

BORDER SECURITY FOR AMERICA ACT OF 2017

JANUARY 10, 2018.—Ordered to be printed

Mr. MCCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3548]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3548) to make certain improvements to the security of the international borders of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Border Security for America Act of 2017”.

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

Sec. 1. Short title.

TITLE I—BORDER SECURITY

Sec. 101. Definitions.

Subtitle A—Infrastructure and Equipment

- Sec. 111. Strengthening the requirements for barriers along the southern border.
- Sec. 112. Air and Marine Operations flight hours.
- Sec. 113. Capability deployment to specific sectors and transit zone.
- Sec. 114. U.S. Border Patrol physical infrastructure improvements.
- Sec. 115. U.S. Border Patrol activities.
- Sec. 116. Border security technology program management.
- Sec. 117. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.
- Sec. 118. Operation Phalanx.
- Sec. 119. Merida Initiative.
- Sec. 120. Prohibitions on actions that impede border security on certain Federal land.
- Sec. 121. Landowner and rancher security enhancement.
- Sec. 122. Eradication of carrizo cane and salt cedar.
- Sec. 123. Southern border threat analysis.
- Sec. 124. Amendments to U.S. Customs and Border Protection.
- Sec. 125. Agent and officer technology use.

Sec. 126. Integrated Border Enforcement Teams.
 Sec. 127. Tunnel Task Forces.

Subtitle B—Personnel

Sec. 131. Additional U.S. Customs and Border Protection agents and officers.
 Sec. 132. U.S. Customs and Border Protection retention incentives.
 Sec. 133. Anti-Border Corruption Reauthorization Act.
 Sec. 134. Training for officers and agents of U.S. Customs and Border Protection.

Subtitle C—Grants

Sec. 141. Operation Stonegarden.

Subtitle D—Authorization of Appropriations

Sec. 151. Authorization of appropriations.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

Sec. 201. Ports of entry infrastructure.
 Sec. 202. Secure communications.
 Sec. 203. Border security deployment program.
 Sec. 204. Pilot and upgrade of license plate readers at ports of entry.
 Sec. 205. Non-intrusive inspection operational demonstration.
 Sec. 206. Biometric exit data system.
 Sec. 207. Sense of Congress on cooperation between agencies.
 Sec. 208. Authorization of appropriations.
 Sec. 209. Definition.

TITLE I—BORDER SECURITY

SEC. 101. DEFINITIONS.

In this title:

(1) **ADVANCED UNATTENDED SURVEILLANCE SENSORS.**—The term “advanced unattended surveillance sensors” means sensors that utilize an onboard computer to analyze detections in an effort to discern between vehicles, humans, and animals, and ultimately filter false positives prior to transmission.

(2) **APPROPRIATE CONGRESSIONAL COMMITTEE.**—The term “appropriate congressional committee” has the meaning given the term in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).

(3) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(4) **HIGH TRAFFIC AREAS.**—The term “high traffic areas” has the meaning given such term in section 102(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 111 of this Act.

(5) **OPERATIONAL CONTROL.**—The term “operational control” has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

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

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

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

Subtitle A—Infrastructure and Equipment

SEC. 111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.

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

(1) by amending subsection (a) to read as follows:

“(a) **IN GENERAL.**—The Secretary of Homeland Security shall take such actions as may be necessary (including the removal of obstacles to detection of illegal entrants) to construct, install, deploy, operate, and maintain tactical infrastructure and technology in the vicinity of the United States border to achieve situational awareness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas.”;

(2) in subsection (b)—

(A) in the subsection heading, by striking “FENCING” and inserting “PHYSICAL BARRIERS”;

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting “situational awareness and” before “operational control”; and

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

“(B) TACTICAL INFRASTRUCTURE.—

“(i) IN GENERAL.—Not later than January 20, 2021, the Secretary of Homeland Security, in carrying out subsection (a), shall deploy along the United States border the most practical and effective tactical infrastructure available for achieving situational awareness and operational control of the border.

“(ii) EXCEPTION FOR CERTAIN TACTICAL INFRASTRUCTURE.—The deployment of tactical infrastructure under this subparagraph shall not apply in areas along the border where natural terrain features, natural barriers, or the remoteness of such area would make deployment ineffective, as determined by the Secretary, for the purposes of gaining situational awareness or operational control of such areas.”; and

(iii) in subparagraph (C)—

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

“(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall, before deploying tactical infrastructure in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, the Governors for each State on the southern land border and northern land border, other States, local governments, Indian tribes, representatives of the U.S. Border Patrol and U.S. Customs and Border Protection, relevant Federal, State, local, and tribal agencies that have jurisdiction on the southern land border or in the maritime environment along the southern border, and private property owners in the United States to minimize the impact on the environment, culture, commerce, quality of life for the communities and residents located near the sites at which physical barriers, tactical infrastructure, and technology are to be constructed.”;

(II) by redesignating clause (ii) as clause (iii); and

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

“(ii) NOTIFICATION.—Not later than 60 days after the consultation required under clause (i), the Secretary of Homeland Security shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the type of tactical infrastructure and technology the Secretary has determined is most practical and effective to achieve operational control and situational awareness in a specific area and the other alternatives the Secretary considered before making such a determination.”;

(C) in paragraph (2)—

(i) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(ii) by striking “construction of fences” and inserting “the construction of physical barriers”; and

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

“(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when constructing tactical infrastructure, shall incorporate such safety features into the design of such tactical infrastructure that the Secretary determines, in the Secretary’s sole discretion, are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency.”;

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

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security is authorized to waive all legal requirements the Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious construction, installation, operation, and maintenance of the tactical infrastructure and technology under this section. Any such decision by the Secretary shall be effective upon publication in the Federal Register.”; and

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

“(e) CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF TECHNOLOGY.—Not later than January 20, 2021, the Secretary of Homeland Security, in carrying out subsection (a), shall deploy along the United States border the most practical and effective technology available for achieving situational awareness and operational control of the border.

“(f) DEFINITIONS.—In this section:

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

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

“(B) have significant unlawful cross-border activity.

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

“(3) SITUATIONAL AWARENESS DEFINED.—The term ‘situational awareness’ has the meaning given such term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328).

“(4) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ means—

“(A) boat ramps, access gates, checkpoints, lighting, and roads; and

“(B) physical barriers (including fencing, border wall system, and levee walls).

“(5) TECHNOLOGY DEFINED.—The term ‘technology’ includes border surveillance and detection technology, including the following:

“(A) Tower-based surveillance technology.

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

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

“(D) 3-dimensional, seismic acoustic detection and ranging border tunneling detection technology.

“(E) Advanced unattended surveillance sensors.

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

“(G) Unmanned aerial vehicles.”.

SEC. 112. AIR AND MARINE OPERATIONS FLIGHT HOURS.

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

(b) UNMANNED AERIAL SYSTEM.—The Secretary shall ensure that Air and Marine Operations operate unmanned aerial systems on the southern border of the United States for not less than 24 hours per day for five days per week.

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

(d) PRIMARY MISSION.—The Commissioner shall ensure that—

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

(2) the Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions established by the Commissioner to carry out the requirements under this Act.

(e) HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.—In accordance with subsection (d), the Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—

(1) identify critical flight hour requirements; and

(2) direct Air and Marine Operations to support requests from Sector Chiefs as their primary mission.

(f) SMALL UNMANNED AERIAL VEHICLES.—

(1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the operational lead for U.S. Customs and Border Protection’s use of small unmanned aerial vehicles for the purpose of meeting the U.S. Border Patrol’s unmet flight hour operational requirements and to achieve situational awareness and operational control.

(2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol shall coordinate with the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection to ensure the safety of other aircraft flying in the vicinity of small unmanned aerial vehicles operated by the U.S. Border Patrol.

(3) DEFINITION.—In this subsection, the term “small unmanned aerial vehicle” means any unmanned aerial vehicle operated by U.S. Customs and Border Protection weighing less than 55 pounds.

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

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

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

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

“(C) carry out the small unmanned aerial vehicle requirements pursuant to subsection (f) of section 112 of the Border Security for America Act of 2017; and”.

SEC. 113. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS AND TRANSIT ZONE.

(a) **IN GENERAL.**—Not later than January 20, 2021, the Secretary, in implementing section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 111 of this Act), and acting through the appropriate component of the Department of Homeland Security, shall deploy to each sector or region of the southern border and the northern border, in a prioritized manner to achieve situational awareness and operational control of such borders, the following additional capabilities:

- (1) **SAN DIEGO SECTOR.**—For the San Diego sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Subterranean surveillance and detection technologies.
 - (C) To increase coastal maritime domain awareness, the following:
 - (i) Deployable, lighter-than-air surface surveillance equipment.
 - (ii) Unmanned aerial vehicles with maritime surveillance capability.
 - (iii) Maritime patrol aircraft.
 - (iv) Coastal radar surveillance systems.
 - (v) Maritime signals intelligence capabilities.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (H) Man-portable unmanned aerial vehicles.
 - (I) Improved agent communications capabilities.
- (2) **EL CENTRO SECTOR.**—For the El Centro sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Deployable, lighter-than-air ground surveillance equipment.
 - (C) Man-portable unmanned aerial vehicles.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications capabilities.
- (3) **YUMA SECTOR.**—For the Yuma sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Deployable, lighter-than-air ground surveillance equipment.
 - (C) Ultralight aircraft detection capabilities.
 - (D) Advanced unattended surveillance sensors.
 - (E) A rapid reaction capability supported by aviation assets.
 - (F) Mobile vehicle-mounted and man-portable surveillance systems.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications capabilities.
- (4) **TUCSON SECTOR.**—For the Tucson sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (C) Deployable, lighter-than-air ground surveillance equipment.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications capabilities.
- (5) **EL PASO SECTOR.**—For the El Paso sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Deployable, lighter-than-air ground surveillance equipment.
 - (C) Ultralight aircraft detection capabilities.
 - (D) Advanced unattended surveillance sensors.
 - (E) Mobile vehicle-mounted and man-portable surveillance systems.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (H) Man-portable unmanned aerial vehicles.
 - (I) Improved agent communications capabilities.
- (6) **BIG BEND SECTOR.**—For the Big Bend sector, the following:
 - (A) Tower-based surveillance technology.
 - (B) Deployable, lighter-than-air ground surveillance equipment.
 - (C) Improved agent communications capabilities.

- (D) Ultralight aircraft detection capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (H) Man-portable unmanned aerial vehicles.
 - (I) Improved agent communications capabilities.
- (7) DEL RIO SECTOR.—For the Del Rio sector, the following:
- (A) Tower-based surveillance technology.
 - (B) Increased monitoring for cross-river dams, culverts, and footpaths.
 - (C) Improved agent communications capabilities.
 - (D) Improved maritime capabilities in the Amistad National Recreation Area.
 - (E) Advanced unattended surveillance sensors.
 - (F) A rapid reaction capability supported by aviation assets.
 - (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (H) Man-portable unmanned aerial vehicles.
 - (I) Improved agent communications capabilities.
- (8) LAREDO SECTOR.—For the Laredo sector, the following:
- (A) Tower-based surveillance technology.
 - (B) Maritime detection resources for the Falcon Lake region.
 - (C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (D) Increased monitoring for cross-river dams, culverts, and footpaths.
 - (E) Ultralight aircraft detection capability.
 - (F) Advanced unattended surveillance sensors.
 - (G) A rapid reaction capability supported by aviation assets.
 - (H) Man-portable unmanned aerial vehicles.
 - (I) Improved agent communications capabilities.
- (9) RIO GRANDE VALLEY SECTOR.—For the Rio Grande Valley sector, the following:
- (A) Tower-based surveillance technology.
 - (B) Deployable, lighter-than-air ground surveillance equipment.
 - (C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (D) Ultralight aircraft detection capability.
 - (E) Advanced unattended surveillance sensors.
 - (F) Increased monitoring for cross-river dams, culverts, footpaths.
 - (G) A rapid reaction capability supported by aviation assets.
 - (H) Increased maritime interdiction capabilities.
 - (I) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (J) Man-portable unmanned aerial vehicles.
 - (K) Improved agent communications capabilities.
- (10) BLAINE SECTOR.—For the Blaine sector, the following:
- (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Coastal radar surveillance systems.
 - (C) Increased maritime interdiction capabilities.
 - (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) Ultralight aircraft detection capabilities.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications capabilities.
- (11) SPOKANE SECTOR.—For the Spokane sector, the following:
- (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Increased maritime interdiction capabilities.
 - (C) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (D) Advanced unattended surveillance sensors.
 - (E) Ultralight aircraft detection capabilities.
 - (F) Completion of six miles of the Bog Creek road.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications systems.
- (12) HAVRE SECTOR.—For the Havre sector, the following:
- (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (C) Advanced unattended surveillance sensors.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Man-portable unmanned aerial vehicles.

- (F) Improved agent communications systems.
- (13) GRAND FORKS SECTOR.—For the Grand Forks sector, the following:
 - (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (C) Advanced unattended surveillance sensors.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Man-portable unmanned aerial vehicles.
 - (F) Improved agent communications systems.
- (14) DETROIT SECTOR.—For the Detroit sector, the following:
 - (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Coastal radar surveillance systems.
 - (C) Increased maritime interdiction capabilities.
 - (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) Ultralight aircraft detection capabilities.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications systems.
- (15) BUFFALO SECTOR.—For the Buffalo sector, the following:
 - (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Coastal radar surveillance systems.
 - (C) Increased maritime interdiction capabilities.
 - (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (E) Advanced unattended surveillance sensors.
 - (F) Ultralight aircraft detection capabilities.
 - (G) Man-portable unmanned aerial vehicles.
 - (H) Improved agent communications systems.
- (16) SWANTON SECTOR.—For the Swanton sector, the following:
 - (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (C) Advanced unattended surveillance sensors.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Man-portable unmanned aerial vehicles.
 - (F) Improved agent communications systems.
- (17) HOULTON SECTOR.—For the Houlton sector, the following:
 - (A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
 - (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - (C) Advanced unattended surveillance sensors.
 - (D) Ultralight aircraft detection capabilities.
 - (E) Man-portable unmanned aerial vehicles.
 - (F) Improved agent communications systems.
- (18) TRANSIT ZONE.—For the transit zone, the following:
 - (A) Not later than two years after the date of the enactment of this Act, an increase in the number of overall cutter, boat, and aircraft hours spent conducting interdiction operations over the average number of such hours during the preceding three fiscal years.
 - (B) Increased maritime signals intelligence capabilities.
 - (C) To increase maritime domain awareness, the following:
 - (i) Unmanned aerial vehicles with maritime surveillance capability.
 - (ii) Increased maritime aviation patrol hours.
 - (D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Deployable Specialized Forces of the Coast Guard.
 - (E) Coastal radar surveillance systems with long range day and night cameras capable of providing full maritime domain awareness of the United States territorial waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island, Culebra Island, Saint Thomas, Saint John, and Saint Croix.
- (b) TACTICAL FLEXIBILITY.—
 - (1) SOUTHERN AND NORTHERN LAND BORDERS.—
 - (A) IN GENERAL.—Beginning on January 20, 2020, or after the Secretary has deployed at least 25 percent of the capabilities required in each sector specified in subsection (a), whichever comes later, the Secretary may deviate from such capability deployments if the Secretary determines that such

deviation is required to achieve situational awareness or operational control.

(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is the subject of such exercise. If the Secretary makes any changes to such deviation, the Secretary shall, not later than 90 days after any such change, notify such committees regarding such change.

(2) TRANSIT ZONE.—

(A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives regarding the capability deployments for the transit zone specified in paragraph (18) of subsection (a), including information relating to—

- (i) the number and types of assets and personnel deployed; and
- (ii) the impact such deployments have on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

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

- (i) determines, after consultation with the committees referred to in subparagraph (A), that such alteration is necessary; and
- (ii) not later than 30 days after making a determination under clause (i), notifies the committees referred to in such subparagraph regarding such alteration, including information relating to—

- (I) the number and types of assets and personnel deployed pursuant to such alteration; and
- (II) the impact such alteration has on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

(c) EXIGENT CIRCUMSTANCES.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the capabilities referred to in subsection (a) in a manner that is inconsistent with the requirements specified in such subsection if, after the Secretary has deployed at least 25 percent of such capabilities, the Secretary determines that exigent circumstances demand such an inconsistent deployment or that such an inconsistent deployment is vital to the national security interests of the United States.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the House of Representative and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days after making a determination under paragraph (1). Such notification shall include a detailed justification regarding such determination.

SEC. 114. U.S. BORDER PATROL PHYSICAL INFRASTRUCTURE IMPROVEMENTS.

The Secretary shall upgrade existing physical infrastructure of the Department of Homeland Security, and construct and acquire additional physical infrastructure, including—

- (1) U.S. Border Patrol stations;
- (2) U.S. Border Patrol checkpoints;
- (3) mobile command centers; and
- (4) other necessary facilities, structures, and properties.

SEC. 115. U.S. BORDER PATROL ACTIVITIES.

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

SEC. 116. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

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

“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

“(a) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term ‘major acquisition program’ means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least \$300,000,000 (based on fiscal year 2017 constant dollars) over its life cycle cost.

“(b) **PLANNING DOCUMENTATION.**—For each border security technology acquisition program of the Department that is determined to be a major acquisition program, the Secretary shall—

“(1) ensure that each such program has a written acquisition program baseline approved by the relevant acquisition decision authority;

“(2) document that each such program is meeting cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

“(3) have a plan for meeting program implementation objectives by managing contractor performance.

“(c) **ADHERENCE TO STANDARDS.**—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible for carrying out this section adhere to relevant internal control standards identified by the Comptroller General of the United States. The Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

“(d) **PLAN.**—The Secretary, acting through the Under Secretary for Management, in coordination with the Under Secretary for Science and Technology and the Commissioner of U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a plan for testing, evaluating, and using independent verification and validation resources for border security technology. Under the plan, new border security technologies shall be evaluated through a series of assessments, processes, and audits to ensure—

“(1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

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

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

“Sec. 434. Border security technology program management.”.

(c) **PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—No additional funds are authorized to be appropriated to carry out section 434 of the Homeland Security Act of 2002, as added by subsection (a). Such section shall be carried out using amounts otherwise authorized for such purposes.

SEC. 117. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER AND REIMBURSEMENT OF STATES FOR DEPLOYMENT OF THE NATIONAL GUARD AT THE SOUTHERN BORDER.

(a) **IN GENERAL.**—With the approval of the Secretary and the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform operations and missions under section 502(f) of title 32, United States Code, along the southern border for the purposes of assisting U.S. Customs and Border Protection to achieve situational awareness and operational control of the border.

(b) **ASSIGNMENT OF OPERATIONS AND MISSIONS.**—

(1) **IN GENERAL.**—National Guard units and personnel deployed under subsection (a) may be assigned such operations and missions specified in subsection (c) as may be necessary to secure the southern border.

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

(c) **RANGE OF OPERATIONS AND MISSIONS.**—The operations and missions assigned under subsection (b) shall include the temporary authority to—

(1) construct reinforced fencing or other barriers;

(2) operate ground-based surveillance systems;

(3) operate unmanned and manned aircraft;

(4) provide radio communications interoperability between U.S. Customs and Border Protection and State, local, and tribal law enforcement agencies;

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

(6) provide intelligence support.

(d) **MATERIEL AND LOGISTICAL SUPPORT.**—The Secretary of Defense shall deploy such materiel, equipment, and logistical support as may be necessary to ensure success of the operations and missions conducted by the National Guard under this section.

(e) **EXCLUSION FROM NATIONAL GUARD PERSONNEL STRENGTH LIMITATIONS.**—National Guard personnel deployed under subsection (a) shall not be included in—

(1) the calculation to determine compliance with limits on end strength for National Guard personnel; or

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

(f) REIMBURSEMENT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall reimburse States for the cost of the deployment of any units or personnel of the National Guard to perform operations and missions in full-time State Active Duty in support of a southern border mission. The Secretary of Defense may not seek reimbursement from the Secretary for any reimbursements paid to States for the costs of such deployments.

(2) LIMITATION.—The total amount of reimbursements under this section may not exceed \$35,000,000 for any fiscal year.

SEC. 118. OPERATION PHALANX.

(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary, shall provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern border.

(b) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include—

(1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(2) intelligence analysis support.

(c) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment, and logistics support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Defense \$75,000,000 to provide assistance under this section. The Secretary of Defense may not seek reimbursement from the Secretary for any assistance provided under this section.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and annually thereafter, the Secretary of Defense shall submit a report to the appropriate congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) regarding any assistance provided under subsection (a) during the period specified in paragraph (3).

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period specified in paragraph (3), a description of—

(A) the assistance provided;

(B) the sources and amounts of funds used to provide such assistance; and

(C) the amounts obligated to provide such assistance.

(3) PERIOD SPECIFIED.—The period specified in this paragraph is—

(A) in the case of the first report required under paragraph (1), the 90-day period beginning on the date of the enactment of this Act; and

(B) in the case of any subsequent report submitted under paragraph (1), the calendar year for which the report is submitted.

SEC. 119. MERIDA INITIATIVE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that assistance to Mexico, including assistance from the Department of State and the Department of Defense and any aid related to the Merida Initiative should—

(1) focus on providing enhanced border security at Mexico's northern and southern borders, judicial reform, and support for Mexico's anti-drug efforts; and

(2) return to its original focus and prioritize security, training, and acquisition of equipment for Mexican security forces involved in anti-drug efforts as well as be used to train prosecutors in ongoing justice reform efforts.

(b) ASSISTANCE FOR MEXICO.—The Secretary of State, in coordination with the Secretary and the Secretary of Defense, shall provide level and consistent assistance to Mexico to—

(1) combat drug production and trafficking and related violence, transnational organized criminal organizations, and corruption;

(2) build a secure, modern border security system capable of preventing illegal migration;

(3) support border security and cooperation with United States military, intelligence, and law enforcement agencies on border incursions;

- (4) support judicial reform, institution building, and rule of law activities to build judicial capacity, address corruption and impunity, and support human rights; and
 - (5) provide for training and equipment for Mexican security forces involved in efforts to eradicate and interdict drugs.
- (c) ALLOCATION OF FUNDS; REPORT.—
- (1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any assistance appropriated in any appropriations Act to implement this section shall be withheld until after the Secretary of State submits a written report to the congressional committees specified in paragraph (3) certifying that the Government of Mexico is—
 - (A) significantly reducing illegal migration, drug trafficking, and cross-border criminal activities on Mexico's northern and southern borders;
 - (B) taking significant action to address corruption, impunity, and human rights abuses; and
 - (C) improving the transparency and accountability of Mexican Federal police forces and working with Mexican State and municipal authorities to improve the transparency and accountability of Mexican State and municipal police forces.
 - (2) MATTERS TO INCLUDE.—The report required under paragraph (1) shall include a description of—
 - (A) actions taken by the Government of Mexico to address the matters described in such paragraph;
 - (B) any relevant assessments by civil society and non-government organizations in Mexico relating to such matters; and
 - (C) any instances in which the Secretary determines that the actions taken by the Government of Mexico are inadequate to address such matters.
 - (3) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this paragraph are—
 - (A) the Committee on Appropriations of the Senate;
 - (B) the Committee on Homeland Security and Governmental Affairs of the Senate;
 - (C) the Committee on the Judiciary of the Senate;
 - (D) the Committee on Foreign Relations of the Senate;
 - (E) the Committee on Appropriations of the House of Representatives;
 - (F) the Committee on Homeland Security of the House of Representatives;
 - (G) the Committee on the Judiciary of the House of Representatives; and
 - (H) the Committee on Foreign Affairs of the House of Representatives.
- (d) NOTIFICATIONS.—Any assistance made available by the Secretary of State under this section shall be subject to—
- (1) the notification procedures set forth in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1); and
 - (2) the notification requirements of—
 - (A) the Committee on Homeland Security and Governmental Affairs of the Senate;
 - (B) the Committee on the Judiciary of the Senate;
 - (C) the Committee on Foreign Relations of the Senate;
 - (D) the Committee on Homeland Security of the House of Representatives;
 - (E) the Committee on the Judiciary of the House of Representatives; and
 - (F) the Committee on Foreign Affairs in the House of Representatives.
- (e) SPENDING PLAN.—
- (1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the congressional committees specified in paragraph (2) a detailed spending plan for assistance to Mexico under this section, which shall include a strategy, developed after consulting with relevant authorities of the Government of Mexico, for—
 - (A) combating drug trafficking and related violence and organized crime; and
 - (B) anti-corruption and rule of law activities, which shall include concrete goals, actions to be taken, budget proposals, and a description of anticipated results.
 - (2) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this paragraph are—
 - (A) the Committee on Appropriations of the Senate;
 - (B) the Committee on Foreign Relations of the Senate;

- (C) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (D) the Committee on the Judiciary of the Senate;
- (E) the Committee on Appropriations of the House of Representatives;
- (F) the Committee on Foreign Affairs of the House of Representatives;
- (G) the Committee on Homeland Security of the House of Representatives; and
- (H) the Committee on the Judiciary of the House of Representatives.

SEC. 120. PROHIBITIONS ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

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

(1) **IN GENERAL.**—The Secretary concerned shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on covered Federal land to execute search and rescue operations or to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through the southern border or the northern border.

(2) **APPLICABILITY.**—The authority of U.S. Customs and Border Protection to conduct activities described in paragraph (1) on covered Federal land applies without regard to whether a state of emergency exists.

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

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

(2) **ACTIVITIES DESCRIBED.**—The activities described in this paragraph are—

(A) The use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(B) the construction, installation, operation and maintenance of tactical infrastructure and border technology described in section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 111 of this Act).

(c) **CLARIFICATION RELATING TO WAIVER AUTHORITY.**—

(1) **IN GENERAL.**—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

(2) **PROVISIONS OF LAW SPECIFIED.**—The provisions of law specified in this section are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:

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

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

(C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”).

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

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

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

(G) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

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

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

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

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

(L) Chapter 3125 of title 54, United States Code (formerly known as the “Archaeological and Historic Preservation Act”).

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

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

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

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

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

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

(S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

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

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

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

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

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

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

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

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

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

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

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

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

(FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

(GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).

(HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

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

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

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

(4) **SAVINGS CLAUSE.**—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any relevant matter.

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

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

(2) any additional authority to restrict legal access to such land.

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

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

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

(f) **TRIBAL SOVEREIGNTY.**—Nothing in this section may be construed to supersede, replace, negate, or diminish treaties or other agreements between the United States and Indian tribes.

(g) **MEMORANDA OF UNDERSTANDING.**—The requirements of this section shall not apply to the extent that such requirements are incompatible with any memorandum of understanding or similar agreement entered into between the Commissioner of U.S. Customs and Border Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

(h) **DEFINITIONS.**—In this section:

(1) **COVERED FEDERAL LAND.**—The term “covered Federal land” includes all land under the control of the Secretary concerned that is located within 100 miles of the southern border or the northern border.

(2) **SECRETARY CONCERNED.**—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.

SEC. 121. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) **ESTABLISHMENT OF NATIONAL BORDER SECURITY ADVISORY COMMITTEE.**—The Secretary shall establish a National Border Security Advisory Committee, which—

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

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) **CONSIDERATION OF VIEWS.**—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

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

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

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

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

SEC. 122. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

Not later than January 20, 2021, the Secretary, after coordinating with the heads of the relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River.

SEC. 123. SOUTHERN BORDER THREAT ANALYSIS.

(a) **THREAT ANALYSIS.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a Southern border threat analysis.

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

(A) current and potential terrorism and criminal threats posed by individuals and organized groups seeking—

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

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

(B) improvements needed at and between ports of entry along the Southern border to prevent terrorists and instruments of terror from entering the United States;

(C) gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts;

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

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

(F) traveler crossing times and any potential security vulnerability associated with prolonged wait times.

(3) **ANALYSIS REQUIREMENTS.**—In compiling the Southern border threat analysis required under this subsection, the Secretary shall consider and examine—

(A) the technology needs and challenges, including such needs and challenges identified as a result of previous investments that have not fully realized the security and operational benefits that were sought;

(B) the personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(C) the infrastructure needs and challenges;

(D) the roles and authorities of State, local, and tribal law enforcement in general border security activities;

(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(F) the terrain, population density, and climate along the Southern border; and

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

- (4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the Southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.
- (b) U.S. BORDER PATROL STRATEGIC PLAN.—
- (1) IN GENERAL.—Not later than 180 days after the submission of the threat analysis required under subsection (a) or June 30, 2018, and every five years thereafter, the Secretary, acting through the Chief of the U.S. Border Patrol, shall issue a Border Patrol Strategic Plan.
- (2) CONTENTS.—The Border Patrol Strategic Plan required under this subsection shall include a consideration of—
- (A) the Southern border threat analysis required under subsection (a), with an emphasis on efforts to mitigate threats identified in such threat analysis;
 - (B) efforts to analyze and disseminate border security and border threat information between border security components of the Department and other appropriate Federal departments and agencies with missions associated with the Southern border;
 - (C) efforts to increase situational awareness, including—
 - (i) surveillance capabilities, including capabilities developed or utilized by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense; and
 - (ii) the use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets;
 - (D) efforts to detect and prevent terrorists and instruments of terrorism from entering the United States;
 - (E) efforts to detect, interdict, and disrupt aliens and illicit drugs at the earliest possible point;
 - (F) efforts to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States;
 - (G) efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department;
 - (H) any technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary determines to be necessary;
 - (I) operational coordination unity of effort initiatives of the border security components of the Department, including any relevant task forces of the Department;
 - (J) lessons learned from Operation Jumpstart and Operation Phalanx;
 - (K) cooperative agreements and information sharing with State, local, tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the Northern border or the Southern border;
 - (L) border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the Northern border or the Southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the Northern border or the Southern border;
 - (M) staffing requirements for all departmental border security functions;
 - (N) a prioritized list of departmental research and development objectives to enhance the security of the Southern border;
 - (O) an assessment of training programs, including training programs for—
 - (i) identifying and detecting fraudulent documents;
 - (ii) understanding the scope of enforcement authorities and the use of force policies; and
 - (iii) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and
 - (P) an assessment of how border security operations affect border crossing times.

SEC. 124. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION.

- (a) DUTIES.—Subsection (c) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended—

(1) in paragraph (17), by striking “and” after the semicolon at the end;

(2) by redesignating paragraph (18) as paragraph (20); and

(3) by inserting after paragraph (17) the following new paragraphs:

“(18) administer the U.S. Customs and Border Protection public private partnerships under subtitle G;

“(19) administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4431 et seq.; enacted as subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.); and”.

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

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

“(B) a port of entry vacancy rate which compares the number of officers identified in subparagraph (A) with the number of officers at the port at which such officer is currently assigned.”.

SEC. 125. AGENT AND OFFICER TECHNOLOGY USE.

In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 111 of this Act) and section 113 of this Act, the Secretary shall, to the greatest extent practicable, ensure that technology deployed to gain situational awareness and operational control of the border be provided to front-line officers and agents of the Department of Homeland Security.

SEC. 126. INTEGRATED BORDER ENFORCEMENT TEAMS.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 116 of this Act, is further amended by adding at the end the following new section:

“SEC. 435. INTEGRATED BORDER ENFORCEMENT TEAMS.

“(a) ESTABLISHMENT.—The Secretary shall establish within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as ‘IBET’).

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

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

“(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

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

“(4) execute coordinated activities in furtherance of border security and homeland security; and

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

“(c) COMPOSITION AND LOCATION OF IBETS.—

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

“(A) Other subcomponents of U.S. Customs and Border Protection.

“(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.

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

“(D) Other Department personnel, as appropriate.

“(E) Other Federal departments and agencies, as appropriate.

“(F) Appropriate State law enforcement agencies.

“(G) Foreign law enforcement partners.

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

“(I) Appropriate tribal law enforcement agencies.

“(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider the following:

“(A) Whether the region in which the IBET would be established is significantly impacted by cross-border threats.

“(B) The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET.

“(C) Whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

“(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

“(d) OPERATION.—

“(1) IN GENERAL.—After determining the regions in which to establish IBETs, the Secretary may—

“(A) direct the assignment of Federal personnel to such IBETs; and

“(B) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

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

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

“(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET program.

“(g) REPORT.—Not later than 180 days after the date on which an IBET is established and biannually thereafter for the following six years, the Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, and in the case of Coast Guard personnel used to secure the maritime borders of the United States, additionally to the Committee on Transportation and Infrastructure of the House of Representatives, a report that—

“(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

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

“(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

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

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding after the item relating to section 434 the following new item:

“Sec. 435. Integrated Border Enforcement Teams.”.

SEC. 127. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and remediating tunnels that breach the international borders of the United States.

Subtitle B—Personnel

SEC. 131. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION AGENTS AND OFFICERS.

(a) BORDER PATROL AGENTS.—Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient

agents to maintain an active duty presence of not fewer than 26,370 full-time equivalent agents.

(b) **CBP OFFICERS.**—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection as of such date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2021—

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

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

(c) **AIR AND MARINE OPERATIONS.**—Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient agents for Air and Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern border air and maritime operations.

(d) **U.S. CUSTOMS AND BORDER PROTECTION K-9 UNITS AND HANDLERS.**—

(1) **K-9 UNITS.**—Not later than September 30, 2021, the Commissioner shall deploy not fewer than 300 new K-9 units, with supporting officers of U.S. Customs and Border Protection and other required staff, at land ports of entry and checkpoints, on the southern border and the northern border.

(2) **USE OF CANINES.**—The Commissioner shall prioritize the use of canines at the primary inspection lanes at land ports of entry and checkpoints.

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

(1) **INCREASE.**—Not later than September 30, 2021, the Commissioner shall increase the number of horseback units, with supporting officers of U.S. Customs and Border Protection and other required staff, by not fewer than 100 officers and 50 horses for security patrol along the Southern border.

(2) **FUNDING LIMITATION.**—Of the amounts authorized to be appropriated for U.S. Customs and Border Protection under this Act, not more than one percent may be used for the purchase of additional horses, the construction of new stables, maintenance and improvements of existing stables, and for feed, medicine, and other resources needed to maintain the health and well-being of the horses that serve in the horseback units.

(f) **U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.**—Not later than September 30, 2021, the Commissioner shall increase by not fewer than 50 the number of officers engaged in search and rescue activities along the southern border.

(g) **U.S. CUSTOMS AND BORDER PROTECTION TUNNEL DETECTION AND TECHNOLOGY PROGRAM.**—Not later than September 30, 2021, the Commissioner shall increase by not fewer than 50 the number of officers assisting task forces and activities related to deployment and operation of border tunnel detection technology and apprehensions of individuals using such tunnels for crossing into the United States, drug trafficking, or human smuggling.

(h) **AGRICULTURAL SPECIALISTS.**—Not later than September 30, 2021, the Secretary shall hire, train, and assign to duty, in addition to the officers and agents authorized under subsections (a) through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry along the southern border and the northern border.

(i) **OFFICE OF PROFESSIONAL RESPONSIBILITY.**—Not later than September 30, 2021, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

(j) **GAO REPORT.**—If the staffing levels required under this section are not achieved by September 30, 2021, the Comptroller General of the United States shall conduct a review of the reasons why such levels were not achieved.

SEC. 132. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES.

(a) **DEFINITIONS.**—In this section:

(1) **COVERED AREA.**—The term “covered area” means a geographic area that the Secretary determines is in a remote location or is an area for which it is difficult to find full-time permanent covered CBP employees, as compared to other ports of entry or Border Patrol sectors.

(2) **COVERED CBP EMPLOYEE.**—The term “covered CBP employee” means an employee of U.S. Customs and Border Protection performing activities that are critical to border security or customs enforcement, as determined by the Commissioner.

(3) **RATE OF BASIC PAY.**—The term “rate of basic pay”—

(A) means the rate of pay fixed by law or administrative action for the position to which an employee is appointed before deductions and including any special rate under subpart C of part 530 of title 5, Code of Federal Regulations, or similar payment under other legal authority, and any locality-based comparability payment under subpart F of part 531 of title 5, Code of Federal Regulations, or similar payment under other legal authority, but excluding additional pay of any other kind; and

(B) does not include additional pay, such as night shift differentials under section 5343(f) of title 5, United States Code, or environmental differentials under section 5343(c)(4) of such title.

(4) SPECIAL RATE OF PAY.—The term “special rate of pay” means a higher than normal rate of pay that exceeds the otherwise applicable rate of basic pay for a similar covered CBP employee at a land port of entry.

(b) HIRING INCENTIVES.—

(1) IN GENERAL.—To the extent necessary for U.S. Customs and Border Protection to hire, train, and deploy qualified officers and employees, and to the extent necessary to meet the requirements set forth in section 131, the Commissioner, with the approval of the Secretary, may pay a hiring bonus of \$10,000 to a covered CBP employee, after the covered CBP completes initial basic training and executes a written agreement required under paragraph (2).

(2) WRITTEN AGREEMENT.—The payment of a hiring bonus to a covered CBP employee under paragraph (1) is contingent upon the covered CBP employee entering into a written agreement with U.S. Customs and Border Protection to complete more than two years of employment with U.S. Customs and Border Protection beginning on the date on which the agreement is signed. Such agreement shall include—

(A) the amount of the hiring bonus;

(B) the conditions under which the agreement may be terminated before the required period of service is completed and the effect of such termination;

(C) the length of the required service period; and

(D) any other terms and conditions under which the hiring bonus is payable, subject to the requirements under this section.

(3) FORM OF PAYMENT.—A signing bonus paid to a covered CBP employee under paragraph (1) shall be paid in a single payment after the covered CBP employee completes initial basic training and enters on duty and executed the agreement under paragraph (2).

(4) EXCLUSION OF SIGNING BONUS FROM RATE OF PAY.—A signing bonus paid to a covered CBP employee under paragraph (1) shall not be considered part of the rate of basic pay of the covered CBP employee for any purpose.

(5) EFFECTIVE DATE AND SUNSET.—This subsection shall take effect on the date of the enactment of this Act and shall remain in effect until the earlier of—

(A) September 30, 2019; or

(B) the date on which U.S. Customs and Border Protection has 26,370 full-time equivalent agents.

(c) RETENTION INCENTIVES.—

(1) IN GENERAL.—To the extent necessary for U.S. Customs and Border Protection to retain qualified employees, and to the extent necessary to meet the requirements set forth in section 131, the Commissioner, with the approval of the Secretary, may pay a retention incentive to a covered CBP employee who has been employed with U.S. Customs and Border Protection for a period of longer than two consecutive years, and the Commissioner determines that, in the absence of the retention incentive, the covered CBP employee would likely—

(A) leave the Federal service; or

(B) transfer to, or be hired into, a different position within the Department (other than another position in CBP).

(2) WRITTEN AGREEMENT.—The payment of a retention incentive to a covered CBP employee under paragraph (1) is contingent upon the covered CBP employee entering into a written agreement with U.S. Customs and Border Protection to complete more than two years of employment with U.S. Customs and Border Protection beginning on the date on which the CBP employee enters on duty and the agreement is signed. Such agreement shall include—

(A) the amount of the retention incentive;

(B) the conditions under which the agreement may be terminated before the required period of service is completed and the effect of such termination;

(C) the length of the required service period; and

- (D) any other terms and conditions under which the retention incentive is payable, subject to the requirements under this section.
- (3) CRITERIA.—When determining the amount of a retention incentive paid to a covered CBP employee under paragraph (1), the Commissioner shall consider—
- (A) the length of the Federal service and experience of the covered CBP employee;
 - (B) the salaries for law enforcement officers in other Federal agencies; and
 - (C) the costs of replacing the covered CBP employee, including the costs of training a new employee.
- (4) AMOUNT OF RETENTION INCENTIVE.—A retention incentive paid to a covered CBP employee under paragraph (1)—
- (A) shall be approved by the Secretary and the Commissioner;
 - (B) shall be stated as a percentage of the employee’s rate of basic pay for the service period associated with the incentive; and
 - (C) may not exceed \$25,000 for each year of the written agreement.
- (5) FORM OF PAYMENT.—A retention incentive paid to a covered CBP employee under paragraph (1) shall be paid as a single payment at the end of the fiscal year in which the covered CBP employee entered into an agreement under paragraph (2), or in equal installments during the life of the service agreement, as determined by the Commissioner.
- (6) EXCLUSION OF RETENTION INCENTIVE FROM RATE OF PAY.—A retention incentive paid to a covered CBP employee under paragraph (1) shall not be considered part of the rate of basic pay of the covered CBP employee for any purpose.
- (d) PILOT PROGRAM ON SPECIAL RATES OF PAY IN COVERED AREAS.—
- (1) IN GENERAL.—The Commissioner may establish a pilot program to assess the feasibility and advisability of using special rates of pay for covered CBP employees in covered areas, as designated on the date of the enactment of this Act, to help meet the requirements set forth in section 131.
 - (2) MAXIMUM AMOUNT.—The rate of basic pay of a covered CBP employee paid a special rate of pay under the pilot program may not exceed 125 percent of the otherwise applicable rate of basic pay of the covered CBP employee.
 - (3) TERMINATION.—
 - (A) IN GENERAL.—Except as provided in subparagraph (B), the pilot program shall terminate on the date that is two years after the date of the enactment of this Act.
 - (B) EXTENSION.—If the Secretary determines that the pilot program is performing satisfactorily and there are metrics that prove its success in meeting the requirements set forth in section 131, the Secretary may extend the pilot program until the date that is four years after the date of the enactment of this Act.
 - (4) REPORT TO CONGRESS.—Shortly after the pilot program terminates under paragraph (3), the Commissioner shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that details—
 - (A) the total amount paid to covered CBP employees under the pilot program; and
 - (B) the covered areas in which the pilot program was implemented.
- (e) SALARIES.—
- (1) IN GENERAL.—Section 101(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1711(b)) is amended to read as follows:
 - “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP EMPLOYEES.—There are authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to increase, effective January 1, 2018, the annual rate of basic pay for U.S. Customs and Border Protection employees who have completed at least one year of service—
 - “(1) to the annual rate of basic pay payable for positions at GS–12, step 1 of the General Schedule under subchapter III of chapter 53 of title 5, United States Code, for officers and agents who are receiving the annual rate of basic pay payable for a position at GS–5, GS–6, GS–7, GS–8, or GS–9 of the General Schedule;
 - “(2) to the annual rate of basic pay payable for positions at GS–12, step 10 of the General Schedule under such subchapter for supervisory CBP officers and supervisory agents who are receiving the annual rate of pay payable for a position at GS–10 of the General Schedule;

“(3) to the annual rate of basic pay payable for positions at GS–14, step 1 of the General Schedule under such subchapter for supervisory CBP officers and supervisory agents who are receiving the annual rate of pay payable for a position at GS–11 of the General Schedule;

“(4) to the annual rate of basic pay payable for positions at GS–12, step 10 of the General Schedule under such subchapter for supervisory CBP officers and supervisory Border Patrol agents who are receiving the annual rate of pay payable for a position at GS–12 or GS–13 of the General Schedule; and

“(5) to the annual rate of basic pay payable for positions at GS–8, GS–9, or GS–10 of the General Schedule for assistants who are receiving an annual rate of pay payable for positions at GS–5, GS–6, or GS–7 of the General Schedule, respectively.”

(2) **HARDSHIP DUTY PAY.**—In addition to compensation to which Border Patrol agents are otherwise entitled, Border Patrol agents who are assigned to rural areas shall be entitled to receive hardship duty pay, in lieu of a retention incentive under subsection (b), in an amount determined by the Commissioner, which may not exceed the rate of special pay to which members of a uniformed service are entitled under section 310 of title 37, United States Code.

(3) **OVERTIME LIMITATION.**—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amended by striking “\$25,000” and inserting “\$45,000”.

SEC. 133. ANTI-BORDER CORRUPTION REAUTHORIZATION ACT.

(a) **SHORT TITLE.**—This section may be cited as the “Anti-Border Corruption Reauthorization Act of 2017”.

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

“(b) **WAIVER AUTHORITY.**—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—

“(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

“(A) has continuously served as a law enforcement officer for not fewer than three years;

“(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;

“(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

“(D) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer’s current law enforcement agency;

“(2) to a current, full-time Federal law enforcement officer who—

“(A) has continuously served as a law enforcement officer for not fewer than three years;

“(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

“(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

“(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; and

“(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

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

“(B) holds, or has held within the past five years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

“(C) holds, or has undergone within the past five years, a current Tier 4 background investigation or current Tier 5 background investigation;

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

“(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

“(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is four years after the date of the enactment of the Border Security for America Act of 2017.”

(c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

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

“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

“(a) NON-EXEMPTION.—An individual who receives a waiver under section 3(b) is not exempt from other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position, as determined by the Commissioner of U.S. Customs and Border Protection.

“(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) who holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.

“(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver under section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.”

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

“SEC. 5. REPORTING.

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

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

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

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

“(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

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

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

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

“(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

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

(3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs (1) and (2), is further amended by adding at the end the following new section:

“SEC. 6. DEFINITIONS.

“In this Act:

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

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

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

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

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

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

(d) **POLYGRAPH EXAMINERS.**—Not later than September 30, 2021, the Secretary shall increase to not fewer than 150 the number of trained full-time equivalent polygraph examiners for administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this subtitle.

SEC. 134. TRAINING FOR OFFICERS AND AGENTS OF U.S. CUSTOMS AND BORDER PROTECTION.

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

“(l) **TRAINING AND CONTINUING EDUCATION.**—

“(1) **MANDATORY TRAINING AND CONTINUING EDUCATION.**—The Commissioner shall ensure that every agent and officer of U.S. Customs and Border Protection receives a minimum of 21 weeks of training that are directly related to the mission of the U.S. Border Patrol, Air and Marine, and the Office of Field Operations before the initial assignment of such agents and officers.

“(2) **FLETC.**—The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

“(3) **CONTINUING EDUCATION.**—The Commissioner shall annually require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than eight hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.

“(4) **LEADERSHIP TRAINING.**—Not later than one year after the date of the enactment of this subsection, the Commissioner shall develop and require training courses geared towards the development of leadership skills for mid- and senior-level career employees not later than one year after such employees assume duties in supervisory roles.”.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report identifying the guidelines and curriculum established to carry out subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

(c) **ASSESSMENT.**—Not later than four years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that assesses the training and education, including continuing education, required under subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

Subtitle C—Grants

SEC. 141. OPERATION STONEGARDEN.

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

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

“(a) **ESTABLISHMENT.**—There is established in the Department a program to be known as ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

“(b) **ELIGIBLE RECIPIENTS.**—To be eligible to receive a grant under this section, a law enforcement agency—

“(1) shall be located in—

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

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

“(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

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

“(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

“(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security’s Fiscal Year 2017 Homeland Security Grant Program Notice of Funding Opportunity; and

“(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

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

“(e) REPORT.—For each of the fiscal years 2018 through 2022, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains information on the expenditure of grants made under this section by each grant recipient.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$110,000,000 for each of the fiscal years 2018 through 2022 for grants under this section.”

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

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

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 2008 the following:

“Sec. 2009. Operation Stonegarden.”

Subtitle D—Authorization of Appropriations

SEC. 151. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated for each of the fiscal years 2018 through 2021, \$2,500,000,000 to implement this title and the amendments made by this title, of which—

(1) \$10,000,000 shall be used by the Department of Homeland Security to implement Vehicle and Dismount Exploitation Radars (VADER) in border security operations;

(2) \$200,000,000 shall be used by the Department of State to implement section 119; and

(3) \$200,000,000 shall be used by the United States Coast Guard to implement paragraph (18) of section 113(a).

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

SEC. 201. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

(1) AUTHORITY.—The Secretary may construct new ports of entry along the northern border and southern border and determine the location of any such new ports of entry.

(2) CONSULTATION.—

(A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Transportation, the Administrator of General Services, and appropriate representatives of State and local governments, and Indian tribes, and property owners in the United States prior to selecting a location for any new port constructed pursuant to paragraph (1).

(B) CONSIDERATIONS.—The purpose of the consultations required by subparagraph (A) shall be to minimize any negative impacts of such a new port on the environment, culture, commerce, and quality of life of the communities and residents located near such new port.

(b) EXPANSION AND MODERNIZATION OF HIGH-VOLUME SOUTHERN BORDER PORTS OF ENTRY.—Not later than September 30, 2021, the Secretary shall expand or modernize the primary and secondary inspection lanes for vehicle, cargo, and pedestrian inbound and outbound inspection lanes at ports of entry on the southern border, as

determined by the Secretary, for the purposes of reducing wait times and enhancing security, as determined by the Secretary.

(c) **PORT OF ENTRY PRIORITIZATION.**—Prior to constructing any new ports of entry pursuant to subsection (a), the Secretary shall complete the expansion and modernization of ports of entry pursuant to subsection (b) to the extent practicable.

(d) **NOTIFICATIONS.**—

(1) **RELATING TO NEW PORTS OF ENTRY.**—Not later than 15 days after determining the location of any new port of entry for construction pursuant to subsection (a), the Secretary shall notify the Members of Congress who represent the State or congressional district in which such new port of entry will be located, as well as the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways and Means, and the Committee on the Judiciary of the House of Representatives. Such notification shall include information relating to the location of such new port of entry, a description of the need for such new port of entry and associated anticipated benefits, a description of the consultations undertaken by the Secretary pursuant to paragraph (2) of such subsection, any actions that will be taken to minimize negative impacts of such new port of entry, and the anticipated time-line for construction and completion of such new port of entry.

(2) **RELATING TO HIGH VOLUME.**—Not later than 180 days after enactment of this Act, the Secretary shall notify the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways and Means, and the Committee on the Judiciary of the House of Representatives of the top ten high-volume ports of entry on the southern border pursuant to subsection (b) and the Secretary's plan for expanding or modernizing the primary and secondary inspection lanes at each such port of entry.

SEC. 202. SECURE COMMUNICATIONS.

(a) **IN GENERAL.**—The Secretary shall ensure that each U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a secure two-way communication device, supported by system interoperability, that allows each such officer to communicate—

(1) between ports of entry and inspection stations; and

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

(b) **LAND BORDER AGENTS AND OFFICERS.**—The Secretary shall ensure that each U.S. Customs and Border Protection agent or officer assigned or required to patrol on foot, by horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-band encrypted portable radio.

SEC. 203. BORDER SECURITY DEPLOYMENT PROGRAM.

(a) **EXPANSION.**—Not later than September 30, 2021, the Secretary shall fully implement the Border Security Deployment Program of the U.S. Customs and Border Protection and expand the integrated surveillance and intrusion detection system at land ports of entry along the southern border and the northern border.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated \$33,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 204. PILOT AND UPGRADE OF LICENSE PLATE READERS AT PORTS OF ENTRY.

(a) **UPGRADE.**—Not later than one year after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate readers on the northern and southern borders on incoming and outgoing vehicle lanes.

(b) **PILOT PROGRAM.**—Not later than 90 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall conduct a one-month pilot program on the southern border using license plate readers for one to two cargo lanes at the top three high-volume land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait times for commercial traffic and tractor-trailers.

(c) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Finance of the Senate, and the Committee on Homeland Security, and Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives the results of the pilot program under subsection (b) and make recommendations for implementing use of such technology on the southern border.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated \$125,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 205. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) **IN GENERAL.**—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three land ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without re-configuration of existing lanes.

(b) **REPORT.**—Not later than 90 days after the conclusion of the operational demonstration under subsection (a), the Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report that describes the following:

- (1) The effects of such demonstration on legitimate travel and trade.
- (2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.
- (3) The effectiveness of such demonstration in combating terrorism and smuggling.

SEC. 206. BIOMETRIC EXIT DATA SYSTEM.

(a) **IN GENERAL.**—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by inserting after section 417 the following new section:

“SEC. 418. BIOMETRIC ENTRY-EXIT.

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

“(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives an implementation plan to establish a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

“(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs of such a system, that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

“(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

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

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

“(E) information received after consultation with private sector stakeholders, including the—

“(i) trucking industry;

“(ii) airport industry;

“(iii) airline industry;

“(iv) seaport industry;

“(v) travel industry; and

“(vi) biometric technology industry;

“(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this Act may be impacted by, or incorporated into, such a system;

“(G) defined metrics of success and milestones;

“(H) identified risks and mitigation strategies to address such risks; and

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

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

“(A) 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

“(B) 10 United States seaports that support the highest volume of international sea travel, as determined by available Federal travel data; and

“(C) 15 United States land ports of entry that support the highest volume of vehicle, pedestrian, and cargo crossings, as determined by available Federal border crossing data.

“(b) IMPLEMENTATION.—

“(1) PILOT PROGRAM AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—Not later than six months after the date of the enactment of this section, the Secretary, in collaboration with industry stakeholders, shall establish a six-month pilot program to test the biometric exit data system referred to in subsection (a)(2) on non-pedestrian outbound traffic at not fewer than three land ports of entry with significant cross-border traffic, including at not fewer than two land ports of entry on the southern land border and at least one land port of entry on the northern land border. Such pilot program may include a consideration of more than one biometric mode, and shall be implemented to determine the following:

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

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

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

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

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

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

“(2) AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—

“(A) IN GENERAL.—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of non-pedestrian outbound traffic.

“(B) EXTENSION.—The Secretary may extend for a single two-year period the date specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives that the 15 land ports of entry that support the highest volume of passenger vehicles, as determined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a biometric exit data system.

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

“(4) AT LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of pedestrians.

“(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary, in consultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

“(d) TERMINATION OF PROCEEDING.—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”)', issued on April 24, 2008 (73 Fed. Reg. 22065).

“(e) DATA-MATCHING.—The biometric exit data system established under this section shall—

“(1) match biometric information for an individual who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

“(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

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

“(A) store biometrics of known or suspected terrorists; and

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

“(f) SCOPE.—

“(1) IN GENERAL.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

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

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

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

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

“(i) FACILITIES.—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity. For non-federally owned facilities, such space shall be provided and maintained at no cost to the Government.

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

“(k) FAIR AND OPEN COMPETITION.—The Secretary shall procure goods and services to implement this section via fair and open competition in accordance with the Federal Acquisition Regulations.

“(l) OTHER BIOMETRIC INITIATIVES.—The Secretary may pursue biometric initiatives at air, land, and sea ports of entry for the purposes of border security and trade facilitation distinct from the biometric exit data system described in this section.

“(m) CONGRESSIONAL REVIEW.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and Committee on the Judiciary of the House of Representatives reports and recommendations regarding the Science and Technology Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

“(n) SAVINGS CLAUSE.—Nothing in this section shall prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 417 the following new item:

“Sec. 418. Biometric entry-exit.”

SEC. 207. SENSE OF CONGRESS ON COOPERATION BETWEEN AGENCIES.

(a) FINDING.—Congress finds that personnel constraints exist at land ports of entry with regard to sanitary and phytosanitary inspections for exported goods.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in the best interest of cross-border trade and the agricultural community—

(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate the crossing and trade of perishable goods in a manner consistent with rules of the Department of Agriculture; and

(2) cross designation should be available for personnel who will assist more than one agency or department at land ports of entry to facilitate increased trade and commerce.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

In addition to any amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated \$1,250,000,000 for each of fiscal years 2018 through 2021 to carry out this title, of which—

(1) \$2,000,000 shall be used by the Secretary for hiring additional Uniform Management Center support personnel, purchasing uniforms for CBP officers and agents, acquiring additional motor vehicles to support vehicle mounted surveillance systems, hiring additional motor vehicle program support personnel, and for contract support for customer service, vendor management, and operations management; and

(2) \$250,000,000 per year shall be used to implement the biometric exit data system described in section 418 of the Homeland Security Act of 2002, as added by section 206 of this Act.

SEC. 209. DEFINITION.

In this title, the term “Secretary” means the Secretary of Homeland Security.

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PURPOSE AND SUMMARY

The security of our Nation hinges on how effectively our government controls who and what enters the country both at, and between, the official ports of entry. The Department of Homeland Security (DHS) is charged with the important mission to secure the Nation’s borders and ports of entry against a wide array of domestic threats. A porous border is a conduit for transnational criminal organizations, smugglers and human traffickers, and a vulnerability that terrorists may exploit. Supporting and overseeing the Department of Homeland Security’s efforts to secure the Nation’s borders is a principal responsibility of the House Committee on Homeland Security.

Earlier this year, the number of apprehensions at the southern border fell to 17-year lows. However, it now appears that precipitous decline was only a temporary pause in illegal migration, making the need to find a permanent border security solution all the more urgent. The Committee maintains that operational control of our borders must be achieved through smart deployments of infrastructure, technology, and personnel.

H.R. 3548 provides \$10 billion for the deployment and construction of tactical infrastructure and technology to the southern and northern border to achieve operational control and situational awareness. It also specifically authorizes the construction of wall, levee wall, and other barriers along the southern border in a manner the Secretary of Homeland Security deems “most practical and effective.”

Terrain features and threats along the border vary widely. As a result, a “one-size-fits-all” solution will fail at achieving operational control and situational awareness along the southern border. Therefore, this legislation mandates a sector-by-sector technology capability deployment tailored to the specific threats and needs of each Border Patrol sector. The Committee is cognizant of the changing nature of the threat landscape along the border and was purposeful in its grant of tactical flexibility to the Secretary of Homeland Security, should the required deployment of technology outlined in the bill need to be altered.

Frontline officers and agents are the most important border security resource at the Nation’s disposal. Tactical infrastructure and technology are powerful force multipliers, but the goal of border security is, and will always be, successful apprehension or interdiction. For this reason, this bill authorizes an additional 5,000 Border Patrol Agents and 5,000 Customs and Border Protection Officers. Hiring and retention have been serious challenges for this Department, so this bill also streamlines the way that veterans of the United States Armed Forces, and existing law enforcement officers can be hired in an attempt to help the agency meet these lofty personnel goals.

While much of the narrative that surrounds border security is rightly focused on efforts to secure the southern border, last year there were almost twice as many individuals present in the United States on an expired visa as those apprehended crossing the border. While the law has been clear since 2004 that DHS is required to complete a biometric exit system, a lack of a definitive timeline and benchmarks for success have allowed Administrations of both parties to avoid compliance with the law. Taking a “crawl, walk, run” approach, this bill remedies those challenges and mandates full deployment of an exit system at all air, land, and sea ports of entry with timelines and benchmarks to finally make this 9/11 Commission recommendation a reality.

BACKGROUND AND NEED FOR LEGISLATION

While the number of people illegally crossing the border temporarily dropped earlier this year, the threat posed by foreign drug cartels and transnational criminal organizations remains extraordinarily high. Over the years, Congress has appropriated billions of dollars to strengthen border security, through new investments in personnel, technology, and infrastructure, but the border is not measurably more secure than it was several years ago.

Rather than continue the flawed approaches of the past, this bill provides DHS with a specific guide to secure the border. This multi-layered approach is designed to deter, detect, and help interdict illegal cross-border activity at the earliest possible point. This bill clearly and effectively communicates a message: the United

States will not tolerate illicit activity at our borders and ports of entry.

HEARINGS

No hearings were held on H.R. 3548 in the 115th Congress. However the Committee held the following oversight hearings which informed the legislation:

114th Congress

On April 22, 2015, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “Acquisition Oversight: How Effectively Is DHS Safeguarding Taxpayer Dollars?” The Subcommittee received testimony from Ms. Michele Mackin, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; Hon. Chip Fulghum, Chief Financial Officer, U.S. Department of Homeland Security; and Dr. Cedric Sims, Partner, Evermay Consulting Group.

On June 2, 2015, the Subcommittee on Border and Maritime Security held a hearing entitled “The Outer Ring of Border Security: DHS’s International Security Programs.” The Subcommittee received testimony from Hon. Alan D. Bersin, Assistant Secretary and Chief Diplomatic Officer, Office of Policy, U.S. Department of Homeland Security; Mr. John Wagner, Deputy Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. Lev J. Kubiak, Assistant Director, International Operations, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

On June 10, 2015, the Subcommittee on Emergency Preparedness, Response, and Communications held a hearing entitled “Defense Support of Civil Authorities: A Vital Resource in the Nation’s Homeland Security Missions.” The Subcommittee received testimony from Mr. Robert H. Fenton, Jr., Deputy Associate Administrator, Office of Response and Recovery, Federal Emergency Management Agency, U.S. Department of Homeland Security; Mr. Robert G. Salesses, Deputy Assistant Secretary, Homeland Defense Integration and Defense Support of Civil Authorities, U.S. Department of Defense; Brg. Gen. Joseph E. Whitlock, Deputy Director, Western Hemisphere, Strategic Plans and Policy Directorate (J5), Joint Staff, U.S. Department of Defense; Joseph W. Kirschbaum, Ph.D., Director, Defense Capabilities and Management, U.S. Government Accountability Office; Maj. Gen. Michael T. McGuire, Adjutant General, Department of Emergency and Military Affairs, State of Arizona; Mr. Jimmy J. Gianato, Director, Division of Homeland Security and Emergency Management, State of West Virginia, *testifying on behalf of the National Emergency Management Association*; and Mr. Peter Gaynor, Director, Emergency Management Office, State of Rhode Island.

On July 14, 2015, the Subcommittee on Border and Maritime Security held a hearing entitled “Securing the Maritime Border: The future of the CBP Air and Marine.” The Subcommittee received testimony from Mr. Randolph D. Alles, Assistant Commissioner, Office of Air and Marine, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Hon. John Roth, In-

spector General, Office of Inspector General, U.S. Department of Homeland Security.

On November 4, 2015, the Subcommittee on Border and Maritime Security held a hearing entitled “A New Approach to Increase Trade and Security: An Examination of CBP’s Public Private Partnerships.” The Subcommittee received testimony from Mr. John Wagner, Deputy Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Hon. Michael Gelber, Deputy Commissioner, Public Buildings Service, U.S. General Services Administration; Mr. Sam F. Vale, President, Starr–Camargo Bridge Company; and Mr. David A. Garcia, County Administrator, Cameron County, Texas.

On March 1, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “Transparency, Trust and Verification: Measuring Effectiveness and Situational Awareness along the Border.” The Subcommittee received testimony from Mr. Ronald D. Vitiello, Acting Chief, U.S. Border Patrol, U.S. Department of Homeland Security; Maj. Gen. Randolph D. “Tex” Alles (Ret.–USMC), Assistant Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

On April 19, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “Keeping Pace with Trade, Travel, and Security: How does CBP Prioritize and Improve Staffing and Infrastructure?” The Subcommittee received testimony from Mr. Eugene Schied, Acting Executive Assistant Commissioner, Office of Enterprise Services, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Ms. Linda Jacksta, Assistant Commissioner, Office of Human Resources Management, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. John P. Wagner, Deputy Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. Michael Gelber, Deputy Commissioner, Public Buildings Service, U.S. General Services Administration; and Mr. Anthony Reardon, National President, National Treasury Employees Union.

On May 9, 2016, the Subcommittee on Border and Maritime Security held a field hearing in Sahuarita, Arizona, entitled “Life on the Border: Examining Border Security through the Eyes of Local Residents and Law Enforcement.” The Subcommittee received testimony from Hon. Mark Dannels, Sheriff, Cochise County, Arizona; Hon. Danny Ortega, Mayor, Douglas, Arizona; Mr. Art Del Cueto, President, Local 2544, National Border Patrol Council; Mr. Dan Bell, President, ZZ Cattle Corporation; Mr. Mark S. Adams, Coordinator, Frontera De Cristo; Mr. Jaime S. Chamberlain, President, J–C Distributing Inc.; Ms. Nan Stockholm–Walden, Vice President and Legal Counsel, Farmers Investment Co. (FICO); and Mr. Frank Krentz, Rancher.

On May 24, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “Border Security Gadgets, Gizmos, and Information: Using Technology to Increase Situational Awareness and Operational Control.” The Subcommittee received testimony from Mr. Ronald Vitiello, Acting Chief, U.S. Border Patrol,

U.S. Department of Homeland Security; Maj. Gen. Randolph D. “Tex” Alles (Ret.–USMC), Executive Assistant Commissioner, Office of Air and Marine Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. Mark Borkowski, Assistant Commissioner and Chief Acquisition Executive, Office of Technology Innovation and Acquisition, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

On June 14, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “Overstaying Their Welcome: National Security Risks Posed by Visa Overstays.” The Subcommittee received testimony from Mr. John Wagner, Deputy Assistant Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. Craig Healy, Assistant Director for National Security Investigations, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Ms. Kelli Ann Burriesci, Deputy Assistant Secretary, Department of Homeland Security’s Screening, Coordination Office, U.S. Department of Homeland Security; and Mr. Robert Burns, Homeland Security Advanced Research Projects Agency Deputy Director, Science and Technology Directorate, U.S. Department of Homeland Security.

On July 7, 2016, the Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure and the Subcommittee on Border and Maritime Security held a joint hearing entitled “An Examination of the Maritime Nuclear Smuggling Threat.” The Subcommittees received testimony from Rear Admiral Linda L. Fagan, Deputy Commandant for Operations, Policy, and Capabilities, U.S. Coast Guard, U.S. Department of Homeland Security; Dr. Todd C. Owen, Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Dr. Wayne Brasure, Acting Director, Domestic Nuclear Detection Office; Ms. Anne Harrington, Deputy Administrator, Defense Nuclear Nonproliferation, National Nuclear Security Administration; Ms. Jennifer Grover, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office; Dr. Gregory H. Canavan, Senior Fellow, Los Alamos National Laboratories; Mr. David A. Espie, Director of Security, Maryland Port Administration, Port of Baltimore; and Mr. James H.I. Weakley, President, Lake Carriers’ Association.

On September 13, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “Moving the Line of Scrimmage: Re-examining the Defense-in-Depth Strategy.” The Subcommittee received testimony from Mr. Mark Morgan, Chief, U.S. Border Patrol, U.S. Department of Homeland Security; Ms. Peggy Davis, Private Citizen; Mr. Gary Brasher, Private Citizen; Dr. Elyse Golob, Executive Director, National Center for Border Security and Immigration, The University of Arizona; and Mr. Christian Ramirez, Director, Southern Border Communities Coalition.

115th Congress

On February 7, 2017, the Full Committee held a hearing entitled “Ending the Crisis: America’s Borders and the Path to Security.”

The Committee received testimony from Hon. John F. Kelly, Secretary, U.S. Department of Homeland Security; Mr. Steve C. McCraw, Director, Texas Department of Homeland Security; Mr. Joe Frank Martinez, Sheriff, Val Verde County, Texas; Mr. Leon N. Wilmot, Sheriff, Yuma County, Arizona; and The Honorable Eddie Treviño, Jr., County Judge, Cameron County, Texas.

On February 16, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “A Dangerous and Sophisticated Adversary: The Threat to the Homeland Posed by Cartel Operations.” The Subcommittee received testimony from Vice Admiral Charles Ray, Deputy Commandant for Operations, U.S. Coast Guard, U.S. Department of Homeland Security; Chief Paul A. Beeson, Commander, Joint Task Force-West, Arizona, U.S. Department of Homeland Security; Mr. Matt Allen, Assistant Director for HSI Investigative Programs, Homeland Security Investigations, U.S. Department of Homeland Security; and Mr. Luis E. Arreaga, Principal Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State.

On April 4, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Defeating a Sophisticated and Dangerous Adversary: Are the New Border Security Task Forces the Right Approach?” The Subcommittee received testimony from Vice Admiral Karl Schultz, Director, Joint Task Force-East, U.S. Department of Homeland Security; Chief Paul A. Beeson, Commander, Joint Task Force-West, U.S. Department of Homeland Security; Ms. Janice Ayala, Director, Joint Task Force-Investigations Homeland Security Investigations; and Ms. Rebecca Gambler, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

On May 18, 2017, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “From the Border to Disasters and Beyond: Critical Canine Contributions to the DHS Mission.” The Subcommittee received testimony from Mr. Damian Montes, Director, Canine Training Program, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Ms. Melanie Harvey, Director, Threat Assessment Division, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Peter Jaquez, Acting Deputy Chief, Law Enforcement Operations-Specialty Programs, U.S. Border Patrol, U.S. Department of Homeland Security; Dr. Patrick Carrick, Director, Homeland Security Advanced Research Projects Agency, Science and Technology Directorate, U.S. Department of Homeland Security; and Dr. Jennifer Brown, Canine Search Specialist and Team Veterinarian, Urban Search and Rescue-Florida Task Force 2. The Transportation Security and Customs and Border Protection canines units were present and performed detection simulations. TSA canine performed an explosive detection simulation and CBP canines performed agricultural and drug inspection simulations.

On May 23, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Visa Overstays: A Gap in the Nation’s Border Security” The Subcommittee received testimony from Mr. Michael Dougherty, Assistant Secretary, Border, Immigration, and Trade, Office of Policy, U.S. Department of Homeland Security; Mr. John Wagner, Deputy Executive Assistant Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security.

curity; Mr. Clark Settles, Assistant Director, National Security Division, Homeland Security Investigations, U.S. Department of Homeland Security; and Hon. John Roth, Inspector General, Office of the Inspector General, U.S. Department of Homeland Security.

On June 20, 2017, the Subcommittee on Counterterrorism and Intelligence held a field hearing in Central Islip, New York, entitled “Combating Gang Violence on Long Island: Shutting Down the MS-13 Pipeline.” The Subcommittee received testimony from Mr. William Sweeney, Assistant Director in Charge, New York Field Office, Federal Bureau of Investigation, U.S. Department of Justice; Mr. Angel Melendez, Special Agent in Charge, Homeland Security Investigations, Immigration and Customs Enforcement, U.S. Department of Homeland Security; Mr. Timothy Sini, Police Commissioner, Suffolk County, New York; Mr. Michael Marino, Commanding Officer, Gang Investigations Squad, Nassau County Police Department, Nassau County, New York; Mr. Thomas C. Krumpert, Acting Commissioner, Nassau County Police Department, Nassau County, New York; Mr. Vincent DeMarco, Sheriff, Suffolk County New York; Mrs. Evelyn Rodriguez, Suffolk County Resident; Mr. Robert Mickens, Suffolk County Resident; Dr. Howard Koenig, Superintendent of Schools, Central Islip Union Free School District; and Patrick Young, Esq., Program Director, Central American Refugee Center.

On July 25, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Deter, Detect and Interdict: Technology’s Role in Securing the Border.” The Subcommittee received testimony from Mr. Todd C. Owen, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol, U.S. Department of Homeland Security; Mr. Dennis J. Michelini, Acting Executive Director of Operations, Air and Marine Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on October 4, 2017, to consider H.R. 3548, and ordered the measure to be reported to the House with a favorable recommendation, amended, by a recorded vote of 18 yeas and 12 nays, (Roll Call Vote No. 36). The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. McCAUL (#1); was AGREED TO by a recorded vote of 17 yeas and 12 nays, (Roll Call Vote No. 35).

An amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1A); was NOT AGREED TO by a recorded vote of 10 yeas and 17 nays, (Roll Call Vote No. 16).

Page 1, line 3, strike “Border Security for America Act of 2017” and insert “Taking Americans’ Land to Build Trump’s Wall Act of 2017”.

An amendment by MR. VELA to the Amendment in the Nature of a Substitute (#1B); was NOT AGREED TO by a recorded vote of 0 yeas, 26 nays, with 1 voting "Present", (Roll Call Vote No. 17).

Page 3, beginning line 1, insert the following new subsection (and make necessary conforming changes): entitled "(3) Border Wall System."

An amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1C); was NOT AGREED TO by voice vote.

Page 3, after line 8, insert a new paragraph (and redesignate subsequent paragraphs accordingly): entitled "(5) Illegal Border Crossing Effectiveness Rate."

Page 3, strike lines 9 through 12 and insert a new paragraph entitled "(6) Operational Control."

An amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1D); was NOT AGREED TO by voice vote.

Amend section 111 with a new section 111 entitled "Sec. 111. Border Infrastructure Construction Based on Needs in the Field."

Strike section 113 (and redesignate subsequent sections accordingly and make necessary conforming changes).

An amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1E); was NOT AGREED TO by 11 yeas and 17 nays, (Roll Call Vote No. 18).

Strike section 111 (and redesignate subsequent sections accordingly and make necessary conforming changes).

An amendment by MR. VELA to the Amendment in the Nature of a Substitute (#1F); was NOT AGREED TO by a recorded vote of 11 yeas and 17 nays, (Roll Call Vote No. 19).

Page 4, strike lines 10 through 16 and insert a new subsection entitled "(a) In General."

Page 85, beginning line 13, insert the following (and make necessary conforming changes):(2) \$20,000,000 shall be used by the Department of Homeland Security to establish an eminent domain legal defense fund described in section 111;

An amendment by MR. VELA to the Amendment in the Nature of a Substitute (#1G); was NOT AGREED TO by a recorded vote of 11 yeas and 17 nays, (Roll Call Vote No. 20).

Page 4, strike lines 10 through 16 and insert a new subsection entitled "(a) In General."

An amendment by MR. VELA to the Amendment in the Nature of a Substitute (#1H); was NOT AGREED TO by a recorded vote of 14 yeas and 15 nays, (Roll Call Vote No. 21).

Page 4, strike lines 10 through 16 and insert a new subsection entitled "(a) In General."

An amendment by MR. MCCAUL to the Amendment in the Nature of a Substitute (#1I); was AGREED TO by voice vote.

Page 4, line 15, insert "achieve situational awareness and operational control of the border and" after "border to".

Page 5, strike lines 12 through 20 (and make necessary conforming changes).

Page 9, strike lines 7 through 23 (and make necessary conforming changes).

Page 10, line 16, strike the closing quotes and the second period.

Page 10, beginning line 17, insert the following new subsections:

"(4) Tactical Infrastructure."

"(5) Technology."

An amendment by MR. HURD to the Amendment in the Nature of a Substitute (#1J); was AGREED TO by a recorded vote of 17 yeas, 11 nays, and 1 voting "Present", (Roll Call Vote No. 22).

Page 5, beginning line 12, insert the following new clause (and redesignate subsequent clauses accordingly): entitled "(ii) Exception for Certain Tactical Infrastructure."

An amendment by Ms. MCSALLY to the Amendment in the Nature of a Substitute (#1K); was AGREED TO by voice vote.

Page 5, line 16, strike "forward operating bases,".

Page 7, line 15, insert a period after "mination".

At the end of subtitle A of Title I, add a new section entitled "Sec. 125. Agent and Officer Technology Use."

In section 131, redesignate subsection (i) as section (j).

In section 131, insert after subsection (h) the following new subsection entitled "(i) Office of Professional Responsibility."

At the end of subtitle B of title I add a new section entitled "Sec. 134. Training for Officers and Agents of U.S. Customs and Border Protection."

Redesignate sections 205, 206, and 207 as sections 206, 207, and 208, respectively.

Insert after section 204 a new section entitled "Sec. 205. Non-Intrusive Inspection Operational Demonstration."

An amendment by Mr. VELA to the Amendment in the Nature of a Substitute (#1L); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 23).

Page 6, line 1, insert "constructing, installing, or" before "deploying".

Page 6, line 4, insert "the Comptroller General of the United States," after "Agriculture".

Page 6, line 11, insert "in the specific area or region at issue" after "jurisdiction".

Page 7, beginning line 1, strike "Not later than 60 days after the consultation required under clause (i)" and insert "Not later than 180 days prior to commencing construction, installation, or deployment of tactical infrastructure in a specific area or region".

Page 7, line 12, insert "and timeline, projected costs, analysis of alternatives, and plans for the construction, installation, or deployment of tactical infrastructure in that specific area or region, together with specific information on how much of that area or region is privately owned and may be subject to eminent domain, an assessment from the Comptroller General of the United States as to whether there is documentation to support a determination that such construction, installation, or deployment is most practical and effective to achieve operational control and situational awareness, and any written feedback regarding the determination from parties involved in the consultation required under clause (i)" after "area".

Page 7, line 15, insert a period after "mination".

An amendment by Miss RICE of New York to the Amendment in the Nature of a Substitute (#1M); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 24).

Page 8, line 9, insert "and" after the semicolon.

Page 8, strike lines 10 through 20.

An amendment by Ms. JACKSON LEE to the Amendment in the Nature of a Substitute (#1N); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 25).

Page 8, line 20, after "Federal Register." insert the following: "Such publication shall include an identification of the species of animal or type of fauna or flora that may be endangered, including potential extinction, through the actions taken to construct a border fence or border wall under this section."

An amendment by Mr. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1O); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 26).

Page 10, beginning line 8, insert a new subsection entitled "(3) Most Practical and Effective."

An amendment by Mr. KEATING to the Amendment in the Nature of a Substitute (#1P); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 27).

Page 9, beginning line 24, insert the following new subsection (and redesignate subsequent subsections accordingly) entitled "(e) Certification and Conditionality."

An amendment by Ms. BARRAGÁN to the Amendment in the Nature of a Substitute (#1Q); was NOT AGREED TO by voice vote.

Page 13, line 16, insert ", subject to the condition regarding certification specified in subsection (b)," after "shall".

Page 27, beginning line 18, insert the following (and redesignate subsequent subsections accordingly): a new subsection entitled "(b) Certification."

An amendment by MS. BARRAGÁN to the Amendment in the Nature of a Substitute (#1R); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 28).

Page 31, line 17, insert "(but not further than 25 miles from such border)" after "possible".

An amendment by MS. JACKSON LEE to the Amendment in the Nature of a Substitute (#1S); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 29).

In section 115, add at the end the following: "The Chief of the U.S. Border Patrol shall submit to Congress a report on the policies, protocols, and procedures given to Border Patrol agents on how they are to engage United States citizens, lawful permanent residents, tourists, foreign students, and Deferred Action for Childhood Arrivals."

An amendment by MR. LANGEVIN to the Amendment in the Nature of a Substitute (#1T); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 30).

Strike section 120 (and redesignate subsequent sections accordingly and make necessary conforming changes).

An amendment by MR. KATKO to the Amendment in the Nature of a Substitute (#1U); was AGREED TO by voice vote.

At the end of subtitle A of title I, add a new section entitled "Sec. 125. Integrated Border Enforcement Teams."

An amendment by MR. RATCLIFFE to the Amendment in the Nature of a Substitute (#1V); was AGREED TO by voice vote.

At the end of subtitle A of title I, add a new section entitled "Sec. 125. Tunnel Task Forces."

An amendment by MR. PAYNE to the Amendment in the Nature of a Substitute (#1W); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 31).

Page 64, beginning line 17, insert the following new subsection (and redesignate subsequent subsections accordingly): entitled "(i) Office of Professional Responsibility Investigators."

An amendment by MR. VELA to the Amendment in the Nature of a Substitute (#1X); was NOT AGREED TO by a recorded vote of 0 yeas, 28 nays, and 1 voting "Present", (Roll Call Vote No. 32).

Page 85, line 4, strike "In addition" and insert the following: (a) In General.-In additionPage 85, beginning line 18, insert a new subsection entitled "(b) Condition."

An amendment by MR. HURD to the Amendment in the Nature of a Substitute (#1Y); was AGREED TO by a recorded vote of 17 yeas and 12 nays, (Roll Call Vote No. 33).

In section 120, insert after subsection (f) a new subsection (and redesignate subsequent subsections accordingly): entitled "(g) Memoranda of Understanding."

An en bloc amendment by MS. JACKSON LEE to the Amendment in the Nature of a Substitute (#1Z); was NOT AGREED TO by a recorded vote of 12 yeas and 17 nays, (Roll Call Vote No. 34).

Consisting of the following amendments:

Insert after section 204 the following (and redesignate subsequent sections accordingly): a new section entitled "Sec. 205. Travel Restrictions."

Add a new section/ Sect. ____ Prohibits Customs and Border Protection from taking detainees to private detention centers unless Detention Centers are fully staffed and have adequate resources to meet the healthcare and dietary needs of those being detained.

An amendment by Ms. MCSALLY to the Amendment in the Nature of a Substitute (#1AA); was AGREED TO by voice vote.

Add, at the end of section 120(c) of the bill, a new subsection entitled “(4) Saving Clause.”

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

The Committee on Homeland Security considered H.R. 3548 on October 4, 2017, and took the following votes:

ROLL CALL NO. 16

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1A offered by Mr. Thompson of Mississippi.
Not Agreed to: 10 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond		
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan		
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				10	17

ROLL CALL NO. 17

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1B offered by Mr. Vela.
Not Agreed to: 0 yeas, 26 nays, and 1 voting “Present”.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		X
Mr. King of New York		X	Mr. Langevin		X
Mr. Rogers of Alabama		X	Mr. Richmond		

Representative	Yea	Nay	Representative	Yea	Nay
Mr. Duncan of South Carolina		X	Mr. Keating		X
Mr. Barletta		X	Mr. Payne		X
Mr. Perry		X	Mr. Vela		X
Mr. Katko		X	Mrs. Watson Coleman		X
Mr. Hurd		X	Miss Rice of New York		X
Ms. McSally		X	Mr. Correa		X
Mr. Ratcliffe		X	Mrs. Demings		
Mr. Donovan		X	Ms. Barragan		
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				0	26

Voting Present, Ms. Demings.

ROLL CALL NO. 18

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1E offered by Mr. Thompson of Mississippi.

Not Agreed to: 11 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond		
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				11	17

ROLL CALL NO. 19

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1F offered by Mr. Vela.

Not Agreed to: 11 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond		
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				11	17

ROLL CALL NO. 20

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1G offered by Mr. Vela.

Not Agreed to: 11 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond		
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				11	17

ROLL CALL NO. 21

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1H offered by Mr. Vela.
 Not Agreed to: 14 yeas and 15 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				14	15

ROLL CALL NO. 22

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1J offered by Mr. Hurd.
 Agreed to: 17 yeas, 11 nays, and 1 voting "Present".

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair	X		Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		
Mr. King of New York	X		Mr. Langevin		X
Mr. Rogers of Alabama	X		Mr. Richmond		X
Mr. Duncan of South Carolina	X		Mr. Keating		X
Mr. Barletta	X		Mr. Payne		X
Mr. Perry	X		Mr. Vela		X
Mr. Katko	X		Mrs. Watson Coleman		X
Mr. Hurd	X		Miss Rice of New York		X
Ms. McSally	X		Mr. Correa		X
Mr. Ratcliffe	X		Mrs. Demings		X
Mr. Donovan	X		Ms. Barragan		X
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				17	11

Voting Present, Ms. Jackson Lee.

ROLL CALL NO. 23

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1L offered by Mr. Vela.
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				12	17

ROLL CALL NO. 24

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1M offered by Miss Rice of New York.
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				

Representative	Yea	Nay	Representative	Yea	Nay
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 25

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1N offered by Ms. Jackson Lee.

Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				12	17

ROLL CALL NO. 26

On agreeing to the amendment to the Amendment in the Nature of a Substitute #10 offered by Mr. Thompson of Mississippi.

Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	

Representative	Yea	Nay	Representative	Yea	Nay
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 27

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1P offered by Mr. Keating.
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond	X	
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 28

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1R offered by Ms. Barragán
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond	X	
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	

Representative	Yea	Nay	Representative	Yea	Nay
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 29

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1S offered by Ms. Jackson Lee
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond	X	
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 30

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1T offered by Mr. Langevin
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	

Representative	Yea	Nay	Representative	Yea	Nay
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond	X	
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 31

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1W offered by Mr. Payne
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York		X	Mr. Langevin	X	
Mr. Rogers of Alabama		X	Mr. Richmond	X	
Mr. Duncan of South Carolina		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Katko		X	Mrs. Watson Coleman	X	
Mr. Hurd		X	Miss Rice of New York	X	
Ms. McSally		X	Mr. Correa	X	
Mr. Ratcliffe		X	Mrs. Demings	X	
Mr. Donovan		X	Ms. Barragan	X	
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				12	17

ROLL CALL NO. 32

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1X offered by Mr. Vela.
 Not Agreed to: 0 yeas, 28 nays, and 1 voting "Present".

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		X
Mr. King of New York		X	Mr. Langevin		X
Mr. Rogers of Alabama		X	Mr. Richmond		X
Mr. Duncan of South Carolina		X	Mr. Keating		X
Mr. Barletta		X	Mr. Payne		X
Mr. Perry		X	Mr. Vela		X
Mr. Katko		X	Mrs. Watson Coleman		X
Mr. Hurd		X	Miss Rice of New York		X
Ms. McSally		X	Mr. Correa		X
Mr. Ratcliffe		X	Mrs. Demings		
Mr. Donovan		X	Ms. Barragan		X
Mr. Gallagher		X			
Mr. Higgins of Louisiana		X			
Mr. Rutherford		X			
Mr. Garrett		X			
Mr. Fitzpatrick		X			
Mr. Estes		X			
Vote Total:				0	28

Voting Present, Ms. Demings.

ROLL CALL NO. 33

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1Y offered by Mr. Hurd.
Agreed to: 17 yeas and 12 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair	X		Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		X
Mr. King of New York	X		Mr. Langevin		X
Mr. Rogers of Alabama	X		Mr. Richmond		X
Mr. Duncan of South Carolina	X		Mr. Keating		X
Mr. Barletta	X		Mr. Payne		X
Mr. Perry	X		Mr. Vela		X
Mr. Katko	X		Mrs. Watson Coleman		X
Mr. Hurd	X		Miss Rice of New York		X
Ms. McSally	X		Mr. Correa		X
Mr. Ratcliffe	X		Mrs. Demings		X
Mr. Donovan	X		Ms. Barragan		X
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				17	12

ROLL CALL NO. 34

On agreeing to the amendment to the Amendment in the Nature of a Substitute #1Z offered by Ms. Jackson Lee
 Not Agreed to: 12 yeas and 17 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas			Ms. Jackson Lee	X	
Mr. King of New York	X		Mr. Langevin	X	
Mr. Rogers of Alabama	X		Mr. Richmond	X	
Mr. Duncan of South Carolina	X		Mr. Keating	X	
Mr. Barletta	X		Mr. Payne	X	
Mr. Perry	X		Mr. Vela	X	
Mr. Katko	X		Mrs. Watson Coleman	X	
Mr. Hurd	X		Miss Rice of New York	X	
Ms. McSally	X		Mr. Correa	X	
Mr. Ratcliffe	X		Mrs. Demings	X	
Mr. Donovan	X		Ms. Barragan	X	
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				12	17

ROLL CALL NO. 35

On agreeing to the Amendment in the Nature of a Substitute #1 offered by Mr. McCaul, as amended.
 Agreed to: 17 yeas and 12 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair	X		Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		X
Mr. King of New York	X		Mr. Langevin		X
Mr. Rogers of Alabama	X		Mr. Richmond		X
Mr. Duncan of South Carolina	X		Mr. Keating		X
Mr. Barletta	X		Mr. Payne		X
Mr. Perry	X		Mr. Vela		X
Mr. Katko	X		Mrs. Watson Coleman		X
Mr. Hurd	X		Miss Rice of New York		X
Ms. McSally	X		Mr. Correa		X
Mr. Ratcliffe	X		Mrs. Demings		X
Mr. Donovan	X		Ms. Barragan		X
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				17	12

ROLL CALL NO. 36

On ordering H.R. 3548 to be reported to the House of Representatives with a favorable recommendation, as amended.

Agreed to: 18 yeas and 12 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair	X		Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas	X		Ms. Jackson Lee		X
Mr. King of New York	X		Mr. Langevin		X
Mr. Rogers of Alabama	X		Mr. Richmond		X
Mr. Duncan of South Carolina	X		Mr. Keating		X
Mr. Barletta	X		Mr. Payne		X
Mr. Perry	X		Mr. Vela		X
Mr. Katko	X		Mrs. Watson Coleman		X
Mr. Hurd	X		Miss Rice of New York		X
Ms. McSally	X		Mr. Correa		X
Mr. Ratcliffe	X		Mrs. Demings		X
Mr. Donovan	X		Ms. Barragán		X
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Mr. Estes	X				
Vote Total:				18	12

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3548, the Border Security for America Act of 2017, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 3548 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goals and objectives of H.R. 3548 are to gain full situational awareness and operational control of the borders of the United States through the deployment of physical infrastructure, technology, and personnel, as well as leveraging partnerships between various Federal, State, and local entities.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 3548 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that, while H.R. 3548 does not mandate the preemption of any State, local, or Tribal law, the Secretary of Homeland Security may, in accordance with subsection (c) of Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Pub. L. 104–208), as amended by this act, waive “all legal requirements . . . to ensure the expeditious construction, installation, operation, and maintenance of the tactical infrastructure and technology[.]”

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3548 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Border Security for America Act of 2017”.

TITLE I—BORDER SECURITY

Sec. 101. Definitions.

This section sets forth the definitions of key terms as used in the bill.

SUBTITLE A—INFRASTRUCTURE AND EQUIPMENT

Sec. 111. Strengthening the requirements for barriers along the southern border.

This section authorizes the construction of tactical infrastructure and technology along the border where the Secretary of Homeland Security deems it “most practical and effective” to achieve situational awareness and operational control of the border.

The Committee believes that physical barriers are a critical element to U.S. Customs and Border Protection’s (CBP) border security strategy and, as a result, chose to modify existing law to enable the Secretary to deploy such barriers where “most practical and effective” along the southern border. The Committee included a parallel provision that allows the deployment of technology for the same purposes due to the fact that, in some areas of the border, physical barriers may not be the most effective solution. To that end, the Committee provided an exception for this authority in areas of the border where natural terrain features or the remoteness of such area make barriers ineffective. When drafting this section, the Committee had the Boquillas Canyon in Texas, and other nearly impassable terrain in mind.

Sec. 112. Air and Marine Operations flight hours.

This section requires the Department of Homeland Security to increase the number of annual flight hours of CBP’s Air and Marine Operations and requires the Executive Assistant Commissioner for Air and Marine Operations to prioritize requests for support from the Chief of the U.S. Border Patrol.

The Committee remains greatly unsatisfied with the status quo as it relates to the level of support that the office of Air and Marine

Operations (AMO) provides to the U.S. Border Patrol. While the Committee fully understands that there will be a gap between the funded flight hours and true operational need, the Committee believes that AMO is not currently in a position to make adequate progress to close that gap. Therefore, the Committee is left with little choice but to provide the U.S. Border Patrol the ability to contract with air support providers to fly mission critical hours. Moreover, the legislation provides the Chief of the U.S. Border Patrol with exclusive authority over the small Unmanned Aerial Vehicle (UAV) program for the very same reason. The Committee strongly encourages close cooperation with the Federal Aviation Administration and the Executive Assistant Commissioner for Air and Marine to ensure the safe flying of these vehicles and deconfliction with other CBP Air and Marine Aircraft.

Sec. 113. Capability deployment to specific sectors and transit zone.

This section requires DHS to deploy additional infrastructure, surveillance and detection technologies in specific sectors of the U.S. Border Patrol along the northern and southern border.

The Committee believes that each of our international borders come with a unique set of geographical challenges, including diverse and ever-changing threat landscapes. The deployment of infrastructure and technologies must be nuanced. In drafting this bill, the Committee used a sector-by-sector technology approach to border security tailored to the specific threats and needs of each Border Patrol sector. The Committee worked this list of capabilities extensively with both CBP and DHS to ensure that the technology requirements fit the needs of the operators on the ground. However, the Committee is cognizant of the changing nature of the threat landscape along the border and was purposeful in its grant of tactical flexibility to the Secretary of Homeland Security to alter the requirements outlined in the bill.

Additionally, the Committee also believes that the Department should explore a consortium acquisition strategy as a means to accelerate the acquisition of the technology called for in this section

Sec. 114. U.S. Border Patrol physical infrastructure improvements.

This section requires DHS to construct and upgrade existing physical infrastructure and to acquire additional facilities.

The Committee believes that existing physical infrastructure in many stations and checkpoints along the southern border are in dire need of repair and replacement. The Committee encourages the Department to invest significant resources to ensure that the men and women of CBP have adequate conditions as they work to secure the border.

Sec. 115. U.S. Border Patrol activities.

This section requires the Chief of the Border Patrol to direct agents to patrol as close to the border as possible.

The Committee strongly believes that the U.S. Border Patrol's current defense-in-depth strategy is flawed, and unduly endangers Americans who live at or near the border. Ceding sovereign U.S.

territory to drug cartels and others who would do us harm is unacceptable. The Committee strongly encourages the Chief of the Border Patrol to re-evaluate that strategy and replace it with one that prioritizes the deployment of the overwhelming majority of agents to the border. The Committee neither intends nor encourages the deployment of agents to sit on a fixed location on the border, or in a “hands across the border” posture. Instead, the Committee believes that if agents are regularly patrolling along or near the border, American lives and property will be better protected. The Committee fully understands that terrain and access is often an impediment to patrolling along the border and has purposefully provided a narrowly tailored exception to the deployment of agents on those grounds.

Sec. 116. Border security technology program management.

This section requires DHS to document approved baselines, costs, schedules, performance thresholds, and compliance with the Federal Acquisition Regulation Guidelines for its major border security technology acquisition programs that have life-cycle costs of \$300 million or more. Also, it directs DHS to submit a testing and evaluation plan and to use independent verification for new border security technologies.

The Committee believes that while this bill lays out an aggressive timeline for the acquisition of technology and infrastructure, it must be done in a way that wisely and efficiently spends taxpayer dollars. Prior border technology and infrastructure projects experienced significant cost overruns and mismanagement. As border security acquisitions move forward, the Committee believes that acquisition must follow the highest standards and ensure the judicious use of tax dollars.

Sec. 117. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.

This section authorizes the Governors of southern border States to deploy units of the National Guard to assist CBP in securing the border. It also directs the Department of Defense (DoD) to reimburse southern border States for the costs of deployment of units and personnel to assist with border security activities. Additionally, this section authorizes up to \$35 million for such reimbursements.

The Committee believes that the National Guard is a highly effective force multiplier to law enforcement officers and agents on the ground, particularly during the time it will take to assign additional agents, infrastructure, and technology to the border in the course of implementing this Act. The Committee also believes that securing the border is the responsibility of the Federal Government, and that while a State’s National Guard would be a welcome force multiplier, the State should not be held financially responsible for its voluntary contribution to Federal border security efforts.

Sec. 118. Operation Phalanx.

This section reauthorizes the Department of Defense to deploy regular and reserve groups of the Armed Forces to support CBP in

securing the border. It authorizes up to \$75 million for this program.

The Committee believes that Operation Phalanx is highly successful at providing DoD capabilities to Border Patrol agents on the ground, particularly the DoD and Army National Guard's extensive aerial surveillance support under this program. The Committee believes this Operation should remain fully funded in order to leverage the manpower and capabilities of DoD and provide said capabilities to CBP in their effort to secure our borders. Additionally, the Committee believes that support for Operation Phalanx should not come exclusively from Army National Guard units in border States.

Sec. 119. Merida Initiative.

This section reauthorizes the Merida Initiative through Fiscal Year and requires DHS to evaluate and report on the effectiveness of the initiative within 120 days of the date of enactment of this Act. It also requires DHS to make recommendations on how to enhance law enforcement efforts with Mexico and submit a report to Congress within 120 days of the date of enactment.

The Committee believes that Mexico is a critical partner in securing our southern border. Border security efforts must not start at our front door, but rather as far south as possible to stop threats before they reach the southern border of the United States. The Committee believes that capacity building with Mexican counterparts should continue under the Merida Initiative, but with appropriate congressional oversight to ensure that U.S. taxpayer dollars are achieving their stated performance goals. The Committee believes that law enforcement cooperation with Mexican partners should increase where possible and looks forward to DHS recommendations.

Sec. 120. Prohibitions on actions that impede border security on certain Federal land.

This section prohibits the Department of the Interior or Department of Agriculture from impeding, prohibiting, or restricting CBP activities on Federal lands located within 100 miles of the southern border to execute search and rescue operations, and to prevent all unlawful entries into the United States.

The Committee is concerned that Border Patrol agents have difficulty accessing Federal land under the purview of the Secretary of the Interior and Secretary of Agriculture hindering their ability to complete their mission. The Committee believes that the U.S. Border Patrol must have unimpeded access to and along the border in order to effectively complete its mission. Additionally, the Committee has no desire to disturb existing Memoranda of Understanding agreed to between CBP a U.S. National Park, provided that such Memoranda provides the Border Patrol a suitable level of access.

Sec. 121. Landowner and rancher security enhancement.

This section establishes a National Border Security Advisory Committee to consult with the Secretary on border security issues.

The Committee believes that ranchers and landowners along the border are disproportionately affected by cartel activities in their communities. Additionally, ranchers and landowners often allow the Border Patrol to access their private land to complete their mission or lease land to the Federal Government for the construction of technology or infrastructure. The Committee believes that ranchers and landowners near the border must have a formal mechanism to have their voices heard, both as it relates to violence in their communities and to their partnerships with the U.S. Border Patrol and the Federal Government.

Sec. 122. Eradication of carrizo cane and salt cedar.

This section directs DHS to coordinate with Federal and State authorities and, within 90 days, begin eradicating Carrizo Cane and Salt Cedar along the Rio Grande River.

Carrizo Cane and Salt Cedar provide one of the greatest tactical challenges to the detection of illicit activity along the Rio Grande River. Due to the vegetation's thickness, Border Patrol agents cannot detect threats until they are either on the bank of the river, or in the water. The Committee believes that, in order to increase the detection of illegal activity farther from the physical border, and in order to protect agent safety, Carrizo Cane and Salt Cedar must be eradicated along the Rio Grande River.

Sec. 123. Southern border threat analysis.

This section requires the Secretary of DHS to develop a Southern Border Threat Analysis that assesses the current State of border security and identifies necessary improvements to secure the border.

The Committee believes that DHS should complete a comprehensive strategy to secure the border in order to inform the Department's own efforts to gain situational awareness and operational control as well as help inform future border security spending.

To that end, the Committee recommends the threat analysis required in this section include a cohesive concept of operations that aligns with the goals of this bill—situational awareness and operational control. Therefore, the Committee expects the Border Patrol and the Department of Homeland Security to first assess existing tactical capabilities, identify existing gaps and then use an analysis of alternatives to address identified gaps.

Sec. 124. Amendments to U.S. Customs and Border Protection.

This section makes a series of technical and conforming edits to CBP and preclearance authorizations that currently exist in law.

Sec. 125. Agent and officer technology use.

This section requires the Secretary of Homeland Security to ensure that technology is provided to front-line agents and officers.

The Committee believes that technology should not be solely concentrated at command and operations centers, but should be provided directly to the law enforcement officers and agents on the ground in order to stop illegal border activity more effectively.

Sec. 126. Integrated Border Enforcement Teams.

This section establishes the Integrated Border Enforcement Team (IBET) program, which is designed to detect, prevent, investigate, and respond to terrorism and violations of law related to border security principally along the northern border.

The Committee believes that partnership between Federal, State, local, and foreign partners is critical to securing our borders. By establishing a formal mechanism for information sharing and cooperation to occur, the Committee believes that duplication of efforts between agencies will decrease and the detection of illegal activity will be more effective. The Committee is particularly concerned about illegal activity on the much less patrolled northern border, and sees IBETs as a way to leverage scarce resources.

Sec. 127. Tunnel Task Forces.

This section establishes the Tunnel Task Force program within the Department. The Tunnel Task Force leads the Department's efforts in investigating and remediating the threat posed by cross-border tunnels.

The Committee believes that cross border underground tunnels pose a grave risk to national security, and allows cross border illegal activity to occur at a much higher rate. Due to the threat posed by cross border tunnels, a dedicated Task Force, led by U.S. Immigration and Customs Enforcement's Homeland Security Investigations should be established in law to locate and remediate them.

SUBTITLE B—PERSONNEL

Sec. 131. Additional U.S. Customs and Border Protection agents and officers.

This section directs DHS to hire, train, and assign 26,370 Border Patrol agents and 27,725 Customs Officers. This represents an increase of 5,000 agents and officers in each category.

The Committee believes a robust work force is a key aspect in securing the U.S. borders.

With the hiring, training, and assigning of additional personnel along the borders, the Committee believes CBP will increase their ability to stop the flow of illegal immigration and drug smuggling. Additional personnel within this section include: U.S. Border Patrol agents, CBP officers, CBP K-9 units and handlers, Horseback Units, Agricultural Specialists, and other specialized units.

Sec. 132. U.S. Customs and Border Protection retention incentives.

This section authorizes recruitment and retention bonuses and special pay for new CBP officers assigned to remote and hard-to-fill locations.

The Committee believes that in order to attract the best and brightest work force, the Department must offer appropriate incentives to both retain and attract qualified law enforcement personnel.

Sec. 133. Anti-Border Corruption Reauthorization Act.

This section authorizes the Commissioner of CBP to waive the polygraph examination required of CBP applicants in three, narrowly tailored circumstances. Eligible individuals include current State and local law enforcement officers who have already passed a polygraph examination, Federal law enforcement officers who have already passed a stringent background investigation, and veterans with at least three consecutive years in the military who have held a clearance and passed a background check.

The Committee believes that this streamlined approach in hiring law enforcement officers and select military members will support CBP's efforts to fill current and future vacancies in an expeditious manner while maintaining hiring standards.

Sec. 134. Training for officers and agents of U.S. Customs and Border Protection.

This section requires agents and officers to undergo 21 weeks of mandatory training and provides additional training for first and second line supervisors.

Agents and officers of U.S. Customs and Border Protection have perform a difficult job every day. The Committee believes that it is CBP's responsibility to ensure that they are properly trained and equipped with the skills they will need to be successful. Additional training will ensure that agents can are confident in their ability to track down groups of drug traffickers, provide them additional time to become proficient in a foreign language, and reduce the likelihood that misconduct will occur.

Further, this section requires CBP to establish formal leadership training for first and second line supervisors to ensure that they know how to properly manage and supervise subordinates. These basic leadership courses are required in most professional organizations, such as the military, and should be likewise be required of the U.S. Customs and Border Protection.

SUBTITLE C—GRANTS

Sec. 141. Operation Stonegarden.

This section authorizes \$110 million to increase coordination and collaboration between CBP and State, county, Tribal, and other governmental law enforcement entities that support border security operations.

The Committee believes that State, county, Tribal and other governmental law enforcement entities are vital partners in securing the homeland. These funds will assist in the procurement of necessary equipment to secure the border and may be used to pay for personnel expenses incurred by partner agencies.

SUBTITLE D—AUTHORIZATION OF APPROPRIATIONS

Sec. 151. Authorization of appropriations.

This section authorizes \$10 billion over 4 years to cover costs for implementation of the Act.

TITLE II-EMERGENCY PORT OF ENTRY PERSONNEL AND
INFRASTRUCTURE FUNDING

Sec. 201. Ports of entry infrastructure.

This section requires DHS to expand vehicle, cargo, and pedestrian inspection lanes at ports of entry on the southern border through additional primary and secondary inspection lanes.

The Committee believes that in carrying out the authority granted in subsection (a), the Secretary should assign high priority to the construction of new ports of entry to replace older ports of entry that no longer meet CBP security standards, which would substantially increase the flow of commerce. Moreover, the Committee strongly believes that the Secretary should carefully consider the potential economic impacts to local communities when constructing a new port of entry.

Construction of new ports of entry is a timely and costly endeavor and the Committee believes that, to the degree practicable, the Secretary should first consider modernization and expansion before considering new construction.

Sec. 202. Secure communications.

This section requires DHS to provide all CBP agents and officers with secure communications equipment to streamline communication. In addition, this section requires DHS to provide multi-band, encrypted radios to agents or officers for communications between ports of entry and for those required to patrol on foot, by horseback, with canine units, or in other remote mission-critical locations.

The Committee supports the use of Long-Term Evolution (LTE) in providing communications along the border. This section requires the use of LTE along the border, but the Committee is fully aware that LTE coverage along the border is limited, especially in some of the rural and remote areas of the border. For that reason, the Committee requires LTE capable radios, or other devices only where it enhances communications and is cost effective.

The Committee recognizes the developing role of LTE and the significant investments in LMR along the border to provide secure communications. When operationally feasible, LTE shall be deployed to compliment or enhance LMR's capability, with the goal of improving agent and officer safety. The LTE capability requirement in this section can be fulfilled by having LTE capability built into a radio or through another device.

The Committee strongly believes that providing secure, encrypted communications is an officer and agent safety issue that must be prioritized by the Department.

Sec. 203. Border security deployment program.

This section funds and expands the border surveillance and intrusion technology program at the Nation's ports of entry.

The Committee believes that modern technology is a key force multiplier to securing the border. Ports of entry are an often-overlooked element in securing our border, and greater emphasis must be put on updating technology at ports of entry, as well as between them, on the border.

Sec. 204. Pilot and upgrade of license plate readers at ports of entry.

This section requires an upgrade of existing license plate readers used on incoming and outgoing vehicle lanes along the northern and southern borders. This section also authorizes CBP to conduct a 6-month pilot on the southern border that utilizes license plate readers in all cargo processing lanes to determine their effectiveness in reducing cross-border wait times for commercial traffic and tractor-trailers.

The Committee believes that moving cargo and vehicles expeditiously through ports of entry is critical to our economy. However, moving cargo quickly cannot jeopardize our national security. Updating license plate readers will allow vehicles to proceed across the border more rapidly, and expanding the use of this proven technology will increase cargo security efforts at our ports of entry.

Sec. 205. Non-intrusive inspection operational demonstration.

This section requires the deployment of a high throughput non-intrusive passenger vehicle inspection system at not fewer than three land ports of entry along the southern border.

The Committee believes that all passenger vehicles should undergo Non-Intrusive Imaging, as a large amount of smuggling occurs in passenger vehicles, and believes that high-throughput inspection has the potential to increase both security and the flow of commerce at the Nation's ports of entry.

Sec. 206. Biometric exit data system.

This section directs DHS to complete and implement a biometric exit system at all air, land, and sea ports of entry.

A mandate to electronically track entries and exits from the country has been in place for more than 20 years, and a mandate for a biometric-based entry-exit system has been a statutory requirement for 12 years.

The Committee added this provision to provide DHS with a roadmap for success and, for the first time in statute, would provide definitive timelines for the execution of a biometric exit system.

Sec. 207. Sense of Congress on cooperation between agencies.

This section expresses the sense of Congress that the lack of certified inspection personnel at ports of entry should be addressed by seeking cooperation between agencies through a Memorandum of Understanding (MOU) or certification process, and that agents should be authorized for additional hours to facilitate the crossing and trade of perishable goods.

The Committee believes that CBP should leverage MOUs and cross-certification to combat a shortage of inspectors required for cross-border agricultural trade.

Sec. 208. Authorization of appropriations.

This section authorizes \$5 billion over 4 years to carry out staffing increases and infrastructure improvements.

Sec. 209. Definition.

This section defines the term “secretary” to mean the Secretary of Homeland Security.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**ILLEGAL IMMIGRATION REFORM AND IMMIGRANT
RESPONSIBILITY ACT OF 1996**

* * * * *

**TITLE I—IMPROVEMENTS TO BORDER
CONTROL, FACILITATION OF LEGAL
ENTRY, AND INTERIOR ENFORCE-
MENT**

**Subtitle A—Improved Enforcement at the
Border**

* * * * *

**SEC. 102. IMPROVEMENT OF BARRIERS AT
BORDER.**

[(a) *IN GENERAL.*—The Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.]

(a) IN GENERAL.—The Secretary of Homeland Security shall take such actions as may be necessary (including the removal of obstacles to detection of illegal entrants) to construct, install, deploy, operate, and maintain tactical infrastructure and technology in the vicinity of the United States border to achieve situational awareness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas.

(b) CONSTRUCTION OF [FENCING] *PHYSICAL BARRIERS AND ROAD IMPROVEMENTS ALONG THE BORDER.*—

(1) ADDITIONAL FENCING ALONG SOUTHWEST BORDER.—

(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain *situational awareness and operational control* of the southwest border.

【(B) PRIORITY AREAS.—In carrying out this section, the Secretary of Homeland Security shall—

【(i) identify the 370 miles, or other mileage determined by the Secretary, whose authority to determine other mileage shall expire on December 31, 2008, along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

【(ii) not later than December 31, 2008, complete construction of reinforced fencing along the miles identified under clause (i).】

(B) TACTICAL INFRASTRUCTURE.—

(i) *IN GENERAL.*—Not later than January 20, 2021, the Secretary of Homeland Security, in carrying out subsection (a), shall deploy along the United States border the most practical and effective tactical infrastructure available for achieving situational awareness and operational control of the border.

(ii) *EXCEPTION FOR CERTAIN TACTICAL INFRASTRUCTURE.*—The deployment of tactical infrastructure under this subparagraph shall not apply in areas along the border where natural terrain features, natural barriers, or the remoteness of such area would make deployment ineffective, as determined by the Secretary, for the purposes of gaining situational awareness or operational control of such areas.

(C) CONSULTATION.—

【(i) *IN GENERAL.*—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.】

(i) *IN GENERAL.*—In carrying out this section, the Secretary of Homeland Security shall, before deploying tactical infrastructure in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, the Governors for each State on the southern land border and northern land border, other States, local governments, Indian tribes, representatives of the U.S. Border Patrol and U.S. Customs and Border Protection, relevant Federal, State, local, and tribal agencies that have jurisdiction on the southern land border or in the maritime environment along the southern border, and private property owners in the United States to minimize the impact on the environment, culture, commerce, quality of life for the communities and residents located near the sites at which physical barriers, tactical infrastructure, and technology are to be constructed.

(ii) *NOTIFICATION.*—Not later than 60 days after the consultation required under clause (i), the Secretary of

Homeland Security shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the type of tactical infrastructure and technology the Secretary has determined is most practical and effective to achieve operational control and situational awareness in a specific area and the other alternatives the Secretary considered before making such a determination.

[(ii)] (iii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

(I) create or negate any right of action for a State, local government, or other person or entity affected by this subsection; or

(II) affect the eminent domain laws of the United States or of any State.

(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The [Attorney General] *Secretary of Homeland Security*, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence [construction of fences] *the construction of physical barriers* immediately following such acquisition (or conclusion of portions thereof).

[(3) SAFETY FEATURES.—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.]

(3) AGENT SAFETY.—*In carrying out this section, the Secretary of Homeland Security, when constructing tactical infrastructure, shall incorporate such safety features into the design of such tactical infrastructure that the Secretary determines, in the Secretary's sole discretion, are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency.*

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) WAIVER.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

Any such decision by the Secretary shall be effective upon being published in the Federal Register.】

(1) *IN GENERAL.*—*Notwithstanding any other provision of law, the Secretary of Homeland Security is authorized to waive all legal requirements the Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious construction, installation, operation, and maintenance of the tactical infrastructure and technology under this section. Any such decision by the Secretary shall be effective upon publication in the Federal Register.*

(2) **FEDERAL COURT REVIEW.**—

(A) **IN GENERAL.**—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

(B) **TIME FOR FILING OF COMPLAINT.**—Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

(C) **ABILITY TO SEEK APPELLATE REVIEW.**—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

【(d) Omitted—Amends another Act.】

(e) **CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF TECHNOLOGY.**—*Not later than January 20, 2021, the Secretary of Homeland Security, in carrying out subsection (a), shall deploy along the United States border the most practical and effective technology available for achieving situational awareness and operational control of the border.*

(f) **DEFINITIONS.**—*In this section:*

(1) **HIGH TRAFFIC AREAS.**—*The term “high traffic areas” means areas in the vicinity of the United States border that—*

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

(B) *have significant unlawful cross-border activity.*

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

(3) **SITUATIONAL AWARENESS DEFINED.**—*The term “situational awareness” has the meaning given such term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328).*

(4) **TACTICAL INFRASTRUCTURE.**—*The term “tactical infrastructure” means—*

(A) *boat ramps, access gates, checkpoints, lighting, and roads; and*

(B) *physical barriers (including fencing, border wall system, and levee walls).*

(5) *TECHNOLOGY DEFINED.*—The term “technology” includes border surveillance and detection technology, including the following:

- (A) *Tower-based surveillance technology.*
- (B) *Deployable, lighter-than-air ground surveillance equipment.*
- (C) *Vehicle and Dismount Exploitation Radars (VADER).*
- (D) *3-dimensional, seismic acoustic detection and ranging border tunneling detection technology.*
- (E) *Advanced unattended surveillance sensors.*
- (F) *Mobile vehicle-mounted and man-portable surveillance capabilities.*
- (G) *Unmanned aerial vehicles.*

* * * * *

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

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

Sec. 1. Short title; table of contents.

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TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

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Subtitle B—U.S. Customs and Border Protection

* * * * *

Sec. 418. Biometric entry-exit.

* * * * *

Subtitle C—Miscellaneous Provisions

* * * * *

Sec. 434. Border security technology program management.

Sec. 435. Integrated Border Enforcement Teams.

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

Sec. 2001. Definitions.

Subtitle A—Grants to States and High-Risk Urban Areas

* * * * *

Sec. 2009. Operation Stonegarden.

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.

(a) IN GENERAL.—There is established in the Department an agency to be known as U.S. Customs and Border Protection.

(b) COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.—

(1) IN GENERAL.—There shall be at the head of U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection (in this section referred to as the “Commissioner”).

(2) COMMITTEE REFERRAL.—As an exercise of the rulemaking power of the Senate, any nomination for the Commissioner submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance.

(c) DUTIES.—The Commissioner shall—

(1) coordinate and integrate the security, trade facilitation, and trade enforcement functions of U.S. Customs and Border Protection;

(2) ensure the interdiction of persons and goods illegally entering or exiting the United States;

(3) facilitate and expedite the flow of legitimate travelers and trade;

(4) direct and administer the commercial operations of U.S. Customs and Border Protection, and the enforcement of the customs and trade laws of the United States;

(5) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States, in cases in which such persons are entering, or have recently entered, the United States;

(6) safeguard the borders of the United States to protect against the entry of dangerous goods;

(7) ensure the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;

(8) in coordination with U.S. Immigration and Customs Enforcement and United States Citizenship and Immigration Services, enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), including—

(A) the inspection, processing, and admission of persons who seek to enter or depart the United States; and

(B) the detection, interdiction, removal, departure from the United States, short-term detention, and transfer of persons unlawfully entering, or who have recently unlawfully entered, the United States;

(9) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

(10) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);

(11) enforce and administer the laws relating to agricultural import and entry inspection referred to in section 421;

(12) in coordination with the Under Secretary for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department's acquisition management directives for major acquisition programs of U.S. Customs and Border Protection;

(13) ensure that the policies and regulations of U.S. Customs and Border Protection are consistent with the obligations of the United States pursuant to international agreements;

(14) enforce and administer—

(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945); and

(B) the Customs–Trade Partnership Against Terrorism program under subtitle B of title II of such Act (6 U.S.C. 961 et seq.);

(15) conduct polygraph examinations in accordance with section 3(1) of the Anti-Border Corruption Act of 2010 (Public Law 111–376; 124 Stat. 4105);

(16) establish the standard operating procedures described in subsection (k);

(17) carry out the training required under subsection (l); **[and]**

(18) *administer the U.S. Customs and Border Protection public private partnerships under subtitle G;*

(19) *administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4431 et seq.; enacted as subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.); and*

[(18)] (20) carry out other duties and powers prescribed by law or delegated by the Secretary.

(d) DEPUTY COMMISSIONER.—There shall be in U.S. Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of U.S. Customs and Border Protection.

(e) U.S. BORDER PATROL.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection the U.S. Border Patrol.

(2) CHIEF.—There shall be at the head of the U.S. Border Patrol a Chief, who shall—

(A) be at the level of Executive Assistant Commissioner within U.S. Customs and Border Protection; and

(B) report to the Commissioner.

(3) DUTIES.—The U.S. Border Patrol shall—

(A) serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported into or

exported from the United States at a place other than a designated port of entry;

(B) deter and prevent the illegal entry of terrorists, terrorist weapons, persons, and contraband; ~~and~~

(C) carry out the small unmanned aerial vehicle requirements pursuant to subsection (f) of section 112 of the Border Security for America Act of 2017; and

~~[(C)] (D) carry out other duties and powers prescribed by the Commissioner.~~

(f) AIR AND MARINE OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an office known as Air and Marine Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of Air and Marine Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—Air and Marine Operations shall—

(A) serve as the law enforcement office within U.S. Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

(B) conduct joint aviation and marine operations with U.S. Immigration and Customs Enforcement;

(C) conduct aviation and marine operations with international, Federal, State, and local law enforcement agencies, as appropriate;

(D) administer the Air and Marine Operations Center established under paragraph (4); and

(E) carry out other duties and powers prescribed by the Commissioner.

(4) AIR AND MARINE OPERATIONS CENTER.—

(A) IN GENERAL.—There is established in Air and Marine Operations an Air and Marine Operations Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the Air and Marine Operations Center an Executive Director, who shall report to the Executive Assistant Commissioner of Air and Marine Operations.

(C) DUTIES.—The Air and Marine Operations Center shall—

(i) manage the air and maritime domain awareness of the Department, as directed by the Secretary;

(ii) monitor and coordinate the airspace for unmanned aerial systems operations of Air and Marine Operations in U.S. Customs and Border Protection;

(iii) detect, identify, and coordinate a response to threats to national security in the air domain, in coordination with other appropriate agencies, as determined by the Executive Assistant Commissioner;

(iv) provide aviation and marine support to other Federal, State, tribal, and local agencies; and

(v) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(g) OFFICE OF FIELD OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Field Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Field Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Field Operations shall coordinate the enforcement activities of U.S. Customs and Border Protection at United States air, land, and sea ports of entry to—

(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

(C) prevent illicit drugs, agricultural pests, and contraband from entering the United States;

(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

(E) administer the National Targeting Center established under paragraph (4);

(F) coordinate with the Executive Assistant Commissioner for the Office of Trade with respect to the trade facilitation and trade enforcement activities of U.S. Customs and Border Protection; and

(G) carry out other duties and powers prescribed by the Commissioner.

(4) NATIONAL TARGETING CENTER.—

(A) IN GENERAL.—There is established in the Office of Field Operations a National Targeting Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the National Targeting Center an Executive Director, who shall report to the Executive Assistant Commissioner of the Office of Field Operations.

(C) DUTIES.—The National Targeting Center shall—

(i) serve as the primary forum for targeting operations within U.S. Customs and Border Protection to collect and analyze traveler and cargo information in advance of arrival in the United States to identify and address security risks and strengthen trade enforcement;

(ii) identify, review, and target travelers and cargo for examination;

(iii) coordinate the examination of entry and exit of travelers and cargo;

(iv) develop and conduct commercial risk assessment targeting with respect to cargo destined for the United States;

(v) coordinate with the Transportation Security Administration, as appropriate;

(vi) issue Trade Alerts pursuant to section 111(b) of the Trade Facilitation and Trade Enforcement Act of 2015; and

(vii) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(5) ANNUAL REPORT ON STAFFING.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, and annually thereafter, the Executive Assistant Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry *compared to the number indicated by the current fiscal year work flow staffing model* .

(B) FORM.—The report required under subparagraph (A) shall, to the greatest extent practicable, be submitted in unclassified form, but may be submitted in classified form, if the Executive Assistant Commissioner determines that such is appropriate and informs the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate of the reasoning for such.

(h) OFFICE OF INTELLIGENCE.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Intelligence.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Intelligence an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Intelligence shall—

(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the duties and responsibilities of U.S. Customs and Border Protection;

(B) manage the counterintelligence operations of U.S. Customs and Border Protection;

(C) establish, in coordination with the Chief Intelligence Officer of the Department, as appropriate, intelligence-sharing relationships with Federal, State, local, and tribal agencies and intelligence agencies;

(D) conduct risk-based covert testing of U.S. Customs and Border Protection operations, including for nuclear and radiological risks; and

(E) carry out other duties and powers prescribed by the Commissioner.

(i) OFFICE OF INTERNATIONAL AFFAIRS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of International Affairs.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of International Affairs an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of Policy of the Department, shall—

- (A) coordinate and support U.S. Customs and Border Protection's foreign initiatives, policies, programs, and activities;
 - (B) coordinate and support U.S. Customs and Border Protection's personnel stationed abroad;
 - (C) maintain partnerships and information-sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of U.S. Customs and Border Protection's duties and responsibilities;
 - (D) provide necessary capacity building, training, and assistance to foreign customs and border control agencies to strengthen border, global supply chain, and travel security, as appropriate;
 - (E) coordinate mission support services to sustain U.S. Customs and Border Protection's global activities;
 - (F) coordinate with customs authorities of foreign countries with respect to trade facilitation and trade enforcement;
 - (G) coordinate U.S. Customs and Border Protection's engagement in international negotiations;
 - (H) advise the Commissioner with respect to matters arising in the World Customs Organization and other international organizations as such matters relate to the policies and procedures of U.S. Customs and Border Protection;
 - (I) advise the Commissioner regarding international agreements to which the United States is a party as such agreements relate to the policies and regulations of U.S. Customs and Border Protection; and
 - (J) carry out other duties and powers prescribed by the Commissioner.
- (j) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
- (1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Professional Responsibility.
 - (2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Professional Responsibility an Assistant Commissioner, who shall report to the Commissioner.
 - (3) DUTIES.—The Office of Professional Responsibility shall—
 - (A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of U.S. Customs and Border Protection;
 - (B) manage integrity-related programs and policies of U.S. Customs and Border Protection;
 - (C) conduct research and analysis regarding misconduct of officers, agents, and other employees of U.S. Customs and Border Protection; and
 - (D) carry out other duties and powers prescribed by the Commissioner.
- (k) STANDARD OPERATING PROCEDURES.—
- (1) IN GENERAL.—The Commissioner shall establish—
 - (A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by

U.S. Customs and Border Protection personnel at United States ports of entry;

(B) standard use of force procedures that officers and agents of U.S. Customs and Border Protection may employ in the execution of their duties, including the use of deadly force;

(C) uniform, standardized, and publicly-available procedures for processing and investigating complaints against officers, agents, and employees of U.S. Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the "Privacy Act" or the "Privacy Act of 1974");

(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of U.S. Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

(E) standard operating procedures, acting through the Executive Assistant Commissioner for Air and Marine Operations and in coordination with the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

(i) a process for other Federal, State, and local law enforcement agencies to submit mission requests;

(ii) a formal procedure to determine whether to approve or deny such a mission request;

(iii) a formal procedure to determine how such mission requests are prioritized and coordinated; and

(iv) a process regarding the protection and privacy of data and images collected by U.S. Customs and Border Protection through the use of unmanned aerial systems.

(2) REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

(A) in the case of a search of information conducted on an electronic device by U.S. Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

(B) in the case of information collected by U.S. Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

(3) EXCEPTIONS.—The Commissioner may withhold the notifications required under paragraphs (1)(C) and (2) if the Commissioner determines, in the sole and unreviewable discretion of the Commissioner, that such notifications would impair national security, law enforcement, or other operational interests.

(4) UPDATE AND REVIEW.—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

(5) AUDITS.—The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and shall include the following:

(A) A description of the activities of officers and agents of U.S. Customs and Border Protection with respect to such searches.

(B) The number of such searches.

(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

(D) The number of such devices detained as the result of such searches.

(E) The number of instances in which information collected from such devices was subjected to such searches and was transmitted to another Federal agency, including whether such transmissions resulted in a prosecution or conviction.

(6) REQUIREMENTS REGARDING OTHER NOTIFICATIONS.—The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

(A) in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

(7) REPORT ON UNMANNED AERIAL SYSTEMS.—The Commissioner shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report, for each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the

Trade Facilitation and Trade Enforcement Act of 2015, that reviews whether the use of unmanned aerial systems is being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

(A) shall be submitted with the annual budget of the United States Government submitted by the President under section 1105 of title 31, United States Code;

(B) may be submitted in classified form if the Commissioner determines that such is appropriate; and

(C) shall include—

(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection are collected and stored; and

(ii) a list of Federal, State, and local law enforcement agencies that submitted mission requests in the previous year and the disposition of such requests.

[(1) TRAINING.—The Commissioner shall require all officers and agents of U.S. Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.]

(l) TRAINING AND CONTINUING EDUCATION.—

(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—*The Commissioner shall ensure that every agent and officer of U.S. Customs and Border Protection receives a minimum of 21 weeks of training that are directly related to the mission of the U.S. Border Patrol, Air and Marine, and the Office of Field Operations before the initial assignment of such agents and officers.*

(2) FLETC.—*The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).*

(3) CONTINUING EDUCATION.—*The Commissioner shall annually require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than eight hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.*

(4) LEADERSHIP TRAINING.—*Not later than one year after the date of the enactment of this subsection, the Commissioner shall develop and require training courses geared towards the development of leadership skills for mid- and senior-level career employees not later than one year after such employees assume duties in supervisory roles.*

(m) SHORT-TERM DETENTION STANDARDS.—

(1) ACCESS TO FOOD AND WATER.—*The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained at a United States port of entry or between ports of entry as*

soon as practicable following the time of such apprehension or during subsequent short-term detention.

(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—

(A) IN GENERAL.—The Commissioner shall ensure that an individual apprehended by a U.S. Border Patrol agent or an Office of Field Operations officer is provided with information concerning such individual's rights, including the right to contact a representative of such individual's government for purposes of United States treaty obligations.

(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

(3) SHORT-TERM DETENTION DEFINED.—In this subsection, the term "short-term detention" means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.

(4) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the procurement process and standards of entities with which U.S. Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of U.S. Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

(6) REPORT ON INSPECTIONS OF SHORT-TERM CUSTODY FACILITIES.—The Commissioner shall—

(A) annually inspect all facilities utilized for short-term detention; and

(B) make publicly available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

(n) WAIT TIMES TRANSPARENCY.—

(1) IN GENERAL.—The Commissioner shall—

(A) publish live wait times for travelers entering the United States at the 20 United States airports that support the highest volume of international travel (as determined by available Federal flight data);

(B) make information about such wait times available to the public in real time through the U.S. Customs and Border Protection website;

(C) submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, for each of the five calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, a report that includes compilations of all such wait times and a ranking of such United States airports by wait times; and

(D) provide adequate staffing at the U.S. Customs and Border Protection information center to ensure timely access for travelers attempting to submit comments or speak with a representative about their entry experiences.

(2) CALCULATION.—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual's entry into the U.S. Customs and Border Protection inspection area and such individual's clearance by a U.S. Customs and Border Protection officer.

(o) OTHER AUTHORITIES.—

(1) IN GENERAL.—The Secretary may establish such other offices or positions of Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of U.S. Customs and Border Protection.

(2) NOTIFICATION.—If the Secretary exercises the authority provided under paragraph (1), the Secretary shall notify the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate not later than 30 days before exercising such authority.

(p) REPORTS TO CONGRESS.—The Commissioner shall, on and after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, continue to submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate any report required, on the day before such date of enactment, to be submitted under any provision of law.

(q) OTHER FEDERAL AGENCIES.—Nothing in this section may be construed as affecting in any manner the authority, existing on the day before the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, of any other Federal agency or component of the Department.

(r) DEFINITIONS.—In this section, the terms “commercial operations”, “customs and trade laws of the United States”, “trade enforcement”, and “trade facilitation” have the meanings given such terms in section 2 of the Trade Facilitation and Trade Enforcement Act of 2015.

* * * * *

SEC. 418. BIOMETRIC ENTRY-EXIT.

(a) ESTABLISHMENT.—*The Secretary shall—*

(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives an implementation plan to establish a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs of such a system, that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

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

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

(E) information received after consultation with private sector stakeholders, including the—

(i) trucking industry;

(ii) airport industry;

(iii) airline industry;

(iv) seaport industry;

(v) travel industry; and

(vi) biometric technology industry;

(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this Act may be impacted by, or incorporated into, such a system;

(G) defined metrics of success and milestones;

(H) identified risks and mitigation strategies to address such risks; and

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

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

(A) 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

(B) 10 United States seaports that support the highest volume of international sea travel, as determined by available Federal travel data; and

(C) 15 United States land ports of entry that support the highest volume of vehicle, pedestrian, and cargo crossings, as determined by available Federal border crossing data.

(b) IMPLEMENTATION.—

(1) *PILOT PROGRAM AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.*—Not later than six months after the date of the enactment of this section, the Secretary, in collaboration with industry stakeholders, shall establish a six-month pilot program to test the biometric exit data system referred to in subsection (a)(2) on non-pedestrian outbound traffic at not fewer than three land ports of entry with significant cross-border traffic, including at not fewer than two land ports of entry on the southern land border and at least one land port of entry on the northern land border. Such pilot program may include a consideration of more than one biometric mode, and shall be implemented to determine the following:

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

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

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

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

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

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

(2) *AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.*—

(A) *IN GENERAL.*—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of non-pedestrian outbound traffic.

(B) *EXTENSION.*—The Secretary may extend for a single two-year period the date specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives that the 15 land ports of entry that support the highest volume of passenger vehicles, as determined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a biometric exit data system.

(3) *AT AIR AND SEA PORTS OF ENTRY.*—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all air and sea ports of entry.

(4) *AT LAND PORTS OF ENTRY FOR PEDESTRIANS.*—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of pedestrians.

(c) *EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.*—The Secretary, in consultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or

cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

(d) *TERMINATION OF PROCEEDING.*—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate the proceeding entitled “Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT)”, issued on April 24, 2008 (73 Fed. Reg. 22065).

(e) *DATA-MATCHING.*—The biometric exit data system established under this section shall—

(1) match biometric information for an individual who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

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

(A) store biometrics of known or suspected terrorists; and

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

(f) *SCOPE.*—

(1) *IN GENERAL.*—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

(2) *EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.*—This section shall not apply in the case of an individual who exits and then enters the United States on a passenger vessel (as such term is defined in section 2101 of title 46, United States Code) the itinerary of which originates and terminates in the United States.

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

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

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

(i) *FACILITIES.*—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity. For non-federally owned facilities, such space shall be provided and maintained at no cost to the Government.

(j) *NORTHERN LAND BORDER.*—In the case of the northern land border, the requirements under subsections (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through the sharing of biometric data provided to U.S. Customs and Border Protection by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement.

(k) *FAIR AND OPEN COMPETITION.*—The Secretary shall procure goods and services to implement this section via fair and open competition in accordance with the Federal Acquisition Regulations.

(l) *OTHER BIOMETRIC INITIATIVES.*—The Secretary may pursue biometric initiatives at air, land, and sea ports of entry for the purposes of border security and trade facilitation distinct from the biometric exit data system described in this section.

(m) *CONGRESSIONAL REVIEW.*—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and Committee on the Judiciary of the House of Representatives reports and recommendations regarding the Science and Technology Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

(n) *SAVINGS CLAUSE.*—Nothing in this section shall prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

Subtitle C—Miscellaneous Provisions

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SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

(a) *MAJOR ACQUISITION PROGRAM DEFINED.*—In this section, the term “major acquisition program” means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least \$300,000,000 (based on fiscal year 2017 constant dollars) over its life cycle cost.

(b) *PLANNING DOCUMENTATION.*—For each border security technology acquisition program of the Department that is determined to be a major acquisition program, the Secretary shall—

(1) ensure that each such program has a written acquisition program baseline approved by the relevant acquisition decision authority;

(2) document that each such program is meeting cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

(3) have a plan for meeting program implementation objectives by managing contractor performance.

(c) *ADHERENCE TO STANDARDS.*—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible for carrying out this section adhere to relevant internal control standards identified by the Comptroller General of the United States. The

Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

(d) *PLAN.*—The Secretary, acting through the Under Secretary for Management, in coordination with the Under Secretary for Science and Technology and the Commissioner of U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a plan for testing, evaluating, and using independent verification and validation resources for border security technology. Under the plan, new border security technologies shall be evaluated through a series of assessments, processes, and audits to ensure—

- (1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and
- (2) the effective use of taxpayer dollars.

SEC. 435. INTEGRATED BORDER ENFORCEMENT TEAMS.

(a) *ESTABLISHMENT.*—The Secretary shall establish within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as “IBET”).

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

- (1) strengthen security between designated ports of entry;
- (2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;
- (3) facilitate collaboration among components and offices within the Department and international partners;
- (4) execute coordinated activities in furtherance of border security and homeland security; and
- (5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

(c) *COMPOSITION AND LOCATION OF IBETS.*—

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

- (A) Other subcomponents of U.S. Customs and Border Protection.
- (B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.
- (C) The Coast Guard, for the purpose of securing the maritime borders of the United States.
- (D) Other Department personnel, as appropriate.
- (E) Other Federal departments and agencies, as appropriate.
- (F) Appropriate State law enforcement agencies.
- (G) Foreign law enforcement partners.
- (H) Local law enforcement agencies from affected border cities and communities.
- (I) Appropriate tribal law enforcement agencies.

(2) *LOCATION.*—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider the following:

- (A) Whether the region in which the IBET would be established is significantly impacted by cross-border threats.

(B) *The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET.*

(C) *Whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.*

(3) *DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing inter-agency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.*

(d) *OPERATION.—*

(1) *IN GENERAL.—After determining the regions in which to establish IBETs, the Secretary may—*

(A) *direct the assignment of Federal personnel to such IBETs; and*

(B) *take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.*

(2) *LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(1)(C).*

(e) *COORDINATION.—The Secretary shall coordinate the IBET program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.*

(f) *MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET program.*

(g) *REPORT.—Not later than 180 days after the date on which an IBET is established and biannually thereafter for the following six years, the Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, and in the case of Coast Guard personnel used to secure the maritime borders of the United States, additionally to the Committee on Transportation and Infrastructure of the House of Representatives, a report that—*

(1) *describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);*

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

(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.

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TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

Subtitle A—Grants to States and High-Risk Urban Areas

SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

[(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under sections 2003 and 2004 to State, local, and tribal governments.]

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

(b) PROGRAMS NOT AFFECTED.—This subtitle shall not be construed to affect any of the following Federal programs:

(1) Firefighter and other assistance programs authorized under the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

(2) Grants authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(3) Emergency Management Performance Grants under the amendments made by title II of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(4) Grants to protect critical infrastructure, including port security grants authorized under section 70107 of title 46, United States Code, and the grants authorized under title XIV and XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 and the amendments made by such titles.

(5) The Metropolitan Medical Response System authorized under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(6) The Interoperable Emergency Communications Grant Program authorized under title XVIII.

(7) Grant programs other than those administered by the Department.

(c) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—The grant programs authorized under sections 2003 and 2004 shall supercede all grant programs authorized under section 1014 of the USA PATRIOT Act (42 U.S.C. 3714).

(2) ALLOCATION.—The allocation of grants authorized under section 2003 or 2004 shall be governed by the terms of this subtitle and not by any other provision of law.

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SEC. 2009. OPERATION STONEGARDEN.

(a) ESTABLISHMENT.—*There is established in the Department a program to be known as “Operation Stonegarden”, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.*

(b) ELIGIBLE RECIPIENTS.—*To be eligible to receive a grant under this section, a law enforcement agency—*

(1) shall be located in—

(A) a State bordering Canada or Mexico; or

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

(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

(1) equipment, including maintenance and sustainment costs;

(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security’s Fiscal Year 2017 Homeland Security Grant Program Notice of Funding Opportunity; and

(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

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

(e) REPORT.—*For each of the fiscal years 2018 through 2022, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains information on the expenditure of grants made under this section by each grant recipient.*

(f) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated \$110,000,000 for each of the fiscal years 2018 through 2022 for grants under this section.*

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PRECLEARANCE AUTHORIZATION ACT OF 2015

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TITLE VIII—MATTERS RELATING TO U.S. CUSTOMS AND BORDER PROTECTION

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Subtitle B—Preclearance Operations

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SEC. 814. NOTIFICATION AND CERTIFICATION TO CONGRESS.

(a) INITIAL NOTIFICATION.—Not later than 60 days before an agreement with the government of a foreign country to establish U.S. Customs and Border Protection preclearance operations in such foreign country enters into force, the Secretary shall provide the appropriate congressional committees with—

(1) a copy of the agreement to establish such preclearance operations, which shall include—

(A) the identification of the foreign country with which U.S. Customs and Border Protection intends to enter into a preclearance agreement;

(B) the location at which such preclearance operations will be conducted; and

(C) the terms and conditions for U.S. Customs and Border Protection personnel operating at the location;

(2) an assessment of the impact such preclearance operations will have on legitimate trade and travel, including potential impacts on passengers traveling to the United States;

(3) an assessment of the impacts such preclearance operations will have on U.S. Customs and Border Protection domestic port of entry staffing;

(4) country-specific information on the anticipated homeland security benefits associated with establishing such preclearance operations;

(5) information on potential security vulnerabilities associated with commencing such preclearance operations and mitigation plans to address such potential security vulnerabilities;

(6) a U.S. Customs and Border Protection staffing model for such preclearance operations and plans for how such positions would be filled; and

(7) information on the anticipated costs over the 5 fiscal years after the agreement enters into force associated with commencing such preclearance operations.

(b) FURTHER NOTIFICATION RELATING TO PRECLEARANCE OPERATIONS ESTABLISHED AT AIRPORTS.—Not later than 45 days before an agreement with the government of a foreign country to establish U.S. Customs and Border Protection preclearance operations at an airport in such country enters into force, the Secretary, in addition to complying with the notification requirements under subsection (a), shall provide the appropriate congressional committees with—

(1) an estimate of the date on which U.S. Customs and Border Protection intends to establish preclearance operations under such agreement, including any pending caveats that must be resolved before preclearance operations are approved;

(2) the anticipated funding sources for preclearance operations under such agreement, and other funding sources considered;

(3) a homeland security threat assessment for the country in which such preclearance operations are to be established;

(4) information on potential economic, competitive, and job impacts on United States air carriers associated with establishing such preclearance operations;

(5) details on information sharing mechanisms to ensure that U.S. Customs and Border Protection has current information to prevent terrorist and criminal travel; and

(6) other factors that the Secretary determines to be necessary for Congress to comprehensively assess the appropriateness of commencing such preclearance operations.

(c) CERTIFICATIONS RELATING TO PRECLEARANCE OPERATIONS ESTABLISHED AT AIRPORTS.—Not later than 60 days before an agreement with the government of a foreign country to establish U.S. Customs and Border Protection preclearance operations at an airport in such country enters into force, the Secretary, in addition to complying with the notification requirements under subsections (a) and (b), shall provide the appropriate congressional committees with—

(1) a certification that preclearance operations under such preclearance agreement, after considering alternative options, would provide homeland security benefits to the United States through the most effective means possible;

(2) a certification that preclearance operations within such foreign country will be established under such agreement only if—

(A) at least one United States passenger carrier operates at such airport; and

(B) any United States passenger carriers operating at such airport and desiring to participate in preclearance operations are provided access that is comparable to that of any non-United States passenger carrier operating at that airport;

(3) a certification that the establishment of preclearance operations in such foreign country will not significantly increase customs processing times at United States airports;

(4) a certification that representatives from U.S. Customs and Border Protection consulted with stakeholders, including providers of commercial air service in the United States, employees of such providers, security experts, and such other parties as the Secretary determines to be appropriate; and

(5) a report detailing the basis for the certifications referred to in paragraphs (1) through (4).

(d) AMENDMENT OF EXISTING AGREEMENTS.—Not later than 30 days before a substantially amended preclearance agreement with the government of a foreign country in effect as of the date of the enactment of this Act enters into force, the Secretary shall provide to the appropriate congressional committees—

(1) a copy of the agreement, as amended; and

(2) the justification for such amendment.

(e) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Commissioner shall report to the appropriate congressional committees, on a quarterly basis—

(A) the number of U.S. Customs and Border Protection officers, by port, assigned from domestic ports of entry to preclearance operations; and

[(B) the number of the positions at domestic ports of entry vacated by U.S. Customs and Border Protection officers described in subparagraph (A) that have been filled by other hired, trained, and equipped U.S. Customs and Border Protection officers.]

(B) a port of entry vacancy rate which compares the number of officers identified in subparagraph (A) with the number of officers at the port at which such officer is currently assigned.

(2) SUBMISSION.—If the Commissioner has not filled the positions of U.S. Customs and Border Protection officers that were reassigned to preclearance operations and determines that U.S. Customs and Border Protection processing times at domestic ports of entry from which U.S. Customs and Border Protection officers were reassigned to preclearance operations have significantly increased, the Commissioner, not later than 60 days after making such a determination, shall submit to the appropriate congressional committees an implementation plan for reducing processing times at the domestic ports of entry with such increased processing times.

(3) SUSPENSION.—If the Commissioner does not submit the implementation plan described in paragraph (2) to the appropriate congressional committees before the deadline set forth in such paragraph, the Commissioner may not commence preclearance operations at an additional port of entry in any country until such implementation plan is submitted.

(f) CLASSIFIED REPORT.—The report required under subsection (c)(5) may be submitted in classified form if the Secretary determines that such form is appropriate.

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**ENHANCED BORDER SECURITY AND VISA ENTRY
REFORM ACT OF 2002**

* * * * *

TITLE I—FUNDING

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR HIRING AND TRAINING GOVERNMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) INS INSPECTORS.—Subject to the availability of appropriations, during each of the fiscal years 2003 through 2006, the Attorney General shall increase the number of inspectors and associated support staff in the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of inspectors and associated sup-

port staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(2) INS INVESTIGATIVE PERSONNEL.—Subject to the availability of appropriations, during each of the fiscal years 2003 through 2006, the Attorney General shall increase the number of investigative and associated support staff of the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of investigators and associated support staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection, including such sums as may be necessary to provide facilities, attorney personnel and support staff, and other resources needed to support the increased number of inspectors, investigative staff, and associated support staff.

[(b) AUTHORIZATION OF APPROPRIATIONS FOR INS STAFFING.—

[(1) IN GENERAL.—There are authorized to be appropriated for the Department of Justice such sums as may be necessary to provide an increase in the annual rate of basic pay effective October 1, 2002—

[(A) for all journeyman Border Patrol agents and inspectors who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332;

[(B) for inspections assistants, from the annual rate of basic pay payable for positions at GS-5 of the General Schedule under section 5332 of title 5, United States Code, to an annual rate of basic pay payable for positions at GS-7 of the General Schedule under such section 5332; and

[(C) for the support staff associated with the personnel described in subparagraphs (A) and (B), at the appropriate GS level of the General Schedule under such section 5332.]

(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP EMPLOYEES.—*There are authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to increase, effective January 1, 2018, the annual rate of basic pay for U.S. Customs and Border Protection employees who have completed at least one year of service—*

(1) to the annual rate of basic pay payable for positions at GS-12, step 1 of the General Schedule under subchapter III of chapter 53 of title 5, United States Code, for officers and agents who are receiving the annual rate of basic pay payable for a position at GS-5, GS-6, GS-7, GS-8, or GS-9 of the General Schedule;

(2) to the annual rate of basic pay payable for positions at GS-12, step 10 of the General Schedule under such subchapter for supervisory CBP officers and supervisory agents who are re-

ceiving the annual rate of pay payable for a position at GS-10 of the General Schedule;

(3) to the annual rate of basic pay payable for positions at GS-14, step 1 of the General Schedule under such subchapter for supervisory CBP officers and supervisory agents who are receiving the annual rate of pay payable for a position at GS-11 of the General Schedule;

(4) to the annual rate of basic pay payable for positions at GS-12, step 10 of the General Schedule under such subchapter for supervisory CBP officers and supervisory Border Patrol agents who are receiving the annual rate of pay payable for a position at GS-12 or GS-13 of the General Schedule; and

(5) to the annual rate of basic pay payable for positions at GS-8, GS-9, or GS-10 of the General Schedule for assistants who are receiving an annual rate of pay payable for positions at GS-5, GS-6, or GS-7 of the General Schedule, respectively.

(c) AUTHORIZATION OF APPROPRIATIONS FOR TRAINING.—There are authorized to be appropriated such sums as may be necessary—

(1) to appropriately train Immigration and Naturalization Service personnel on an ongoing basis—

(A) to ensure that their proficiency levels are acceptable to protect the borders of the United States; and

(B) otherwise to enforce and administer the laws within their jurisdiction;

(2) to provide adequate continuing cross-training to agencies staffing the United States border and ports of entry to effectively and correctly apply applicable United States laws;

(3) to fully train immigration officers to use the appropriate lookout databases and to monitor passenger traffic patterns; and

(4) to expand the Carrier Consultant Program described in section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225A(b)).

(d) AUTHORIZATION OF APPROPRIATIONS FOR CONSULAR FUNCTIONS.—

(1) RESPONSIBILITIES.—The Secretary of State shall—

(A) implement enhanced security measures for the review of visa applicants;

(B) staff the facilities and programs associated with the activities described in subparagraph (A); and

(C) provide ongoing training for consular officers and diplomatic security agents.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of State such sums as may be necessary to carry out paragraph (1).

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ACT OF FEBRUARY 13, 1911

AN ACT To provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes.

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SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.**(a) OVERTIME PAY.—**

(1) **IN GENERAL.**—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

(2) **SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—**

(A) **MINIMUM DURATION.**—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

(B) **COMPENSATION FOR COMMUTING TIME.—**

(i) **IN GENERAL.**—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

(ii) **EXCEPTION.**—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—**(1) NIGHT WORK DIFFERENTIAL.—**

(A) **3 P.M. TO MIDNIGHT SHIFTWORK.**—If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

(B) **11 P.M. TO 8 A.M. SHIFTWORK.**—If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

(C) **7:30 P.M. TO 3:30 A.M. SHIFTWORK.**—If the regularly scheduled work assignment of a customs officer is 7:30

p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

(c) LIMITATIONS.—

(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed ~~[\$25,000]~~ \$45,000 ; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

(d) REGULATION.—The Secretary of the Treasury shall promulgate regulations to prevent—

(1) abuse of callback work assignments and commuting time compensation authorized under subsection (a)(2); and

(2) the disproportionately more frequent assignment of overtime work to customs officers who are near to retirement.

(e) DEFINITIONS.—As used in this section:

(1) The term “customs officer” means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

(2) The term “holiday” means any day designated as a holiday under a Federal statute or Executive order.

ANTI-BORDER CORRUPTION ACT OF 2010

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SEC. 3. REQUIREMENTS WITH RESPECT TO ADMINISTERING POLYGRAPH EXAMINATIONS TO LAW ENFORCEMENT PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after the date of the enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection (except as provided in subsection (b)) receive polygraph examinations before being hired for such a position; and

(2) by not later than 180 days after the date of the enactment of this Act, U.S. Customs and Border Protection initiates all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before the date of the enactment of this Act.

[(b) **WAIVER.**—The Commissioner of U.S. Customs and Border Protection may waive the polygraph examination requirement under subsection (a)(1) for any applicant who—

[(1) is deemed suitable for employment;

[(2) holds a current, active Top Secret/Sensitive Compartmented Information Clearance;

[(3) has a current Single Scope Background Investigation;

[(4) was not granted any waivers to obtain his or her clearance; and

[(5) is a veteran (as defined in section 2108 of title 5, United States Code).]

(b) **WAIVER AUTHORITY.**—*The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—*

(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

(A) has continuously served as a law enforcement officer for not fewer than three years;

(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;

(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

(D) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer's current law enforcement agency;

(2) to a current, full-time Federal law enforcement officer who—

(A) has continuously served as a law enforcement officer for not fewer than three years;

(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious mis-

conduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; and
(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

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

(B) holds, or has held within the past five years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

(C) holds, or has undergone within the past five years, a current Tier 4 background investigation or current Tier 5 background investigation;

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

(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is four years after the date of the enactment of the Border Security for America Act of 2017.

ISEC. 4. PROGRESS REPORT.

[Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter through the date that is 2 years after such date of enactment, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress made by U.S. Customs and Border Protection toward complying with section 3.]

SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

(a) NON-EXEMPTION.—An individual who receives a waiver under section 3(b) is not exempt from other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position, as determined by the Commissioner of U.S. Customs and Border Protection.

(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) who holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.

(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver under section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.

SEC. 5. REPORTING.

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

- (1) the number of waivers requested, granted, and denied under section 3(b);
- (2) the reasons for any denials of such waiver;
- (3) the percentage of applicants who were hired after receiving a waiver;
- (4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;
- (5) an assessment of the current impact of the polygraph waiver program on filling law enforcement positions at U.S. Customs and Border Protection; and
- (6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

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

- (1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and
- (2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).

SEC. 6. DEFINITIONS.

In this Act:

- (1) *FEDERAL LAW ENFORCEMENT OFFICER.*—The term “Federal law enforcement officer” means a “law enforcement officer” defined in section 8331(20) or 8401(17) of title 5, United States Code.
- (2) *SERIOUS MILITARY OR CIVIL OFFENSE.*—The term “serious military or civil offense” means an offense for which—
 - (A) a member of the Armed Forces may be discharged or separated from service in the Armed Forces; and
 - (B) a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Court-Martial, as pursuant to Army Regulation 635-200 chapter 14–12.
- (3) *TIER 4; TIER 5.*—The terms “Tier 4” and “Tier 5” with respect to background investigations have the meaning given such terms under the 2012 Federal Investigative Standards.
- (4) *VETERAN.*—The term “veteran” has the meaning given such term in section 101(2) of title 38, United States Code.

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, November 14, 2017.

Hon. MICHAEL MCCAUL,
Chairman, House Committee on Homeland Security,
Washington, DC.

DEAR CHAIRMAN MCCAUL: Thank you for consulting with the Committee on Foreign Affairs on H.R. 3548, the Border Security for America Act of 2017, and for agreeing to remove the section within Foreign Affairs jurisdiction (entitled “Merida Initiative”) from the bill prior to House floor consideration.

I agree that the Foreign Affairs Committee may be discharged from further action on this bill so that it may proceed expeditiously to the Floor, subject to the understanding that this waiver does not in any way diminish or alter the jurisdiction of the Foreign Affairs Committee, or prejudice its jurisdictional prerogatives on this bill or similar legislation in the future. The Committee also reserves the right to seek an appropriate number of conferees to any House-Senate conference involving this bill, and would appreciate your support for any such request.

I ask that you place our exchange of letters into the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,

EDWARD R. ROYCE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, November 14, 2017.

Hon. EDWARD R. ROYCE,
Chairman, Committee on Foreign Affairs,
Washington, DC.

DEAR CHAIRMAN ROYCE: Thank you for your letter regarding H.R. 3548, the “Border Security for America Act of 2017.” I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Foreign Affairs will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time; the Committee on Foreign Affairs does not waive any jurisdiction over the subject matter contained in this legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee. Finally, the Committee on Homeland Security agrees that Section 119 of the bill will be removed prior to its consideration on the House floor.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, October 17, 2017.

Hon. MICHAEL T. MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR MR. CHAIRMAN: I write concerning H.R. 3548, the Border Security for America Act of 2017, which was additionally referred to the Committee on Natural Resources.

In the interest of permitting you to proceed expeditiously to floor consideration, I will allow the Committee on Natural Resources to be discharged from further consideration of the bill. I do so with the understanding that the Committee does not waive any jurisdictional claim over the subject matter contained in the bill that fall within its Rule X jurisdiction. I also request that you support my request to name members of the Committee on Natural Resources to any conference committee to consider such provisions. Finally, please include this letter in the report on the bill and into the *Congressional Record* during consideration of the measure on the House floor.

Thank you again for the very cooperative spirit in which you and your staff have worked regarding many issues of shared interest over the Congress.

Sincerely,

ROB BISHOP,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, October 18, 2017.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
Washington, DC.

DEAR CHAIRMAN BISHOP: Thank you for your letter regarding H.R. 3548, the "Border Security for America Act of 2017." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Natural Resources will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time, the Committee on Natural Resources does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, November 15, 2017.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR MR. MCCAUL: I am writing concerning H.R. 3548, Border Security for America Act of 2017.

This legislation contains provisions within the Committee on Agriculture's Rule X jurisdiction. As a result of your having consulted with the Committee and in order to expedite this bill for floor consideration, the Committee on Agriculture will forego action on the bill. This is being done on the basis of our mutual understanding that doing so will in no way diminish or alter the jurisdiction of the Committee on Agriculture with respect to the appointment of conferees, or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this letter and your response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill. Thank you in advance for your cooperation.

Sincerely,

K. MICHAEL CONAWAY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, December 7, 2017.

Hon. K. MICHAEL CONAWAY,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR CHAIRMAN CONAWAY: Thank you for your letter regarding H.R. 3548, the "Border Security for America Act of 2017." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Agriculture will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time, the Committee on Agriculture does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, December 7, 2017.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR CHAIRMAN MCCAUL: I write concerning H.R. 3548, the *Border Security for America Act of 2017*. This legislation includes matters that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Transportation and Infrastructure will forego action on the bill. However, this is conditional on our mutual understanding that foregoing consideration of the bill does not prejudice the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation that fall within the Committee's Rule X jurisdiction. Further, this is conditional on our understanding that mutually agreed upon changes to the legislation will be incorporated into the bill prior to floor consideration. Lastly, should a conference on the bill be necessary, I request your support for the appointment of conferees from the Committee on Transportation and Infrastructure during any House-Senate conference convened on this or related legislation.

I would ask that a copy of this letter and your response acknowledging our jurisdictional interest as well as the mutually agreed upon changes to be incorporated into the bill be included in the *Congressional Record* during consideration of the measure on the House floor, to memorialize our understanding.

I look forward to working with the Committee on Homeland Security as the bill moves through the legislative process.

Sincerely,

BILL SHUSTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, December 7, 2017.

Hon. BILL SHUSTER,
Chairman, Committee on Transportation and Infrastructure,
Washington, DC.

DEAR CHAIRMAN SHUSTER: Thank you for your letter regarding H.R. 3548, the "Border Security for America Act of 2017." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee

on Transportation and Infrastructure will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time, the Committee on Transportation and Infrastructure does not waive any jurisdiction over the subject matter contained in this bill and agrees to include mutually agreed upon changes to the legislation prior to its consideration on the House floor. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 10, 2018.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR CHAIRMAN MCCAUL: I am writing with respect to H.R. 3548, the “Border Security for America Act of 2017,” on which the Committee on Ways and Means was granted an additional referral.

As a result of your having consulted with us on provisions in H.R. 3548 that fall within the Rule X jurisdiction of the Committee on Ways and Means, I agree to waive formal consideration of this bill. The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues that fall within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for such request.

I would appreciate your response confirming this understanding with respect to H.R. 3548 and ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during consideration of the bill on the House floor.

Sincerely,

KEVIN BRADY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, January 9, 2018.

Hon. KEVIN BRADY,
Chairman, Committee on Ways and Means,
Washington, DC.

DEAR CHAIRMAN BRADY: Thank you for your letter regarding H.R. 3548, the “Border Security for America Act of 2017.” I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Ways and Means will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time, the Committee on Ways and Means does not waive any jurisdiction over the subject matter contained in this bill and agrees to include mutually agreed upon modifications to the legislation prior to its consideration on the House floor. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, January 3, 2017.

Hon. MICHAEL T. MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR MR. CHAIRMAN: I write concerning H.R. 3548, the “Border Security for America Act of 2017.” This bill would make certain improvements to the security of the international borders of the United States and contains provisions within the jurisdiction of the Committee on Oversight and Government Reform. As a result of your having consulted with me concerning the provisions of the bill that fall within our Rule X jurisdiction, I agree to forgo consideration of the bill, so the bill may proceed expeditiously to the House floor.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 3548 at this time we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and we will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues that fall within our Rule X jurisdiction. Further, I request your support for the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

Finally, I would appreciate your response to this letter confirming this understanding and ask that a copy of our exchange of

letters on this matter be included in the bill report filed by the Committee on Homeland Security, as well as in the *Congressional Record* during floor consideration thereof.

Sincerely,

TREY GOWDY.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, January 3, 2018.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
Washington, DC.*

DEAR CHAIRMAN GOWDY: Thank you for your letter regarding H.R. 3548, the “Border Security for America Act of 2017.” I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Oversight and Government Reform will forego further consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration of this bill at this time, the Committee on Oversight and Government Reform does not waive any jurisdiction over the subject matter contained in this bill and agrees to include mutually agreed upon modifications to the legislation prior to its consideration on the House floor. In addition, should a conference on this bill be necessary, I would support your request to have the Committee represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman.

DISSENTING VIEWS

We, the Committee Democrats, submit the following dissenting views to H.R. 3548, a bill whose central aim is to authorize President Donald J. Trump's proposed border wall along the Southwest border (President Trump's Wall).

The "Taking Americans Land to Build Trump's Wall Act," as we have come to call it, abandons bipartisan Committee efforts to ensure that the Department of Homeland Security's (DHS or Department) border security initiatives are risk-based and informed by metrics on the effectiveness of border security programs to fulfill the President's baseless promise of building a border wall at all costs. The partisan manner in which this bill was developed and considered underscores this overarching goal. As Members of this Committee, we are deeply concerned about the harm this bill, if enacted, will needlessly inflict on private landowners, ranchers, border communities, the environment, and taxpayers.

Committee Democrats oppose authorizing \$10 billion to build President Trump's Wall because it would not be an effective way of securing the border and is not justified based on the metrics collected by the Department about conditions along the U.S.-Mexico border between land ports of entry. The Department issued a report in September 2017 which assessed border security trends and concluded that "available data indicate that the southwest land border is more difficult to illegally cross today than ever before."¹ In this same report, DHS stated that both the number of illegal entries and apprehensions are at the lowest levels since the early 1970s.²

Estimates for President Trump's Wall range from \$20 billion to \$70 billion for construction alone.³ Over the past decade, this Committee has tasked the Government Accountability Office (GAO) with monitoring and evaluating the Department's management of major border security acquisitions. GAO has found, time and again, that the Department cannot keep an accurate accounting of costs associated with acquiring, deploying, operating, and maintaining such investments. In fact, in February 2017, GAO found that CBP has failed to properly assess the true costs of maintaining existing border fencing and could not validate that existing fencing has produced the intended results for border security.⁴

Chairman Michael McCaul (R-TX), the bill's lead sponsor, has said that the bill authorizes \$15 billion to build President Trump's

¹ Department of Homeland Security, Office of Immigration Statistics, "Efforts by DHS to Estimate Southwest Border Security between Ports of Entry," September 2017, 19.

² *Ibid.*, 19.

³ U.S. Senate Committee on Homeland Security and Government Affairs, Minority Staff, "Southern Border Wall: Soaring Cost Estimates and Lack of Planning Raise Fundamental Questions about the Administration's Key Domestic Priority," April 18, 2017, 4.

⁴ Government Accountability Office, "Southwest Border Security: Additional Actions Needed to Better Assess Fencing's Contributions to Operations and Provide Guidance for Identifying Capability Gaps" (GAO-17-331), February 2017, 25.

Wall and deploy personnel and other tactical infrastructure at and between the land ports. In actuality, the cost to U.S. taxpayers for H.R. 3548 are likely to be far more significant. On top of the \$15 billion authorization, H.R. 3548 includes over \$300 million in additional authorizations of appropriations, including \$100 million for Operation Stonegarden.

Further, the bill uses “such sums as may be necessary language” to avoid including a funding level for what are sure to be substantial costs—the costs of adjusting CBP personnel salaries. The decision to use the “such sums” clause and omit offsets for the \$15 billion in new funding authorized in the bill is perplexing, as it violates standing protocols for measures to be considered on the House Floor, as established by House Republican leadership.

We would also note that H.R. 3548 requires 5,000 additional Border Patrol Agents be hired within the next four years. Data collected and published by the Department does not demonstrate the need for more Agents. As the number of apprehensions declined over the past two decades, the number of Border Patrol Agents increased. Border Patrol reported 1.6 million apprehensions in 2000, but by 2016, there were only about 409,000 apprehensions.⁵ While in 1995, there were 5,000 Agents deployed nationwide, since 2009, the number of Border Patrol Agents has remained around 20,000.⁶ On average, each Border Patrol Agent apprehended 182 illegal entrants in 2002.⁷ By 2016, apprehensions per Agent fell to roughly 18 per year⁸ and, in August, U.S. Customs and Border Protection (CBP) reported that its year-to-date totals for Fiscal Year 2017 were 24% lower than the same period in FY 2016.⁹ Further, the Department’s Inspector General concluded in a report issued in July 2017 that CBP could not provide data to support the operational need for 5,000 additional Agents.¹⁰ For these reasons, we see no justification for directing DHS to undertake the costly task of recruiting, hiring, vetting, training, and fielding 5,000 additional Agents.

Committee Democrats offered 21 amendments to the bill. All were defeated.

Ranking Member Bennie Thompson (D–MS) offered amendments to strike the authorization of President Trump’s Wall from the bill and to require the Secretary of Homeland Security to utilize the current risk-based, field-informed Requirements Management Process (RMP) to make decisions about acquiring and deploying tactical infrastructure and technology. The underlying bill includes pages of overly-prescriptive technology and infrastructure requirements for each of the 20 Border Patrol sectors whose need has not been vali-

⁵ Ibid, 15.

⁶ U.S. Customs and Border Protection, U.S. Border Patrol, “U.S. Border Patrol Fiscal Year Staffing Statistics (FY 1992–FY 2016),” January 2017. <https://www.cbp.gov/sites/default/files/assets/documents/2016-Oct/BP%20Staffing%20FY1992-FY2016.pdf> (accessed on October 11, 2017).

⁷ Alex Nowrasteh, “The Myth of Border Insecurity,” *Cato at Liberty*, Cato Institute, November 28, 2016, <https://www.cato.org/blog/myth-border-insecurity> (accessed on October 11, 2017).

⁸ Ibid.

⁹ U.S. Customs and Border Protection, Southwest Border Migration <https://www.cbp.gov/newsroom/stats/sw-border-migration> (accessed on October 11, 2017).

¹⁰ Department of Homeland Security, Office of the Inspector General, “Special Report: Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers,” (OIG–17–98–SR) July 27, 2017, 6.

dated by CBP, which currently uses the RMP process to inform its acquisitions and deployment decisions. Amendments offered by Representatives Nannette Barragan (D-CA) and Bill Keating (D-MA) also underscored the Committee's longstanding interest in ensuring future border security build-ups are informed, strategic, realistic, and cost-effective. All these common-sense amendments were rejected by the Committee Republicans.

An important reality that this bill ignores is that the Federal government only owns a third of the land along the Southwest border. As such, to build President Trump's Wall, the Federal government will have to acquire private property and tribal lands, one way or another. If construction on this wall proceeds, the Tohono O'odham Nation would be divided and lose 75 miles of ancestral land along the Arizona-Mexico border. Tellingly, the White House seems well aware of this reality and is gearing up to fight ranchers and small landowners aggressively in the courts. In its 2018 Fiscal Year budget request, the White House requested funding to establish an eminent domain unit of 20 attorneys within the Department of Justice. To underscore the truth about the bill, Ranking Member Thompson offered an amendment to change the short title of H.R. 3548 to the "Taking Americans Land to Build Trump's Wall Act."

Representative Filemon Vela (D-TX), as the Ranking Member of the Border and Maritime Subcommittee and whose district represents a large portion of the Texas border with Mexico, offered multiple amendments aimed at protecting private property owners on the border. One of which would have established a \$20 million legal defense fund to assist landowners who would have to battle both the Departments of Homeland Security and Justice to receive just compensation for the land that the Federal government takes. Another would have put the private property owner's interests first by requiring the Federal government to reach a settlement with landowners regarding just compensation prior to taking land. A decade after enactment of the "Secure Fence Act," 93 Americans are still waiting to receive payment for land taken by the Federal government.¹¹

Representative Vela also proposed a measure that would have strengthened the voice of local communities as the Trump Administration pursued its ill-advised border wall. It was informed by evidence of CBP's poor track record of consulting with local officials and residents, in a meaningful way, prior to initiating major infrastructure projects in border communities. This troubling pattern was evident when border fencing was constructed a decade ago. In response, then-Senator Kay Bailey Hutchison noted that landowners and local elected officials "felt bulldozed and ignored by the federal government" as it moved ahead with plans to build fencing in Texas. Again, while Committee Democrats voted unanimously for this amendment, all Members of the Majority rejected it.

Further spotlighting the Majority's interest in building President Trump's Wall at all costs, this bill provides little direction, limita-

¹¹Johanna Mayer, "Hitting a Wall at the Border: Eminent Domain Fights Could Slow Construction of Trump's Dream, September 25, 2017, <https://www.pacermirror.com/articles/2017/09/25/hitting-a-wall-at-the-border-eminent-domain-fights-could-slow-construction-of-trumps-dream/> (accessed October 11, 2017).

tions, or cost-control measures to the Trump Administration. In fact, the only direction the bill gives is the broad grant of unilateral authority to the Secretary of Homeland Security to waive any and all laws or legal requirements that might stand in the way or delay construction of President Trump's Wall (Section 120). Representatives James Langevin (D-RI) and Representative Kathleen Rice (D-NY) sought to curb this Executive overreach in two separate amendments.

Representative Langevin offered an amendment, which was co-sponsored by Representative Keating, to strike Section 120 of the underlying bill, which authorizes the Secretary of Homeland Security to unilaterally waive over 30 laws, including the Clean Water Act, Clean Air Act, and Endangered Species Act to build President Trump's Wall. Representative Langevin noted how abuse of this authority could lead to the end of the currently endangered Texas Ocelot or the recently reemerging American Jaguar in Arizona. In offering her amendment, Representative Rice noted that there was a pending legal question as to whether the waiver authority granted to the DHS Secretary in prior law expired in 2008.¹² The collateral effects of DHS waiving laws intended to protect border communities and the surrounding environment could have significant impacts on the health and wellbeing of all who live in border communities. Both the Langevin and Rice amendments were rejected outright by Committee Republicans.

In an apparent attempt to provide cover for their votes against the Langevin and Rice amendments, Committee Republicans adopted two amendments offered by Representative Hurd that purported to protect National Parks, like Big Bend National Park, that are put at risk under H.R. 3548. Additionally, Representative McSally offered a last-minute amendment to remove the Freedom of Information Act from the list of Federal laws that could be waived by DHS. We are troubled that instead of joining with Committee Democrats to approve Democratic amendment, Committee Republicans cynically chose to support amendments targeted at providing limited relief from the wide-scale threat of the Department exploiting the waiver authority under this bill to set aside critical Federal laws that underpin the health and wellbeing of Americans.

While we strongly oppose H.R. 3548, we would note that there were a few areas of agreement. Committee Republicans joined us in unanimously rejecting of President Trump's conflicted, unrealistic, convoluted vision for the wall (Roll Call 17) and in rejecting the ridiculous notion that Mexico should reimburse the U.S. for its construction for it (Roll Call 32). While we differ on how to secure the border, we are glad that Republicans and Democrats agree that the President's demands for his wall are nonsense, contradictory, and absurd.

¹²*The People of the State of California, By and Through Xavier Becerra, Attorney General; the California Coastal Commission v. the United States of America; United States Department of Homeland Security; Acting Secretary Elaine Duke, In Her Official Capacity; United States Customs and Border Protection; and Acting Commissioner Kevin K. McAleenan, In His Official Capacity*, Docket 17-cv-01911-W-BLM, S.D. CA (September 20, 2017).

In addition to the amendments discussed above, Committee Democrats offered a number of other amendments that each failed on a party line vote of 12–17. They were:

- An Amendment offered by Representative Barragan to limit the Border Patrol activity to no more than 25 miles from the physical land border;
- An Amendment offered by Representative Donald Payne Jr. (D–NJ) to proportionately increase the number of full-time investigators in CBP’s Office of Professional Responsibility in order to match the oversight needed of the increased number of CBP law enforcement personnel authorized in this bill; and
- Amendments offered by Representative Sheila Jackson Lee (D–TX) to hold the Department accountable for the impact of border wall construction on endangered species; oversee Border Patrol’s treatment of individuals encountered during operations; and requesting information on the President’s proclamation issued on September 24th and its implications for the Department of Homeland Security.

While Committee Democrats strongly oppose the central feature of H.R. 3548, authorization of President Trump’s Wall, we would note that provisions related to land ports of entry and the workforce in this bill could have been the basis for working together on a bipartisan border security proposal that addresses known, risk-based, fact-based border challenges. Unfortunately, Committee Republicans, by advancing H.R. 3548 chose fulfilling President Trump’s promise of a wall over working together to address our border security challenges in a thoughtful, informed, measured way.

BENNIE G. THOMPSON.
 JAMES R. LANGEVIN.
 WILLIAM R. KEATING.
 FILEMON VELA.
 KATHLEEN M. RICE.
 VAL B. DEMINGS.
 SHEILA JACKSON LEE.
 CEDRIC L. RICHMOND.
 DONALD M. PAYNE, JR.
 BONNIE WATSON COLEMAN.
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