

BORDER REINFORCEMENT ACT OF 2023

MAY 5, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GREEN of Tennessee, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2794]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2794) to secure the international borders of the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	19
Background and Need for Legislation	20
Hearings	20
Committee Consideration	21
Committee Votes	21
Committee Oversight Findings	30
Correspondence with Other Committees	31
C.B.O. Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures	35
Federal Mandates Statement	35
Duplicative Federal Programs	35
Statement of General Performance Goals and Objectives	35
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	35
Advisory Committee Statement	35
Applicability to Legislative Branch	35
Section-by-Section Analysis of the Legislation	35
Changes in Existing Law Made by the Bill, as Reported	44
Minority Views	66

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Border Reinforcement Act of 2023”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Border wall construction.
- Sec. 4. Strengthening the requirements for barriers along the southern border.
- Sec. 5. Border and port security technology investment plan.
- Sec. 6. Border security technology program management.
- Sec. 7. U.S. Customs and Border Protection technology upgrades.
- Sec. 8. U.S. Customs and Border Protection personnel.
- Sec. 9. Anti-Border Corruption Act reauthorization.
- Sec. 10. Establishment of workload staffing models for U.S. Border Patrol and Air and Marine Operations of CBP.
- Sec. 11. Operation Stonegarden.
- Sec. 12. Air and Marine Operations flight hours.
- Sec. 13. Eradication of carozo cane and salt cedar.
- Sec. 14. Border patrol strategic plan.
- Sec. 15. U.S. Customs and Border Protection spiritual readiness.
- Sec. 16. Restrictions on funding.
- Sec. 17. Collection of DNA and biometric information at the border.
- Sec. 18. Eradication of narcotic drugs and formulating effective new tools to address yearly losses of life; ensuring timely updates to U.S. Customs and Border Protection field manuals.
- Sec. 19. Publication by U.S. Customs and Border Protection of operational statistics.
- Sec. 20. Alien criminal background checks.
- Sec. 21. Prohibited identification documents at airport security checkpoints; notification to immigration agencies.
- Sec. 22. Prohibition against any COVID–19 vaccine mandate or adverse action against DHS employees.
- Sec. 23. CBP One app limitation.
- Sec. 24. Report on designation of Mexican cartels as foreign terrorist organizations.
- Sec. 25. GAO study on costs incurred by States to secure the southwest border.
- Sec. 26. Report by Inspector General of the Department of Homeland Security.
- Sec. 27. Offsetting authorizations of appropriations.
- Sec. 28. Report to Congress on foreign terrorist organizations.
- Sec. 29. Assessment by Inspector General of the Department of Homeland Security on the mitigation of unmanned aircraft systems at the southwest border.

SEC. 2. DEFINITIONS.

In this Act:

- (1) **CBP.**—The term “CBP” means U.S. Customs and Border Protection.
- (2) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.
- (3) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security.
- (4) **OPERATIONAL CONTROL.**—The term “operational control” has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (Public Law 109–367; 8 U.S.C. 1701 note).
- (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) **UNMANNED AIRCRAFT SYSTEM.**—The term “unmanned aircraft system” has the meaning given such term in section 44801 of title 49, United States Code.

SEC. 3. BORDER WALL CONSTRUCTION.

(a) **IN GENERAL.**—

- (1) **IMMEDIATE RESUMPTION OF BORDER WALL CONSTRUCTION.**—Not later than seven days after the date of the enactment of this section, the Secretary shall resume all activities related to the construction of the border wall along the international border between the United States and Mexico that were underway or being planned for prior to January 20, 2021.
- (2) **USE OF FUNDS.**—To carry out this section, the Secretary shall expend all unexpired funds appropriated or explicitly obligated for the construction of the border wall that were appropriated or obligated, as the case may be, for use beginning on October 1, 2019.
- (3) **USE OF MATERIALS.**—Any unused materials purchased before the date of the enactment of this section for construction of the border wall may be used for activities related to the construction of the border wall in accordance with paragraph (1).

(b) **PLAN TO COMPLETE TACTICAL INFRASTRUCTURE AND TECHNOLOGY.**—Not later than 90 days after the date of the enactment of this section and annually thereafter until construction of the border wall has been completed, the Secretary shall submit to the appropriate congressional committees an implementation plan, including an-

nual benchmarks for the construction of 200 miles of such wall and associated cost estimates for satisfying all requirements of the construction of the border wall, including installation and deployment of tactical infrastructure, technology, and other elements as identified by the Department prior to January 20, 2021, through the expenditure of funds appropriated or explicitly obligated, as the case may be, for use, as well as any future funds appropriated or otherwise made available by Congress.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.

(2) TACTICAL INFRASTRUCTURE.—The term “tactical infrastructure” includes boat ramps, access gates, checkpoints, lighting, and roads associated with a border wall.

(3) TECHNOLOGY.—The term “technology” includes border surveillance and detection technology, including linear ground detection systems, associated with a border wall.

SEC. 4. 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 design, test, construct, install, deploy, integrate, and operate physical barriers, tactical infrastructure, and technology in the vicinity of the southwest border to achieve situational awareness and operational control of the southwest border and deter, impede, and detect unlawful activity.”;

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in the heading, by striking “FENCING” and inserting “BARRIERS”;

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

“(A) REINFORCED BARRIERS.—In carrying out this section, the Secretary of Homeland Security shall construct a border wall, including physical barriers, tactical infrastructure, and technology, along not fewer than 900 miles of the southwest border until situational awareness and operational control of the southwest border is achieved.”;

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

“(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective physical barriers, tactical infrastructure, and technology available for achieving situational awareness and operational control of the southwest border.”;

(iv) 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 consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of State, Tribal, and local governments, and appropriate private property owners in the United States to minimize the impact on natural resources, commerce, and sites of historical or cultural significance for the communities and residents located near the sites at which physical barriers, tactical infrastructure, and technology are to be constructed. Such consultation may not delay such construction for longer than seven days.”; and

(II) in clause (ii)—

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

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

“(II) delay the transfer to the United States of the possession of property or affect the validity of any property acquisition by the United States by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any State; or”; and

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

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

- (v) by striking subparagraph (D);
- (C) in paragraph (2)—
 - (i) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
 - (ii) by striking “this subsection” and inserting “this section”; and
 - (iii) by striking “construction of fences” and inserting “the construction of physical barriers, tactical infrastructure, and technology”;
- (D) by amending paragraph (3) to read as follows:

“(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, testing, constructing, installing, deploying, integrating, and operating physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into such design, test, construction, installation, deployment, integration, or operation of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines are necessary to maximize the safety and effectiveness of officers and agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.”; and

 - (E) in paragraph (4), by striking “this subsection” and inserting “this section”;
- (3) in subsection (c)—
 - (A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall waive all legal requirements necessary to ensure the expeditious design, testing, construction, installation, deployment, integration, operation, and maintenance of the physical barriers, tactical infrastructure, and technology under this section. The Secretary shall ensure the maintenance and effectiveness of such physical barriers, tactical infrastructure, or technology. Any such action by the Secretary shall be effective upon publication in the Federal Register.”;

 - (B) by redesignating paragraph (2) as paragraph (3); and
 - (C) by inserting after paragraph (1) the following new paragraph:

“(2) NOTIFICATION.—Not later than seven days after the date on which the Secretary of Homeland Security exercises a waiver pursuant to paragraph (1), the Secretary 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 such waiver.”; and
 - (4) by adding at the end the following new subsections:

“(e) TECHNOLOGY.—In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective technology available for achieving situational awareness and operational control.

“(f) DEFINITIONS.—In this section:

 - “(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) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (Public Law 109–367; 8 U.S.C. 1701 note).
 - “(3) PHYSICAL BARRIERS.—The term ‘physical barriers’ includes reinforced fencing, the border wall, and levee walls.
 - “(4) 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)).
 - “(5) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps, access gates, checkpoints, lighting, and roads.
 - “(6) TECHNOLOGY.—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 aircraft systems.
 - “(H) Tunnel detection systems and other seismic technology.
 - “(I) Fiber-optic cable.
 - “(J) Other border detection, communication, and surveillance technology.

“(7) UNMANNED AIRCRAFT SYSTEM.—The term ‘unmanned aircraft system’ has the meaning given such term in section 44801 of title 49, United States Code.”.

SEC. 5. BORDER AND PORT SECURITY TECHNOLOGY INVESTMENT PLAN.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this section, the Commissioner, in consultation with covered officials and border and port security technology stakeholders, shall submit to the appropriate congressional committees a strategic 5-year technology investment plan (in this section referred to as the “plan”). The plan may include a classified annex, if appropriate.

(b) **CONTENTS OF PLAN.**—The plan shall include the following:

(1) An analysis of security risks at and between ports of entry along the northern and southern borders of the United States.

(2) An identification of capability gaps with respect to security at and between such ports of entry to be mitigated in order to—

(A) prevent terrorists and instruments of terror from entering the United States;

(B) combat and reduce cross-border criminal activity, including—

(i) the transport of illegal goods, such as illicit drugs; and

(ii) human smuggling and human trafficking; and

(C) facilitate the flow of legal trade across the southwest border.

(3) An analysis of current and forecast trends relating to the number of aliens who—

(A) unlawfully entered the United States by crossing the northern or southern border of the United States; or

(B) are unlawfully present in the United States.

(4) A description of security-related technology acquisitions, to be listed in order of priority, to address the security risks and capability gaps analyzed and identified pursuant to paragraphs (1) and (2), respectively.

(5) A description of each planned security-related technology program, including objectives, goals, and timelines for each such program.

(6) An identification of each deployed security-related technology that is at or near the end of the life cycle of such technology.

(7) A description of the test, evaluation, modeling, and simulation capabilities, including target methodologies, rationales, and timelines, necessary to support the acquisition of security-related technologies pursuant to paragraph (4).

(8) An identification and assessment of ways to increase opportunities for communication and collaboration with the private sector, small and disadvantaged businesses, intragovernment entities, university centers of excellence, and federal laboratories to ensure CBP is able to engage with the market for security-related technologies that are available to satisfy its mission needs before engaging in an acquisition of a security-related technology.

(9) An assessment of the management of planned security-related technology programs by the acquisition workforce of CBP.

(10) An identification of ways to leverage already-existing acquisition expertise within the Federal Government.

(11) A description of the security resources, including information security resources, required to protect security-related technology from physical or cyber theft, diversion, sabotage, or attack.

(12) A description of initiatives to—

(A) streamline the acquisition process of CBP; and

(B) provide to the private sector greater predictability and transparency with respect to such process, including information relating to the timeline for testing and evaluation of security-related technology.

(13) An assessment of the privacy and security impact on border communities of security-related technology.

(14) In the case of a new acquisition leading to the removal of equipment from a port of entry along the northern or southern border of the United States, a strategy to consult with the private sector and community stakeholders affected by such removal.

(15) A strategy to consult with the private sector and community stakeholders with respect to security impacts at a port of entry described in paragraph (14).

(16) An identification of recent technological advancements in the following:

(A) Manned aircraft sensor, communication, and common operating picture technology.

(B) Unmanned aerial systems and related technology, including counter-unmanned aerial system technology.

(C) Surveillance technology, including the following:

(i) Mobile surveillance vehicles.

- (ii) Associated electronics, including cameras, sensor technology, and radar.
- (iii) Tower-based surveillance technology.
- (iv) Advanced unattended surveillance sensors.
- (v) Deployable, lighter-than-air, ground surveillance equipment.
- (D) Nonintrusive inspection technology, including non-X-ray devices utilizing muon tomography and other advanced detection technology.
- (E) Tunnel detection technology.
- (F) Communications equipment, including the following:
 - (i) Radios.
 - (ii) Long-term evolution broadband.
 - (iii) Miniature satellites.
- (c) LEVERAGING THE PRIVATE SECTOR.—To the extent practicable, the plan shall—
 - (1) leverage emerging technological capabilities, and research and development trends, within the public and private sectors;
 - (2) incorporate input from the private sector, including from border and port security stakeholders, through requests for information, industry day events, and other innovative means consistent with the Federal Acquisition Regulation; and
 - (3) identify security-related technologies that are in development or deployed, with or without adaptation, that may satisfy the mission needs of CBP.
- (d) FORM.—To the extent practicable, the plan shall be published in unclassified form on the website of the Department.
- (e) DISCLOSURE.—The plan shall include an identification of individuals not employed by the Federal Government, and their professional affiliations, who contributed to the development of the plan.
- (f) UPDATE AND REPORT.—Not later than the date that is two years after the date on which the plan is submitted to the appropriate congressional committees pursuant to subsection (a) and biennially thereafter for ten years, the Commissioner shall submit to the appropriate congressional committees—
 - (1) an update of the plan, if appropriate; and
 - (2) a report that includes—
 - (A) the extent to which each security-related technology acquired by CBP since the initial submission of the plan or most recent update of the plan, as the case may be, is consistent with the planned technology programs and projects described pursuant to subsection (b)(5); and
 - (B) the type of contract and the reason for acquiring each such security-related technology.
- (g) DEFINITIONS.—In this section:
 - (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—
 - (A) the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives; and
 - (B) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.
 - (2) COVERED OFFICIALS.—The term “covered officials” means—
 - (A) the Under Secretary for Management of the Department;
 - (B) the Under Secretary for Science and Technology of the Department; and
 - (C) the Chief Information Officer of the Department.
 - (3) UNLAWFULLY PRESENT.—The term “unlawfully present” has the meaning provided such term in section 212(a)(9)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii)).

SEC. 6. 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. 437. 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 \$100,000,000 (based on fiscal year 2023 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 base-line approved by the relevant acquisition decision authority;

“(2) document that each such program is satisfying 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 satisfying 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 Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan for testing, evaluating, and using independent verification and validation of resources relating to the proposed acquisition of border security technology. Under such plan, the proposed acquisition of 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 436 the following new item:

“Sec. 437. Border security technology program management.”.

(c) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 437 of the Homeland Security Act of 2002, as added by subsection (a).

SEC. 7. U.S. CUSTOMS AND BORDER PROTECTION TECHNOLOGY UPGRADES.

(a) SECURE COMMUNICATIONS.—The Commissioner shall ensure that each CBP officer or agent, as appropriate, is equipped with a secure radio or other two-way communication device that allows each such officer or agent to communicate—

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

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

(b) BORDER SECURITY DEPLOYMENT PROGRAM.—

(1) EXPANSION.—Not later than September 30, 2025, the Commissioner shall—

(A) fully implement the Border Security Deployment Program of CBP; and

(B) expand the integrated surveillance and intrusion detection system at land ports of entry along the northern and southern borders of the United States.

(2) 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 years 2024 and 2025 to carry out paragraph (1).

(c) UPGRADE OF LICENSE PLATE READERS AT PORTS OF ENTRY.—

(1) UPGRADE.—Not later than two years after the date of the enactment of this section, the Commissioner shall upgrade all existing license plate readers in need of upgrade, as determined by the Commissioner, on the northern and southern borders of the United States.

(2) 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 years 2023 and 2024 to carry out paragraph (1).

SEC. 8. U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

(a) RETENTION BONUS.—To carry out this section, there is authorized to be appropriated up to \$100,000,000 to the Commissioner to provide a retention bonus to any front-line U.S. Border Patrol law enforcement agent—

(1) whose position is equal to or below level GS-12 of the General Schedule;

(2) who has five years or more of service with the U.S. Border Patrol; and

(3) who commits to two years of additional service with the U.S. Border Patrol upon acceptance of such bonus.

(b) BORDER PATROL AGENTS.—Not later than September 30, 2025, the Commissioner shall hire, train, and assign a sufficient number of Border Patrol agents to

maintain an active duty presence of not fewer than 22,000 full-time equivalent Border Patrol agents, who may not perform the duties of processing coordinators.

(c) PROHIBITION AGAINST ALIEN TRAVEL.—No personnel or equipment of Air and Marine Operations may be used for the transportation of non-detained aliens, or detained aliens expected to be administratively released upon arrival, from the southwest border to destinations within the United States.

(d) GAO REPORT.—If the staffing level required under this section is not achieved by the date associated with such level, the Comptroller General of the United States shall—

(1) conduct a review of the reasons why such level was not so achieved; and

(2) not later than September 30, 2027, publish on a publicly available website of the Government Accountability Office a report relating thereto.

SEC. 9. ANTI-BORDER CORRUPTION ACT REAUTHORIZATION.

(a) HIRING FLEXIBILITY.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221; Public Law 111–376) is amended by striking subsection (b) and inserting the following new subsections:

“(b) WAIVER REQUIREMENT.—Subject to subsection (c), the Commissioner of U.S. Customs and Border Protection shall 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; and

“(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;

“(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; or

“(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 in subparagraph (B).

“(c) TERMINATION OF WAIVER REQUIREMENT; SNAP-BACK.—The requirement to issue a waiver under subsection (b) shall terminate if the Commissioner of U.S. Customs and Border Protection (CBP) certifies to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP has met all requirements pursuant to section 8 of the Border Reinforcement Act of 2023 relating to personnel levels. If at any time after such certification personnel levels fall below such requirements, the Commissioner shall waive the application of subsection (a)(1) until such time as the Commissioner re-certifies to such Committees that CBP has so met all such requirements.”.

(b) SUPPLEMENTAL COMMISSIONER AUTHORITY; REPORTING; DEFINITIONS.—The Anti-Border Corruption Act of 2010 is amended by adding at the end the following new sections:

“SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

“(a) NONEXEMPTION.—An individual who receives a waiver under section 3(b) is not exempt from any 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.—An 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. 6. 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, the following:

“(1) Information relating to the number of waivers granted under such section 3(b).

“(2) Information relating to the percentage of applicants who were hired after receiving such a waiver.

“(3) Information relating to the number of instances that a polygraph was administered to an applicant who initially received such a waiver and the results of such polygraph.

“(4) An assessment of the current impact of such waiver authority on filling law enforcement positions at U.S. Customs and Border Protection.

“(5) An identification of additional authorities needed by U.S. Customs and Border Protection to better utilize such waiver authority for its intended goals.

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

“(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 applicants or employees for suitability for employment or continued employment, as the case may be.

“(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. 7. DEFINITIONS.

“In this Act:

“(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’ means a ‘law enforcement officer’, as such term is 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.”.

(c) POLYGRAPH EXAMINERS.—Not later than September 30, 2025, 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 section.

SEC. 10. ESTABLISHMENT OF WORKLOAD STAFFING MODELS FOR U.S. BORDER PATROL AND AIR AND MARINE OPERATIONS OF CBP.

(a) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Commissioner, in coordination with the Under Secretary for Management, the Chief Human Capital Officer, and the Chief Financial Officer of the Department, shall implement a workload staffing model for each of the following:

- (1) The U.S. Border Patrol.
- (2) Air and Marine Operations of CBP.

(b) **RESPONSIBILITIES OF THE COMMISSIONER.**—Subsection (c) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211), is amended—

- (1) by redesignating paragraphs (18) and (19) as paragraphs (20) and (21), respectively; and
- (2) by inserting after paragraph (17) the following new paragraphs:

“(18) implement a staffing model for the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations that includes consideration for essential frontline operator activities and functions, variations in operating environments, present and planned infrastructure, present and planned technology, and required operations support levels to enable such entities to manage and assign personnel of such entities to ensure field and support posts possess adequate resources to carry out duties specified in this section;

“(19) develop standard operating procedures for a workforce tracking system within the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations, train the workforce of each of such entities on the use, capabilities, and purpose of such system, and implement internal controls to ensure timely and accurate scheduling and reporting of actual completed work hours and activities;”.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this section with respect to subsection (a) and paragraphs (18) and (19) of section 411(c) of the Homeland Security Act of 2002 (as amended by subsection (b)), and annually thereafter with respect to such paragraphs (18) and (19), the Secretary shall submit to the appropriate congressional committees a report that includes a status update on the following:

- (A) The implementation of such subsection (a) and such paragraphs (18) and (19).
- (B) Each relevant workload staffing model.

(2) **DATA SOURCES AND METHODOLOGY REQUIRED.**—Each report required under paragraph (1) shall include information relating to the data sources and methodology used to generate each relevant staffing model.

(d) **INSPECTOR GENERAL REVIEW.**—Not later than 90 days after the Commissioner develops the workload staffing models pursuant to subsection (a), the Inspector General of the Department shall review such models and provide feedback to the Secretary and the appropriate congressional committees with respect to the degree to which such models are responsive to the recommendations of the Inspector General, including the following:

- (1) Recommendations from the Inspector General’s February 2019 audit.
- (2) Any further recommendations to improve such models.

(e) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

- (1) the Committee on Homeland Security of the House of Representatives; and
- (2) the Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 11. 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. 2010. 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 State administrative agencies, 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 shall—

- (1) be located in—
 - “(A) a State bordering Canada or Mexico; or
 - “(B) a State or territory with a maritime border;

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

- “(3) have an agreement in place with U.S. Immigration and Customs Enforcement to support enforcement operations.
- “(c) PERMITTED USES.—A recipient of a grant under this section may use such grant for costs associated with the following:
- “(1) Equipment, including maintenance and sustainment.
- “(2) Personnel, including overtime and backfill, in support of enhanced border law enforcement activities.
- “(3) Any activity permitted for Operation Stonegarden under the most recent fiscal year Department of Homeland Security’s Homeland Security Grant Program Notice of Funding Opportunity.
- “(d) PERIOD OF PERFORMANCE.—The Secretary shall award grants under this section to grant recipients for a period of not fewer than 36 months.
- “(e) NOTIFICATION.—Upon denial of a grant to a law enforcement agency, the Administrator shall provide written notice to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, including the reasoning for such denial.
- “(f) REPORT.—For each of fiscal years 2024 through 2028 the Administrator 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 contains—
- “(1) information on the expenditure of grants made under this section by each grant recipient; and
- “(2) recommendations for other uses of such grants to further support eligible law enforcement agencies.
- “(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$110,000,000 for each of fiscal years 2024 through 2028 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, 2009, and 2010 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 2009 the following new item:
- “Sec. 2010. Operation Stonegarden.”
- SEC. 12. AIR AND MARINE OPERATIONS FLIGHT HOURS.**
- (a) AIR AND MARINE OPERATIONS FLIGHT HOURS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall ensure that not fewer than 110,000 annual flight hours are carried out by Air and Marine Operations of CBP.
- (b) UNMANNED AIRCRAFT SYSTEMS.—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that Air and Marine Operations operate unmanned aircraft systems on the southern border of the United States for not less than 24 hours per day.
- (c) PRIMARY MISSIONS.—The Commissioner shall ensure the following:
- (1) The primary missions for Air and Marine Operations are to directly support the following:
- (A) U.S. Border Patrol activities along the borders of the United States.
- (B) Joint Interagency Task Force South and Joint Task Force East operations in the transit zone.
- (2) The Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions specified in paragraph (1).
- (d) HIGH DEMAND FLIGHT HOUR REQUIREMENTS.—The Commissioner shall—
- (1) ensure that U.S. Border Patrol Sector Chiefs identify air support mission-critical hours; and
- (2) direct Air and Marine Operations to support requests from such Sector Chiefs as a component of the primary mission of Air and Marine Operations in accordance with subsection (c)(1)(A).
- (e) CONTRACT AIR SUPPORT AUTHORIZATIONS.—The Commissioner shall contract for air support mission-critical hours to meet the requests for such hours, as identified pursuant to subsection (d).
- (f) SMALL UNMANNED AIRCRAFT SYSTEMS.—
- (1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent with respect to the use of small unmanned aircraft by CBP for the purposes of the following:
- (A) Meeting the unmet flight hour operational requirements of the U.S. Border Patrol.

(B) Achieving situational awareness and operational control of the borders of the United States.

(2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol shall coordinate—

(A) flight operations with the Administrator of the Federal Aviation Administration to ensure the safe and efficient operation of the national airspace system; and

(B) with the Executive Assistant Commissioner for Air and Marine Operations of CBP to—

(i) ensure the safety of other CBP aircraft flying in the vicinity of small unmanned aircraft operated by the U.S. Border Patrol; and

(ii) establish a process to include data from flight hours in the calculation of got away statistics.

(3) 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 aircraft (as such term is defined in section 44801 of title 49, United States Code) requirements pursuant to subsection (f) of section 12 of the Border Reinforcement Act of 2023; and”.

(g) SAVINGS CLAUSE.—Nothing in this section may be construed as conferring, transferring, or delegating to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations of CBP, or the Chief of the U.S. Border Patrol any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration relating to the use of airspace or aviation safety.

(h) DEFINITIONS.—In this section:

(1) GOT AWAY.—The term “got away” has the meaning given such term in section 1092(a)(3) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(3)).

(2) 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)(8)).

SEC. 13. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary, in coordination with the heads of relevant Federal, State, and local agencies, shall hire contractors to begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River that impedes border security operations. Such eradication shall be completed—

(1) by not later than September 30, 2027, except for required maintenance; and

(2) in the most expeditious and cost-effective manner possible to maintain clear fields of view.

(b) APPLICATION.—The waiver authority under subsection (c) of section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by section 4 of this Act, shall apply to activities carried out pursuant to subsection (a).

(c) REPORT.—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 strategic plan to eradicate all carrizo cane plant and salt cedar along the Rio Grande River that impedes border security operations by not later than September 30, 2027.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$7,000,000 for each of fiscal years 2024 through 2028 to the Secretary to carry out this subsection.

SEC. 14. BORDER PATROL STRATEGIC PLAN.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this section and biennially thereafter, the Commissioner, acting through the Chief of the U.S. Border Patrol, shall issue a Border Patrol Strategic Plan (referred to in this section as the “plan”) to enhance the security of the international borders of the United States.

(b) ELEMENTS.—The plan shall include the following:

(1) A consideration of Border Patrol Capability Gap Analysis reporting, Border Security Improvement Plans, and any other strategic document authored by the U.S. Border Patrol to address security gaps between ports of entry, including efforts to mitigate threats identified in such analyses, plans, and documents.

- (2) Information relating to the dissemination of information relating to border security or border threats with respect to the efforts of the Department and other appropriate Federal agencies.
- (3) Information relating to efforts by U.S. Border Patrol to—
 - (A) increase situational awareness, including—
 - (i) surveillance capabilities, such as 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 aircraft;
 - (B) detect and prevent terrorists and instruments of terrorism from entering the United States;
 - (C) detect, interdict, and disrupt between ports of entry aliens unlawfully present in the United States;
 - (D) detect, interdict, and disrupt human smuggling, human trafficking, drug trafficking, and other illicit cross-border activity;
 - (E) focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States; and
 - (F) ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department.
- (4) Information relating to initiatives of the Department with respect to operational coordination, including any relevant task forces of the Department.
- (5) Information gathered from the lessons learned by the deployments of the National Guard to the southern border of the United States.
- (6) A description of cooperative agreements relating to information sharing with State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the borders of the United States.
- (7) Information relating to border security information received from the following:
 - (A) State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the borders of the United States or in the maritime environment.
 - (B) Border community stakeholders, including representatives from the following:
 - (i) Border agricultural and ranching organizations.
 - (ii) Business and civic organizations.
 - (iii) Hospitals and rural clinics within 150 miles of the borders of the United States.
 - (iv) Victims of crime committed by aliens unlawfully present in the United States.
 - (v) Victims impacted by drugs, transnational criminal organizations, cartels, gangs, or other criminal activity.
 - (vi) Farmers, ranchers, and property owners along the border.
 - (vii) Other individuals negatively impacted by illegal immigration.
- (8) Information relating to the staffing requirements with respect to border security for the Department.
- (9) A prioritized list of Department research and development objectives to enhance the security of the borders of the United States.
- (10) An assessment of training programs, including such programs relating to the following:
 - (A) Identifying and detecting fraudulent documents.
 - (B) Understanding the scope of CBP enforcement authorities and appropriate use of force policies.
 - (C) Screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking.

SEC. 15. U.S. CUSTOMS AND BORDER PROTECTION SPIRITUAL READINESS.

Not later than one year after the enactment of this Act and annually thereafter for five years, 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 a report on the availability and usage of the assistance of chaplains, prayer groups, houses of worship, and other spiritual resources for members of CBP who identify as religiously-affiliated and have attempted suicide, have suicidal ideation, or are at risk of suicide, and metrics on the impact such resources have in assisting religiously-affiliated members who have access to and utilize such resources compared to religiously-affiliated members who do not.

SEC. 16. RESTRICTIONS ON FUNDING.

(a) **ARRIVING ALIENS.**—No funds are authorized to be appropriated to the Department to process the entry into the United States of aliens arriving in between ports of entry.

(b) **RESTRICTION ON NONGOVERNMENTAL ORGANIZATION SUPPORT FOR UNLAWFUL ACTIVITY.**—No funds are authorized to be appropriated to the Department for disbursement to any nongovernmental organization that facilitates or encourages unlawful activity, including unlawful entry, human trafficking, human smuggling, drug trafficking, and drug smuggling.

(c) **RESTRICTION ON NONGOVERNMENTAL ORGANIZATION FACILITATION OF ILLEGAL IMMIGRATION.**—No funds are authorized to be appropriated to the Department for disbursement to any nongovernmental organization to provide, or facilitate the provision of, transportation, lodging, or immigration legal services to inadmissible aliens who enter the United States after the date of the enactment of this Act.

SEC. 17. COLLECTION OF DNA AND BIOMETRIC INFORMATION AT THE BORDER.

Not later than 14 days after the date of the enactment of this Act, the Secretary shall ensure and certify to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP is fully compliant with Federal DNA and biometric collection requirements at United States land borders.

SEC. 18. ERADICATION OF NARCOTIC DRUGS AND FORMULATING EFFECTIVE NEW TOOLS TO ADDRESS YEARLY LOSSES OF LIFE; ENSURING TIMELY UPDATES TO U.S. CUSTOMS AND BORDER PROTECTION FIELD MANUALS.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, and not less frequently than triennially thereafter, the Commissioner of U.S. Customs and Border Protection shall review and update, as necessary, the current policies and manuals of the Office of Field Operations related to inspections at ports of entry, and the U.S. Border Patrol related to inspections between ports of entry, to ensure the uniform implementation of inspection practices that will effectively respond to technological and methodological changes designed to disguise unlawful activity, such as the smuggling of drugs and humans, along the border.

(b) **REPORTING REQUIREMENT.**—Not later than 90 days after each update required under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report that summarizes any policy and manual changes pursuant to subsection (a).

SEC. 19. PUBLICATION BY U.S. CUSTOMS AND BORDER PROTECTION OF OPERATIONAL STATISTICS.

(a) **IN GENERAL.**—Not later than the seventh day of each month beginning with the second full month after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall publish on a publicly available website of the Department of Homeland Security information relating to the total number of alien encounters and nationalities, unique alien encounters and nationalities, gang affiliated apprehensions and nationalities, drug seizures, alien encounters included in the terrorist screening database and nationalities, arrests of criminal aliens or individuals wanted by law enforcement and nationalities, known got aways, encounters with deceased aliens, and all other related or associated statistics recorded by U.S. Customs and Border Protection during the immediately preceding month. Each such publication shall include the following:

(1) The aggregate such number, and such number disaggregated by geographic regions, of such recordings and encounters, including specifications relating to whether such recordings and encounters were at the southwest, northern, or maritime border.

(2) An identification of the Office of Field Operations field office, U.S. Border Patrol sector, or Air and Marine Operations branch making each recording or encounter.

(3) Information relating to whether each recording or encounter of an alien was of a single adult, an unaccompanied alien child, or an individual in a family unit.

(4) Information relating to the processing disposition of each alien recording or encounter.

(5) Information relating to the nationality of each alien who is the subject of each recording or encounter.

(6) The total number of individuals included in the terrorist screening database (as such term is defined in section 2101 of the Homeland Security Act of 2002 (6 U.S.C. 621)) who have repeatedly attempted to cross unlawfully into the United States.

(7) The total number of individuals included in the terrorist screening database who have been apprehended, including information relating to whether such individuals were released into the United States or removed.

(b) EXCEPTIONS.—If the Commissioner of U.S. Customs and Border Protection in any month does not publish the information required under subsection (a), or does not publish such information by the date specified in such subsection, the Commissioner shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding the reason relating thereto, as the case may be, by not later than the date that is two business days after the tenth day of such month.

(c) DEFINITIONS.—In this section:

(1) ALIEN ENCOUNTERS.—The term “alien encounters” means aliens apprehended, determined inadmissible, or processed for removal by U.S. Customs and Border Protection.

(2) GOT AWAY.—The term “got away” has the meaning given such term in section 1092(a) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)).

(3) TERRORIST SCREENING DATABASE.—The term “terrorist screening database” has the meaning given such term in section 2101 of the Homeland Security Act of 2002 (6 U.S.C. 621).

(4) UNACCOMPANIED ALIEN CHILD.—The term “unaccompanied alien child” has the meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

SEC. 20. ALIEN CRIMINAL BACKGROUND CHECKS.

(a) IN GENERAL.—Not later than seven days after the date of the enactment of this Act, the Commissioner shall certify to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate that CBP has real-time access to the criminal history databases of all countries of origin and transit for aliens encountered by CBP to perform criminal history background checks for such aliens.

(b) STANDARDS.—The certification required under subsection (a) shall also include a determination whether the criminal history databases of a country are accurate, up to date, digitized, searchable, and otherwise meet the standards of the Federal Bureau of Investigation for criminal history databases maintained by State and local governments.

(c) CERTIFICATION.—The Secretary shall annually submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a certification that each database referred to in subsection (b) which the Secretary accessed or sought to access pursuant to this section met the standards described in subsection (b).

SEC. 21. PROHIBITED IDENTIFICATION DOCUMENTS AT AIRPORT SECURITY CHECKPOINTS; NOTIFICATION TO IMMIGRATION AGENCIES.

(a) IN GENERAL.—The Administrator may not accept as valid proof of identification a prohibited identification document at an airport security checkpoint.

(b) NOTIFICATION TO IMMIGRATION AGENCIES.—If an individual presents a prohibited identification document to an officer of the Transportation Security Administration at an airport security checkpoint, the Administrator shall promptly notify the Director of U.S. Immigration and Customs Enforcement, the Director of U.S. Customs and Border Protection, and the head of the appropriate local law enforcement agency to determine whether the individual is in violation of any term of release from the custody of any such agency.

(c) ENTRY INTO STERILE AREAS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is found to be in violation of any term of release under subsection (b), the Administrator may not permit such individual to enter a sterile area.

(2) EXCEPTION.—An individual presenting a prohibited identification document under this section may enter a sterile area if the individual—

(A) is leaving the United States for the purposes of removal or deportation; or

(B) presents a covered identification document.

(d) COLLECTION OF BIOMETRIC INFORMATION FROM CERTAIN INDIVIDUALS SEEKING ENTRY INTO THE STERILE AREA OF AN AIRPORT.—Beginning not later than 120 days after the date of the enactment of this Act, the Administrator shall collect biometric information from an individual described in subsection (e) prior to authorizing such individual to enter into a sterile area.

- (e) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—
- (1) is seeking entry into the sterile area of an airport;
 - (2) does not present a covered identification document; and
 - (3) the Administrator cannot verify is a national of the United States.
- (f) PARTICIPATION IN IDENT.—Beginning not later than 120 days after the date of the enactment of this Act, the Administrator, in coordination with the Secretary, shall submit biometric data collected under this section to the Automated Biometric Identification System (IDENT).
- (g) DEFINITIONS.—In this section:
- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Transportation Security Administration.
 - (2) BIOMETRIC INFORMATION.—The term “biometric information” means any of the following:
 - (A) A fingerprint.
 - (B) A palm print.
 - (C) A photograph, including—
 - (i) a photograph of an individual’s face for use with facial recognition technology; and
 - (ii) a photograph of any physical or anatomical feature, such as a scar, skin mark, or tattoo.
 - (D) A signature.
 - (E) A voice print.
 - (F) An iris image.
 - (3) COVERED IDENTIFICATION DOCUMENT.—The term “covered identification document” means any of the following, if the document is valid and unexpired:
 - (A) A United States passport or passport card.
 - (B) A biometrically secure card issued by a trusted traveler program of the Department of Homeland Security, including—
 - (i) Global Entry;
 - (ii) Nexus;
 - (iii) Secure Electronic Network for Travelers Rapid Inspection (SENTRI); and
 - (iv) Free and Secure Trade (FAST).
 - (C) An identification card issued by the Department of Defense, including such a card issued to a dependent.
 - (D) Any document required for admission to the United States under section 211(a) of the Immigration and Nationality Act (8 U.S.C. 1181(a)).
 - (E) An enhanced driver’s license issued by a State.
 - (F) A photo identification card issued by a federally recognized Indian Tribe.
 - (G) A personal identity verification credential issued in accordance with Homeland Security Presidential Directive 12.
 - (H) A driver’s license issued by a province of Canada.
 - (I) A Secure Certificate of Indian Status issued by the Government of Canada.
 - (J) A Transportation Worker Identification Credential.
 - (K) A Merchant Mariner Credential issued by the Coast Guard.
 - (L) A Veteran Health Identification Card issued by the Department of Veterans Affairs.
 - (M) Any other document the Administrator determines, pursuant to a rule making in accordance with section 553 of title 5, United States Code, will satisfy the identity verification procedures of the Transportation Security Administration.
 - (4) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).
 - (5) PROHIBITED IDENTIFICATION DOCUMENT.—The term “prohibited identification document” means any of the following (or any applicable successor form):
 - (A) U.S. Immigration and Customs Enforcement Form I–200, Warrant for Arrest of Alien.
 - (B) U.S. Immigration and Customs Enforcement Form I–205, Warrant of Removal/Deportation.
 - (C) U.S. Immigration and Customs Enforcement Form I–220A, Order of Release on Recognizance.
 - (D) U.S. Immigration and Customs Enforcement Form I–220B, Order of Supervision.
 - (E) Department of Homeland Security Form I–862, Notice to Appear.

(F) U.S. Customs and Border Protection Form I-94, Arrival/Departure Record (including a print-out of an electronic record).

(G) Department of Homeland Security Form I-385, Notice to Report.

(H) Any document that directs an individual to report to the Department of Homeland Security.

(I) Any Department of Homeland Security work authorization or employment verification document.

(6) STERILE AREA.—The term “sterile area” has the meaning given that term in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation.

SEC. 22. PROHIBITION AGAINST ANY COVID-19 VACCINE MANDATE OR ADVERSE ACTION AGAINST DHS EMPLOYEES.

(a) LIMITATION ON IMPOSITION OF NEW MANDATE.—The Secretary may not issue any COVID-19 vaccine mandate unless Congress expressly authorizes such a mandate.

(b) PROHIBITION ON ADVERSE ACTION.—The Secretary may not take any adverse action against a Department employee based solely on the refusal of such employee to receive a vaccine for COVID-19.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the following:

(1) The number of Department employees who were terminated or resigned due to the COVID-19 vaccine mandate.

(2) An estimate of the cost to reinstate such employees.

(3) How the Department would effectuate reinstatement of such employees.

(d) RETENTION AND DEVELOPMENT OF UNVACCINATED EMPLOYEES.—The Secretary shall make every effort to retain Department employees who are not vaccinated against COVID-19 and provide such employees with professional development, promotion and leadership opportunities, and consideration equal to that of their peers.

SEC. 23. CBP ONE APP LIMITATION.

(a) LIMITATION.—The Department may use the CBP One Mobile Application or any other similar program, application, internet-based portal, website, device, or initiative only for inspection of perishable cargo.

(b) REPORT.—Not later than 60 days after the date of the enactment of this section, the Commissioner shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the date on which CBP began using CBP One to allow aliens to schedule interviews at land ports of entry, how many aliens have scheduled interviews at land ports of entry using CBP One, the nationalities of such aliens, and the stated final destinations of such aliens within the United States, if any.

SEC. 24. REPORT ON DESIGNATION OF MEXICAN CARTELS AS FOREIGN TERRORIST ORGANIZATIONS.

(a) REPORT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report on whether a Mexican drug cartel described in paragraph (2) meets the criteria for designation as a foreign terrorist organization.

(2) MEXICAN DRUG CARTELS DESCRIBED.—The Mexican drug cartels described in this paragraph include the following:

(A) Jalisco New Generation Cartel.

(B) Sinaloa Cartel.

(C) Juarez Cartel.

(D) Tijuana Cartel.

(E) Gulf Cartel.

(F) Los Zetas.

(G) Las Moicas.

(H) Los Caballeros Templarios.

(I) Beltran-Leyva Organization.

(J) Los Rojos.

(K) La Familia Michoacana.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

(2) FOREIGN TERRORIST ORGANIZATION.—The term “foreign terrorist organization” means an organization described in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to expand the eligibility for asylum of any alien by reason of the designation of a drug cartel as a foreign terrorist organization.

SEC. 25. GAO STUDY ON COSTS INCURRED BY STATES TO SECURE THE SOUTHWEST BORDER.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to examine the costs incurred by individual States as a result of actions taken by such States in support of the Federal mission to secure the southwest border, and the feasibility of a program to reimburse such States for such costs.

(b) CONTENTS.—The study required under subsection (a) shall include consideration of the following:

(1) Actions taken by the Department of Homeland Security that have contributed to costs described in such subsection incurred by States to secure the border in the absence of Federal action, including the termination of the Migrant Protection Protocols and cancellation of border wall construction.

(2) Actions taken by individual States along the southwest border to secure their borders, and the costs associated with such actions.

(3) The feasibility of a program within the Department of Homeland Security to reimburse States for the costs incurred in support of the Federal mission to secure the southwest border.

SEC. 26. REPORT BY INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter for five years, the Inspector General of the Department of Homeland Security 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 examining the economic and security impact of mass migration to municipalities and States along the southwest border. Such report shall include information regarding costs incurred by the following:

(1) State and local law enforcement to secure the southwest border.

(2) Public school districts to educate students who are aliens unlawfully present in the United States.

(3) Healthcare providers to provide care to aliens unlawfully present in the United States who have not paid for such care.

(4) Farmers and ranchers due to migration impacts to their properties.

(b) CONSULTATION.—To produce the report required under subsection (a), the Inspector General of the Department of Homeland Security shall consult with the individuals and representatives of the entities described in paragraphs (1) through (4) of such subsection.

SEC. 27. OFFSETTING AUTHORIZATIONS OF APPROPRIATIONS.

(a) OFFICE OF THE SECRETARY AND EMERGENCY MANAGEMENT.—No funds are authorized to be appropriated for the Alternatives to Detention Case Management Pilot Program or the Office of the Immigration Detention Ombudsman for the Office of the Secretary and Emergency Management of the Department of Homeland Security.

(b) MANAGEMENT DIRECTORATE.—No funds are authorized to be appropriated for electric vehicles or St. Elizabeths campus construction for the Management Directorate of the Department of Homeland Security.

(c) INTELLIGENCE, ANALYSIS, AND SITUATIONAL AWARENESS.—There is authorized to be appropriated \$216,000,000 for Intelligence, Analysis, and Situational Awareness of the Department of Homeland Security.

(d) U.S. CUSTOMS AND BORDER PROTECTION.—No funds are authorized to be appropriated for the Shelter Services Program for U.S. Customs and Border Protection.

SEC. 28. REPORT TO CONGRESS ON FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and annually thereafter for five years, the Secretary of Homeland Security 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

assessment of foreign terrorist organizations attempting to move their members or affiliates into the United States through the southern, northern, or maritime border.

(b) DEFINITION.—The term “foreign terrorist organization” means an organization described in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

SEC. 29. ASSESSMENT BY INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY ON THE MITIGATION OF UNMANNED AIRCRAFT SYSTEMS AT THE SOUTHWEST BORDER.

Not later than 90 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security 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 assessment of U.S. Customs and Border Protection’s ability to mitigate unmanned aircraft systems at the southwest border. Such assessment shall include information regarding any intervention between January 1, 2021, and the date of the enactment of this Act, by any Federal agency affecting in any manner U.S. Customs and Border Protection’s authority to so mitigate such systems.

PURPOSE AND SUMMARY

The security of our nation hinges on how effectively the Federal government controls who and what enters the United States both at and between the official ports of entry. The Department of Homeland Security (DHS) is charged with the critical mission to secure our nation’s borders and ports of entry against a wide array of domestic threats. A porous border is a conduit for transnational criminal organizations, human smugglers, and drug traffickers. Even more concerning, an open border is a vulnerability that terrorists unequivocally attempt to exploit.¹ Supporting and overseeing DHS’s efforts to secure the nation’s borders is a principal responsibility of the House Committee on Homeland Security.

For the last two and a half years, the United States has experienced a record-breaking number of alien encounters, apprehensions, drug seizures, and gotaways, both known and unknown. Consequently, the need to find a permanent border security solution is even more urgent in these crucial times. The Committee maintains that operational control of our borders must be achieved through smart deployments of physical infrastructure, technology, and personnel.

H.R. 2794 specifically requires the Secretary of DHS to immediately resume all activities related to the construction of the border wall using previously appropriated, unexpired funds. To avoid waste, the bill also allows for the use of materials in relation to construction that were purchased prior to the date of enactment. This legislation mandates technology capability deployment tailored to the specific threats and needs of frontline law enforcement.

H.R. 2794 is focused on the crux of this historic crisis created by President Biden and Secretary Mayorkas. Frontline 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 and interdiction. For this reason, this bill mandates that the U.S. Border Patrol employ no fewer than 22,000 full time equivalent agents, who are barred from performing the duties of processing coordinators. Hiring and retention of frontline personnel have been serious challenges for the Department, most acutely within the Border Patrol. This bill streamlines the way that veterans of the United States Armed Forces, and existing law

¹ <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

enforcement officers can be hired by waiving the polygraph requirement to help the agency meet these lofty personnel goals. Moreover, to retain talented agents, the Committee has authorized retention bonuses for certain qualifying U.S. Border Patrol agents.

While much of the narrative that surrounds border security is rightly focused on efforts to secure the Southwest border, the Committee also aims to take action concerning certain DHS programs and activities that are wasteful or encourage illegal activity, including restricting funding for non-governmental organizations (NGOs) who enable and facilitate the Mexican cartels' human and drug trafficking and smuggling practices. Moreover, the law has been clear for decades that DHS is required to complete a biometric exit system—with this bill, the Committee remedies what the Biden Administration refuses to enforce by requiring DHS certify to Congress its compliance with biometrics and DNA requirements. Furthermore, the bill necessitates DHS to ensure its access to criminal history databases of all countries of origin and transit for aliens encountered by CBP. Taking an all-encompassing approach, this bill remedies many significant challenges facing DHS and within its realm of jurisdiction, provides for a more secure nation while simultaneously deterring illegal mass migration.

BACKGROUND AND NEED FOR LEGISLATION

Given that the number of aliens presenting at ports of entry and illegal aliens entering the United States between ports of entry has drastically increased over the past two and a half years, the threat posed by drug cartels, transnational criminal organizations, and known or suspected terrorists remains extraordinarily high. Over the years, Congress has appropriated billions of dollars to strengthen border security through new investments in personnel, technology, and physical infrastructure; nonetheless, our borders are measurably less secure than they were several years ago under the prior administration.

Rather than continue the flawed approaches of the current administration, this bill provides DHS with a clear direction to secure the border. This multi-layered approach is designed to deter, detect, and help interdict illegal cross-border activity at the border, especially between ports of entry where the crisis is most prominent. This bill clearly and effectively communicates Congress' intent: the United States will not tolerate illicit activity at our borders.

HEARINGS

The Committee held the following hearings in the 118th Congress that informed H.R. 2794:

On February 28, 2023, the Full Committee held a hearing entitled "Every State is a Border State: Examining Secretary Mayorkas' Border Crisis." The Committee received testimony from Rebecca Kiessling, Private Citizen; the Honorable Mark Lamb, Sheriff of Pinal County, Arizona; Robert J. Trenchel, President and CEO of Yuma Regional Medical Center; and David J. Bier, Associate Director of Immigration Studies, CATO Institute.

On March 15, 2023, the Full Committee held a field hearing entitled "Failure by Design: Examining Secretary Mayorkas' Border

Crisis.” The Committee received testimony from the Honorable Raul L. Ortiz, Chief, U.S. Border Patrol, U.S. Department of Homeland Security; Steven W. Cagen, Assistant Director, Countering Transnational Organized Crime, Homeland Security Investigations, U.S. Immigration and Customs Enforcement; Colonel Steven C. McCraw, Director, Texas Department of Public Safety; Sheriff Brad Coe, Kinney County Sheriff’s Office; and Chris Cabrera, Vice President, National Border Patrol Council.

On April 19, 2023, the Full Committee held a hearing entitled “A Review of the Fiscal Year 2024 Budget Request for the Department of Homeland Security.” The Committee received testimony from the Honorable Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on Wednesday, April 26, 2023, a quorum being present, to consider H.R. 2794 and ordered the measure to be favorably reported to the House, as amended, by a recorded vote of 18 yeas to 15 nays.

COMMITTEE VOTES

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

1. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Menendez of New Jersey to strike Section 3. The amendment failed by a recorded vote of 12 Yeas to 14 Nays (Rollcall No. 5)

Committee Record Vote No. 5

Menendez of New Jersey Amendment No. 02 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 12 Yeas to 14 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul .....	.....	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee .....	.....
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman .....	.....
Mr. Ezell .....	.....	Mr. Garcia (CA)	Yea
Mr. D’Esposito .....	.....	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea

Committee Record Vote No. 5—Continued

Menendez of New Jersey Amendment No. 02 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 12 Yeas to 14 Nays

Majority Members	Vote	Minority Members	Vote
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

2. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Carter of Louisiana to amend Section 4. The amendment failed by a recorded vote of 14 Yeas to 16 Nays (Rollcall No. 6)

Committee Record Vote No. 6

Carter of Louisiana Amendment No. 03 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 14 Yeas to 16 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul .....	.....	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey .....	.....
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

3. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Garcia of California to strike Section 16. The amendment failed by a recorded vote of 12 Yeas to 15 Nays (Rollcall No. 7).

Committee Record Vote No. 7

Garcia of California Amendment No. 013 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 12 Yeas to 15 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee .....	.....
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell .....	.....
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino .....	.....	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota .....	.....	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus .....	.....
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

4. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Guest of Mississippi to clarify intent and prohibited services of Section 16. The amendment was agreed to by a recorded vote of 17 Yeas to 15 Nays (Rollcall No. 8).

Committee Record Vote No. 8

Guest of Mississippi Amendment No. 08 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Agreed to: 17 Yeas to 15 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Yea	Mr. Thompson (MS)	Nay
Mr. Higgins, LA	Yea	Ms. Jackson Lee	Nay
Mr. Guest	Yea	Mr. Payne	Nay
Mr. Bishop, NC	Yea	Mr. Swalwell	Nay
Mr. Gimenez	Yea	Mr. Correa	Nay
Mr. Pfluger	Yea	Mr. Carter (LA)	Nay
Mr. Garbarino	Yea	Mr. Thanedar	Nay
Ms. Greene	Yea	Mr. Magaziner	Nay
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Nay
Mr. LaLota	Yea	Mr. Goldman	Nay
Mr. Ezell	Yea	Mr. Garcia (CA)	Nay
Mr. D'Esposito	Yea	Mrs. Ramirez	Nay

Committee Record Vote No. 8—Continued

Guest of Mississippi Amendment No. 08 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Agreed to: 17 Yeas to 15 Nays

Majority Members	Vote	Minority Members	Vote
Ms. Lee (FL)	Yea	Mr. Menendez	Nay
Mr. Luttrell	Yea	Ms. Clarke (NY)	Nay
Mr. Strong	Yea	Ms. Titus	Nay
Mr. Brecheen	Yea		
Mr. Crane	Yea		
Mr. Green (TN) Chairman ..	Yea		

5. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Thompson of Mississippi to provide pay parity for CBP officers and Border Patrol agents. The amendment failed by a recorded vote of 14 Yeas to 17 Nays (Rollcall No. 9).

Committee Record Vote No. 9

Thompson of Mississippi Amendment No. 032 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 14 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX)	Nay	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez .....	.....
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

6. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Thompson of Mississippi to adjust Border Patrol to CBP workforce staffing model. The amendment failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 10).

Committee Record Vote No. 10

Thompson of Mississippi Amendment No. 06 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

7. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Thompson of Mississippi to insert a new section at the end of the bill preserving the rights of CBP employees to unionize. The amendment failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 11).

Committee Record Vote No. 11

Thompson of Mississippi Amendment No. 020 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea

Committee Record Vote No. 11—Continued

Thompson of Mississippi Amendment No. 020 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

8. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Swalwell of California to exclude organizations serving Afghan partners from NGO funding restriction. The amendment failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 12).

Committee Record Vote No. 12

Swalwell of California Amendment No. 016 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX)	Nay	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

9. An amendment to the Amendment in the Nature of a Substitute offered by Ms. Jackson Lee of Texas to amend Section 15 to ensure the unity of migrant families. The amendment

failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 13).

Committee Record Vote No. 13

Jackson Lee of Texas Amendment No. 014 to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

10. An amendment to the Amendment in the Nature of a Substitute offered by Mr. Goldman of New York to insert a new section at the end of the bill intended to disrupt the smuggling of U.S. sourced firearms across the land border with Mexico. The amendment failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 14).

Committee Record Vote No. 14

Goldman of New York Amendment No. 15-A to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea

Committee Record Vote No. 14—Continued

Goldman of New York Amendment No. 15-A to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

11. Amendments En Bloc (Mr. Goldman of New York (09), Mr. Goldman of New York (14), Mr. Magaziner of Rhode Island (20), Mr. Magaziner of Rhode Island (21), Mr. Magaziner of Rhode Island (22), Mrs. Ramirez of Illinois (73), Mr. Correa of California (74), Ms. Jackson Lee of Texas (4), Mr. Payne of New Jersey (16), Ms. Clarke of New York (30), Mr. Thanedar of Michigan (17), Mr. Thanedar of Michigan (23), Mr. Correa of California (22), Mr. Correa of California (18-A), Mr. Correa of California (25), Mr. Correa of California (15), Mr. Menendez of New Jersey (19), Mr. Ivey of Maryland (26), Mr. Ivey of Maryland (28), Mr. Magaziner of Rhode Island (19), Mr. Goldman of New York (10), Mr. Goldman of New York (11), Mr. Goldman of New York (12), and Mr. Goldman of New York (15-B). The Amendments En Bloc failed by a recorded vote of 15 Yeas to 17 Nays (Rollcall No. 15).

Committee Record Vote No. 15

Amendments En Bloc considered to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Nay	Mr. Thompson (MS)	Yea
Mr. Higgins, LA	Nay	Ms. Jackson Lee	Yea
Mr. Guest	Nay	Mr. Payne	Yea
Mr. Bishop, NC	Nay	Mr. Swalwell	Yea
Mr. Gimenez	Nay	Mr. Correa	Yea
Mr. Pfluger	Nay	Mr. Carter (LA)	Yea
Mr. Garbarino	Nay	Mr. Thanedar	Yea
Ms. Greene	Nay	Mr. Magaziner	Yea
Mr. Gonzales (TX) .....	.....	Mr. Ivey	Yea
Mr. LaLota	Nay	Mr. Goldman	Yea

Committee Record Vote No. 15—Continued

Amendments En Bloc considered to Green (TN) Amendment in the Nature of a Substitute to H.R. 2794
Failed: 15 Yeas to 17 Nays

Majority Members	Vote	Minority Members	Vote
Mr. Ezell	Nay	Mr. Garcia (CA)	Yea
Mr. D'Esposito	Nay	Mrs. Ramirez	Yea
Ms. Lee (FL)	Nay	Mr. Menendez	Yea
Mr. Luttrell	Nay	Ms. Clarke (NY)	Yea
Mr. Strong	Nay	Ms. Titus	Yea
Mr. Brecheen	Nay		
Mr. Crane	Nay		
Mr. Green (TN) Chairman ..	Nay		

12. A motion by Mr. Green to report H.R. 2794, as amended, to the House with a favorable recommendation, was agreed to by a vote 18 Yeas and 15 Nays (Rollcall No. 16).

Committee Record Vote No. 16

Green (TN) Motion to Favorably Report H.R. 2794, as amended
Agreed to: 18 Yeas to 15 Nays

Majority Members	Vote	Minority Members	Vote
Mr. McCaul	Yea	Mr. Thompson (MS)	Nay
Mr. Higgins, LA	Yea	Ms. Jackson Lee	Nay
Mr. Guest	Yea	Mr. Payne	Nay
Mr. Bishop, NC	Yea	Mr. Swalwell	Nay
Mr. Gimenez	Yea	Mr. Correa	Nay
Mr. Pfluger	Yea	Mr. Carter (LA)	Nay
Mr. Garbarino	Yea	Mr. Thanedar	Nay
Ms. Greene	Yea	Mr. Magaziner	Nay
Mr. Gonzales (TX)	Yea	Mr. Ivey	Nay
Mr. LaLota	Yea	Mr. Goldman	Nay
Mr. Ezell	Yea	Mr. Garcia (CA)	Nay
Mr. D'Esposito	Yea	Mrs. Ramirez	Nay
Ms. Lee (FL)	Yea	Mr. Menendez	Nay
Mr. Luttrell	Yea	Ms. Clarke (NY)	Nay
Mr. Strong	Yea	Ms. Titus	Nay
Mr. Brecheen	Yea		
Mr. Crane	Yea		
Mr. Green (TN) Chairman ..	Yea		

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CORRESPONDENCE WITH OTHER COMMITTEES

MARK E. GREEN, MD, TENNESSEE
CHAIRMANBENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER

One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

May 4, 2023

The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith:

I write regarding H.R. 2794, the "Border Reinforcement Act of 2023," of which the Committee on Ways and Means received an additional referral. I appreciate your support in bringing this legislation before the House of Representatives, and 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 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 on Ways and Means represented on the conference committee.

I will include our letters on H.R. 2794 in the Committee report on this measure and in the *Congressional Record* during floor consideration of this bill. I look forward to working with you on this legislation and appreciate your cooperation on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mark E. Green".

Mark E. Green, MD
Chairman

Cc: The Honorable Bennie Thompson, Ranking Member, Committee on Homeland Security
The Honorable Richard Neal, Ranking Member, Committee on Ways and Means
The Honorable Jason Smith, Parliamentarian

JASON SMITH
MISSOURI
CHAIRMAN
MARK ADJIAN, STAFF DIRECTOR
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MASSACHUSETTS
RANKING MEMBER
BRANDON CASEY, STAFF DIRECTOR
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U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS
1139 LONGWORTH HOUSE OFFICE BUILDING
Washington, DC 20515

May 4, 2023

The Honorable Mark Green
Chairman
Committee on House Homeland Security
H2-117 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Green,

Thank you for your letter regarding H.R. 2794, the "Border Reinforcement Act of 2023." As you noted, the Committee on Ways and Means was granted an additional referral on this bill. I agree to forego action on this bill so that it may proceed expeditiously to the House floor for consideration.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 2794 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our 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 asks that you support any such request.

Finally, I would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during floor consideration of H.R. 2794.

Sincerely,

Jason Smith
Chairman
Committee on Ways and Means

cc: The Honorable Kevin McCarthy, Speaker
The Honorable Bennie G. Thompson
The Honorable Richard E. Neal
Jason Smith, Parliamentarian

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY
213B RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

May 2, 2023

The Honorable Mark Green
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

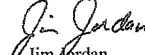
Dear Chairman Green:

I write regarding H.R. 2794, the "Border Reinforcement Act of 2023." Provisions of this bill fall within the Judiciary Committee's Rule X jurisdiction, and I appreciate that you consulted with us on those provisions. The Judiciary Committee agrees that it shall be discharged from further consideration of the bill so that it may proceed expeditiously to the House floor.

The Committee takes this action with the understanding that forgoing further consideration of this measure does not in any way alter the Committee's jurisdiction or waive any future jurisdictional claim over these provisions or their subject matter. We also reserve the right to seek appointment of an appropriate number of conferees in the event of a conference with the Senate involving this measure or similar legislation.

I ask that you please include this letter in your committee's report to accompany this legislation or insert this letter in the *Congressional Record* during consideration of H.R. 2794 on the House floor. I appreciate the cooperative manner in which our committees have worked on this matter, and I look forward to working collaboratively in the future on matters of shared jurisdiction. Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member, Committee on the Judiciary
The Honorable Bennie Thompson, Ranking Member, Committee on Homeland Security
The Honorable Jason Smith, Parliamentarian

MARK E. GREEN, MD, TENNESSEE
CHAIRMAN



BENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER

One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

May 3, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

Thank you for your letter regarding H.R. 2794, the "Border Reinforcement Act of 2023." I appreciate your support in bringing this legislation before the House of Representatives, and that the Committee on the Judiciary 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 Judiciary does not waive 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 on the Judiciary represented on the conference committee.

I will include our letters on H.R. 2794 in the Committee report on this measure and in the *Congressional Record* during floor consideration of this bill. I look forward to working with you on this legislation and appreciate your cooperation on this matter.

Sincerely,

A handwritten signature in black ink that reads "Mark E. Green".

Mark E. Green, MD
Chairman

Cc: The Honorable Bennie Thompson, Ranking Member, Committee on Homeland Security
The Honorable Jerrold Nadler, Ranking Member, Committee on the Judiciary
The Honorable Jason Smith, Parliamentarian

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET
AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 2794 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 2794 is to secure the international borders of the United States.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

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 THE LEGISLATIVE BRANCH

The Committee finds that H.R. 2794 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

Sec. 1. Short title; Table of Contents

This section states that the Act may be cited as the “Border Reinforcement Act of 2023”.

Sec. 2. Definitions

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

Sec. 3. Border wall construction

This section requires the Secretary of the Department of Homeland Security to resume construction of the border wall. To ensure execution, the Secretary shall expend all unexpired funds appropriated or explicitly obligated for such purpose since October 1, 2019, and requires DHS to submit an implementation plan to Congress detailing annual benchmarks of 200 miles of wall construction and associated cost estimates. Previously purchased materials should be used without the need for re-certification.

The Committee believes in utilizing all tools available in order to effectively secure our Southwest border. As such, reauthorizing use of prior appropriated funds and existing materials to resume construction of the border wall is crucial in meeting the goal of a more secure border.

Sec. 4. Strengthening the requirements for barriers along the southern border

This section amends the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (IIRIRA) by instructing the Secretary to take the necessary actions to achieve situational awareness, operational control, maximum agent safety, and to impede illegal activity via physical barriers, tactical infrastructure, and technology near the border. The requirements include construction of a border wall along no fewer than 900 miles of the southwest border. Additionally, the section includes deployment of the most effective technology available, such as advanced surveillance sensors and drones, while minimizing the impact on natural resources, commerce, and sites of historical or cultural significance, promoting officer and agent safety, and ensuring consistent maintenance and effectiveness.

The Committee is aware that physical barriers are not the only effective tool to secure our borders. Consequently, this bill provides for a border barrier system, including the use of the most up-to-date technology to better surveil and monitor activity and assist in interdicting illicit substances attempting to illegally enter the United States.

Sec. 5. Border and port security technology investment plan

This section requires a five-year technology investment plan to include an analysis of security risks at and between ports of entry, identification of capability gaps, an analysis of current and forecasted trends of aliens who unlawfully enter the United States or who are unlawfully present in the United States, and descriptions/assessments of technology plans, programs, and resources. The plan includes emerging technologies and input from the private sector and will be consistently updated biennially for ten years.

Technology plays a critical role in aiding the men and women of DHS to protect our homeland. Therefore, the Committee believes that it is pivotal to assess the current state of technology used at the border and identify shortfalls and areas in which improvement

is necessary to project, as accurately as possible, and interdict illicit activity at the border.

Sec. 6. Border security technology program management

This section requires the Secretary to, for each major acquisition over \$100 million, ensure that the acquisition program management office has an approved baseline that includes cost, schedule, and performance thresholds in compliance with the Federal Acquisition Regulation.

Securing the border is a costly task, which is why the Committee believes that managing major projects and acquisitions above \$100 million efficiently and effectively is essential in using taxpayer funds appropriately.

Sec. 7. U.S. Customs and Border Protection technology upgrades

This section ensures that each CBP officer or agent, where appropriate, is equipped with a secure radio or other two-way communication device allowing for communication between ports of entry and inspection stations and with other law enforcement entities. The section also authorizes the appropriation of \$33 million for the next two fiscal years to implement the Border Security Deployment Program of CBP and expands the integrated surveillance and intrusion detection at land ports of entry by no later than 2025. Finally, it authorizes the appropriation of \$125 million for the next two fiscal years to upgrade all outdated license plate readers.

To secure our borders, frontline law enforcement must have the proper technology to do fulfill their mission and remain safe in the field. 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. The Committee also believes that CBP is more than well equipped to determine which areas need technology upgrades and are better situated to distribute the funds appropriately.

Sec. 8. U.S. Customs and Border Protection personnel

This section mandates that CBP employ no fewer than 22,000 full-time equivalent U.S. Border Patrol agents, all of whom shall not perform the duties of processing coordinators. Additionally, the section provides retention bonuses for Border Patrol agents whose position is equal to GS-12 or below and who have served at least 5 years with CBP. \$100 million is authorized to be divided and distributed to those who qualify for bonuses.

Provided that the substantial increase in aliens attempting to enter the U.S. illegally between ports of entry is an at all-time high, CBP must be provided enough manpower to address the crisis head on. The Committee agrees with Border Patrol Chief Ortiz, who testified before the Committee that maintaining a minimum of 22,000 full-time employees is pivotal in addressing the crisis at the border. Moreover, the Committee believes that it is critical to retain talented agents, particularly at such a pressing time; as such, a retention bonus will be disseminated to qualifying Border Patrol agents who meet certain criteria as a first step in addressing Border Patrol's retention challenges. 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, especially in between ports of entry.

Sec. 9. Anti-Border Corruption Act reauthorization

This section amends the Anti-Border Corruption Act of 2010, which grants the Commissioner of CBP polygraph waiver authority for hiring flexibility. Under this provision, the Commissioner is required to waive the polygraph requirement for certain applicants and any individual who receives a waiver would not be exempt from other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position. Annually, the Commissioner must submit a report noting the number of waivers issued and the percentage of applicants hired with a waiver in addition to information relating to the polygraph program.

The Committee believes in hiring the best applicants for the job—by waiving the polygraph requirement for certain applicants, CBP will be better positioned to hire top-notch individuals who may otherwise be rejected. Moreover, 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. The retention challenges at CBP make this an important and timely provision.

Sec. 10. Establishment of workload staffing models for U.S. Border Patrol and Air and Marine Operations of CBP

This section requires CBP to develop and implement a workload staffing model for the U.S. Border Patrol and for Air and Marine Operations. The model would include (1) consideration for essential frontline operator activities and functions, (2) variations in operating environments, (3) present and planned infrastructure and technology, and (4) required operations support levels. Moreover, this section requires CBP to develop standard operating procedures for a workforce tracking system, to train the workforce in the use of the system, and to implement internal controls to ensure accurate scheduling and reporting. A report to Congress on the model must be submitted within one year.

The Committee believes that an agency staffing model will provide a good baseline from which to operate and will allow for better visibility when assessing operational needs.

Sec. 11. Operation Stonegarden

This section authorizes 'Operation Stonegarden', which will provide grants to eligible law enforcement agencies to enhance border security. To establish eligibility for a grant, a law enforcement agency would need to: (1) be in a state bordering Canada or Mexico, or a state or territory with a maritime border; (2) be involved in an active, ongoing CBP operation; and (3) have an agreement in place with U.S. Immigration and Customs Enforcement (ICE) to support enforcement operations. For implementation, the section would authorize the appropriation of \$110,000,000 for each fiscal year from 2023 through 2027. Additionally, it adds a requirement for notification to Congress should an applicant be denied a grant.

Further, there is a requirement to make recommendations for other uses of such grants to support law enforcement agencies.

Securing the border requires assistance and coordination from different levels of agencies and jurisdictions. By providing grants to eligible state, local, and tribal law enforcement entities, the Committee believes that our federal law enforcement men and women will be better situated to combat illegal immigration, human and drug trafficking and smuggling, along with the ability to focus more on their respective enforcement responsibilities. Additionally, the scale of the current border crisis has had a major impact on state and local law enforcement who are in need of additional resources.

Sec. 12. Air and Marine Operations flight hours

This section ensures that no later than 120 days after enactment, Air and Marine Operations has the ability to carry out no fewer than 110,000 annual flight hours and operate unmanned aerial systems on the southern border 24 hours per day. Furthermore, it includes authority for the CBP Commissioner to contract for completion of mission-critical hours.

While the Committee fully understands that AMO has their own critical mission in securing the borders, the Committee believes that AMO should continue to make a good faith effort to provide the U.S. Border Patrol the ability to contract with air support providers to fly mission critical hours.

Sec. 13. Eradication of Carrizo cane and salt cedar

This section requires the Secretary of Homeland Security, in coordination with the heads of relevant Federal, State, and local agencies, to hire contractors to eradicate the Carrizo cane plant and salt cedar along the Rio Grande River in the most cost-effective manner to maintain clear lines of view for our CBP agents and officers. Such eradication must be completed by the end of FY2027.

The Committee believes that Carrizo cane and salt cedar provide two 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 due to the lack of visibility until these threats 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 and to protect agent safety, Carrizo cane and salt cedar must be eradicated along the Rio Grande River.

Sec. 14. Border Patrol Strategic Plan

This section requires CBP to issue a Border Patrol Strategic Plan to enhance the security of the borders of the United States. The plan will include consideration of U.S. Border Patrol documents to address security gaps between ports of entry, dissemination of information relating to border security, situational awareness efforts, an assessment of training programs, information relating to staffing requirements, and information relating to border security information received from state, local, Tribal, territorial, and other Federal law enforcement agencies and border community stakeholders.

The Committee believes that DHS must complete a comprehensive strategy to secure the border to inform the Department's own leadership of the efforts to gain situational awareness and oper-

ational control, as well as information shared by state, local, tribal, territorial enforcement agencies.

Sec. 15. U.S. Customs and Border Protection spiritual readiness

This section requires, not later than one year following enactment, and annually thereafter for five years, the Commissioner of CBP to submit a report on the availability and usage of the assistance of chaplains, prayer groups, houses of worship, and other spiritual resources for CBP employees who have attempted suicide, have suicidal ideation, are at risk of suicide, and the impact of these resources.

CBP is facing an unprecedented crisis with respect to agent and officer suicides. In an attempt to combat the crisis, the Committee believes that it is pivotal to provide access to resources for employees who are at risk. Nothing in this section prevents those who do not partake in any spiritual practice from seeking assistance through the spiritual readiness program.

Sec. 16. Restrictions on funding

This section bars funding for the purpose of processing aliens who arrive between ports of entry into the United States. Additionally, no funds are authorized to be appropriated for disbursement to any non-governmental organization (NGO) that facilitates or encourages illegal activity, including illegal entry, human and drug trafficking, or human and drug smuggling. Further, NGOs cannot receive funds to provide or facilitate transportation, lodging, or immigration legal services to inadmissible aliens.

Not only do many of the current federal government policies encourage illegal activity with regard to border security, NGOs also have a propensity to enable and facilitate human smuggling and trafficking by monetarily supporting those who enter the country illegally. This creates an even stronger business model for smuggling organizations, who know that NGOs in the U.S. will finish the journey for smuggled or trafficked migrants. As such, moving forward, the Committee believes that taxpayers should not be responsible for funding NGOs who support inadmissible aliens. This would not eliminate the eligibility of religious institutions and NGOs for grants through the Nonprofit Security Grant Program (NSGP).

Sec. 17. Collection of DNA and biometric information at the border

This section requires that DHS certify to Congress that it is complying with federal requirements for the collection of DNA and biometrics.

The Committee believes that the federal government should abide by all laws passed by Congress and not just those of which the current administration agrees. DHS has fallen short on these requirements for far too long.

Sec. 18. Eradication of narcotic drugs and formulating effective new tools to address yearly losses of life—ensuring timely updates to U.S. Customs and Border Protection field manuals

This section requires the CBP Commissioner to triennially, at minimum, review and update the policy manuals of both the Office of Field Operations, related to inspections at ports of entry, and of

the U.S. Border Patrol, related to between ports of entry, to ensure uniform implementation of inspection practices. The provision also requires the CBP Commissioner to inform Congress on any changes made to the manuals.

Keeping up to date component policy manuals is important to ensure smooth agency operation and the Committee believes that manuals that remain current prevent confusion when implementing policy directives. This is a priority of the Committee as CBP continues to be on the forefront of encountering and interdicting illicit narcotics, especially fentanyl.

Sec. 19. Publication by U.S. Customs and Border Protection of operational statistics

This section requires CBP to publish information and data regarding the number of alien encounters and their nationalities, gang affiliated apprehensions and their nationalities, drug seizures, aliens with terrorist ties, arrests of criminal aliens or those wanted by law enforcement and their nationalities, known got aways, the number of deceased aliens, and all other related statistics.

The Committee believes that publishing timely information concerning alien encounters and apprehensions will provide transparency to the American people regarding who and/or what is attempting to enter the country and the risks that they potentially pose to communities. The Committee finds DHS's lack of transparency and misleading reporting around border statistics and encounters to be unacceptable.

Sec. 20. Alien criminal background checks

This section requires CBP to annually certify that it has access to criminal history databases of all countries of origin and transit for aliens encountered by CBP.

To best prevent threats to our national security, CBP must have access to the criminal history databases of all countries of origin and transit for aliens entering the United States so that the agency is aware of who is coming into the country and what their intentions may be.

Sec. 21. Prohibited identification documents at airport security checkpoints; Notification to immigration agencies

This section prohibits TSA from accepting as valid proof of identification at an airport security checkpoint specific DHS, ICE, or CBP forms that direct an individual to report to DHS, including a warrant for arrest, a warrant of removal, an order of release on recognizance, an order of supervision, a notice to appear, an arrival/departure record, work authorization or employment verification, or an alien booking record. Moreover, the section permits the collection of biometric information from individuals with invalid proof of identification seeking entry into a sterile area of an airport to be submitted to the Automated Biometric Identification System (IDENT).

Just as Americans are not permitted to use air travel without a government-issued photo I.D., the Committee believes that illegal aliens should not be authorized to travel to, from, or within the United States without proper government-issued photo I.D.

Sec. 22. Prohibition against any COVID-19 vaccine mandate or adverse action against DHS employees

This section prohibits the Secretary of DHS from issuing any COVID-19 vaccine mandate unless Congress has authorized such a mandate, nor can the Secretary take adverse action against any department employee based on his or her refusal to receive the COVID-19 vaccine. The provision also requires the Secretary to report the number of employees who were fired or resigned due to the mandate, what the cost would be to reinstate them, and how the department would effectuate reinstatement.

The Committee believes that no DHS employee should be punished for refusing to receive a vaccine. The Committee also believes that employees, not the Department, are better suited in making medical decisions for themselves. Therefore, the Secretary of DHS is hereby prohibited from requiring Department employees to decide between receiving the vaccine or losing his or her job without a mandate issued by Congress.

Sec. 23. CBP One application limitation

This section requires DHS to use the CBP One Mobile Application, or any other similar program, application, internet-based portal, website, device, or initiative, only for inspection of perishable cargo, rather than the processing of aliens.

The Committee believes that it is beyond the scope of DHS's authority to utilize the CBP One application for any purpose other than for which it was created. Given that the original intent of the application was not to streamline the processing of aliens into the United States, it is therefore prohibited for such use.

Sec. 24. Report on designation of Mexican cartels as foreign terrorist organizations

This section requires the Secretary of DHS to, in consultation with the Secretary of State, submit a report to Congress regarding whether a Mexican drug cartel meets the criteria for designation as a foreign terrorist organization. Additionally, the section clarifies that nothing in the section may be construed to expand the eligibility for asylum of any alien by reason of the designation of a drug cartel as a foreign terrorist organization.

Securing our nation's borders encompasses more than the means of physical security. Each available tool should be subjected to a cost-benefit analysis. As there is significant interest in designating Mexican drug cartels as foreign terrorist organizations, the Committee believes it is important to first conduct fact-finding and analysis to inform such a conversation. The Committee recognizes the significant threat that drug cartels pose to our country and Americans.

Sec. 25. GAO study on costs incurred by states to secure the southwest border

This section requires that a GAO study be conducted concerning the actions taken by DHS that have added to the costs incurred by states with respect to securing the southwest border, as a result from the lack of federal action, the costs associated with the actions that individual states along the Southwest border have taken to se-

cure the border, and the feasibility of DHS reimbursing states for those costs.

It is the Constitutional responsibility of the Federal government to secure our international borders. However, given recent policy changes and decisions under the current administration, that responsibility has seemingly been projected onto the states that share a border with Mexico. Therefore, the Committee believes that it is imperative that the GAO conduct a study with respect to the costs that the Federal government is forcing border states to incur at the detriment of the states' own residents.

Sec. 26. Report by Inspector General of the Department of Homeland Security

This section requires a report by the DHS Inspector General to examine the economic and security impact of mass migration to municipalities and states along the Southwest border. The report shall examine the impact that mass migration has had on state and local law enforcement, public school districts, healthcare providers, and farmers and ranchers.

Current policies and failure to implement existing laws have severely impacted both states and municipalities alike. Consequently, the Committee believes that the DHS Inspector General must submit a report to Congress detailing the impacts that mass migration has had on Southwest border communities in all aspects.

Sec. 27. Offsetting authorizations of appropriations

This section outlines the following programs that will be cut or reduced in authorization to offset the cost of the bill. No funds are authorized for the Alternatives to Detention Case Management Pilot Program or the Office of the Immigration Ombudsman. Additionally, no funds are authorized for the purchase or use of electric vehicles or campus construction of DHS St. Elizabeths. Finally, funds for the Office of Intelligence and Analysis at DHS are hereby reduced and no funds will be made available for the DHS Shelter Services Program.

The Committee believes that it is absolutely critical to our national security and sovereignty to secure our international borders. However, actions to do so come at a great cost. Therefore, the Committee believes that reducing funding, and in some cases cutting, is necessary in order to avoid superfluous government spending on ineffective programs and to appropriately fund items that have been proven to enhance border security.

Sec. 28. Report to Congress on foreign terrorist organizations

This section requires that the DHS Secretary, annually for the next five years, submit a report to Congress detailing foreign terrorist organizations' attempts to move their members or affiliates into the United States through all borders.

The Committee believes that by tracking trends and movements of foreign terrorist organization members and affiliates, DHS will be better prepared in apprehending such individuals before they are able to infiltrate the United States.

Sec. 29. Assessment by the Inspector General of the Department of Homeland Security on the mitigation of unmanned aircraft systems at the southwest border

The DHS Inspector General shall submit to Congress an assessment of CBP's ability to mitigate unmanned aircraft systems at the Southwest border. The report shall include information regarding intervention between January 1, 2021, and the date of enactment, by any Federal agency affecting in any manner CBP's authority to mitigate such systems.

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. Access to the Southwest border on these Federal lands are often governed by cumbersome Memoranda of Understanding that do not, in many cases, provide the U.S. Border Patrol unfettered access for the purposes of conducting motorized patrols. 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 and U.S. National Parks, provided that such memoranda give the Border Patrol a suitable level of access.

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 italics, and existing law in which no change is proposed is shown in roman):

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

**DIVISION C—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 design, test, construct, install, deploy, integrate, and operate physical barriers, tactical infrastructure, and technology in the vicinity of the southwest border to achieve situational awareness and operational control of the southwest border and deter, impede, and detect unlawful activity.

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

(1) ADDITIONAL [FENCING] BARRIERS 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 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).]

(A) REINFORCED BARRIERS.—In carrying out this section, the Secretary of Homeland Security shall construct a border wall, including physical barriers, tactical infrastructure, and technology, along not fewer than 900 miles of the southwest border until situational awareness and operational control of the southwest border is achieved.

(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective physical barriers, tactical infrastructure, and technology available for achieving situational awareness and operational control of the southwest border.

(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 consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of State, Tribal, and local governments, and appropriate private property owners in the United States to minimize the impact on natural resources, commerce, and sites of historical or cultural significance for the communities and residents located near the sites at which physical barriers, tactical infrastructure, and technology are to be constructed. Such consultation may not delay such construction for longer than seven days.*

(ii) 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.】

(II) *delay the transfer to the United States of the possession of property or affect the validity of any property acquisition by the United States by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any State; or*

(III) *create any right or liability for any party.*

【(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】 *this section* and shall commence 【construction of fences】 *the construction of physical barriers, tactical infrastructure, and technology* 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 designing, testing, constructing, installing, deploying, integrating, and operating physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into such design, test, construction, installation, deployment, integration, or operation of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines are necessary to maximize the safety and effectiveness of officers and agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.*

(4) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as may be necessary to carry out [this subsection] this section. 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 shall waive all legal requirements necessary to ensure the expeditious design, testing, construction, installation, deployment, integration, operation, and maintenance of the physical barriers, tactical infrastructure, and technology under this section. The Secretary shall ensure the maintenance and effectiveness of such physical barriers, tactical infrastructure, or technology. Any such action by the Secretary shall be effective upon publication in the Federal Register.*

(2) *NOTIFICATION.*—*Not later than seven days after the date on which the Secretary of Homeland Security exercises a waiver pursuant to paragraph (1), the Secretary 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 such waiver.*

[(2)] (3) *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) TECHNOLOGY.—*In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective technology available for achieving situational awareness and operational control.*

(f) DEFINITIONS.—*In this section:*

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

(3) PHYSICAL BARRIERS.—*The term “physical barriers” includes reinforced fencing, the border wall, and levee walls.*

(4) 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)).*

(5) TACTICAL INFRASTRUCTURE.—*The term “tactical infrastructure” includes boat ramps, access gates, checkpoints, lighting, and roads.*

(6) TECHNOLOGY.—*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 aircraft systems.

(H) Tunnel detection systems and other seismic technology.

(I) Fiber-optic cable.

(J) Other border detection, communication, and surveillance technology.

(7) UNMANNED AIRCRAFT SYSTEM.—*The term “unmanned aircraft system” has the meaning given such term in section 44801 of title 49, United States Code.*

* * * * *

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.

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

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Subtitle C—Miscellaneous Provisions

* * * * *

Sec. 437. *Border security technology program management.*

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

Sec. 2001. Definitions.

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

* * * * *

Sec. 2010. *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);

(18) *implement a staffing model for the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations that includes consideration for essential frontline operator activities and functions, variations in operating environments, present and planned infrastructure, present and planned technology, and required operations support levels to enable such entities to manage and assign personnel of such entities to ensure field and support posts possess adequate resources to carry out duties specified in this section;*

(19) *develop standard operating procedures for a workforce tracking system within the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations, train the workforce of each of such entities on the use, capabilities, and purpose of such system, and implement internal controls to ensure timely and accurate scheduling and reporting of actual completed work hours and activities;*

[(18)] (20) carry out section 418, relating to the issuance of Asia-Pacific Economic Cooperation Business Travel Cards; and

[(19)] (21) 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 aircraft (as such term is defined in section 44801 of title 49, United States Code) requirements pursuant to subsection (f) of section 12 of the Border Reinforcement Act of 2023; 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.
- (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 Home-

land 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.

(l) 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.

(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.
- (3) RESCUE BEACONS.—Beginning in fiscal year 2019, in carrying out subsection (c)(8), the Commissioner shall purchase, deploy, and maintain not more than 250 self-powering, 9–1–1 cellular relay rescue beacons along the southern border of the United States at locations determined appropriate by the Commissioner to mitigate migrant deaths.
- (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.

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Subtitle C—Miscellaneous Provisions

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SEC. 437. 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 \$100,000,000 (based on fiscal year 2023 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 satisfying 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 satisfying 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 Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan for testing, evaluating, and using independent verification and validation of resources relating to the proposed acquisition of border security technology. Under such plan, the proposed acquisition of new border se-*

curity 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.*

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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, 2004, and 2009 to State, local, and tribal governments.]

(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under sections 2003, 2004, 2009, and 2010 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.

* * * * *

SEC. 2010. 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 State administrative agencies, 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 shall—

(1) be located in—

(A) a State bordering Canada or Mexico; or

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

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

(3) have an agreement in place with U.S. Immigration and Customs Enforcement to support enforcement operations.

(c) PERMITTED USES.—A recipient of a grant under this section may use such grant for costs associated with the following:

(1) Equipment, including maintenance and sustainment.

(2) Personnel, including overtime and backfill, in support of enhanced border law enforcement activities.

(3) Any activity permitted for Operation Stonegarden under the most recent fiscal year Department of Homeland Security’s Homeland Security Grant Program Notice of Funding Opportunity.

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

(e) NOTIFICATION.—Upon denial of a grant to a law enforcement agency, the Administrator shall provide written notice to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, including the reasoning for such denial.

(f) REPORT.—For each of fiscal years 2024 through 2028 the Administrator 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 contains—

(1) information on the expenditure of grants made under this section by each grant recipient; and

(2) recommendations for other uses of such grants to further support eligible law enforcement agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$110,000,000 for each of fiscal years 2024 through 2028 for grants under this section.

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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 REQUIREMENT.**—*Subject to subsection (c), the Commissioner of U.S. Customs and Border Protection shall 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; and

(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;

(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; or
(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 in subparagraph (B).

(c) **TERMINATION OF WAIVER REQUIREMENT; SNAP-BACK.**—The requirement to issue a waiver under subsection (b) shall terminate if the Commissioner of U.S. Customs and Border Protection (CBP) certifies to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP has met all requirements pursuant to section 8 of the Border Reinforcement Act of 2023 relating to personnel levels. If at any time after such certification personnel levels fall below such requirements, the Commissioner shall waive the application of subsection (a)(1) until such time as the Commissioner re-certifies to such Committees that CBP has so met all such requirements.

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SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

(a) **NONEXEMPTION.**—An individual who receives a waiver under section 3(b) is not exempt from any 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.**—An 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 nec-

essary to make a final determination regarding suitability for employment or continued employment, as the case may be.

SEC. 6. 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, the following:

(1) Information relating to the number of waivers granted under such section 3(b).

(2) Information relating to the percentage of applicants who were hired after receiving such a waiver.

(3) Information relating to the number of instances that a polygraph was administered to an applicant who initially received such a waiver and the results of such polygraph.

(4) An assessment of the current impact of such waiver authority on filling law enforcement positions at U.S. Customs and Border Protection.

(5) An identification of additional authorities needed by U.S. Customs and Border Protection to better utilize such waiver authority for its intended goals.

(b) *ADDITIONAL INFORMATION.*—The first report submitted under subsection (a) shall include the following:

(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 applicants or employees for suitability for employment or continued employment, as the case may be.

(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. 7. DEFINITIONS.

In this Act:

(1) *FEDERAL LAW ENFORCEMENT OFFICER.*—The term “Federal law enforcement officer” means a “law enforcement officer”, as such term is 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.

MINORITY VIEWS

On behalf of Committee on Homeland Security Democrats, I submit these Minority Views in opposition to H.R. 2794—a cruel, extreme, and unworkable bill that doubles down on the Trump Administration’s failed, illegal, and inhumane MAGA immigration and border policies.

On April 26, 2023, the Committee on Homeland Security met for nearly 17 hours to consider H.R. 2794. The Majority circulated the 69-page amendment in the nature of a substitute (ANS) and the underlying bill just 15 minutes prior to when required under Rule V of the Committee’s Rules. It was the first time Committee Democrats, the Department of Homeland Security, and Customs and Border Protection (CBP) got to see a measure that, if enacted, would upend border enforcement operations and villainize not only vulnerable migrants, but also the community and religious organizations working to provide them with basic necessities. Furthermore, for all the rhetoric from the Republicans about wanting to keep fentanyl out of this country, the bill provides no resources to station a single new officer in a port of entry—even though successive Administrations have acknowledged that more than 90 percent of this deadly drug come through ports of entry.

During the nearly 17 hours that the Committee met to consider the Green ANS, Democrats offered 43 measures to remedy significant shortcomings in the bill and append new provisions to bolster CBP operations and build upon the Fiscal Year 2023 Omnibus Appropriations Act (Omnibus) which, under Democratic leadership, provided over \$17 billion to CBP to not only enhance port of entry operations but also increase funding to the U.S. Border Patrol by 17 percent. All 43 amendments were rejected by Committee Republicans.

H.R. 2794 also doubles down on a failed strategy: wasting money on Trump’s impractical border wall—a wall Mexico did not and will not pay for. The bill purports to pay for new wall construction with unspent border wall balances but DHS has not been able to identify any such funding. Further, Republicans have failed to secure a Congressional Budget Office estimate to provide a ballpark estimate of what it will cost to realize Donald Trump’s dream of a border wall. Regarding former-President Trump’s failed border policies, I would note that Democrats offered an amendment to allow Committee Republicans the opportunity to repudiate the Trump Administration’s cruel and ineffective Zero Tolerance family separation policy, but all Committee Republicans opposed it.

Instead of providing bipartisan solutions to fix our broken immigration system, H.R. 2794, along with the extreme MAGA immigration bill advanced by Republicans on the House Judiciary Committee, would tear at the fabric of American values by drastically limiting asylum opportunities, while doing nothing to create an or-

derly system. This xenophobic bill flies in the face of religious values that Republicans claim to live by.

This cruel bill villainizes refugee relief organizations in the United States and cuts off DHS funding for vital services to immigrants. During consideration of H.R. 2794, Democrats effectively argued that the bill punished local officials, religious and other nonprofits—and even residents—who provide basic care and support to children and families fleeing horrific conditions we would never tolerate for ourselves or our loved ones. Republicans protested but, well past midnight, offered an amendment to alter the damaging language. Still, even with the adoption of that amendment, offered by Mr. Guest, H.R. 2794 would still bar DHS from providing funds to community and religious organizations working with immigrants and countless others that have provided life-saving services. The Guest amendment fails to remedy address many far-reaching consequences of the bill that Democrats highlighted—such as, for example, a prohibition on DHS funds to FEMA’s non-governmental disaster response partners for lodging or transportation out of a disaster zone unless the organization is able to verify the immigration status of all individuals it assists.

Finally, I would note that during consideration of H.R. 2794, Democrats offered a range of amendments targeted at improving the livelihood and wellbeing of the entire frontline CBP workforce, and all were rejected. Republicans even rejected an amendment I offered to increase the number of CBP Officers at ports of entry by 1,700—the number needed according to CBP’s workforce staffing model. And while Republicans may tout that H.R. 2794 would increase the number of Border Patrol agents to 22,000, it does not undo the fact that at the same time this measure was under consideration in Committee, House Republicans approved legislation that would force DHS to cut 2,400 CBP Officers and Agents from its ranks.¹

At best, H.R. 2794 is a cynical effort to exploit irregular migration at the southwest border—which is expected to intensify with the termination of Title 42 health restrictions—to make political points with Donald Trump and his devoted extreme MAGA base. The hardworking civil servants who work to keep our borders secure deserve so much better.

BENNIE G. THOMPSON,
Ranking Member,
Committee on Homeland Security.



¹Letter to the Honorable Rosa L. DeLauro from Zephrañie Buetow, Assistant Secretary for Legislative Affairs, U.S. Department of Homeland Security (March 18, 2023).