

Calendar No. 491

113TH CONGRESS
2D SESSION

S. 2666

To prohibit future consideration of deferred action for childhood arrivals or work authorization for aliens who are not in lawful status, to facilitate the expedited processing of minors entering the United States across the southern border, and to require the Secretary of Defense to reimburse States for National Guard deployments in response to large-scale border crossings of unaccompanied alien children from noncontiguous countries.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2014

Mr. CRUZ introduced the following bill; which was read the first time

JULY 28, 2014

Read the second time and placed on the calendar

A BILL

To prohibit future consideration of deferred action for childhood arrivals or work authorization for aliens who are not in lawful status, to facilitate the expedited processing of minors entering the United States across the southern border, and to require the Secretary of Defense to reimburse States for National Guard deployments in response to large-scale border crossings of unaccompanied alien children from noncontiguous countries.

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 “Protect Children and
5 Families Through the Rule of Law Act”.

6 **SEC. 2. LIMITATION ON EXECUTIVE IMMIGRATION AU-**
7 **THORITY.**

8 No agency or instrumentality of the Federal Govern-
9 ment may use Federal funding or resources—

10 (1) to consider or adjudicate any new or pre-
11 viously denied application of any alien requesting
12 consideration of deferred action for childhood arriv-
13 als, as authorized by Executive memorandum on Au-
14 gust 15, 2012, or by any other succeeding executive
15 memorandum authorizing a similar program; or

16 (2) to authorize any alien to work in the United
17 States if such alien—

18 (A) was not lawfully admitted into the
19 United States in compliance with the Immigra-
20 tion and Nationality Act (8 U.S.C. 1101 et
21 seq.); and

22 (B) is not in lawful status in the United
23 States on the date of the enactment of this Act.

1 **SEC. 3. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
 2 **DREN.**

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

6 (1) in paragraph (2)—

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

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

14 (C) in subparagraph (C)—

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

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

24 (2) in paragraph (5)(D)—

25 (A) in the subparagraph heading, by strik-
 26 ing “PLACEMENT IN REMOVAL PROCEEDINGS”

1 and inserting “EXPEDITED DUE PROCESS AND
 2 SCREENING FOR UNACCOMPANIED ALIEN CHIL-
 3 DREN”;

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

10 (C) by striking clause (i) and inserting the
 11 following:

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

18 (D) by redesignating clauses (ii) and (iii)
 19 as clauses (iii) and (iv), respectively;

20 (E) by inserting after clause (i) the fol-
 21 lowing:

22 “(ii) may not be placed in the custody
 23 of a nongovernmental sponsor or otherwise
 24 released from the custody of the United
 25 States Government until the child is repa-

1 triated unless the child is the subject of an
 2 order under section 235B(e)(1) of the Im-
 3 migration and Nationality Act;”;

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

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

8 **SEC. 4. EXPEDITED DUE PROCESS AND SCREENING OF UN-**
 9 **ACCOMPANIED ALIEN CHILDREN .**

10 (a) AMENDMENTS TO IMMIGRATION AND NATION-
 11 ALITY ACT.—

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

15 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
 16 **SCREENING FOR UNACCOMPANIED ALIEN**
 17 **CHILDREN.**

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

20 “(1) has had professional training in country
 21 conditions, asylum law, and interview techniques
 22 comparable to that provided to full-time adjudicators
 23 of applications under section 208, and

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

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

3 “(B) has had substantial experience adjudicating asylum applications.

5 “(b) PROCEEDING.—

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

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

20 “(c) CONDUCT OF PROCEEDING.—

21 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
22 The immigration judge conducting a proceeding
23 under this section—

1 “(A) shall administer oaths, receive evi-
2 dence, and interrogate, examine, and cross-ex-
3 amine the alien and any witnesses;

4 “(B) may issue subpoenas for the attend-
5 ance of witnesses and presentation of evidence;
6 and

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

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

13 “(A) in person;

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

16 “(C) through video conference; or

17 “(D) through telephone conference.

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

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

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

5 “(B) the alien shall be given a reasonable
6 opportunity—

7 “(i) to examine the evidence against
8 the alien;

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

11 “(iii) to cross-examine witnesses pre-
12 sented by the Government;

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

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

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

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

24 “(5) WITHDRAWAL OF APPLICATION FOR AD-
25 MISSION.—In the discretion of the Attorney General,

1 an alien applying for admission to the United States
2 may, and at any time, be permitted to withdraw
3 such application and immediately be returned to the
4 alien's country of nationality or country of last ha-
5 bitual residence.

6 “(d) DECISION AND BURDEN OF PROOF.—

7 “(1) DECISION.—

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

12 “(i) admissible to the United States;

13 or

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

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

20 “(2) BURDEN OF PROOF.—

21 “(A) IN GENERAL.—In a proceeding under
22 this section, an alien who is an applicant for
23 admission has the burden of establishing, by a
24 preponderance of the evidence, that the alien—

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

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

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

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

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

17 “(e) ORDERS.—

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

24 “(2) ORDERS OF REMOVAL.—If an immigration
25 judge determines that the unaccompanied alien child

1 has not met the burden of proof required under sub-
2 section (d)(2), the judge shall order the alien re-
3 moved from the United States without further hear-
4 ing or review unless the alien claims—

5 “(A) an intention to apply for asylum
6 under section 208; or

7 “(B) a fear of persecution.

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

14 “(f) ASYLUM INTERVIEWS.—

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

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

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

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

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

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

22 “(i) a summary of the material facts
23 as stated by the applicant;

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

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

4 “(iv) a copy of the officer’s interview
 5 notes.

6 “(C) REVIEW OF DETERMINATION.—

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

14 “(ii) MANDATORY COMPONENTS.—
 15 The review described in clause (i)—

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

21 “(II) shall be conducted—

22 “(aa) as expeditiously as
 23 possible;

24 “(bb) within the 24-hour pe-
 25 riod beginning at the time the

1 asylum officer makes a deter-
2 mination under subparagraph
3 (A), to the maximum extent
4 practicable; and

5 “(cc) in no case later than 7
6 days after such determination.

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

15 “(i) pending a final determination of
16 credible fear of persecution; and

17 “(ii) after a determination that the
18 alien does not such a fear, until the alien
19 is removed.

20 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

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

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

9 “(A) lawfully admitted for permanent resi-
 10 dence;

11 “(B) admitted as a refugee under section
 12 207; or

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

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

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

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

21 (1) in subsection (a)—

22 (A) in paragraph (1), by inserting “, or an
 23 order of removal issued to an unaccompanied

1 alien child after proceedings under section
 2 235B” after “section 235(b)(1)”; and

3 (B) in paragraph (2)—

4 (i) by inserting “or section 235B”
 5 after “section 235(b)(1)” each place it ap-
 6 pears; and

7 (ii) in subparagraph (A)—

8 (I) in the subparagraph heading,
 9 by inserting “OR 235B” after “SEC-
 10 TION 235(b)(1)”; and

11 (II) in clause (iii), by striking
 12 “section 235(b)(1)(B),” and inserting
 13 “section 235(b)(1)(B) or 235B(f);”;
 14 and

15 (2) in subsection (e)—

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

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

20 (C) in subparagraph (2)(C), by inserting
 21 “or section 235B(g)” after “section
 22 235(b)(1)(C)”; and

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

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

4 (a) SPECIAL MOTIONS FOR UNACCOMPANIED ALIEN
5 CHILDREN.—

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

17 (A) to appear, in-person, before an immi-
18 gration judge who has been authorized by the
19 Attorney General to conduct proceedings under
20 section 235B of the Immigration and Nation-
21 ality Act, as added by section 4;

22 (B) to attest to their desire to apply for
23 admission to the United States; and

24 (C) to file a motion to apply for admission
25 to the United States by being placed in pro-

1 ceedings under section 235B of the Immigra-
2 tion and Nationality Act.

3 (2) MOTION GRANTED.—An immigration judge
4 may, at the sole and unreviewable discretion of the
5 judge, grant a motion filed under paragraph (1)(C)
6 upon a finding that—

7 (A) the petitioner was an unaccompanied
8 alien child (as defined in section 235 of the Wil-
9 liam Wilberforce Trafficking Victims Protection
10 Reauthorization Act of 2008 (8 U.S.C. 1232))
11 on the date on which a Notice to Appear was
12 issued to the alien under section 239 of the Im-
13 migration and Nationality Act (8 U.S.C. 1229);

14 (B) the Notice to Appear was issued dur-
15 ing the period beginning on January 1, 2013,
16 and ending on the date of the enactment of this
17 Act;

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

20 (D) the granting of such motion would not
21 be manifestly unjust.

22 (3) EFFECT OF MOTION.—Notwithstanding any
23 other provision of law, upon the granting of a mo-
24 tion under paragraph (2)—

1 (A) the immigration judge who granted
2 such motion shall, while the petitioner remains
3 in-person, immediately inspect and screen the
4 petitioner for admission to the United States by
5 conducting a proceeding under section 235B of
6 the Immigration and Nationality Act; and

7 (B) the petitioner shall not be subject to
8 the 5-year expedited removal bar under section
9 212(a)(6)(B) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1182(a)(6)(B)).

11 (4) PROTECTIVE CUSTODY.—An unaccompanied
12 alien child who has been granted a motion under
13 paragraph (2) shall be held in the custody of the
14 Secretary of Health and Human Services pursuant
15 to section 235 of the William Wilberforce Traf-
16 ficking Victims Protection Reauthorization Act of
17 2008 (8 U.S.C. 1232).

18 **SEC. 6. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

19 (a) DESIGNATION.—Not later than 14 days after the
20 date of the enactment of this Act, the Attorney General
21 shall designate up to 40 immigration judges, including
22 through the hiring of retired immigration judges or mag-
23 istrate judges, or the reassignment of current immigration
24 judges, that are dedicated to conducting humane and ex-
25 pedited inspection and screening for unaccompanied alien

1 children under section 235B of the Immigration and Na-
 2 tionality Act, as added by section 4.

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

8 **SEC. 7. PROTECTING CHILDREN FROM HUMAN TRAF-**
 9 **FICKERS, SEX OFFENDERS, AND OTHER**
 10 **CRIMINALS.**

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

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

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

18 “(D) PROHIBITION ON PLACEMENT WITH
 19 SEX OFFENDERS AND HUMAN TRAFFICKERS.—

20 “(i) IN GENERAL.—The Secretary of
 21 Health and Human Services may not place
 22 an unaccompanied alien child in the cus-
 23 tody of an individual who has been con-
 24 victed of—

1 “(I) a sex offense (as defined in
2 section 111 of the Sex Offender Reg-
3 istration and Notification Act (42
4 U.S.C. 16911)); or

5 “(II) a crime involving a severe
6 form of trafficking in persons (as de-
7 fined in section 103 of the Trafficking
8 Victims Protection Act of 2000 (22
9 U.S.C. 7102)).

10 “(ii) REQUIREMENTS OF CRIMINAL
11 BACKGROUND CHECK.—A biometric crimi-
12 nal history check under subparagraph (A)
13 shall be based on a set of fingerprints or
14 other biometric identifiers and conducted
15 through—

16 “(I) the Identification Division of
17 the Federal Bureau of Investigation;
18 and

19 “(II) criminal history repositories
20 of all States that the individual lists
21 as current or former residences.”.

1 **SEC. 8. NATIONAL GUARD DEPLOYMENTS IN RESPONSE TO**
2 **LARGE-SCALE BORDER CROSSINGS AND RE-**
3 **SOURCES FOR STATE AND LOCAL BORDER**
4 **SECURITY EFFORTS.**

5 (a) NATIONAL GUARD DEPLOYMENTS.—Section 902
6 of title 32, United States Code, is amended—

7 (1) by striking “The Secretary” and inserting
8 the following:

9 “(a) IN GENERAL.—The Secretary”;

10 (2) by striking the comma after “Secretary”;
11 and

12 (3) by adding at the end the following:

13 “(b) MANDATORY REIMBURSEMENT.—If the gov-
14 ernor of a State deploys personnel of the National Guard
15 in response to the apprehension of 6,000 or more unac-
16 companied alien children (as defined in section 462(g) of
17 the Homeland Security Act of 2002 (6 U.S.C. 279(g)))
18 who are nationals of countries other than Canada or Mex-
19 ico, the Secretary of Defense shall reimburse such State
20 for any expenses incurred by the State as a result of such
21 deployment.”.

22 (b) STATE AND LOCAL ASSISTANCE.—

23 (1) IN GENERAL.—The Federal Emergency
24 Management Agency shall enhance law enforcement
25 preparedness, humanitarian responses, and oper-

ational readiness along the Southern border through
Operation Stonegarden.

(2) GRANTS AND REIMBURSEMENTS.—

(A) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used for grants and reimbursements to State and local governments in Border Patrol sectors on the Southern border for—

(i) personnel, overtime, travel, and other costs related to combating illegal immigration and drug smuggling; and

(ii) costs related to providing humanitarian relief to unaccompanied alien children who have entered the United States.

(B) FUNDING FOR STATE AND LOCAL GOVERNMENTS.—Grants and reimbursements authorized subparagraph (A) shall be made by the Federal Emergency Management Agency through a competitive process.

(3) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated, for fiscal years 2014 and 2015, such sums as may be necessary to carry out this subsection.

1 (B) OFFSET.—Any amounts appropriated
2 pursuant to subparagraph (A) shall be offset by
3 an equal reduction in the amounts appropriated
4 for other purposes.

5 (C) RESCISSION.—If the reductions re-
6 quired under subparagraph (B) are not made
7 during the 180-day period beginning on the
8 date of the enactment of this Act, there shall be
9 rescinded, from all unobligated amounts appro-
10 priated for any Federal agency (other than the
11 Department of Defense), on a proportionate
12 basis, an amount equal to the amount appro-
13 priated pursuant to subparagraph (A).

14 (c) SCOPE OF NATIONAL GUARD AUTHORITY.—Sec-
15 tion 902 of title 32, United States Code, as amended by
16 subsection (a), is further amended by adding at the end
17 the following:

18 “(c) SCOPE OF AUTHORITY.—Notwithstanding sec-
19 tion 1385 of title 18 or any other provision of law, Na-
20 tional Guard personnel who are deployed to conduct home-
21 land defense activities near an international border are au-
22 thorized to detain any person, and transfer such person
23 to the custody of U.S. Border Patrol or another appro-
24 priate Federal law enforcement agency, if there is probable

1 cause that such person has violated any Federal law relat-

2 ing to—

3 “(1) immigration;

4 “(2) drug trafficking;

5 “(3) human trafficking; or

6 “(4) terrorism.”.

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