a) BRINGING IN AND HARBORING OF CERTAIN
6 ALIENS.—Section 274(a) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1324(a)) is amended—

8 (1) in paragraph (2), by striking “brings to or
9 attempts to” and inserting the following: “brings to
10 or attempts or conspires to”; and

11 (2) by adding at the end the following:

12 “(5) In the case of a person who has brought
13 aliens into the United States in violation of this sub-
14 section, the sentence otherwise provided for may be
15 increased by up to 10 years if that person, at the
16 time of the offense, used or carried a firearm or
17 who, in furtherance of any such crime, possessed a
18 firearm.”.

19 (b) AIDING OR ASSISTING CERTAIN ALIENS TO
20 ENTER THE UNITED STATES.—Section 277 of the Immi-
21 gration and Nationality Act (8 U.S.C. 1327) is amend-
22 ed—

23 (1) by inserting after “knowingly aids or as-
24 sists” the following: “or attempts to aid or assist”;
25 and

1 (2) by adding at the end the following: “In the
2 case of a person convicted of an offense under this
3 section, the sentence otherwise provided for may be
4 increased by up to 10 years if that person, at the
5 time of the offense, used or carried a firearm or
6 who, in furtherance of any such crime, possessed a
7 firearm.”.

8 (c) DESTRUCTION OF UNITED STATES BORDER CON-
9 TROLS.—Section 1361 of title 18, United States Code, is
10 amended—

11 (1) by striking “If the damage” and inserting
12 the following:

13 “(1) Except as otherwise provided in this sec-
14 tion, if the damage”; and

15 (2) by adding at the end the following:

16 “(2) If the injury or depredation was made or
17 attempted against any fence, barrier, sensor, cam-
18 era, or other physical or electronic device deployed
19 by the Federal Government to control the border or
20 a port of entry or otherwise was intended to con-
21 struct, excavate, or make any structure intended to
22 defeat, circumvent, or evade any such fence, barrier,
23 sensor camera, or other physical or electronic device
24 deployed by the Federal Government to control the
25 border or a port of entry, by a fine under this title

1 or imprisonment for not more than 15 years, or
2 both.

3 “(3) If the injury or depredation was described
4 under paragraph (2) and, in the commission of the
5 offense, the offender used or carried a firearm or, in
6 furtherance of any such offense, possessed a firearm,
7 by a fine under this title or imprisonment for not
8 more than 20 years, or both.”.

9 **TITLE IV—BORDER SECURITY** 10 **FUNDING**

11 **SEC. 4101. BORDER SECURITY FUNDING.**

12 (a) FUNDING.—In addition to amounts otherwise
13 made available by this Act or any other provision of law,
14 there is hereby appropriated to the “U.S. Customs and
15 Border Protection—Procurement, Construction, and Im-
16 provements” account, out of any amounts in the Treasury
17 not otherwise appropriated, \$23,400,000,000, to be avail-
18 able as described in subsections (b) and (c), of which—

19 (1) \$16,625,000,000 shall be for a border wall
20 system along the southern border of the United
21 States, including physical barriers and associated de-
22 tection technology, roads, and lighting; and

23 (2) \$6,775,000,000 shall be for infrastructure,
24 assets, operations, and technology to enhance border

1 security along the southern border of the United
2 States, including—

3 (A) border security technology, including
4 surveillance technology, at and between ports of
5 entry;

6 (B) new roads and improvements to exist-
7 ing roads;

8 (C) U.S. Border Patrol facilities and ports
9 of entry;

10 (D) aircraft, aircraft-based sensors and as-
11 sociated technology, vessels, spare parts, and
12 equipment to maintain such assets;

13 (E) a biometric entry and exit system; and

14 (F) family residential centers.

15 (b) AVAILABILITY OF BORDER WALL SYSTEM
16 FUNDS.—

17 (1) IN GENERAL.—Of the amount appropriated
18 in subsection (a)(1)—

19 (A) \$2,241,000,000 shall become available
20 October 1, 2018;

21 (B) \$1,808,000,000 shall become available
22 October 1, 2019;

23 (C) \$1,715,000,000 shall become available
24 October 1, 2020;

1 (D) \$2,140,000,000 shall become available
2 October 1, 2021;

3 (E) \$1,735,000,000 shall become available
4 October 1, 2022;

5 (F) \$1,746,000,000 shall become available
6 October 1, 2023;

7 (G) \$1,776,000,000 shall become available
8 October 1, 2024;

9 (H) \$1,746,000,000 shall become available
10 October 1, 2025; and

11 (I) \$1,718,000,000 shall become available
12 October 1, 2026.

13 (2) PERIOD OF AVAILABILITY.—An amount
14 made available under subparagraph (A), (B), (C),
15 (D), (E), (F), (G), (H), or (I) of paragraph (1) shall
16 remain available for five years after the date speci-
17 fied in that subparagraph.

18 (c) AVAILABILITY OF BORDER SECURITY INVEST-
19 MENT FUNDS.—

20 (1) IN GENERAL.—Of the amount appropriated
21 in subsection (a)(2)—

22 (A) \$500,000,000 shall become available
23 October 1, 2018;

24 (B) \$1,850,000,000 shall become available
25 October 1, 2019;

1 (C) \$1,950,000,000 shall become available
2 October 1, 2020;

3 (D) \$1,925,000,000 shall become available
4 October 1, 2021; and

5 (E) \$550,000,000 shall become available
6 October 1, 2022.

7 (2) PERIOD OF AVAILABILITY.—An amount
8 made available under subparagraph (A), (B), (C),
9 (D), or (E) of paragraph (1) shall remain available
10 for five years after the date specified in that sub-
11 paragraph.

12 (3) TRANSFER AUTHORITY.—

13 (A) IN GENERAL.—Notwithstanding any
14 limitation on transfer authority in any other
15 provision of law and subject to the notification
16 requirement in subparagraph (B), the Secretary
17 of Homeland Security may transfer any
18 amounts made available under paragraph (1) to
19 the “U.S. Customs and Border Protection—Op-
20 erations and Support” account only to the ex-
21 tent necessary to carry out the purposes de-
22 scribed in subsection (a)(2).

23 (B) NOTIFICATION REQUIRED.—The Sec-
24 retary shall notify the Committees on Appro-
25 priations of the Senate and the House of Rep-

1 representatives not later than 30 days before each
2 such transfer.

3 (d) MULTI-YEAR SPENDING PLAN.—The Secretary
4 of Homeland Security shall include in the budget justifica-
5 tion materials submitted in support of the President’s an-
6 nual budget request for fiscal year 2020 (as submitted
7 under section 1105(a) of title 31, United States Code) a
8 multi-year spending plan for the amounts made available
9 under subsection (a).

10 (e) EXPENDITURE PLAN.—Each amount that be-
11 comes available in accordance with subsection (b) or (c)
12 may not be obligated until the date that is 30 days after
13 the date on which the Committees on Appropriations of
14 the Senate and the House of Representatives receive a de-
15 tailed plan, prepared by the Commissioner of U.S. Cus-
16 toms and Border Protection, for the expenditure of such
17 amount.

18 (f) QUARTERLY BRIEFING REQUIREMENT.—Begin-
19 ning not later than 180 days after the date of the enact-
20 ment of this Act, and quarterly thereafter, the Commis-
21 sioner of U.S. Customs and Border Protection shall brief
22 the Committees on Appropriations of the Senate and the
23 House of Representatives regarding activities under and
24 progress made in carrying out this section.

1 (g) RULES OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to limit the availability of funds
3 made available by any other provision of law for carrying
4 out the requirements of this Act or the amendments made
5 by this Act. Any reference in this section to an appropria-
6 tion account shall be construed to include any successor
7 accounts.

8 (h) DISCRETIONARY AMOUNTS.—Notwithstanding
9 any other provision of law, the amounts appropriated
10 under subsection (a) are discretionary appropriations (as
11 that term is defined in section 250(c)(7) of the Balanced
12 Budget and Emergency Deficit Control Act of 1985 (2
13 U.S.C. 900(c)(7))).

14 **SEC. 4102. EXCLUSION FROM PAYGO SCORECARDS.**

15 The budgetary effects of this Act shall not be entered
16 on either PAYGO scorecard maintained pursuant to sec-
17 tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

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