

111TH CONGRESS
2^D SESSION

S. 3332

To implement a comprehensive border security plan to combat illegal immigration, drug and alien smuggling, and violent activity along the southwest border of the United States.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2010

Mr. MCCAIN (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To implement a comprehensive border security plan to combat illegal immigration, drug and alien smuggling, and violent activity along the southwest border of the United States.

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.**

4 This Act may be cited as the “Border Security En-
5 forcement Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

6 (2) SECRETARY.—The term “Secretary” means
 7 the Secretary of Homeland Security.

8 (3) TUCSON SECTOR BORDER.—The term
 9 “Tucson Sector border” means the 262-mile section
 10 of international border between the United States
 11 and Mexico that—

12 (A) begins in Yuma County, Arizona; and

13 (B) ends at the State boundary line be-
 14 tween Arizona and New Mexico.

15 (4) YUMA SECTOR BORDER.—The term “Yuma
 16 Sector border” means the 110-mile section of inter-
 17 national border between the United States and Mex-
 18 ico that—

19 (A) begins in Pima County, Arizona; and

20 (B) ends at the State boundary line be-
 21 tween Arizona and California.

22 **SEC. 3. PERSONNEL ENHANCEMENTS.**

23 (a) NATIONAL GUARD.—

24 (1) DEPLOYMENT.—In accordance with section
 25 328 of title 32, United States Code, the Governor of

1 Arizona, with the consent of the Secretary of De-
2 fense, may—

3 (A) order 3,000 members of the Arizona
4 National Guard and other National Guard units
5 to perform Active Guard and Reserve duty, by
6 immediately deploying along the Tucson Sector
7 border and the Yuma Sector border; and

8 (B) construct and maintain appropriate
9 surveillance platforms to facilitate such deploy-
10 ment.

11 (2) CERTIFICATION.—The deployment de-
12 scribed in paragraph (1) shall continue until the
13 Governor of Arizona certifies, in consultation with
14 State, local, and tribal law enforcement, that the
15 Federal Government has achieved operational con-
16 trol of the Tucson Sector border and the Yuma Sec-
17 tor border.

18 (b) UNITED STATES CUSTOMS AND BORDER PRO-
19 TECTION.—Not later than January 1, 2015, the Secretary
20 shall increase the number of trained Border Patrol agents
21 stationed along the Tucson Sector border and the Yuma
22 Sector border by 3,000, compared to the number of agents
23 at such locations as of the date of the enactment of this
24 Act. The Secretary shall make progress in increasing such

1 number of trained Border Patrol agents during each of
2 the years 2010 through 2015.

3 (c) **HARDSHIP DUTY PAY.**—In addition to compensa-
4 tion to which Border Patrol agents are otherwise entitled,
5 Border Patrol agents who are assigned to rural, high-traf-
6 ficked areas shall be entitled to receive hardship duty pay,
7 in an amount determined by the Commissioner, Customs
8 and Border Protection, which may not exceed the rate of
9 special pay to which members of a uniformed service are
10 entitled under section 310 of title 37, United States Code.

11 **SEC. 4. ENHANCING EXISTING BORDER SECURITY OPER-**
12 **ATIONS.**

13 (a) **OPERATION STREAMLINE.**—There are authorized
14 to be appropriated to the Department of Homeland Secu-
15 rity, for each of fiscal years 2010 through 2020, such
16 sums as may be necessary—

17 (1) to fully implement Operation Streamline
18 along the Tucson Sector border and the Yuma Sec-
19 tor border; and

20 (2) to reimburse State, local, and tribal law en-
21 forcement for any detention costs related to such im-
22 plementation.

23 (b) **OPERATION STONEGARDEN.**—

24 (1) **AUTHORIZATION OF APPROPRIATIONS.**—
25 There are authorized to be appropriated to the Fed-

1 eral Emergency Management Agency, for each of the
2 fiscal years 2010 through 2020, \$100,000,000,
3 which shall be used to enhance law enforcement pre-
4 paredness and operational readiness along the bor-
5 ders of the United States through Operation Stone-
6 garden.

7 (2) ALLOCATION.—Of the amounts appro-
8 priated pursuant to paragraph (1), not less than 90
9 percent shall be allocated for grants and reimburse-
10 ment to law enforcement agencies in the States bor-
11 dering Mexico for personnel, overtime, travel, and
12 other costs related to illegal immigration and drug
13 smuggling along the international border between
14 the United States and Mexico.

15 (c) INFRASTRUCTURE IMPROVEMENTS.—

16 (1) BORDER PATROL STATIONS.—The Secretary
17 shall—

18 (A) construct additional Border Patrol sta-
19 tions along the Tucson Sector border, as need-
20 ed, to provide full operational support in rural,
21 high-trafficked areas; and

22 (B) analyze the feasibility of creating an
23 additional Border Patrol sector in eastern Ari-
24 zona and western New Mexico to interrupt drug
25 trafficking operations.

1 (2) FORWARD OPERATING BASES.—The Sec-
2 retary shall enhance the security of the Tucson Sec-
3 tor border by—

4 (A) establishing at least 6 additional per-
5 manent forward operating bases for the Border
6 Patrol;

7 (B) upgrading the existing forward oper-
8 ating bases to include modular buildings, elec-
9 tricity, and potable water; and

10 (C) ensuring that forward operating bases
11 surveil and interdict individuals entering the
12 United States unlawfully immediately after
13 such an individual crosses the international bor-
14 der into the United States.

15 (3) CHECKPOINTS.—The Secretary shall—

16 (A) complete the construction of a perma-
17 nent checkpoint near Tubac, Arizona; and

18 (B) deploy additional temporary roving
19 checkpoints along the Tucson Sector border and
20 the Yuma Sector border.

21 (4) BORDER FENCE.—Section 102(b)(1)(A) of
22 the Illegal Immigration Reform and Immigrant Re-
23 sponsibility Act of 1996 (8 U.S.C. 1103 note) is
24 amended—

1 (A) by inserting “, not later than Decem-
2 ber 31, 2011,” after “shall”; and

3 (B) by adding at the end the following:
4 “The Secretary shall construct double- and tri-
5 ple-layer fencing at appropriate locations along
6 the Tucson Sector border and the Yuma Sector
7 border, as determined by the Secretary, after
8 consultation with State, tribal, and local law en-
9 forcement agencies.”.

10 (5) AUTHORIZATION OF APPROPRIATIONS.—

11 There are authorized to be appropriated, for each of
12 fiscal years 2010 through 2020, such sums as may
13 be necessary to carry out this subsection.

14 **SEC. 5. MOBILE SURVEILLANCE.**

15 (a) ENHANCEMENTS.—The Commissioner, Customs
16 and Border Protection, shall—

17 (1) deploy additional mobile surveillance sys-
18 tems and unmanned aerial vehicles along the Tucson
19 Sector border and the Yuma Sector border as nec-
20 essary to provide 24-hour operation and surveillance;

21 (2) operate unmanned aerial vehicles along such
22 borders for 24 hours per day and for 7 days per
23 week;

24 (3) deploy additional fixed-wing aircraft and
25 helicopters along such borders; and

1 (4) increase horse patrols along the Tucson
2 Sector border.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
4 tion to amounts otherwise authorized to be appropriated,
5 there are authorized to be appropriated to United States
6 Customs and Border Protection \$50,000,000 to carry out
7 the activities under subsection (a).

8 **SEC. 6. ACCESS TO EMERGENCY PERSONNEL.**

9 (a) SOUTHWEST BORDER EMERGENCY COMMUNICA-
10 TIONS GRANTS.—

11 (1) IN GENERAL.—The Secretary, in consulta-
12 tion with the Governor of Arizona, shall establish a
13 2-year grant program, to be administered by the
14 State of Arizona, to improve emergency communica-
15 tions along the Tucson Sector border and the Yuma
16 Sector border.

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

20 (A) regularly resides or works near the
21 Tucson Sector border or the Yuma Sector bor-
22 der;

23 (B) is at greater risk of border violence
24 due to the lack of cellular service at his or her

1 residence or business and his or her proximity
2 to such border.

3 (3) USE OF GRANTS.—Grants awarded under
4 this subsection may be used to purchase satellite
5 telephone communications systems and service
6 that—

7 (A) can provide access to 911 service; and

8 (B) are equipped with global positioning
9 systems.

10 (4) ANNUAL REPORTS.—The Governor of Ari-
11 zona shall submit an annual report to the Secretary
12 on activities carried out with grant funds awarded
13 under this subsection during the previous year. Each
14 such report shall include a description of such activi-
15 ties and an assessment of the effectiveness of such
16 activities.

17 (5) AUTHORIZATION OF APPROPRIATIONS.—
18 There is authorized to be appropriated \$3,000,000
19 to carry out the grant program established under
20 this subsection.

21 (b) INTEROPERABLE COMMUNICATIONS FOR LAW
22 ENFORCEMENT.—

23 (1) FEDERAL LAW ENFORCEMENT.—There is
24 authorized to be appropriated \$35,000,000 to the
25 Department of Justice—

1 (A) to purchase P-25 compliant radios,
2 which may include a multi-band option, for
3 Federal law enforcement agents working in Ari-
4 zona in support of the activities of United
5 States Customs and Border Protection and
6 United States Immigration and Customs En-
7 forcement, including agents of the Drug En-
8 forcement Administration and the Bureau of
9 Alcohol, Tobacco, Firearms and Explosives; and

10 (B) to upgrade the communications net-
11 work of the Department of Justice to ensure
12 coverage and capacity, particularly when imme-
13 diate access is needed in times of crisis, along
14 the Tucson Sector border and the Yuma Sector
15 border for appropriate law enforcement per-
16 sonnel of the Department of Justice (including
17 the Drug Enforcement Administration and the
18 Bureau of Alcohol, Tobacco, Firearms and Ex-
19 plosives), the Department of Homeland Secu-
20 rity (including United States Immigration and
21 Customs Enforcement and United States Cus-
22 toms and Border Protection), other Federal
23 agencies, the State of Arizona, tribes, and local
24 governments.

25 (2) STATE AND LOCAL LAW ENFORCEMENT.—

1 (A) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There is authorized to be appropriated
3 \$35,000,000 to the Department of Justice to
4 purchase P–25 compliant radios, which may in-
5 clude a multi-band option, for State and local
6 law enforcement agents working in Santa Cruz,
7 Pima, Cochise, Yuma, Pinal, Maricopa, or
8 Graham County in the State of Arizona.

9 (B) ACCESS TO FEDERAL SPECTRUM.—If
10 a State, tribal, or local law enforcement agency
11 in Arizona experiences an emergency situation
12 that necessitates immediate communication
13 with the Department of Justice, the Depart-
14 ment of Homeland Security, or any of their re-
15 spective subagencies, such law enforcement
16 agency shall have access to the spectrum as-
17 signed to such Federal agency for the duration
18 of such emergency situation.

19 **SEC. 7. FINANCIAL ASSISTANCE FOR STATES AND LOCAL**
20 **GOVERNMENTS.**

21 (a) STATE CRIMINAL ALIEN ASSISTANCE PRO-
22 GRAM.—

23 (1) REIMBURSEMENT REQUIRED.—The Attor-
24 ney General shall fully reimburse States and local
25 governments for the costs incurred by such govern-

1 ments to incarcerate aliens convicted of criminal ac-
2 tivity while unlawfully present in the United States,
3 in accordance with section 241(i) of the Immigration
4 and Nationality Act (8 U.S.C. 1251(i)).

5 (2) AUTHORIZATION OF APPROPRIATIONS.—
6 Section 241(i)(5)(C) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1251(i)(5)(C)) is amended by
8 striking “2011” and inserting “2020”.

9 (b) SOUTHWEST BORDER PROSECUTION INITIA-
10 TIVE.—

11 (1) REIMBURSEMENT TO STATE AND LOCAL
12 PROSECUTORS FOR FEDERALLY INITIATED CRIMINAL
13 CASES.—Subject to the availability of appropria-
14 tions, the Attorney General shall reimburse State,
15 county, tribal, and municipal governments for costs
16 associated with the prosecution and pre-trial deten-
17 tion of federally initiated criminal cases declined by
18 local offices of the United States Attorneys.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated \$50,000,000
21 for each of the fiscal years 2008 through 2020 to
22 carry out paragraph (1).

23 **SEC. 8. MAGISTRATE JUDGE.**

24 The judges of the United States District Court for
25 the District of Arizona shall appoint 1 full-time magistrate

1 judge, who shall have the authority to hear all cases and
2 controversies in Cochise County, Arizona.

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