

113TH CONGRESS
1ST SESSION

H. R. 2872

To secure the borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2013

Ms. LORETTA SANCHEZ of California introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Foreign Affairs, the Judiciary, 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 secure the borders of the United States, 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; DEFINITION; TABLE OF CON-**
4 **TENTS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Border Enforcement, Security, and Technology Act of
7 2013” and “BEST Act of 2013”.

8 (b) **DEFINITION.**—In this Act, the term “appropriate
9 congressional committees” means the Committee on

1 Homeland Security of the House of Representatives and
 2 the Committee on Homeland Security and Governmental
 3 Affairs of the Senate.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title; Definition; Table of contents.

TITLE I—COMPREHENSIVE BORDER SECURITY STRATEGY

Sec. 101. Technology plan.

Sec. 102. National Strategy for Border Security.

Sec. 103. Roles and responsibility.

TITLE II—BORDER SECURITY PERSONNEL AND RESOURCES

Sec. 201. Maintenance of adequate ratio of supervisory and managerial agents to new agents.

Sec. 202. Strengthening border patrol recruitment and retention.

Sec. 203. Authorization of additional U.S. Customs and Border Protection officers.

Sec. 204. Strengthening U.S. Customs and Border Protection officer recruitment and retention.

Sec. 205. Enhanced customer service standards and professionalism training.

Sec. 206. U.S. Customs and Border Protection officer training.

Sec. 207. U.S. Customs and Border Protection wait times transparency.

Sec. 208. K–9 units.

Sec. 209. Equipment and vehicle needs for Customs and Border Protection officers and Border Patrol agents.

TITLE III—STRENGTHENING INFRASTRUCTURE AND TECHNOLOGY

Sec. 301. Pilot program on border connectivity.

TITLE IV—SECURING THE PORTS OF ENTRY

Sec. 401. Biometric exit data system.

Sec. 402. NEXUS, SENTRI, and FAST assessment.

Sec. 403. Electronic device search and seizure standards at ports of entry.

TITLE V—FEDERAL, STATE, AND LOCAL COORDINATION AND ASSISTANCE

Sec. 501. Coordination of land and maritime border enforcement efforts.

Sec. 502. Department of Homeland Security Border Oversight Task Force.

TITLE VI—INTERNATIONAL COOPERATION

Sec. 601. North and Central American border security cooperation initiative.

Sec. 602. Enhancing the security of Mexico’s southern border.

Sec. 603. Caribbean cooperation initiative.

TITLE VII—SECURE AND HUMANE DETENTION AND EFFECTIVE
REPATRIATION.

Sec. 701. Immigration detention standards.

Sec. 702. Detention management.

Sec. 703. Alternatives to detention for families and vulnerable populations.

Sec. 704. Short term detention standards at and between ports of entry.

Sec. 705. Report on nondeportable aliens.

1 **TITLE I—COMPREHENSIVE**
2 **BORDER SECURITY STRATEGY**

3 **SEC. 101. TECHNOLOGY PLAN.**

4 (a) REQUIREMENT FOR PLAN.—The Secretary of
5 Homeland Security shall develop a comprehensive plan for
6 the technology for the security of the international borders
7 of the United States.

8 (b) CONTENTS.—The plan required under subsection
9 (a) shall include the following:

10 (1) A description of existing technologies em-
11 ployed along the international borders of the United
12 States.

13 (2) Requirements relating to the compatibility
14 of new technologies with technologies in use by the
15 Secretary of Homeland Security on the date of the
16 enactment of this Act.

17 (3) A description of how the Commissioner of
18 United States Customs and Border Protection and
19 the Commandant of the Coast Guard are working,
20 or are expected to work, with the Under Secretary
21 for Science and Technology of the Department of

1 Homeland Security to identify and test new tech-
2 nology.

3 (4) A description of the specific technology to
4 be deployed along the international borders of the
5 United States.

6 (5) Identification of any obstacles that may im-
7 pede the deployment described in paragraph (4).

8 (6) A description on how the Commissioner of
9 United States Customs and Border Protection shall
10 consult with border communities in the development
11 of technology.

12 (7) A description of how existing and proposed
13 technologies and infrastructure used for land and
14 maritime security will impact the environmental, so-
15 cial, economic, and cultural conditions of sur-
16 rounding communities.

17 (8) A detailed estimate of all costs associated
18 with the deployment of new technology and infra-
19 structure and with continued maintenance of such
20 technologies and infrastructure.

21 (9) A detailed estimate of personnel needed to
22 operate and maintain the technologies and infra-
23 structure described in paragraph (8).

24 (10) A description of how the Secretary of
25 Homeland Security is working with the Adminis-

1 trator of the Federal Aviation Administration on
2 safety and airspace control issues associated with
3 the use of unmanned aerial vehicles.

4 (11) A description of technologies developed or
5 utilized by the Department of Defense, including any
6 such technologies determined to be excess by the
7 Secretary of Defense.

8 (c) SUBMISSION TO CONGRESS.—Not later than three
9 months after the date of the enactment of this Act, the
10 Secretary shall submit to the appropriate congressional
11 committees the plan required under subsection (a).

12 **SEC. 102. NATIONAL STRATEGY FOR BORDER SECURITY.**

13 (a) REQUIREMENT FOR STRATEGY.—The Secretary
14 of Homeland Security, in consultation with the heads of
15 other appropriate Federal departments and agencies, shall
16 develop a National Strategy for Border Security that de-
17 scribes actions to be carried out to achieve operational
18 control over—

19 (1) all ports of entry into the United States;

20 and

21 (2) the international borders of the United
22 States.

23 (b) CONTENTS.—The National Strategy for Border
24 Security required under subsection (a) shall include the
25 following:

1 (1) The implementation schedule for the com-
2 prehensive technology plan for the security of the
3 international borders required under section 101.

4 (2) An assessment of the threat posed by ter-
5 rorists and terrorist groups that may try to infiltrate
6 the United States at locations along the inter-
7 national borders.

8 (3) A risk assessment for all United States
9 ports of entry and all portions of the international
10 borders of the United States, including a description
11 of activities being undertaken to—

12 (A) prevent the entry into the United
13 States of terrorists, instruments of terrorism,
14 human traffickers, criminal aliens, perpetrators
15 of criminal violence, unlawful aliens, narcotics,
16 and other contraband; and

17 (B) protect critical infrastructure at or
18 near such ports of entry or borders.

19 (4) A description of the legal requirements that
20 prevent achieving and maintaining operational con-
21 trol over the international borders of the United
22 States.

23 (5) A description of the most appropriate, prac-
24 tical, and cost-effective means of protecting the
25 international borders of the United States against

1 threats to security and illegal transit, including in-
2 telligence capacities, technology, equipment, per-
3 sonnel, and training needed to address border secu-
4 rity vulnerabilities.

5 (6) A description of staffing needs for all bor-
6 der security functions, taking into account threat
7 and vulnerability information pertaining to the inter-
8 national borders of the United States and the im-
9 pact of new security programs, policies, and tech-
10 nologies.

11 (7) A description of the border security roles
12 and missions of Federal, State, regional, local, and
13 tribal authorities, and recommendations regarding
14 actions the Secretary of Homeland Security can
15 carry out to improve coordination with such authori-
16 ties to enable border security and enforcement ac-
17 tivities to be carried out in a more efficient and ef-
18 fective manner.

19 (8) A description of existing efforts and tech-
20 nologies used for border security and the effect of
21 the use of such efforts and technologies on civil
22 rights, private property rights, privacy rights, and
23 civil liberties.

1 (9) An assessment of effects and reporting on
2 deaths and injuries resulting from unlawful border
3 crossings.

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

7 (11) An assessment on how crossing times at
8 port of entry border crossings impact legitimate bor-
9 der activity.

10 (12) A description of the performance metrics
11 to be used to ensure accountability by the compo-
12 nents of the Department of Homeland Security in
13 implementing such Strategy.

14 (13) A schedule for the implementation of the
15 security measures described in such Strategy, includ-
16 ing a prioritization of security measures, realistic
17 deadlines for addressing security and enforcement
18 needs, an estimate of the resources required to carry
19 out such measures, and a description of how such
20 resources should be allocated.

21 (c) CONSULTATION.—In developing the National
22 Strategy for Border Security required under subsection
23 (a), the Secretary of Homeland Security shall consult with
24 representatives of—

1 (1) State, local, territorial, and tribal authori-
2 ties with responsibility for locations along the inter-
3 national borders of the United States; and

4 (2) appropriate private sector entities, labor or-
5 ganizations, nongovernmental organizations, and af-
6 fected communities that have expertise in subject
7 matter areas related to border policy.

8 (d) COORDINATION.—The National Strategy for Bor-
9 der Security required under subsection (a) shall be con-
10 sistent with the National Strategy for Maritime Security
11 developed pursuant to Homeland Security Presidential Di-
12 rective 13, dated December 21, 2004.

13 (e) SUBMISSION TO CONGRESS.—

14 (1) STRATEGY.—Not later than one year after
15 the date of the enactment of this Act, the Secretary
16 of Homeland Security shall submit to the appro-
17 priate congressional committees the National Strat-
18 egy for Border Security required under subsection
19 (a).

20 (2) UPDATES.—The Secretary of Homeland Se-
21 curity shall submit to the appropriate congressional
22 committees any update of such Strategy that the
23 Secretary determines is necessary, not later than 30
24 days after any such update is developed.

1 **SEC. 103. ROLES AND RESPONSIBILITY.**

2 (a) IN GENERAL.—Nothing in section 102 or 103
3 may be construed to relieve the Secretary of Homeland
4 Security of the responsibility to take all actions necessary
5 and appropriate to achieve and maintain operational con-
6 trol over the international borders of the United States.

7 (b) OPERATIONAL CONTROL DEFINED.—In this title,
8 the term “operational control” means the ability to detect,
9 respond, and interdict border penetrations in areas deter-
10 mined to be a high priority for threat potential or other
11 national security objectives. Such ability may be limited
12 to specific smuggling corridors or other geographically de-
13 fined locations as designated by the Secretary of Home-
14 land Security.

15 **TITLE II—BORDER SECURITY**
16 **PERSONNEL AND RESOURCES**

17 **SEC. 201. MAINTENANCE OF ADEQUATE RATIO OF SUPER-**
18 **VISORY AND MANAGERIAL AGENTS TO NEW**
19 **AGENTS.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), the Secretary of Homeland Security shall maintain
22 a ratio of five new Border Patrol agents to every one su-
23 pervisor.

24 (b) EXCEPTION.—Subsection (a) shall not apply in
25 the case of a work unit with an average length of service
26 of four or more years.

1 (c) NEW BORDER PATROL AGENT DEFINED.—In
2 this section, the term “new Border Patrol agent” means
3 a Border Patrol agent who has fewer than two years of
4 experience.

5 **SEC. 202. STRENGTHENING BORDER PATROL RECRUIT-**
6 **MENT AND RETENTION.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity shall, in accordance with existing Federal statutes ap-
9 plicable to pay, recruitment, and retention of Federal law
10 enforcement officers, address the recruitment and reten-
11 tion challenges faced by the Border Patrol, including the
12 following:

13 (1) The establishment of a recruitment incen-
14 tive for Border Patrol agents, including the estab-
15 lishment of a foreign language incentive award.

16 (2) The establishment of a retention plan, in-
17 cluding the payment of bonuses to Border Patrol
18 agents for every year of service after the first two
19 years of service.

20 (3) An increase in the pay percentage differen-
21 tials to Border Patrol agents in certain high-cost
22 areas, as determined by the Secretary of Homeland
23 Security, in accordance with other Federal, State,
24 and local law enforcement agencies.

1 (4) The basic rate of pay for Border Patrol
2 agents shall increase from the annual rate of basic
3 pay for positions at GS–12 of the General Schedule
4 to the annual rate of basic pay for positions at GS–
5 13 of such Schedule.

6 (5) The establishment of quarterly goals for the
7 recruitment of new Border Patrol agents, including
8 goals for the number of such recruits entering Bor-
9 der Patrol training, and the number of such recruits
10 who successfully complete such training and become
11 Border Patrol agents.

12 (b) APPLICABILITY OF RECRUITMENT INCENTIVE TO
13 CURRENT BORDER PATROL AGENTS.—Any recruitment
14 incentive described in subsection (a)(1) shall be applicable
15 for Border Patrol agents currently employed by the De-
16 partment of Homeland Security who may qualify for such
17 incentive.

18 (c) SUPERVISOR TRAINING CAPACITY.—The Sec-
19 retary of Homeland Security shall expand the training ca-
20 pacity at the Federal Law Enforcement Training Center
21 (FLETC) in Artesia, New Mexico, to the extent necessary
22 to train and maintain the ratio specified in section 201.

23 (d) REPORTING REQUIREMENTS RELATING TO RE-
24 CRUITMENT AND RETENTION PROGRESS.—Not later than
25 90 days after the date of the enactment of this Act and

1 every 90 days thereafter, the Secretary of Homeland Secu-
2 rity shall submit to the appropriate congressional commit-
3 tees a report on the resources expended for Border Patrol
4 recruitment and retention efforts by the Department of
5 Homeland Security and whether the Department is meet-
6 ing its recruitment and retention goals for Border Patrol
7 agents under this section.

8 **SEC. 203. AUTHORIZATION OF ADDITIONAL U.S. CUSTOMS**
9 **AND BORDER PROTECTION OFFICERS.**

10 Not later than September 30, 2014, the Secretary of
11 Homeland Security is authorized to increase the number
12 of U.S. Customs and Border Protection officers by 1,600
13 over the number of such officers in existence as of the
14 date of the enactment of this Act.

15 **SEC. 204. STRENGTHENING U.S. CUSTOMS AND BORDER**
16 **PROTECTION OFFICER RECRUITMENT AND**
17 **RETENTION.**

18 (a) **REQUIRED PLAN.**—The Secretary of Homeland
19 Security shall establish a plan, in accordance with existing
20 Federal statutes applicable to pay, recruitment, and reten-
21 tion of Federal law enforcement officers, to address the
22 recruitment and retention challenges faced by U.S. Cus-
23 toms and Border Protection. Such plan shall include the
24 following components:

1 (1) The establishment of a retention plan, in-
2 cluding the payment of bonuses to U.S. Customs
3 and Border Protection officers for every year of
4 service after the first two years of service.

5 (2) An increase in the pay percentage differen-
6 tials to U.S. Customs and Border Protection officers
7 in certain high-cost areas, as determined by the Sec-
8 retary of Homeland Security, in accordance with
9 other Federal, State, and local law enforcement
10 agencies.

11 (3) An increase in the annual rate of basic pay
12 for U.S. Customs and Border Protection Officers at
13 GS-12 of the General Schedule to the annual rate
14 of basic pay for positions at GS-13 of such Sched-
15 ule.

16 (4) The establishment of quarterly goals for the
17 recruitment of new U.S. Customs and Border Pro-
18 tection officers, including goals for the number of
19 such recruits entering U.S. Customs and Border
20 Protection officer training, and the number of such
21 recruits who successfully complete such training and
22 become U.S. Customs and Border Protection offi-
23 cers.

24 (b) REPORTING REQUIREMENTS RELATING TO RE-
25 CRUITMENT AND RETENTION PROGRESS.—Not later than

1 90 days after the date of the enactment of this Act and
2 every 90 days thereafter, the Secretary of Homeland Secu-
3 rity shall submit to the appropriate congressional commit-
4 tees a report on the resources expended for U.S. Customs
5 and Border Protection officer recruitment and retention
6 efforts by the Department of Homeland Security and
7 whether the Department is meeting its recruitment and
8 retention goals for U.S. Customs and Border Protection
9 officers under this section.

10 **SEC. 205. ENHANCED CUSTOMER SERVICE STANDARDS AND**
11 **PROFESSIONALISM TRAINING.**

12 (a) **PLANS REQUIRED.**—The Secretary of Homeland
13 Security shall implement a comprehensive plan, based on
14 publicly communicated metrics, for U.S. Customs and
15 Border Protection to improve professionalism and cus-
16 tomer service.

17 (b) **PLAN COMPONENTS.**—The plan required under
18 subsection (a) shall include each of the following:

19 (1) Information on the metrics U.S. Customs
20 and Border Protection will use to measure customer
21 service.

22 (2) Information on the metrics U.S. Customs
23 and Border Protection will use to measure profes-
24 sionalism.

1 (3) The implementation of a system to improve
2 customer service by soliciting customer comments
3 combining in person, phone, and online solutions.

4 (4) The establishment of customer service best
5 practices based on the customer service metrics re-
6 ferred to in paragraph (1).

7 (5) The establishment of professionalism best
8 practices based on the professionalism metrics re-
9 ferred to in paragraph (2).

10 (6) A requirement that U.S. Customs and Bor-
11 der Protection submit to Congress quarterly reports
12 on the agency's performance against the customer
13 service metrics referred to in paragraph (1), the pro-
14 fessionalism metrics referred to in paragraph (2),
15 the best practices referred to in paragraph (4), and
16 the best practices referred to in paragraph (5).

17 (c) ANNUAL REPORTS TO CONGRESS.—At least once
18 each year, the Secretary of Homeland Security shall sub-
19 mit to the appropriate congressional committees a report
20 on U.S. Customs and Border Protection. Each such report
21 shall include—

22 (1) an assessment of U.S. Customs and Border
23 Protection's customer service performance based on
24 the metrics referred to in subsection (b)(1);

1 (2) a detailed description of customer service
2 improvements sought by customers;

3 (3) customer service improvements sought by
4 Department of Homeland Security metrics, and the
5 costs associated with such improvements;

6 (4) the security and efficiency benefits derived
7 from such improvements;

8 (5) an assessment of U.S. Customs and Border
9 Protection's professionalism performance based on
10 the metrics referred to in subsection (b)(2);

11 (6) a description of any improvements in U.S.
12 Customs and Border Protection's professionalism,
13 and costs associated with such improvements; and

14 (7) the security and efficiency benefits derived
15 from such improvements.

16 (d) OVERSIGHT.—The Department of Homeland Se-
17 curity's Office of Civil Rights and Civil Liberties shall
18 have oversight of—

19 (1) the customer service and professionalism ef-
20 forts of U.S. Customs and Border Protection under
21 this section to ensure that comments are collected,
22 analyzed, and responded to in a timely manner; and

23 (2) the development of monthly reports detail-
24 ing the number and types of such comments sub-

1 mitted by the public, which shall be made available
2 to the public through the Department's Web site.

3 **SEC. 206. U.S. CUSTOMS AND BORDER PROTECTION OFFI-**
4 **CER TRAINING.**

5 (a) ENSURING CUSTOMS AND BORDER PROTECTION
6 OFFICER TRAINING.—Not later than 90 days after the
7 date of the enactment of this Act, the Commissioner of
8 U.S. Customs and Border Protection shall incorporate
9 into an existing database of the agency or develop a data-
10 base system that identifies for each Customs and Border
11 Protection officer—

- 12 (1) the assigned port placement location;
- 13 (2) the specific assignment and responsibilities;
- 14 (3) the required initial training courses com-
15 pleted;
- 16 (4) the required ongoing training courses avail-
17 able and completed;
- 18 (5) for each training course completed, the
19 method by which such training course was delivered;
- 20 (6) for each training course, the time allocated
21 during on-duty hours within which training must be
22 completed;
- 23 (7) for each training course offered, the dura-
24 tion of training and the amount of time an officer

1 must be absent from work to complete such training
2 course;

3 (8) if training has been postponed, the basis for
4 postponing such training and the date such training
5 was completed;

6 (9) certification or evidence of completion of
7 each training course; and

8 (10) certification by a supervising officer that
9 the officer at issue is able to carry out the function
10 for which the training was provided.

11 (b) IDENTIFYING AND ENHANCING ON-THE-JOB
12 TRAINING.—Not later than 90 days after the date of the
13 enactment of this Act, the Commissioner of U.S. Customs
14 and Border Protection shall—

15 (1) review the mission and responsibilities of
16 Customs and Border Protection officers carried out
17 at air, land, and sea ports of entry in both primary
18 and secondary inspections areas;

19 (2) develop an inventory of specific tasks that
20 must be performed by Customs and Border Protec-
21 tion officers throughout the entire inspection process
22 at such ports of entry, including tasks to be per-
23 formed in such primary and secondary inspections
24 areas;

1 (3) ensure that on-the-job training includes su-
2 pervised and evaluated performance of the tasks
3 identified in paragraph (2), or a supervised and eval-
4 uated practical training exercise that simulates the
5 on-the-job experience; and

6 (4) develop criteria to measure officer pro-
7 ficiency in performing the tasks identified in para-
8 graph (2) and for providing feedback to officers on
9 a regular basis.

10 (c) USE OF DATA.—The Commissioner of U.S. Cus-
11 toms and Border Protection shall use the information de-
12 veloped under subsection (a) and subsection (b)(2) to—

13 (1) develop specific training requirements for
14 Customs and Border Protection officers to ensure
15 that such officers have sufficient training to conduct
16 primary and secondary inspections at land, air, and
17 sea ports of entry;

18 (2) measure progress toward achieving the
19 training requirements referred to in paragraph (1);
20 and

21 (3) make staffing allocation decisions.

22 (d) COMPETENCY.—Supervisors of on-the-job train-
23 ing for Customs and Border Protection officers shall—

1 (1) attest to the competency of such officers to
2 carry out the functions for which such officers re-
3 ceived training; and

4 (2) provide feedback to such officers on per-
5 formance.

6 **SEC. 207. U.S. CUSTOMS AND BORDER PROTECTION WAIT**
7 **TIMES TRANSPARENCY.**

8 To increase professionalism and transparency, the
9 Commissioner of U.S. Customs and Border Protection
10 shall—

11 (1) publish live wait times at all United States
12 ports of entry, as determined by calculating the time
13 elapsed between an individual’s entry into the Cus-
14 toms and Border Protection inspection area and
15 such individual’s clearance by a Customs and Border
16 Protection officer;

17 (2) make information about such wait time
18 available to the public in real time through the U.S.
19 Customs and Border Protection Web site;

20 (3) submit to the appropriate congressional
21 committees monthly reports that include compila-
22 tions of all such wait times and that rank all United
23 States air ports of entry by wait times; and

24 (4) provide adequate staffing at the U.S. Cus-
25 toms and Border Protection information center to

1 reduce wait times to under 10 minutes for travelers
2 attempting to submit comments or speak with a rep-
3 resentative about their entry experiences.

4 **SEC. 208. K-9 UNITS.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall increase by 20 percent the number of K-9 units
7 working within U.S. Customs and Border Protection over
8 the number of such units in existence at the end of fiscal
9 year 2013, including adding infrastructure, officers, and
10 support staff necessary for such additional units.

11 (b) USE OF NEW UNITS.—The Secretary of Home-
12 land Security shall deploy to the international borders be-
13 tween the United States and Mexico and the United States
14 and Canada the additional K-9 units added under sub-
15 section (a). Such units shall be used only for bomb, nar-
16 cotics, passenger, and currency detection purposes.

17 **SEC. 209. EQUIPMENT AND VEHICLE NEEDS FOR CUSTOMS**
18 **AND BORDER PROTECTION OFFICERS AND**
19 **BORDER PATROL AGENTS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity shall keep the appropriate congressional committees
22 informed of the equipment and vehicle needs for Customs
23 and Border Protection Officers and Border Patrol agents.

1 (b) EQUIPMENT AND VEHICLES.—Equipment and
2 vehicle needs under subsection (a) shall include the fol-
3 lowing:

4 (1) The Secretary of Homeland Security, acting
5 through the Commissioner of U.S. Customs and
6 Border Protection, shall account for the number of
7 helicopters and power boats. The Secretary shall en-
8 sure that the appropriate types of helicopters that
9 are being requested will be mission capable. The
10 Secretary shall also ensure that the types of power
11 boats that are being requested are appropriate for
12 both the waterways in which they are to be used and
13 the mission requirements.

14 (2) The Secretary of Homeland Security shall
15 keep the appropriate congressional committees in-
16 formed of the fleet of motor vehicles appropriate for
17 use by Border Patrol agents and, when necessary, by
18 Customs and Border Protection officers, that will
19 permit a ratio of at least one mission specific vehicle
20 per every three agents or officers. Each vehicle shall
21 have a “panic button” and a global positioning sys-
22 tem device that may be activated solely in emergency
23 situations for the purpose of tracking the location of
24 an agent or officer in distress.

1 (3) The Secretary of Homeland Security shall
2 equip each mission specific vehicle in the fleet of the
3 Border Patrol and when necessary, U.S. Customs
4 and Border Protection, with a portable electronic de-
5 vice that would allow agents to access necessary law
6 enforcement databases and otherwise suited to the
7 unique operational requirements of the Border Pa-
8 trol and, when necessary, U.S. Customs and Border
9 Protection. Each such portable electronic device
10 shall be equipped with a “panic button” and a global
11 positioning system device that is activated solely in
12 emergency situations for the purpose of tracking the
13 location of an agent or officer in distress.

14 (4) The Secretary of Homeland Security shall
15 equip each Border Patrol agent, and when nec-
16 essary, each U.S. Customs and Border Protection
17 officer, with a hand-held global positioning system
18 device for navigational purposes.

19 (5) The Secretary of Homeland Security pro-
20 vide for the equipment needs for night time oper-
21 ations, including night vision equipment, by Customs
22 and Border Protection officers and Border Patrol
23 agents.

24 (6) The Secretary of Homeland Security shall
25 issue every Border Patrol agent and Customs and

1 Border Protection officer high-quality body armor
2 that is appropriate for the climate and risks faced
3 by such agents and officers.

4 (c) USE AND TRAINING.—The Secretary of Home-
5 land Security shall establish an overall policy on how the
6 equipment and vehicles described in subsection (b) will be
7 used, and implement training programs for the agents and
8 officers who use such equipment and vehicles, including
9 safe operating procedures and rescue operations.

10 **TITLE III—STRENGTHENING IN-**
11 **FRASTRUCTURE AND TECH-**
12 **NOLOGY**

13 **SEC. 301. PILOT PROGRAM ON BORDER CONNECTIVITY.**

14 (a) ESTABLISHMENT.—The Secretary of Homeland
15 Security shall conduct a pilot program to provide a tactical
16 cellular testbed on the southwest border of the United
17 States that serves as both a communications platform and
18 an intelligence data transport layer between a dismounted
19 team and the nearest communications node. Such pilot
20 program shall be designed to—

21 (1) test and deploy 3G/4G communications and
22 intelligence collection devices;

23 (2) evaluate and test solutions that are
24 ruggedized, rapidly deployable, highly mobile, and
25 customizable cellular network capable of meeting

1 multimission requirements and providing complete
2 connectivity in harsh and dynamic operating envi-
3 ronments;

4 (3) support the breadth of cellular technologies,
5 including technologies currently being leveraged by
6 the Department of Defense;

7 (4) test and evaluate communications that are
8 interoperable with existing communications capabili-
9 ties, such as tactical push-to-talk radios;

10 (5) pass data via the platform that includes bio-
11 metric, forensic, and cellular exploitation data;

12 (6) provide communications and data transport
13 capabilities that are available on-the-move with no
14 disruption in service and that integrate advanced
15 geo-location capabilities;

16 (7) evaluate a platform that is able to operate
17 as a standalone system or be scalable to support
18 multilevel operations in order to meet user specifica-
19 tions and operational needs; and

20 (8) provide secure communications and the
21 rapid dissemination of biometric, forensic, and other
22 collected information to exploitation centers for anal-
23 ysis within minutes and provide a secure path back
24 to the dismounted agent for alerts and immediate
25 feedback.

1 (b) REPORT TO CONGRESS.—Not later than 120 days
2 after the date of the enactment of this Act, the Secretary
3 of Homeland Security shall submit to the appropriate con-
4 gressional committees a report on the Secretary’s plan to
5 conduct the pilot program described in subsection (a).

6 **TITLE IV—SECURING THE**
7 **PORTS OF ENTRY**

8 **SEC. 401. BIOMETRIC EXIT DATA SYSTEM.**

9 (a) ESTABLISHMENT.—

10 (1) EXIT DATA SYSTEM.—Not later than De-
11 cember 31, 2015, the Secretary of Homeland Secu-
12 rity shall establish a mandatory exit data system
13 that includes the collection of data from machine-
14 readable visas, passports, and other travel and entry
15 documents for all categories of aliens who are exiting
16 from air and sea ports of entry.

17 (2) BIOMETRIC EXIT DATA SYSTEM.—Not later
18 than two years after the date of the enactment of
19 this Act, the Secretary of Homeland Security, in ac-
20 cordance with subsection (b) and in consultation
21 with nongovernmental organizations, academic ex-
22 perts, and appropriate stakeholders representing the
23 aviation and transportation industries, shall estab-
24 lish a mandatory biometric exit data system at the
25 ten United States airports that support the highest

1 volume of international air travel, as determined by
2 Department of Transportation international flight
3 departure data.

4 (3) STUDY AND REPORT.—Not later than three
5 years after the establishment of the mandatory bio-
6 metric exit data system under paragraph (2), the
7 Secretary of Homeland Security shall conduct a
8 study of the effectiveness of such system at the ten
9 airports referred to in such paragraph and submit to
10 the appropriate congressional committees a report
11 on the results of such study.

12 (4) EXPANSION OF BIOMETRIC EXIT DATA SYS-
13 TEM.—Not later than four years after the establish-
14 ment of the mandatory biometric exit data system
15 under paragraph (2), the Secretary of Homeland Se-
16 curity shall—

17 (A) establish such system at the Core 30
18 international airports in the United States, as
19 designated by the Federal Aviation Administra-
20 tion; and

21 (B) submit to the appropriate congres-
22 sional committee a plan for the establishment of
23 such system at major sea and land ports of
24 entry based upon—

1 (i) the performance of such system at
2 the ten airports referred to in such para-
3 graph; and

4 (ii) the findings of the study con-
5 ducted pursuant to paragraph (3).

6 (b) REQUIREMENTS FOR BIOMETRIC EXIT DATA
7 SYSTEM.—The mandatory biometric exit data system es-
8 tablished under subsection (a)(2) shall—

9 (1) recognize the advantages of being able to
10 confirm an individual’s identity, and potentially such
11 individual’s threat level, upon initial interaction at
12 ports of entry;

13 (2) leverage existing and proven biometric tech-
14 nologies utilized within the Department of Homeland
15 Security;

16 (3) capitalize on lessons learned from the De-
17 partment of Defense use of biometric technologies in
18 Iraq and Afghanistan;

19 (4) integrate with existing biometric databases
20 across the Federal Government;

21 (5) assess the role of biometric technologies in
22 the Department of Homeland Security’s risk-based
23 security model; and

24 (6) assess operational and funding requirements
25 of Department of Homeland Security components,

1 specifically U.S. Customs and Border Protection and
2 U.S. Immigration and Customs Enforcement.

3 **SEC. 402. NEXUS, SENTRI, AND FAST ASSESSMENT.**

4 The Comptroller General of the United States shall
5 submit to the appropriate congressional committees a
6 study of registered traveler programs that—

7 (1) evaluates existing screening procedures to
8 focus on security risks and creating clear guidelines
9 for program participation;

10 (2) identifies any vulnerabilities in such proce-
11 dures and making recommendations to rectify such
12 vulnerabilities; and

13 (3) assesses the feasibility of expanding such
14 registered traveler programs to additional ports of
15 entry or additional lanes at ports of entry where
16 such programs are currently in operation, provided
17 that any existing vulnerabilities are addressed.

18 **SEC. 403. ELECTRONIC DEVICE SEARCH AND SEIZURE**

19 **STANDARDS AT PORTS OF ENTRY.**

20 (a) **RULE WITH RESPECT TO BORDER SECURITY**
21 **SEARCHES OF ELECTRONIC DEVICES.—**

22 (1) **IN GENERAL.—**Not later than 180 days
23 after the date of the enactment of this Act, the Sec-
24 retary of Homeland Security, acting through the
25 Commissioner of U.S. Customs and Border Protec-

1 tion, in coordination with the Assistant Secretary of
2 Homeland Security for U.S. Immigration and Cus-
3 toms Enforcement and the senior official appointed
4 pursuant to section 222 of the Homeland Security
5 Act of 2002 (6 U.S.C. 142), shall issue a rule with
6 respect to the scope of and procedural and record-
7 keeping requirements associated with border security
8 searches of electronic devices.

9 (2) CONTENT.—The rule issued pursuant to
10 paragraph (1) shall include the following:

11 (A) A requirement that information col-
12 lected during a border security search of an
13 electronic device that is determined to be com-
14 mercial information, including trade secrets, in-
15 formation subject to attorney-client privilege,
16 information subject to doctor-patient privilege,
17 or information subject to another privilege or
18 protection shall be handled in accordance with
19 the laws, rules, and regulations governing such
20 information and shall not be shared with a Fed-
21 eral, State, local, tribal, territorial, or foreign
22 agency unless it is determined that such agency
23 has the mechanisms in place to comply with
24 such laws, rules, and regulations.

1 (B) A requirement that authorized agents,
2 to the greatest extent practicable, conduct all
3 border security searches of electronic devices in
4 the presence of a supervisor and, where appro-
5 priate, in the presence of the individuals whose
6 electronic devices are subject to such searches.

7 (C) A determination of the number of days
8 that an electronic device subjected to a border
9 security search or the information collected
10 from such device may be retained, unless prob-
11 able cause exists, that prohibits retention ex-
12 ceeding the period necessary to translate,
13 decrypt, or reasonably search such device or in-
14 formation and that requires such information to
15 be destroyed if in the custody of an authorized
16 agent after such number of days.

17 (D) A requirement that if information col-
18 lected from an electronic device subjected to a
19 border security search is copied, shared, re-
20 tained, or entered into an electronic database,
21 the individual from whose electronic device such
22 information is collected shall receive written no-
23 tification of such copying, sharing, retention, or
24 entry unless such notification would hinder an
25 investigation involving national security or

1 would meet another criteria established by the
2 Secretary of Homeland Security in the rule.

3 (E) A requirement that an individual sub-
4 jected to a border security search of an elec-
5 tronic device shall receive a receipt for such de-
6 vice if such device is removed from the posses-
7 sion of such individual.

8 (F) A requirement that an individual sub-
9 jected to a border security search of an elec-
10 tronic device shall receive notice of how to re-
11 port abuses or concerns and how to seek re-
12 dress from the Department of Homeland Secu-
13 rity.

14 (G) A requirement that information on the
15 rights of individuals with respect to border se-
16 curity searches and Department of Homeland
17 Security redress procedures shall be posted at
18 all ports of entry in locations that are likely to
19 be viewed by individuals subject to border secu-
20 rity searches.

21 (H) A privacy impact assessment of the
22 rule, as prepared by the senior official ap-
23 pointed pursuant to section 222 of the Home-
24 land Security Act of 2002, that includes rec-
25 ommendations with respect to the copying,

1 sharing, retention, and entry into an electronic
2 database of personally identifiable information
3 collected from electronic devices subjected to a
4 border security search.

5 (I) A civil liberties impact assessment of
6 the rule, as prepared by the Officer for Civil
7 Rights and Civil Liberties of the Department of
8 Homeland Security.

9 (b) TRAINING AND AUDITING WITH RESPECT TO
10 THE RULE.—

11 (1) TRAINING.—The Secretary of Homeland
12 Security shall provide each authorized agent with
13 appropriate training to conduct border security
14 searches of electronic devices in accordance with the
15 rule issued pursuant to subsection (a). The training
16 shall include instruction on constitutional, privacy,
17 civil rights, and civil liberties issues related to such
18 searches.

19 (2) AUDITING.—The Secretary of Homeland
20 Security, acting through the Inspector General of
21 the Department of Homeland Security, shall develop
22 and annually administer an auditing mechanism to
23 review whether authorized agents are conducting
24 border security searches of electronic devices in ac-

1 cordance with the rule issued pursuant to subsection
2 (a).

3 (c) REPORT.—Not later than 90 days after the effec-
4 tive date of the rule issued pursuant to subsection (a) and
5 quarterly thereafter, the Secretary of Homeland Security
6 shall submit to the appropriate congressional committees
7 a report that includes the following:

8 (1) A description of the activities of authorized
9 agents with respect to border security searches of
10 electronic devices.

11 (2) A description of the manner in which the
12 Department of Homeland Security has complied
13 with the requirements of this section.

14 (3) The number, by port of entry, of border se-
15 curity searches of electronic devices conducted dur-
16 ing the reporting period.

17 (4) The number, by port of entry, of instances
18 during the reporting period that information from
19 an electronic device subjected to a border security
20 search was retained, copied, shared, or entered in an
21 electronic database, including the number of elec-
22 tronic devices retained as the result of any such bor-
23 der security search.

24 (5) The race, ethnicity, national origin, and citi-
25 zenship of each individual whose electronic device

1 was subjected to a border security search during the
2 reporting period, to determine the existence or ab-
3 sence of racial profiling.

4 (6) The number of instances during the report-
5 ing period that information collected from an elec-
6 tronic device subjected to a border security search
7 was referred to a law enforcement or intelligence
8 agency for further action, including whether such in-
9 formation resulted in a prosecution or conviction.

10 (d) DEFINITIONS.—In this section:

11 (1) AUTHORIZED AGENT.—The term “author-
12 ized agent” means an agent, officer, or official of
13 United States Customs and Border Protection,
14 United States Immigration and Customs Enforce-
15 ment, or any other office or agency of the Depart-
16 ment of Homeland Security who is authorized to
17 conduct a border security search.

18 (2) BORDER SECURITY SEARCH.—The term
19 “border security search” means a search by an au-
20 thorized agent of persons, baggage, or cargo enter-
21 ing, departing, or passing through the United States
22 through any port of entry.

23 (3) ELECTRONIC DEVICE.—The term “elec-
24 tronic device” means an electronic, magnetic, opti-
25 cal, electrochemical, or other high-speed data proc-

1 essing device performing logical, arithmetic, or stor-
2 age functions, such as a computer, a cellular tele-
3 phone, or any other device used for electronic com-
4 munication or for storing electronic, digital or ana-
5 log data, and which includes any data storage facil-
6 ity or communications facility directly related to or
7 operating in conjunction with such device.

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of Homeland Security.

10 **TITLE V—FEDERAL, STATE, AND**
11 **LOCAL COORDINATION AND**
12 **ASSISTANCE**

13 **SEC. 501. COORDINATION OF LAND AND MARITIME BOR-**
14 **DER ENFORCEMENT EFFORTS.**

15 The Inspector General of the Department of Home-
16 land Security shall submit to Congress a report on the
17 state of coordination between U.S. Customs and Border
18 Protection and the Coast Guard regarding land and mari-
19 time border enforcement efforts and make recommenda-
20 tions to enhance such coordination, rectify any jurisdic-
21 tional issues that are identified, and improve such border
22 security enforcement efforts.

23 **SEC. 502. DEPARTMENT OF HOMELAND SECURITY BORDER**
24 **OVERSIGHT TASK FORCE.**

25 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—There is established an inde-
2 pendent task force, which shall be known as the De-
3 partment of Homeland Security Border Oversight
4 Task Force (referred to in this section as the “DHS
5 Task Force”).

6 (2) DUTIES.—The DHS Task Force shall—

7 (A) review and make recommendations re-
8 garding immigration and border enforcement
9 policies, strategies, and programs that take into
10 consideration their impacts on border commu-
11 nities;

12 (B) recommend ways in which the Border
13 Communities Liaison Offices can strengthen re-
14 lations and collaboration between communities
15 in the border regions and the Department of
16 Homeland Security and other Federal agencies
17 that carry out such policies, strategies, and pro-
18 grams;

19 (C) evaluate how the policies, strategies,
20 and programs of Federal agencies operating
21 along the international borders between the
22 United States and Mexico and between the
23 United States and Canada protect the due proc-
24 ess, civil, and human rights of border residents,

1 visitors, and migrants at and near such borders;
2 and

3 (D) evaluate and make recommendations
4 regarding the training of border enforcement
5 personnel.

6 (3) MEMBERSHIP.—

7 (A) IN GENERAL.—The DHS Task Force
8 shall be composed of 26 members, appointed by
9 the President, who have expertise in migration,
10 local crime indices, civil and human rights,
11 community relations, cross-border trade and
12 commerce, quality of life indicators, or other
13 pertinent experience, of whom—

14 (i) 13 members shall be from the
15 northern border region and shall include—

16 (I) two local government elected
17 officials;

18 (II) two local law enforcement of-
19 ficial;

20 (III) two civil rights advocates;

21 (IV) one business representative;

22 (V) one higher education rep-
23 resentative;

24 (VI) one representative of a faith
25 community;

1 (VII) two representatives of the
2 Border Patrol; and

3 (VIII) two tribal officials; and

4 (ii) 17 members shall be from the
5 southern border region and shall include—

6 (I) three local government elected
7 officials;

8 (II) three local law enforcement
9 officials;

10 (III) three civil rights advocates;

11 (IV) two business representa-
12 tives;

13 (V) one higher education rep-
14 resentative;

15 (VI) one representative of a faith
16 community;

17 (VII) two representatives of the
18 Border Patrol; and

19 (VIII) two tribal officials.

20 (B) NONGOVERNMENTAL APPOINTEES.—

21 Individuals appointed as members of the DHS
22 Task Force may not be employed by the Fed-
23 eral Government.

1 (C) TERM OF SERVICE.—Members of the
2 Task Force shall be appointed for the shorter
3 of—

4 (i) three years; or

5 (ii) the duration of the DHS Task
6 Force.

7 (D) CHAIR, VICE CHAIR.—The members of
8 the DHS Task Force shall elect a Chair and a
9 Vice Chair from among its members, who shall
10 serve in such capacities for the duration of the
11 DHS Task Force or until removed by the ma-
12 jority vote of at least 14 members.

13 (b) OPERATIONS.—

14 (1) INITIAL MEETING.—The DHS Task Force
15 shall hold its first meeting not later than 90 days
16 after the date of the enactment of this Act.

17 (2) HEARINGS.—The DHS Task Force may,
18 for the purpose of carrying out its duties, hold hear-
19 ings, sit and act, take testimony, receive evidence,
20 and administer oaths.

21 (3) RECOMMENDATIONS.—The DHS Task
22 Force may make findings or recommendations to the
23 Secretary of Homeland Security related to the duties
24 described in subsection (a)(2).

1 (4) RESPONSE.—Not later than 180 days after
2 receiving the findings and recommendations from
3 the DHS Task Force under paragraph (2), the Sec-
4 retary of Homeland Security shall issue a response
5 that describes how the Department of Homeland Se-
6 curity has addressed, or will address, such findings
7 and recommendations.

8 (5) INFORMATION FROM FEDERAL AGENCIES.—
9 The Chair, or 16 members of the DHS Task Force,
10 may request statistics relating to the duties de-
11 scribed in subsection (a)(2) directly from the head of
12 any Federal agency, who shall, to the extent author-
13 ized by law, furnish such information, suggestions,
14 estimates, and statistics directly to the DHS Task
15 Force.

16 (6) COMPENSATION.—Members of the DHS
17 Task Force shall serve without pay, but shall be re-
18 imbursed for reasonable travel and subsistence ex-
19 penses incurred in the performance of their duties.

20 (c) REPORT.—Not later than two years after its first
21 meeting under subsection (b)(1), the DHS Task Force
22 shall submit to the President, the appropriate congres-
23 sional committees, and the Secretary of Homeland Secu-
24 rity a final report that contains—

1 (1) findings with respect to the duties of the
2 DHS Task Force; and

3 (2) recommendations regarding border and im-
4 migration enforcement policies, strategies, and pro-
5 grams, including—

6 (A) a recommendation as to whether the
7 DHS Task Force should continue to operate;
8 and

9 (B) a description of any duties the DHS
10 Task Force should be responsible for after the
11 termination date described in subsection (d).

12 **TITLE VI—INTERNATIONAL** 13 **COOPERATION**

14 **SEC. 601. NORTH AND CENTRAL AMERICAN BORDER SECU-** 15 **RITY COOPERATION INITIATIVE.**

16 (a) ASSESSMENT OF NEEDS.—The Secretary of
17 Homeland Security, in consultation with the Secretary of
18 State, shall work with the appropriate officials of the Gov-
19 ernment of Canada and the Government of Mexico to es-
20 tablish a program to assess the specific needs of the coun-
21 tries of Central America to maintain the security of the
22 international borders of such countries and to determine
23 the support needed by such countries from the United
24 States, Canada, and Mexico, to meet such needs.

25 (b) PROVISION OF ASSISTANCE.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security, in cooperation with the Secretary of State,
3 shall work with the appropriate officials of the gov-
4 ernments of the countries of Central America to pro-
5 vide, pursuant to the assessment of specific needs
6 determined under subsection (a), the necessary
7 equipment, technical assistance, and vehicles to
8 manage, regulate, and patrol the international bor-
9 ders of such countries. The Secretary of Homeland
10 Security shall establish Special Vetted Units of U.S.
11 Immigration and Customs Enforcement in Central
12 American countries, including in Honduras, where
13 such units do not currently exist.

14 (2) REPORTING.—The Secretary of Homeland
15 Security shall submit to the appropriate congress-
16 sional committees periodic reports on the utilization
17 of United States assistance under paragraph (1) and
18 the effectiveness of such assistance.

19 **SEC. 602. ENHANCING THE SECURITY OF MEXICO'S SOUTH-**
20 **ERN BORDER.**

21 (a) PROVISION OF ASSISTANCE.—The Secretary of
22 Homeland Security, in cooperation with the Secretary of
23 State, shall provide to Mexico assistance to help secure
24 Mexico's southern border from undocumented aliens,
25 drugs, weapons, and other contraband.

1 (b) REPORTING.—The Secretary of Homeland Secu-
2 rity, in cooperation with the Secretary of State, shall sub-
3 mit to the appropriate congressional committees an annual
4 report on the assistance provided in accordance with sub-
5 section (a) and an evaluation of its effectiveness.

6 **SEC. 603. CARIBBEAN COOPERATION INITIATIVE.**

7 (a) ASSESSMENT OF NEEDS.—The Secretary of
8 Homeland Security, in cooperation with the Secretary of
9 State, shall work with appropriate officials of governments
10 of Caribbean countries to establish a program to assess
11 the specific needs of such countries to address the unique
12 challenges of maritime border security.

13 (b) PROVISION OF ASSISTANCE.—

14 (1) IN GENERAL.—The Secretary of Homeland
15 Security, in cooperation with the Secretary of State,
16 shall work with appropriate officials of the govern-
17 ments of the countries of the Caribbean to provide,
18 pursuant to the assessment of specific needs deter-
19 mined under subsection (a), the necessary equip-
20 ment, technical assistance, and vehicles to manage,
21 regulate, and patrol the international maritime bor-
22 ders of such countries. The Secretary of Homeland
23 Security shall establish Special Vetted Units of U.S.
24 Immigration and Customs Enforcement, U.S. Cus-
25 toms and Border Protection, and the Coast Guard

1 in such Caribbean countries, where such units do
2 not currently exist.

3 (2) REPORTING.—The Secretary of Homeland
4 Security shall submit to the appropriate congress-
5 sional committees periodic reports on the utilization
6 of United States assistance under paragraph (1) and
7 the effectiveness of such assistance.

8 **TITLE VII—SECURE AND HU-**
9 **MANE DETENTION AND EF-**
10 **FECTIVE REPATRIATION.**

11 **SEC. 701. IMMIGRATION DETENTION STANDARDS.**

12 (a) IN GENERAL.—The Secretary of Homeland Secu-
13 rity shall establish standards based on guidelines devel-
14 oped in conjunction with outside immigrant rights advo-
15 cacy groups regarding appropriate treatment of immigra-
16 tion detainees, including guidelines specifically for children
17 at family detention centers.

18 (b) MINIMUM STANDARDS.—Not later than 18
19 months after the date of the enactment of this Act, the
20 Secretary of Homeland Security shall establish minimum
21 standards for the treatment of immigration detainees that
22 shall include at a minimum the following:

23 (1) FAIR AND HUMANE TREATMENT.—Proce-
24 dures to ensure that detainees are not subject to de-
25 grading or inhumane treatment such as physical

1 abuse, sexual abuse or harassment, or arbitrary pun-
2 ishment.

3 (2) LIMITATIONS ON SOLITARY CONFINEMENT.—Solitary confinement shall be used only in
4 exceptional cases, for as short a time as possible,
5 and only as a last resort. The decision to place
6 someone in solitary confinement should be reviewed
7 regularly and should not exceed 30 days. Children
8 and the mentally ill shall not be placed in solitary
9 confinement. Procedures limiting the use of solitary
10 confinement, shackling, and strip searches of detain-
11 ees to situations where the use of such techniques is
12 necessitated by security interests or other extraor-
13 dinary circumstances.

15 (3) INVESTIGATION OF GRIEVANCES.—Proce-
16 dures for the prompt and effective investigation of
17 grievances raised by detainees.

18 (4) ACCESS TO TELEPHONES.—Procedures per-
19 mitting detainees sufficient access to telephones, and
20 the ability to contact, free of charge, legal represent-
21 atives, the immigration courts, the Board of Immi-
22 gration Appeals, and the Federal courts through
23 confidential toll-free numbers.

24 (5) LOCATION OF FACILITIES.—Location of de-
25 tention facilities, to the extent practicable, near

1 sources of free or low-cost legal representation with
2 expertise in asylum or immigration law.

3 (6) PROCEDURES GOVERNING TRANSFERS OF
4 DETAINEES.—Procedures governing the transfer of a
5 detainee that take into account—

6 (A) the detainee’s access to legal rep-
7 resentatives, existing attorney-client relation-
8 ship and location of family within the United
9 States; and

10 (B) the proximity of the facility to the
11 venue of the removal proceeding.

12 (7) INTERPRETATION AND TRANSLATION CAPA-
13 BILITIES.—The employment of detention facility
14 staff that, to the extent practicable, are qualified in
15 the languages represented in the population of de-
16 tainees at a detention facility, and the provision of
17 alternative interpretation services and translation of
18 vital documents when necessary.

19 (8) RECREATIONAL PROGRAMS AND ACTIVI-
20 TIES.—Daily access to indoor and outdoor rec-
21 reational programs and activities.

22 (9) ACCESS TO COUNSEL AND LEGAL INFORMA-
23 TION.—Access to legal orientation presentation pro-
24 grams, counsel, information about one’s legal case,

1 including prompt filing of the notice to appear and
2 access to a law library.

3 (10) QUALITY MEDICAL CARE.—

4 (A) IN GENERAL.—The Secretary of
5 Homeland Security shall ensure that prompt
6 and adequate emergency, primary, specialty,
7 and hospital medical care is provided at no cost
8 to detainees, including dental care, eye care,
9 mental health care, individual and group coun-
10 seling, and medical dietary needs.

11 (B) MEDICAL FACILITIES.—The Secretary
12 of Homeland Security shall ensure that medical
13 facilities in all detention facilities maintain cur-
14 rent accreditation by the National Commission
15 on Correctional Health Care (NCCHC).
16 NCCHC reports of accreditation findings shall
17 be made public.

18 (C) MEDICAL RECORDS.—The Secretary of
19 Homeland Security shall ensure that complete
20 and confidential medical records are maintained
21 for every detainee, and that such records are
22 made available upon request to the detainee, his
23 or her legal representative, or other authorized
24 individuals.

25 (c) NEGOTIATED RULEMAKING.—

1 (1) IN GENERAL.—Before publishing the pro-
2 posed regulations required by paragraph (2) to carry
3 out this title, the Secretary of Homeland Security
4 shall establish a negotiated rulemaking process pur-
5 suant to subchapter IV of chapter 5 of title 5,
6 United States Code.

7 (2) REPRESENTATION ON NEGOTIATED RULE-
8 MAKING COMMITTEE.—Any negotiated rulemaking
9 committee established by the Secretary of Homeland
10 Security pursuant to paragraph (1) shall include
11 representatives from—

12 (A) nongovernmental and intergovern-
13 mental organizations experienced in providing
14 legal, social, and health services to immigrants
15 and refugees; and

16 (B) the Department of Homeland Security.

17 **SEC. 702. DETENTION MANAGEMENT.**

18 (a) COMPLIANCE MONITORING.—The Inspector Gen-
19 eral of the Department of Homeland Security shall mon-
20 itor compliance with detention guidelines promulgated
21 under section 701 at U.S. Immigration and Customs En-
22 forcement-operated and -contracted immigration detention
23 facilities.

24 (b) ADDITIONAL MONITORING.—In the case of U.S.
25 Immigration and Customs Enforcement-contracted facili-

1 ties, the Inspector General of the Department of Home-
2 land Security shall, in addition to the compliance moni-
3 toring required under subsection (a), conduct an assess-
4 ment of contract costs and contract compliance at such
5 facilities.

6 (c) REPORTING.—The Inspector General of the De-
7 partment of Homeland Security shall submit to the appro-
8 priate congressional committees a quarterly report con-
9 taining findings and recommendations of the Inspector
10 General regarding the monitoring required under sub-
11 sections (a) and (b).

12 **SEC. 703. ALTERNATIVES TO DETENTION FOR FAMILIES**
13 **AND VULNERABLE POPULATIONS.**

14 (a) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary of
16 Homeland Security such sums as may be necessary to
17 carry out the implementation and utilization of secure al-
18 ternatives to detention programs.

19 (b) SECURE ALTERNATIVES TO DETENTION PRO-
20 GRAMS.—

21 (1) NATURE OF THE PROGRAM.—For purposes
22 of this section, the programs referred to in sub-
23 section (a) are programs under which aliens are
24 screened, supervised, monitored, provided with infor-
25 mation about the legal process by nongovernmental

1 organizations, and referred to nongovernmental legal
2 and social service providers as needed to ensure such
3 aliens appear at all immigration interviews, appoint-
4 ments, and hearings. The Secretary of Homeland
5 Security shall develop custodial alternatives pro-
6 grams that may include the use of electronic moni-
7 toring devices and noncustodial alternatives pro-
8 grams. The elements of the secure alternatives to de-
9 tention program are—

10 (A) group presentations and individual

11 screening;

12 (B) on-going supervision and monitoring;

13 and

14 (C) referrals to assistance from nongovern-

15 mental organizations.

16 (2) VOLUNTARY PARTICIPATION.—An alien’s
17 participation in the programs described in subsection
18 (b) is voluntary and shall not confer any rights or
19 benefits to the alien under the Immigration and Na-
20 tionality Act (8 U.S.C. 1101 et seq.).

21 (3) PROGRAM DEVELOPMENT.—The programs
22 described in subsection (b) shall be developed in ac-
23 cordance with the following guidelines:

24 (A) The Secretary of Homeland Security

25 shall design the programs in consultation with

1 nongovernmental organizations, academic ex-
2 perts, and appropriate stakeholders rep-
3 resenting Department of Homeland Security of-
4 ficials in charge of detention facilities.

5 (B) The Secretary of Homeland Security
6 shall enter into contracts with qualified commu-
7 nity-based nongovernmental entities that pro-
8 vide services to aliens to provide screening, legal
9 referrals, and social services for secure alter-
10 natives to detention programs.

11 (C) The Secretary of Homeland Security
12 shall ensure that each alien participates in a
13 legal presentation provided through the legal
14 orientation presentation program administered
15 by the Executive Office for Immigration Re-
16 view.

17 (c) PROTECTION OF VULNERABLE POPULATIONS.—
18 When possible, within 72 hours of detaining an alien, the
19 Secretary of Homeland Security shall screen such alien to
20 determine if such alien falls into one or more of the fol-
21 lowing designated groups:

22 (1) Aliens who have serious medical or mental
23 health needs or a disability.

24 (2) Pregnant or nursing women.

1 (3) Aliens who are being detained with one or
2 more of their children.

3 (4) Aliens who provide financial, physical, and
4 other direct support to their minor children, parents,
5 or other dependents.

6 (5) Aliens who are over the age of 65.

7 (6) Children, as defined at section 101(c)(1) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(c)(1)).

10 (7) Victims of abuse, violence, crime, or traf-
11 ficking.

12 (8) Asylum seekers.

13 (9) Other groups designated in regulations or
14 guidance promulgated by the Secretary.

15 (10) Aliens who have a reasonable claim to
16 United States citizenship or aliens who are eligible
17 for relief under a provision of the Immigration and
18 Nationality Act.

19 (d) ALTERNATIVES TO DETENTION, PLACEMENT,
20 AND CUSTODY DECISIONS.—

21 (1) IN GENERAL.—Not later than 72 hours
22 after an alien’s detention unless such 72-hour re-
23 quirement is waived in writing by such alien, such
24 alien shall be released from the Department of
25 Homeland Security’s custody on parole, a reasonable

1 bond, or such alien's own recognizance, and shall not
2 be subject to electronic monitoring, if the Depart-
3 ment demonstrates that—

4 (A) such alien is not subject to mandatory
5 detention under sections 235(b)(1)(B)(iii)(IV)
6 or 236A of the Immigration and Nationality
7 Act, or mandatory custody under section 236(c)
8 such Act;

9 (B) such alien does not pose a danger to
10 others or a risk to national security; and

11 (C) is a member of a vulnerable population
12 as defined by subsection (c).

13 (2) RELEASE.—An alien shall be released under
14 this subsection—

15 (A) on such alien's own recognizance;

16 (B) by posting a reasonable bond under
17 section 236(a) of the Immigration and Nation-
18 ality Act; or

19 (C) on parole in accordance with section
20 212(d)(5)(A) of such Act.

21 (3) OTHER PARTICIPATION.—An alien who is
22 denied release on recognizance, parole, or bond, or
23 is unable to pay the bond, shall be selected for par-
24 ticipation in the secure alternatives to detention pro-

1 grams described in subsection (b) unless the Sec-
2 retary of Homeland Security demonstrates—

3 (A) that such alien is subject to mandatory
4 detention under section 235(b)(1)(B)(iii)(IV) of
5 the Immigration and Nationality Act, or sub-
6 sections (a) or (c) of section 236 of such Act;

7 (B) substantial evidence that such alien is
8 a flight risk where the risk of such alien's flight
9 cannot be mitigated through the use of services,
10 supervision, or monitoring; or

11 (C) such alien's participation in the pro-
12 grams would create a risk to others or national
13 security.

14 (4) CUSTODY.—If an alien is determined not to
15 meet the requirements for release on recognizance,
16 bond, or parole, or subsequently does not meet the
17 requirements for secure alternatives to detention
18 programs described in subsection (b), such alien may
19 be considered for placement in custodial alternatives
20 to detention programs that maintain custody over
21 such alien, such as through the use of electronic
22 ankle devices. The Secretary of Homeland Security
23 shall make an individualized determination in each
24 alien's case about the use of electronic monitoring
25 and shall review such decision on a monthly basis.

1 Aliens who would otherwise be subject to detention,
2 including under section 236 of the Immigration and
3 Nationality Act, may be placed in electronic moni-
4 toring or other alternatives to detention that main-
5 tain custody over such alien.

6 (e) DECISIONS UNDER THIS SECTION.—In the case
7 of a decision under subsection (d), the following shall
8 apply:

9 (1) Such decision shall be made in writing and
10 shall be served upon the alien concerned in the lan-
11 guage spoken by such alien. A decision to continue
12 detention without releasing such alien on recog-
13 nizance, bond, or parole, or enrollment in the secure
14 alternatives to detention programs described in sub-
15 section (b) shall specify in writing the reasons for
16 such decision.

17 (2) Such decision shall be served upon such
18 alien within 72 hours of such alien's detention or, in
19 the case of an alien subject to sections 235, 238, or
20 241(a)(5) of the Immigration and Nationality Act,
21 within 72 hours of a positive credible or reasonable
22 fear determination.

23 (3) An alien subject to this section, including
24 all aliens who are entitled to a removal hearing
25 under section 240 of the Immigration and Nation-

1 ality Act, may at any time after being served with
2 the Secretary of Homeland Security's decision under
3 subsection (d) request a redetermination of such de-
4 cision by an immigration judge.

5 (f) APPLICABILITY.—The Attorney General or an im-
6 migration judge, at any time, may redetermine an alien's
7 classification as a member of a vulnerable population
8 under subsection (c), the bond of an alien released, or the
9 custody status of an alien placed in the alternatives to de-
10 tention programs described in subsection (b). Nothing in
11 this section shall preclude an alien from being released on
12 bond after initially participating in the alternatives to de-
13 tention programs.

14 (g) ELIGIBILITY AND OPERATIONS.—Nothing in this
15 section shall be construed to modify the care and custody
16 of unaccompanied alien children (defined in section
17 462(g)(2) of the Homeland Security Act (6 U.S.C.
18 279(g)(2))) who shall be considered to be in the care and
19 exclusive custody of the Department of Health and
20 Human Services. Such children shall not be subject to ex-
21 pedited removal and shall not be permitted to participate
22 in the alternatives to detention programs described in sub-
23 section (b).

1 **SEC. 704. SHORT TERM DETENTION STANDARDS AT AND**
2 **BETWEEN PORTS OF ENTRY.**

3 (a) PROPER ACCESS TO FOOD AND WATER UPON OR
4 AS SOON AS PRACTICABLE FOLLOWING APPREHENSION
5 AND DURING SHORT TERM DETENTION AT BORDER PA-
6 TROL PROCESSING CENTERS.—The Secretary of Home-
7 land Security, acting through the Chief of the Border Pa-
8 trol, shall ensure that adequate access to food and water
9 is provided to an alien apprehended and detained by a
10 Border Patrol agent between ports of entry upon or as
11 soon as practicable following the time of such apprehen-
12 sion or during subsequent short term detention.

13 (b) ACCESS TO INFORMATION ON DETAINEE RIGHTS
14 AT BORDER PATROL PROCESSING CENTERS.—

15 (1) IN GENERAL.—The Secretary of Homeland
16 Security, acting through the Chief of the Border Pa-
17 trol, shall ensure that an alien unlawfully present in
18 the United States who is apprehended by a Border
19 Patrol agent is promptly provided with information
20 concerning such alien's rights, including the right to
21 contact a representative of such alien's government
22 for purposes of United States treaty obligations.

23 (2) FORM.—The information referred to in
24 paragraph (1) may be provided either verbally or in
25 writing by the apprehending Border Patrol agent,
26 and shall be posted in the detention holding cell in

1 which such alien is being held. The information shall
2 be provided in a language understandable to such
3 alien.

4 (c) DOCUMENTATION CONCERNING REPATRIATED
5 ALIENS.—The Secretary of Homeland Security shall es-
6 tablish and maintain a database containing the following
7 information relating to aliens unlawfully present in the
8 United States apprehended and detained by Border Patrol
9 agents:

10 (1) Information on the location of repatriation.

11 (2) Information on groups of families repatri-
12 ated.

13 (3) Information on the locations of other mem-
14 bers of families, if separated during apprehension or
15 detention.

16 (4) Information on the medical conditions of
17 apprehended and detained aliens.

18 (5) Information on any personal property that
19 was returned to the alien upon repatriation.

20 (d) SHORT TERM DETENTION DEFINED.—In this
21 section, the term “short term detention” means detention
22 in a United States Border Patrol processing center for 72
23 hours or less, before repatriation to a country of nation-
24 ality or last habitual residence.

1 (e) REPORT.—Not later than 90 days after the date
2 of the enactment of this Act, the Comptroller General of
3 the United States shall submit to the appropriate congress-
4 sional committees a report on the procurement process
5 and standards of entities with which the Department of
6 Homeland Security has contracts for the transportation
7 and detention of aliens unlawfully present in the United
8 States apprehended by agents or officers of the Depart-
9 ment. Such report should also consider the operational ef-
10 ficiency of contracting out transportation and detention of
11 aliens unlawfully present in the United States.

12 **SEC. 705. REPORT ON NONDEPORTABLE ALIENS.**

13 Not later than 90 days after the date of the enact-
14 ment of this Act, the Comptroller General of the United
15 States shall submit to the appropriate congressional com-
16 mittees a report on the number and country of origin of
17 nondeportable aliens who have been released into the
18 United States over the past ten years.

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