

113TH CONGRESS
2D SESSION

H. R. 5114

To facilitate the expedited processing of minors entering the United States across the southern border and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2014

Mr. CUELLAR (for himself, Mr. BARBER, and Mr. FARENTHOLD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Homeland Security, Armed Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate the expedited processing of minors entering the United States across the southern border and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Unaccom-

5 panied Minors and Alleviating National Emergency Act”

6 or the “HUMANE Act”.

1 **TITLE I—PROTECTING**
2 **CHILDREN**

3 **SEC. 101. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
4 **DREN.**

5 Section 235(a) of the William Wilberforce Trafficking
6 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
7 1232(a)) is amended—

8 (1) in paragraph (2)—

9 (A) by amending the paragraph heading to
10 read as follows: “RULES FOR UNACCOMPANIED
11 ALIEN CHILDREN”;

12 (B) in subparagraph (A), in the matter
13 preceding clause (i), by striking “who is a na-
14 tional or habitual resident of a country that is
15 contiguous with the United States”; and

16 (C) in subparagraph (C)—

17 (i) by amending the subparagraph
18 heading to read as follows: “AGREEMENTS
19 WITH FOREIGN COUNTRIES”; and

20 (ii) in the matter preceding clause (i),
21 by striking “countries contiguous to the
22 United States” and inserting “Canada, El
23 Salvador, Guatemala, Honduras, Mexico,
24 and any other foreign country that the
25 Secretary determines appropriate”; and

1 (2) in paragraph (5)(D)—

2 (A) in the subparagraph heading, by strik-
3 ing “PLACEMENT IN REMOVAL PROCEEDINGS”
4 and inserting “EXPEDITED DUE PROCESS AND
5 SCREENING FOR UNACCOMPANIED ALIEN CHIL-
6 DREN”;

7 (B) in the matter preceding clause (i), by
8 striking “, except for an unaccompanied alien
9 child from a contiguous country subject to the
10 exceptions under subsection (a)(2), shall be—”
11 and inserting “who does not meet the criteria
12 listed in paragraph (2)(A)—”;

13 (C) by striking clause (i) and inserting the
14 following:

15 “(i) shall be placed in a proceeding in
16 accordance with section 235B of the Immi-
17 gration and Nationality Act, which shall
18 commence not later than 7 days after the
19 screening of an unaccompanied alien child
20 described in paragraph (4);”;

21 (D) by redesignating clauses (ii) and (iii)
22 as clauses (iii) and (iv), respectively;

23 (E) by inserting after clause (i) the fol-
24 lowing:

1 “(ii) may not be placed in the custody
2 of a nongovernmental sponsor or otherwise
3 released from the custody of the United
4 States Government until the child is repa-
5 triated unless the child is the subject of an
6 order under section 235B(e)(1) of the Im-
7 migration and Nationality Act;”;

8 (F) in clause (iii), as redesignated, by in-
9 serting “is” before “eligible”; and

10 (G) in clause (iv), as redesignated, by in-
11 serting “shall be” before “provided”.

12 **SEC. 102. EXPEDITED DUE PROCESS AND SCREENING OF**
13 **UNACCOMPANIED ALIEN CHILDREN .**

14 (a) AMENDMENTS TO IMMIGRATION AND NATION-
15 ALITY ACT.—

16 (1) IN GENERAL.—Chapter 4 of the Immigra-
17 tion and Nationality Act is amended by inserting
18 after section 235A the following:

19 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
20 **SCREENING FOR UNACCOMPANIED ALIEN**
21 **CHILDREN.**

22 “(a) DEFINED TERM.—In this section, the term ‘asy-
23 lum officer’ means an immigration officer who—

24 “(1) has had professional training in country
25 conditions, asylum law, and interview techniques

1 comparable to that provided to full-time adjudicators
2 of applications under section 208, and

3 “(2) is supervised by an officer who—

4 “(A) meets the condition described in
5 paragraph (1); and

6 “(B) has had substantial experience adju-
7 dicating asylum applications.

8 “(b) PROCEEDING.—

9 “(1) IN GENERAL.—Not later than 7 days after
10 the screening of an unaccompanied alien child under
11 section 235(a)(4) of the William Wilberforce Traf-
12 ficking Victims Protection Reauthorization Act of
13 2008 (8 U.S.C. 1232(a)(4)), an immigration judge
14 shall conduct a proceeding to inspect, screen, and
15 determine the status of an unaccompanied alien
16 child who is an applicant for admission to the
17 United States.

18 “(2) TIME LIMIT.—Not later than 72 hours
19 after the conclusion of a proceeding with respect to
20 an unaccompanied alien child under this section, the
21 immigration judge who conducted such proceeding
22 shall issue an order pursuant to subsection (e).

23 “(c) CONDUCT OF PROCEEDING.—

1 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
2 The immigration judge conducting a proceeding
3 under this section—

4 “(A) shall administer oaths, receive evi-
5 dence, and interrogate, examine, and cross-ex-
6 amine the alien and any witnesses;

7 “(B) may issue subpoenas for the attend-
8 ance of witnesses and presentation of evidence;
9 and

10 “(C) is authorized to sanction by civil
11 money penalty any action (or inaction) in con-
12 tempt of the judge’s proper exercise of author-
13 ity under this Act.

14 “(2) FORM OF PROCEEDING.—A proceeding
15 under this section may take place—

16 “(A) in person;

17 “(B) at a location agreed to by the parties,
18 in the absence of the alien;

19 “(C) through video conference; or

20 “(D) through telephone conference.

21 “(3) PRESENCE OF ALIEN.—If it is impracti-
22 cable by reason of an alien’s mental incompetency
23 for the alien to be present at the proceeding, the At-
24 torney General shall prescribe safeguards to protect
25 the rights and privileges of the alien.

1 “(4) RIGHTS OF THE ALIEN.—In a proceeding
2 under this section—

3 “(A) the alien shall be given the privilege
4 of being represented, at no expense to the Gov-
5 ernment, by counsel of the alien’s choosing who
6 is authorized to practice in such proceedings;

7 “(B) the alien shall be given a reasonable
8 opportunity—

9 “(i) to examine the evidence against
10 the alien;

11 “(ii) to present evidence on the alien’s
12 own behalf; and

13 “(iii) to cross-examine witnesses pre-
14 sented by the Government;

15 “(C) the rights set forth in subparagraph
16 (B) shall not entitle the alien—

17 “(i) to examine such national security
18 information as the Government may prof-
19 fer in opposition to the alien’s admission to
20 the United States; or

21 “(ii) to an application by the alien for
22 discretionary relief under this Act; and

23 “(D) a complete record shall be kept of all
24 testimony and evidence produced at the pro-
25 ceeding.

1 “(5) WITHDRAWAL OF APPLICATION FOR AD-
2 MISSION.—In the discretion of the Attorney General,
3 an alien applying for admission to the United States
4 may, and at any time, be permitted to withdraw
5 such application and immediately be returned to the
6 alien’s country of nationality or country of last ha-
7 bitual residence.

8 “(d) DECISION AND BURDEN OF PROOF.—

9 “(1) DECISION.—

10 “(A) IN GENERAL.—At the conclusion of a
11 proceeding under this section, the immigration
12 judge shall determine whether an unaccom-
13 panied alien child is likely to be—

14 “(i) admissible to the United States;

15 or

16 “(ii) eligible for any form of relief
17 from removal under this Act.

18 “(B) EVIDENCE.—The determination of
19 the immigration judge under subparagraph (A)
20 shall be based only on the evidence produced at
21 the hearing.

22 “(2) BURDEN OF PROOF.—

23 “(A) IN GENERAL.—In a proceeding under
24 this section, an alien who is an applicant for

1 admission has the burden of establishing, by a
2 preponderance of the evidence, that the alien—

3 “(i) is likely to be entitled to be law-
4 fully admitted to the United States or eli-
5 gible for any form of relief from removal
6 under this Act; or

7 “(ii) is lawfully present in the United
8 States pursuant to a prior admission.

9 “(B) ACCESS TO DOCUMENTS.—In meeting
10 the burden of proof under subparagraph (A)(ii),
11 the alien shall be given access to—

12 “(i) the alien’s visa or other entry
13 document, if any; and

14 “(ii) any other records and docu-
15 ments, not considered by the Attorney
16 General to be confidential, pertaining to
17 the alien’s admission or presence in the
18 United States.

19 “(e) ORDERS.—

20 “(1) PLACEMENT IN FURTHER PRO-
21 CEEDINGS.—If an immigration judge determines
22 that the unaccompanied alien child has met the bur-
23 den of proof under subsection (d)(2), the judge shall
24 order the alien to be placed in further proceedings
25 in accordance with section 240.

1 “(2) ORDERS OF REMOVAL.—If an immigration
2 judge determines that the unaccompanied alien child
3 has not met the burden of proof required under sub-
4 section (d)(2), the judge shall order the alien re-
5 moved from the United States without further hear-
6 ing or review unless the alien claims—

7 “(A) an intention to apply for asylum
8 under section 208; or

9 “(B) a fear of persecution.

10 “(3) CLAIMS FOR ASYLUM.—If an unaccom-
11 panied alien child described in paragraph (2) claims
12 an intention to apply for asylum under section 208
13 or a fear of persecution, the officer shall order the
14 alien referred for an interview by an asylum officer
15 under subsection (f).

16 “(f) ASYLUM INTERVIEWS.—

17 “(1) DEFINED TERM.—In this subsection, the
18 term ‘credible fear of persecution’ means, after tak-
19 ing into account the credibility of the statements
20 made by the alien in support of the alien’s claim and
21 such other facts as are known to the officer, there
22 is a significant possibility that the alien could estab-
23 lish eligibility for asylum under section 208.

1 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-
2 lum officer shall conduct interviews of aliens referred
3 under subsection (e)(3).

4 “(3) REFERRAL OF CERTAIN ALIENS.—If the
5 officer determines at the time of the interview that
6 an alien has a credible fear of persecution, the alien
7 shall be held in the custody of the Secretary of
8 Health and Human Services pursuant to section
9 235(b) of the William Wilberforce Trafficking Vic-
10 tims Protection Reauthorization Act of 2008 (8
11 U.S.C. 1232(b)) during further consideration of the
12 application for asylum.

13 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
14 NO CREDIBLE FEAR OF PERSECUTION.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (C), if the asylum officer determines that
17 an alien does not have a credible fear of perse-
18 cution, the officer shall order the alien removed
19 from the United States without further hearing
20 or review.

21 “(B) RECORD OF DETERMINATION.—The
22 officer shall prepare a written record of a deter-
23 mination under subparagraph (A), which shall
24 include—

1 “(i) a summary of the material facts
2 as stated by the applicant;

3 “(ii) such additional facts (if any) re-
4 lied upon by the officer;

5 “(iii) the officer’s analysis of why, in
6 light of such facts, the alien has not estab-
7 lished a credible fear of persecution; and

8 “(iv) a copy of the officer’s interview
9 notes.

10 “(C) REVIEW OF DETERMINATION.—

11 “(i) RULEMAKING.—The Attorney
12 General shall establish, by regulation, a
13 process by which an immigration judge will
14 conduct a prompt review, upon the alien’s
15 request, of a determination under subpara-
16 graph (A) that the alien does not have a
17 credible fear of persecution.

18 “(ii) MANDATORY COMPONENTS.—

19 The review described in clause (i)—

20 “(I) shall include an opportunity
21 for the alien to be heard and ques-
22 tioned by the immigration judge, ei-
23 ther in person or by telephonic or
24 video connection; and

25 “(II) shall be conducted—

1 “(aa) as expeditiously as
2 possible;

3 “(bb) within the 24-hour pe-
4 riod beginning at the time the
5 asylum officer makes a deter-
6 mination under subparagraph
7 (A), to the maximum extent
8 practicable; and

9 “(cc) in no case later than 7
10 days after such determination.

11 “(D) MANDATORY PROTECTIVE CUS-
12 TODY.—Any alien subject to the procedures
13 under this paragraph shall be held in the cus-
14 tody of the Secretary of Health and Human
15 Services pursuant to Section 235(b) of the Wil-
16 liam Wilberforce Trafficking Victims Protection
17 Reauthorization Act of 2008 (8 U.S.C.
18 1232(b))—

19 “(i) pending a final determination of
20 credible fear of persecution; and

21 “(ii) after a determination that the
22 alien does not such a fear, until the alien
23 is removed.

24 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (f)(4)(C) and paragraph (2), a removal order
3 entered in accordance with subsection (e)(2) or
4 (f)(4)(A) is not subject to administrative appeal.

5 “(2) RULEMAKING.—The Attorney General
6 shall establish, by regulation, a process for the
7 prompt review of an order under subsection (e)(2)
8 against an alien who claims under oath, or as per-
9 mitted under penalty of perjury under section 1746
10 of title 28, United States Code, after having been
11 warned of the penal ties for falsely making such
12 claim under such conditions to have been—

13 “(A) lawfully admitted for permanent resi-
14 dence;

15 “(B) admitted as a refugee under section
16 207; or

17 “(C) granted asylum under section 208.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents for the Immigration and Nationality Act (8
20 U.S.C. 1101 et seq.) is amended by inserting after
21 the item relating to section 235A the following:

 “Sec. 235B. Humane and expedited inspection and screening for unaccom-
 panied alien children.”.

22 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
23 Section 242 of the Immigration and Nationality Act (8
24 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by inserting “, or an
3 order of removal issued to an unaccompanied
4 alien child after proceedings under section
5 235B” after “section 235(b)(1)”; and

6 (B) in paragraph (2)—

7 (i) by inserting “or section 235B”
8 after “section 235(b)(1)” each place it ap-
9 pears; and

10 (ii) in subparagraph (A)—

11 (I) in the subparagraph heading,
12 by inserting “OR 235B” after “SEC-
13 TION 235(b)(1)”; and

14 (II) in clause (iii), by striking
15 “section 235(b)(1)(B),” and inserting
16 “section 235(b)(1)(B) or 235B(f);”;
17 and

18 (2) in subsection (e)—

19 (A) in the subsection heading, by inserting
20 “OR 235B” after “SECTION 235(b)(1)”;
21

22 (B) by inserting “or section 235B” after
23 “section 235(b)(1)” in each place it appears;

24 (C) in subparagraph (2)(C), by inserting
25 “or section 235B(g)” after “section
235(b)(1)(C)”; and

1 (D) in subparagraph (3)(A), by inserting
2 “or section 235B” after “section 235(b)”.

3 **SEC. 103. DUE PROCESS PROTECTIONS FOR UNACCOM-**
4 **PANIED ALIEN CHILDREN PRESENT IN THE**
5 **UNITED STATES.**

6 (a) SPECIAL MOTIONS FOR UNACCOMPANIED ALIEN
7 CHILDREN.—

8 (1) FILING AUTHORIZED.—Beginning on the
9 date that is 60 days after the date of the enactment
10 of this Act, the Secretary of Homeland Security,
11 notwithstanding any other provision of law, may, at
12 the sole and unreviewable discretion of the Sec-
13 retary, permit an unaccompanied alien child who
14 was issued a Notice to Appear under section 239 of
15 the Immigration and Nationality Act (8 U.S.C.
16 1229) during the period beginning on January 1,
17 2013, and ending on the date of the enactment of
18 this Act—

19 (A) to appear, in-person, before an immi-
20 gration judge who has been authorized by the
21 Attorney General to conduct proceedings under
22 section 235B of the Immigration and Nation-
23 ality Act, as added by section 102;

24 (B) to attest to their desire to apply for
25 admission to the United States; and

1 (C) to file a motion—

2 (i) to expunge—

3 (I) any final order of removal
4 issued against them between January
5 1, 2013, and the date of the enact-
6 ment of this Act under section 240 of
7 the Immigration and Nationality Act
8 (8 U.S.C. 1229a); or

9 (II) any Notice to Appear issued
10 between January 1, 2013, and the
11 date of the enactment of this Act
12 under section 239 of the Immigration
13 and Nationality Act (8 U.S.C. 1229);
14 and

15 (ii) to apply for admission to the
16 United States by being placed in pro-
17 ceedings under section 235B of the Immi-
18 gration and Nationality Act.

19 (2) MOTION GRANTED.—An immigration judge
20 may, at the sole and unreviewable discretion of the
21 judge, grant a motion filed under paragraph (1)(C)
22 upon a finding that—

23 (A) the petitioner was an unaccompanied
24 alien child (as defined in section 235 of the Wil-
25 liam Wilberforce Trafficking Victims Protection

1 Act of 2008 (8 U.S.C. 1232)) on the date on
2 which a Notice to Appear described in para-
3 graph (1) was issued to the alien;

4 (B) the Notice to Appear was issued dur-
5 ing the period beginning on January 1, 2013,
6 and ending on the date of the enactment of this
7 Act;

8 (C) the unaccompanied alien child is apply-
9 ing for admission to the United States; and

10 (D) the granting of such motion would not
11 be manifestly unjust.

12 (3) EFFECT OF MOTION.—Notwithstanding any
13 other provision of law, upon the granting of a mo-
14 tion to expunge under paragraph (2)—

15 (A) the Secretary of Homeland Security
16 shall immediately expunge any final order of re-
17 moval resulting from a proceeding initiated by
18 any Notice to Appear described in paragraph
19 (1), and such Notice to Appear; and

20 (B) the immigration judge who granted
21 such motion shall, while the petitioner remains
22 in-person, immediately inspect and screen the
23 petitioner for admission to the United States by
24 conducting a proceeding under section 235B of
25 the Immigration and Nationality Act.

1 (4) PROTECTIVE CUSTODY.—An unaccompanied
2 alien child who has been granted a motion under
3 paragraph (2) shall be held in the custody of the
4 Secretary of Health and Human Services pursuant
5 to section 235 of the William Wilberforce Traf-
6 ficking Victims Protection Reauthorization Act of
7 2008 (8 U.S.C. 1232).

8 **SEC. 104. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

9 (a) DESIGNATION.—Not later than 14 days after the
10 date of the enactment of this Act, the Attorney General
11 shall designate up to 40 immigration judges, including
12 through the hiring of retired immigration judges or mag-
13 istrate judges, or the reassignment of current immigration
14 judges, that are dedicated to conducting humane and ex-
15 pedited inspection and screening for unaccompanied alien
16 children under section 235B of the Immigration and Na-
17 tionality Act, as added by section 102.

18 (b) REQUIREMENT.—The Attorney General shall en-
19 sure that sufficient immigration judge resources are dedi-
20 cated to the purpose described in subsection (a) to comply
21 with the requirement under section 235B(b)(1) of the Im-
22 migration and Nationality Act.

1 **SEC. 105. PROTECTING CHILDREN FROM HUMAN TRAF-**
2 **FICKERS, SEX OFFENDERS, AND OTHER**
3 **CRIMINALS.**

4 Section 235(c)(3) of the William Wilberforce Traf-
5 ficking Victims Protection Reauthorization Act of 2008 (8
6 U.S.C. 1232(c)(3)) is amended—

7 (1) in subparagraph (A), by inserting “, includ-
8 ing a mandatory biometric criminal history check”
9 before the period at the end; and

10 (2) by adding at the end the following—

11 “(D) PROHIBITION ON PLACEMENT WITH
12 SEX OFFENDERS AND HUMAN TRAFFICKERS.—

13 “(i) IN GENERAL.—The Secretary of
14 Health and Human Services may not place
15 an unaccompanied alien child in the cus-
16 tody of an individual who has been con-
17 victed of—

18 “(I) a sex offense (as defined in
19 section 111 of the Sex Offender Reg-
20 istration and Notification Act (42
21 U.S.C. 16911)); or

22 “(II) a crime involving a severe
23 form of trafficking in persons (as de-
24 fined in section 103 of the Trafficking
25 Victims Protection Act of 2000 (22
26 U.S.C. 7102)).

1 “(ii) REQUIREMENTS OF CRIMINAL
2 BACKGROUND CHECK.—A biometric crimi-
3 nal history check under subparagraph (A)
4 shall be based on a set of fingerprints or
5 other biometric identifiers and conducted
6 through—

7 “(I) the Identification Division of
8 the Federal Bureau of Investigation;
9 and

10 “(II) criminal history repositories
11 of all States that the individual lists
12 as current or former residences.”.

13 **TITLE II—BORDER SECURITY** 14 **AND TRADE FACILITATION**

15 **SEC. 201. DEFINITIONS.**

16 In this title:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Homeland Security
21 and Governmental Affairs of the Senate; and

22 (B) the Committee on Homeland Security
23 of the House of Representatives.

24 (2) COCAINE REMOVAL EFFECTIVENESS
25 RATE.—The term “cocaine removal effectiveness

1 rate” means the percentage that results from divid-
2 ing the amount of cocaine removed by the Depart-
3 ment of Homeland Security’s maritime security com-
4 ponents inside or outside a transit zone, as the case
5 may be, by the total documented cocaine flow rate
6 as contained in Federal drug databases.

7 (3) CONSEQUENCE DELIVERY SYSTEM.—The
8 term “Consequence Delivery System” means the se-
9 ries of consequences applied to persons illegally en-
10 tering the United States by the Border Patrol to
11 prevent illegal border crossing recidivism.

12 (4) GOT AWAY.—The term “got away” means
13 an illegal border crosser who, after making an illegal
14 entry into the United States, is not turned back or
15 apprehended.

16 (5) HIGH TRAFFIC AREAS.—The term “high
17 traffic areas” means sectors along the northern and
18 southern borders of the United States that are with-
19 in the responsibility of the Border Patrol that have
20 the most illicit cross-border activity, informed
21 through situational awareness.

22 (6) ILLEGAL BORDER CROSSING EFFECTIVE-
23 NESS RATE.—The term “illegal border crossing ef-
24 fectiveness rate” means the percentage that results
25 from dividing the number of apprehensions and turn

1 backs by the number of apprehensions, turn backs,
2 and got aways. The data used by the Secretary of
3 Homeland Security to determine such rate shall be
4 collected and reported in a consistent and standard-
5 ized manner across all Border Patrol sectors.

6 (7) MAJOR VIOLATOR.—The term “major viola-
7 tor” means a person or entity that has engaged in
8 serious criminal activities at any land, air, or sea
9 port of entry, including possession of illicit drugs,
10 smuggling of prohibited products, human smuggling,
11 weapons possession, use of fraudulent United States
12 documents, or other offenses serious enough to re-
13 sult in arrest.

14 (8) OPERATIONAL CONTROL.—The term “oper-
15 ational control” means a condition in which there is
16 a not lower than 90 percent illegal border crossing
17 effectiveness rate, informed by situational awareness,
18 and a significant reduction in the movement of illicit
19 drugs and other contraband through such areas is
20 being achieved.

21 (9) SITUATIONAL AWARENESS.—The term “sit-
22 uational awareness” means knowledge and an under-
23 standing of current illicit cross-border activity, in-
24 cluding cross-border threats and trends concerning
25 illicit trafficking and unlawful crossings along the

1 international borders of the United States and in the
2 maritime environment, and the ability to forecast fu-
3 ture shifts in such threats and trends.

4 (10) TRANSIT ZONE.—The term “transit zone”
5 means the sea corridors of the western Atlantic
6 Ocean, the Gulf of Mexico, the Caribbean Sea, and
7 the eastern Pacific Ocean through which undocu-
8 mented migrants and illicit drugs transit, either di-
9 rectly or indirectly, to the United States.

10 (11) TURN BACK.—The term “turn back”
11 means an illegal border crosser who, after making
12 an illegal entry into the United States, returns to
13 the country from which such crosser entered.

14 **SEC. 202. BORDER SECURITY RESULTS.**

15 (a) IN GENERAL.—Not later than 90 days after the
16 date of the enactment of this Act, every 180 days there-
17 after until the Comptroller General of the United States
18 reports on the results of the review described in section
19 203(k)(2)(B), and annually after the date of such report,
20 the Secretary of Homeland Security shall submit a report
21 to the appropriate congressional committees and the Gov-
22 ernment Accountability Office that—

23 (1) assesses and describes the state of situa-
24 tional awareness and operational control; and

1 (2) identifies the high traffic areas and the ille-
2 gal border crossing effectiveness rate for each sector
3 along the northern and southern borders of the
4 United States that are within the responsibility of
5 the Border Patrol.

6 (b) GAO REPORT.—Not later than 90 days after re-
7 ceiving the initial report required under subsection (a), the
8 Comptroller General of the United States shall submit a
9 report to the appropriate congressional committees re-
10 garding the verification of the data and methodology used
11 to determine high traffic areas and the illegal border
12 crossing effectiveness rate.

13 **SEC. 203. STRATEGY TO ACHIEVE SITUATIONAL AWARE-**
14 **NESS AND OPERATIONAL CONTROL OF THE**
15 **BORDER.**

16 (a) STRATEGY TO SECURE THE BORDER.—Not later
17 than 180 days after the date of the enactment of this Act,
18 the Secretary of Homeland Security shall submit, to the
19 appropriate congressional committees, a comprehensive
20 strategy for—

21 (1) gaining and maintaining situational aware-
22 ness and operational control of high traffic areas not
23 later than 2 years after the date of the submission
24 of the implementation plan required under sub-
25 section (c); and

1 (2) gaining and maintaining operational control
2 along the Southwest border of the United States not
3 later than 5 years after such date of submission.

4 (b) CONTENTS OF STRATEGY.—The strategy re-
5 quired under subsection (a) shall include a consideration
6 of the following:

7 (1) An assessment of principal border security
8 threats, including threats relating to the smuggling
9 and trafficking of humans, weapons, and illicit
10 drugs.

11 (2) Efforts to analyze and disseminate border
12 security and border threat information between the
13 border security components of the Department of
14 Homeland Security and with other appropriate Fed-
15 eral departments and agencies with missions associ-
16 ated with the border.

17 (3) Efforts to increase situational awareness, in
18 accordance with privacy, civil liberties, and civil
19 rights protections, including—

20 (A) surveillance capabilities developed or
21 utilized by the Department of Defense, includ-
22 ing any technology determined to be excess by
23 the Department of Defense; and

1 (B) use of manned aircraft and unmanned
2 aerial systems, including camera and sensor
3 technology deployed on such assets.

4 (4) Efforts to detect and prevent terrorists and
5 instruments of terrorism from entering the United
6 States.

7 (5) Efforts to ensure that any new border secu-
8 rity technology can be operationally integrated with
9 existing technologies in use by the Department of
10 Homeland Security.

11 (6) An assessment of existing efforts and tech-
12 nologies used for border security and the effect of
13 such efforts and technologies on civil rights, private
14 property rights, privacy rights, and civil liberties.

15 (7) Technology required to maintain, support,
16 and enhance security and facilitate trade at ports of
17 entry, including nonintrusive detection equipment,
18 radiation detection equipment, biometric technology,
19 surveillance systems, and other sensors and tech-
20 nology that the Secretary of Homeland Security de-
21 termines to be necessary.

22 (8) Operational coordination of the border secu-
23 rity components of the Department of Homeland Se-
24 curity.

1 (9) Lessons learned from Operation Jumpstart
2 and Operation Phalanx.

3 (10) Cooperative agreements and information
4 sharing with State, local, tribal, territorial, and
5 other Federal law enforcement agencies that have
6 jurisdiction on the northern or southern borders, or
7 in the maritime environment.

8 (11) Border security information received from
9 consultation with—

10 (A) State, local, tribal, and Federal law en-
11 forcement agencies that have jurisdiction on the
12 northern or southern border, or in the maritime
13 environment; and

14 (B) border community stakeholders (in-
15 cluding through public meetings with such
16 stakeholders), including representatives from
17 border agricultural and ranching organizations
18 and representatives from business and civic or-
19 ganizations along the northern or southern bor-
20 der.

21 (12) Agreements with foreign governments that
22 support the border security efforts of the United
23 States, including coordinated installation of stand-
24 ardized land border inspection technology, such as li-
25 cense plate readers and RFID readers.

1 (13) Staffing requirements for all border secu-
2 rity functions.

3 (14) A prioritized list of research and develop-
4 ment objectives to enhance the security of the inter-
5 national land and maritime borders of the United
6 States.

7 (15) An assessment of training programs, in-
8 cluding training programs regarding—

9 (A) identifying and detecting fraudulent
10 documents;

11 (B) protecting the civil, constitutional,
12 human, and privacy rights of individuals;

13 (C) understanding the scope of enforce-
14 ment authorities and the use of force policies;

15 (D) screening, identifying, and addressing
16 vulnerable populations, such as children and
17 victims of human trafficking; and

18 (E) social and cultural sensitivity toward
19 border communities.

20 (16) Local crime indices of municipalities and
21 counties along the southern border.

22 (17) An assessment of how border security op-
23 erations affect crossing times.

24 (18) Resources and other measures that are
25 necessary to achieve a 50-percent reduction in the

1 average wait times of commercial and passenger ve-
2 hicles at international land ports of entry along the
3 southern border and the northern border.

4 (19) Metrics required under subsections (e), (f),
5 and (g).

6 (c) IMPLEMENTATION PLAN.—

7 (1) IN GENERAL.—Not later than 90 days after
8 the submission of the strategy required under sub-
9 section (a), the Secretary of Homeland Security
10 shall submit, to the appropriate congressional com-
11 mittees and to the Government Accountability Of-
12 fice, an implementation plan for each of the border
13 security components of the Department of Home-
14 land Security to carry out such strategy.

15 (2) CONTENTS OF PLAN.—The implementation
16 plan required under paragraph (1) shall—

17 (A) specify what protections will be put in
18 place to ensure that staffing and resources nec-
19 essary for the maintenance of operations at
20 ports of entry are not diverted to the detriment
21 of such operations in favor of operations be-
22 tween ports of entry; and

23 (B) include—

24 (i) an integrated master schedule and
25 cost estimate, including lifecycle costs, for

- 1 the activities contained in such implemen-
2 tation plan; and
- 3 (ii) a comprehensive border security
4 technology plan to improve surveillance ca-
5 pabilities that includes—
- 6 (I) a documented justification
7 and rationale for technology choices;
- 8 (II) deployment locations;
- 9 (III) fixed versus mobile assets;
- 10 (IV) a timetable for procurement
11 and deployment;
- 12 (V) estimates of operation and
13 maintenance costs;
- 14 (VI) an identification of any im-
15 pediments to the deployment of such
16 technologies; and
- 17 (VII) estimates of the relative
18 cost effectiveness of various border se-
19 curity strategies and operations, in-
20 cluding—
- 21 (aa) the deployment of per-
22 sonnel and technology; and
- 23 (bb) the construction of new
24 physical and virtual barriers.

1 (3) GOVERNMENT ACCOUNTABILITY OFFICE RE-
2 VIEW.—Not later than 90 days after receiving the
3 implementation plan in accordance with paragraph
4 (1), the Comptroller General of the United States
5 shall submit an assessment of such plan to the ap-
6 propriate congressional committees a report on such
7 plan.

8 (d) PERIODIC UPDATES.—Not later than 180 days
9 after the submission of each Quadrennial Homeland Secu-
10 rity Review required under section 707 of the Homeland
11 Security Act of 2002 (6 U.S.C. 347) beginning with the
12 first such Review that is due after the implementation
13 plan is submitted under subsection (c), the Secretary of
14 Homeland Security shall submit, to the appropriate con-
15 gressional committees, an updated—

16 (1) strategy under subsection (a); and

17 (2) implementation plan under subsection (c).

18 (e) METRICS FOR SECURING THE BORDER BETWEEN
19 PORTS OF ENTRY.—Not later than 120 days after the
20 date of the enactment of this Act, the Secretary of Home-
21 land Security shall implement metrics, informed by situa-
22 tional awareness, to measure the effectiveness of security
23 between ports of entry, including—

24 (1) an illegal border crossing effectiveness rate,
25 informed by situational awareness;

1 (2) an illicit drugs seizure rate, which measures
2 the amount and type of illicit drugs seized by the
3 Border Patrol in any fiscal year compared to an av-
4 erage of the amount and type of illicit drugs seized
5 by the Border Patrol for the immediately preceding
6 5 fiscal years;

7 (3) a cocaine seizure effectiveness rate, which
8 shall be measured by calculating the percentage of
9 the total documented cocaine flow rate (as contained
10 in Federal drug databases) that is seized by the
11 Border Patrol;

12 (4) estimates, using alternative methodologies,
13 including recidivism data, survey data, known-flow
14 data, and technologically measured data, of—

15 (A) total attempted illegal border cross-
16 ings;

17 (B) total deaths and injuries resulting
18 from such attempted illegal border crossings;

19 (C) the rate of apprehension of attempted
20 illegal border crossers; and

21 (D) the inflow into the United States of il-
22 legal border crossers who evade apprehension;
23 and

1 (5) estimates of the impact of the Border Pa-
2 trol's Consequence Delivery System on the rate of
3 recidivism of illegal border crossers.

4 (f) METRICS FOR SECURING THE BORDER AT PORTS
5 OF ENTRY.—

6 (1) IN GENERAL.—Not later than 120 days
7 after the date of the enactment of this Act, the Sec-
8 retary of Homeland Security shall implement
9 metrics, informed by situational awareness, to meas-
10 ure the effectiveness of security at ports of entry,
11 which shall include—

12 (A) an inadmissible border crossing rate,
13 which measures the number of known inadmis-
14 sible border crossers who are apprehended, ex-
15 cluding those border crossers who voluntarily
16 withdraw their applications for admission,
17 against the total estimated number of inadmis-
18 sible border crossers U.S. Customs and Border
19 Protection fails to apprehend;

20 (B) an illicit drugs seizure rate, which
21 measures the amount and type of illicit drugs
22 seized by U.S. Customs and Border Protection
23 in any fiscal year compared to an average of
24 the amount and type of illicit drugs seized by

1 U.S. Customs and Border Protection for the
2 immediately preceding 5 fiscal years;

3 (C) a cocaine seizure effectiveness rate,
4 which shall be measured by calculating the per-
5 centage of the total documented cocaine flow
6 rate (as contained in Federal drug databases)
7 that is seized by U.S. Customs and Border Pro-
8 tection;

9 (D) estimates, using alternative methodolo-
10 gies, including survey data and randomized sec-
11 ondary screening data, of—

12 (i) total attempted inadmissible border
13 crossers;

14 (ii) the rate of apprehension of at-
15 tempted inadmissible border crossers; and

16 (iii) the inflow into the United States
17 of inadmissible border crossers who evade
18 apprehension;

19 (E) the number of infractions related to
20 personnel and cargo committed by major viola-
21 tors who are apprehended by U.S. Customs and
22 Border Protection at ports of entry, and the es-
23 timated number of such infractions committed
24 by major violators who are not so apprehended;
25 and

1 (F) a measurement of how border security
2 operations affect crossing times.

3 (2) COVERT TESTING.—The Inspector General
4 of the Department of Homeland Security shall carry
5 out covert testing at ports of entry and submit to
6 the Secretary of Homeland Security and the appro-
7 priate congressional committees a report that con-
8 tains the results of such testing. The Secretary shall
9 use such results to inform activities under this sub-
10 section.

11 (g) METRICS FOR SECURING THE MARITIME BOR-
12 DER.—Not later than 120 days after the date of the enact-
13 ment of this Act, the Secretary of Homeland Security shall
14 implement metrics, informed by situational awareness, to
15 measure the effectiveness of security in the maritime envi-
16 ronment, which shall include—

17 (1) an estimate of the total number of undocu-
18 mented migrants the Department of Homeland Se-
19 curity’s maritime security components fail to inter-
20 dict;

21 (2) an undocumented migrant interdiction rate,
22 which measures the number of undocumented mi-
23 grants interdicted against the total estimated num-
24 ber of undocumented migrants the Department of

1 Homeland Security's maritime security components
2 fail to interdict;

3 (3) an illicit drugs removal rate, which meas-
4 ures the amount and type of illicit drugs removed by
5 the maritime security components of the Department
6 of Homeland Security inside a transit zone in any
7 fiscal year compared to an average of the amount
8 and type of illicit drugs removed by such compo-
9 nents inside a transit zone for the immediately pre-
10 ceding 5 fiscal years;

11 (4) an illicit drugs removal rate, which meas-
12 ures the amount of illicit drugs removed by the mar-
13 itime security components of the Department of
14 Homeland Security outside a transit zone in any fis-
15 cal year compared to an average of the amount of
16 illicit drugs removed by such components outside a
17 transit zone for the immediately preceding 5 fiscal
18 years;

19 (5) a cocaine removal effectiveness rate inside a
20 transit zone;

21 (6) a cocaine removal effectiveness rate outside
22 a transit zone; and

23 (7) a response rate which measures the Depart-
24 ment of Homeland Security's ability to respond to
25 and resolve known maritime threats, both inside and

1 outside a transit zone, by placing assets on-scene,
2 compared to the total number of events with respect
3 to which the Department has known threat informa-
4 tion.

5 (h) COLLABORATION AND CONSULTATION.—

6 (1) IN GENERAL.—The Secretary of Homeland
7 Security shall collaborate with the head of a national
8 laboratory within the Department of Homeland Se-
9 curity laboratory network with expertise in border
10 security and the head of a border security univer-
11 sity-based center within the Department of Home-
12 land Security centers of excellence network to de-
13 velop, and ensure the suitability and statistical valid-
14 ity of, the metrics required under subsections (e),
15 (f), and (g).

16 (2) RECOMMENDATIONS RELATING TO CERTAIN
17 OTHER METRICS.—In carrying out paragraph (1),
18 the head of the national laboratory and the head of
19 a border security university-based center shall make
20 recommendations to the Secretary of Homeland Se-
21 curity for other suitable metrics that may be used to
22 measure the effectiveness of border security.

23 (3) CONSULTATION.—In addition to the col-
24 laboration described in paragraph (1), the Secretary
25 shall also consult with the Governors of every border

1 State and the representatives of the Border Patrol
2 and U.S. Customs and Border Protection regarding
3 the development of the metrics required under sub-
4 sections (e), (f), and (g).

5 (i) EVALUATION BY THE GOVERNMENT ACCOUNT-
6 ABILITY OFFICE.—

7 (1) IN GENERAL.—The Secretary of Homeland
8 Security shall provide the Government Account-
9 ability Office with the data and methodology used to
10 develop the metrics implemented under subsections
11 (e), (f), and (g).

12 (2) REPORT.—Not later than 270 days after re-
13 ceiving the data and methodology referred to in
14 paragraph (1), the Comptroller General of the
15 United States shall submit a report to the appro-
16 priate congressional committees on the suitability
17 and statistical validity of such data and method-
18 ology.

19 (j) CERTIFICATIONS AND REPORTS RELATING TO
20 OPERATIONAL CONTROL.—

21 (1) BY THE SECRETARY OF HOMELAND SECUR-
22 RITY.—

23 (A) TWO YEARS.—If the Secretary of
24 Homeland Security determines that situational
25 awareness and operational control of high traf-

1 fic areas have been achieved not later than 2
2 years after the date of the submission of the
3 implementation plan required under subsection
4 (c), the Secretary shall submit an attestation of
5 such achievement to the appropriate congress-
6 sional committees and the Comptroller General
7 of the United States.

8 (B) FIVE YEARS.—If the Secretary of
9 Homeland Security determines that operational
10 control along the southwest border of the
11 United States has been achieved not later than
12 5 years after the date of the submission of the
13 implementation plan required under subsection
14 (c), the Secretary shall submit an attestation of
15 such achievement to the appropriate congress-
16 sional committees and the Comptroller General
17 of the United States.

18 (C) ANNUAL UPDATES.—Every year begin-
19 ning with the year after the Secretary of Home-
20 land Security submits the attestation under
21 subparagraph (B), if the Secretary determines
22 that operational control along the southwest
23 border of the United States is being main-
24 tained, the Secretary shall submit an attesta-
25 tion of such maintenance to the appropriate

1 congressional committees and the Comptroller
2 General of the United States.

3 (2) BY THE COMPTROLLER GENERAL.—

4 (A) REVIEWS.—The Comptroller General
5 of the United States shall review and assess the
6 attestations of the Secretary of Homeland Secu-
7 rity under subparagraphs (A), (B), and (C) of
8 paragraph (1).

9 (B) REPORTS.—Not later than 120 days
10 after conducting the reviews described in sub-
11 paragraph (A), the Comptroller General of the
12 United States shall submit a report on the re-
13 sults of each such review to the appropriate
14 congressional committees.

15 (k) FAILURE TO ACHIEVE SITUATIONAL AWARENESS
16 OR OPERATIONAL CONTROL.—If the Secretary of Home-
17 land Security determines that situational awareness, oper-
18 ational control, or both, as the case may be, has not been
19 achieved by the dates referred to in subparagraphs (A)
20 and (B) of subsection (j)(1), as the case may be, or if
21 the Secretary determines that operational control is not
22 being annually maintained pursuant to subparagraph (C)
23 of such subsection, the Secretary shall, not later than 60
24 days after such dates, submit a report to the appropriate
25 congressional committees that—

1 (1) describes why situational awareness or oper-
2 ational control, or both, as the case may be, was not
3 achieved; and

4 (2) includes a description of impediments in-
5 curred, potential remedies, and recommendations to
6 achieve situational awareness, operational control, or
7 both, as the case may be.

8 (l) GOVERNMENT ACCOUNTABILITY OFFICE REPORT
9 ON BORDER SECURITY DUPLICATION AND COST EFFEC-
10 TIVENESS.—Not later than 1 year after the date of the
11 enactment of this Act, the Comptroller General of the
12 United States shall submit a report to the appropriate
13 congressional committees that addresses—

14 (1) areas of overlap in responsibilities within
15 the border security functions of the Department of
16 Homeland Security; and

17 (2) the relative cost effectiveness of border se-
18 curity strategies, including deployment of additional
19 personnel and technology, and construction of virtual
20 and physical barriers.

21 (m) REPORTS.—Not later than 60 days after the date
22 of the enactment of this Act and annually thereafter, the
23 Secretary of Homeland Security shall submit a report to
24 the appropriate congressional committees that contains—

1 (1) a resource allocation model for current and
2 future year staffing requirements that includes—

3 (A) optimal staffing levels at all land, air,
4 and sea ports of entry; and

5 (B) an explanation of U.S. Customs and
6 Border Protection methodology for aligning
7 staffing levels and workload to threats and
8 vulnerabilities and their effects on cross border
9 trade and passenger travel across all mission
10 areas;

11 (2) detailed information on the level of man-
12 power available at all land, air, and sea ports of
13 entry and between ports of entry, including the num-
14 ber of canine and agricultural specialists assigned to
15 each such port of entry;

16 (3) detailed information that describes the dif-
17 ference between the staffing the model suggests and
18 the actual staffing at each port of entry and between
19 the ports of entry; and

20 (4) detailed information that examines the secu-
21 rity impacts and competitive impacts of entering into
22 a reimbursement agreement with foreign govern-
23 ments for U.S. Customs and Border Protection
24 preclearance facilities.

1 **SEC. 204. PROHIBITION ON LAND BORDER CROSSING FEE**
2 **STUDY.**

3 The Secretary of Homeland Security may not con-
4 duct any study relating to the imposition of a border cross-
5 ing fee for pedestrians or passenger vehicles at land ports
6 of entry along the southern border or the northern border
7 of the United States.

8 **SEC. 205. BORDER SECURITY RESOURCES.**

9 (a) **EQUIPMENT AND TECHNOLOGY ENHANCE-**
10 **MENTS.**—Consistent with the Southern Border Security
11 Strategy required under section 203, the Secretary of
12 Homeland Security, in consultation with the Commis-
13 sioner of U.S. Customs and Border Protection, shall up-
14 grade existing technological assets and equipment, and
15 procure and deploy additional technological assets and
16 equipment on the southern border.

17 (b) **PHYSICAL AND TACTICAL INFRASTRUCTURE IM-**
18 **PROVEMENTS.**—

19 (1) **CONSTRUCTION, UPGRADE, AND ACQUISI-**
20 **TION OF BORDER CONTROL FACILITIES.**—Consistent
21 with the Southern Border Security Strategy required
22 under section 203, the Secretary, shall upgrade ex-
23 isting physical and tactical infrastructure of the De-
24 partment of Homeland Security, and construct and
25 acquire additional physical and tactical infrastruc-
26 ture on the southern border, including the following:

- 1 (A) U.S. Border Patrol stations.
- 2 (B) U.S. Border Patrol checkpoints.
- 3 (C) Forward operating bases.
- 4 (D) Monitoring stations.
- 5 (E) Mobile command centers.
- 6 (F) Land border port of entry improve-
- 7 ments.
- 8 (G) Other necessary facilities, structures,
- 9 and properties.

10 (c) CUSTOMS AND BORDER PROTECTION PER-
11 SONNEL ENHANCEMENTS.—

12 (1) ADDITIONAL OFFICERS.—Consistent with
13 the Southern Border Security Strategy required
14 under section 203, the Secretary is authorized to in-
15 crease the number of trained active-duty U.S. Cus-
16 toms and Border Protection officers deployed on the
17 southern border, including—

- 18 (A) officers serving in the Office of the
19 Border Patrol;
- 20 (B) officers serving in the Office of Air
21 and Marine; and
- 22 (C) officers serving in the Office of Field
23 Operations, including officers stationed at land
24 border ports of entry.

1 (2) EXPEDITED TRAINING AND DEPLOYMENT
2 AUTHORITY.—When exercising authority under this
3 section, the Secretary is authorized—

4 (A) to conduct enhanced recruiting oper-
5 ations for U.S. Customs and Border Protection
6 personnel;

7 (B) to conduct additional training acad-
8 emies for U.S. Customs and Border Protection
9 personnel; and

10 (C) to promulgate regulations allowing for
11 the expedited training of U.S. Customs and
12 Border Protection personnel.

13 (d) NATIONAL GUARD SUPPORT FOR OPERATIONS.—

14 (1) IN GENERAL.—Amounts authorized to be
15 appropriated under this section may be expended,
16 with the approval of the Secretary of Defense and
17 the Secretary of Homeland Security, for the Gov-
18 ernor of a State to order any units or personnel of
19 the National Guard of such State to perform oper-
20 ations and missions under section 502(f) of title 32,
21 United States Code, on the southern border.

22 (2) ASSIGNMENT OF OPERATIONS AND MIS-
23 SIONS.—

24 (A) IN GENERAL.—National Guard units
25 and personnel deployed under paragraph (1)

1 may be assigned such operations, including mis-
2 sions specified in paragraph (3), as may be nec-
3 essary to provide assistance for operations on
4 the southern border.

5 (B) NATURE OF DUTY.—The duty of Na-
6 tional Guard personnel performing operations
7 and missions described in subparagraph (A)
8 shall be full-time duty under title 32, United
9 States Code.

10 (3) RANGE OF OPERATIONS AND MISSIONS.—
11 The operations and missions assigned under para-
12 graph (2) shall include the temporary authority—

13 (A) to provide assistance for law enforce-
14 ment, including the interdiction of human traf-
15 ficking, illicit drugs, and contraband crossing
16 the border;

17 (B) to assist in the provision of humani-
18 tarian relief;

19 (C) to increase ground-based mobile sur-
20 veillance systems;

21 (D) to deploy additional unmanned aerial
22 systems and manned aircraft sufficient to main-
23 tain continuous surveillance of the southern
24 border;

1 (E) to deploy and provide capability for
2 radio communications interoperability between
3 U.S. Customs and Border Protection and State,
4 local, and tribal law enforcement agencies;

5 (F) to construct checkpoints along the
6 southern border to bridge the gap to long-term
7 permanent checkpoints;

8 (G) to provide assistance to U.S. Customs
9 and Border Protection, particularly in rural,
10 high-trafficked areas, as designated by the
11 Commissioner of U.S. Customs and Border
12 Protection;

13 (H) to enhance law enforcement rotary
14 wing operations supporting quick reaction
15 forces, medical air evacuations, and incident
16 awareness and assessment operations; and

17 (I) to provide equipment and training to
18 law enforcement agencies.

19 (4) MATERIEL AND LOGISTICAL SUPPORT.—
20 The Secretary of Defense shall deploy such materiel
21 and equipment and logistical support as may be nec-
22 essary to ensure success of the operations and mis-
23 sions conducted by the National Guard under this
24 subsection.

1 (5) EXCLUSION FROM NATIONAL GUARD PER-
2 SONNEL STRENGTH LIMITATIONS.—National Guard
3 personnel deployed under paragraph (1) shall not be
4 included in—

5 (A) the calculation to determine compli-
6 ance with limits on end strength for National
7 Guard personnel; or

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

12 (6) FUNDING.—There are authorized to be ap-
13 propriated for fiscal years 2014 and 2015 such sums
14 as may be necessary to carry out this subsection.

15 (e) STATE AND LOCAL ASSISTANCE.—

16 (1) IN GENERAL.—The Federal Emergency
17 Management Agency shall enhance law enforcement
18 preparedness, humanitarian responses, and oper-
19 ational readiness along the southern border through
20 Operation Stonegarden.

21 (2) GRANTS AND REIMBURSEMENTS.—

22 (A) IN GENERAL.—For purposes of para-
23 graph (1), amounts made available under this
24 section shall be allocated for grants and reim-
25 bursements to State and local governments in

1 Border Patrol Sectors on the southern border
2 for personnel, overtime, travel, costs related to
3 combating illegal immigration and drug smuggling,
4 and costs related to providing humanitarian relief to
5 unaccompanied alien children
6 who have entered the United States.

7 (B) FUNDING FOR STATE AND LOCAL GOVERNMENTS.—Allocations for grants and reimbursements to State and local governments under this paragraph shall be made by the Federal Emergency Management Agency through a competitive process.

13 (3) FUNDING.—There are authorized to be appropriated for fiscal years 2014 and 2015 such sums
14 as may be necessary to carry out this subsection.
15

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