113TH CONGRESS
2D SESSION

H. R. ______

Making supplemental appropriations for the fiscal year ending September 30, 2014, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2014

Mr. ROGERS of Kentucky introduced the following bill; which was referred to the Committee on ______

A BILL

Making supplemental appropriations for the fiscal year ending September 30, 2014, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 That the following sums are appropriated, out of any

3 money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2014, and for other purposes, namely:
DIVISION A—SUPPLEMENTAL

APPROPRIATIONS AND RESCISSIONS

TITLE I

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, $71,000,000, to remain available until September 30, 2015, for necessary expenses to apprehend, transport, and provide temporary shelter associated with the significant rise in unaccompanied alien children and alien adults accompanied by an alien minor at the Southwest Border of the United States, including related activities to secure the border, disrupt transnational crime, and the necessary acquisition, construction, improvement, repair, and management of facilities: Provided, That not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the House of Representatives and the Senate an obligation and quarterly expenditure plan for these funds: Provided further, That the Secretary shall provide to such Committees quarterly updates on the expenditure of these funds.
For an additional amount for “Salaries and Expenses”, $334,000,000, to remain available until September 30, 2015, for necessary expenses to respond to the significant rise in unaccompanied alien children and alien adults accompanied by an alien minor at the Southwest Border of the United States, including for enforcement of immigration and customs law, including detention and removal operations, of which $262,000,000 shall be for Custody Operations and $72,000,000 shall be for Transportation and Removal operations: Provided, That not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the House of Representatives and the Senate an obligation and quarterly expenditure plan for these funds: Provided further, That the Secretary shall provide to such Committees quarterly updates on the expenditure of these funds.

GENERAL PROVISIONS—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, none of the funds provided by this title shall be available for obligation or expenditure through a reprogramming or transfer of funds that proposes to use funds di-
rected for a specific activity by either of the Committees on Appropriations of the House of Representatives or the Senate for a different purpose than for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request for approval shall be submitted to such Committees.

SEC. 102. The Secretary of Homeland Security shall provide to the Congress quarterly reports that include: (1) the number of apprehensions at the border delineated by unaccompanied alien children and alien adults accompanied by an alien minor; (2) the number of claims of a credible fear of persecution delineated by unaccompanied alien children and alien adults accompanied by an alien minor, and the number of determinations of valid claims of a credible fear of persecution delineated by unaccompanied alien children and alien adults accompanied by an alien minor; (3) the number of unaccompanied alien children and alien adults accompanied by an alien minor granted asylum by an immigration judge, delineated by year of apprehension; (4) the number of alien adults accompanied by an alien minor in detention facilities, alternatives to detention, and other non-detention forms of supervision; and (5) the number of removals delineated by unaccompanied alien children and alien adults accompanied by an alien minor.
SEC. 103. Of the unobligated balance available for “Department of Homeland Security—Federal Emergency Management Agency—Disaster Relief Fund”, $405,000,000 is rescinded: Provided, That no amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a concurrent resolution on a budget or the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That no amounts may be rescinded from the amounts that were designated by the Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 104. Notwithstanding any other provision of law, grants awarded under sections 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) using funds provided under the heading “Federal Emergency Management Agency—State and Local Programs” in division F of Public Law 113–76, division D of Public Law 113–6, or division D of Public Law 112–74 may be used by State and local law enforcement and public safety agencies within local units of government along the Southwest Border of the United States for costs incurred during the award period of performance for personnel, overtime, travel, costs related to combating illegal immigration and
drug smuggling, and costs related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor who have entered the United States.

TITLE II
DEPARTMENT OF DEFENSE—MILITARY
MILITARY PERSONNEL
NATIONAL GUARD PERSONNEL, ARMY
For an additional amount for “National Guard Personnel, Army”, $12,419,000, to remain available until September 30, 2015, for necessary expenses related to the Southwest Border of the United States.

NATIONAL GUARD PERSONNEL, AIR FORCE
For an additional amount for “National Guard Personnel, Air Force”, $2,258,000, to remain available until September 30, 2015, for necessary expenses related to the Southwest Border of the United States.

OPERATION AND MAINTENANCE
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD
For an additional amount for “Operation and Maintenance, Army National Guard”, $15,807,000, to remain available until September 30, 2015, for necessary expenses related to the Southwest Border of the United States.
For an additional amount for “Operation and Maintenance, Air National Guard”, $4,516,000, to remain available until September 30, 2015, for necessary expenses related to the Southwest Border of the United States.

GENERAL PROVISION—THIS TITLE (RESCission)

Sec. 201. Of the unobligated balances of amounts appropriated in title II of division C of Public Law 113–76 for “Operation and Maintenance, Defense-Wide”, $35,000,000 is hereby rescinded to reflect excess cash balances in Department of Defense Working Capital Funds.

TITLE III

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for “Administrative Review and Appeals” for necessary expenses to respond to the significant rise in unaccompanied alien children and alien adults accompanied by an alien minor at the Southwest Border of the United States, $22,000,000, to remain available until September 30, 2015, of which $12,900,000 shall be for additional temporary immigration judges and related expenses, and $9,100,000 shall be for technology
for judges to expedite the adjudication of immigration cases.

GENERAL PROVISION—THIS TITLE

(RESCISSION)

Sec. 301. Of the unobligated balances available for “Department of Justice—Legal Activities—Assets Forfeiture Fund”, $22,000,000 is hereby permanently rescinded.

TITLE IV

GENERAL PROVISIONS—THIS TITLE

Repatriation and Reintegration

Sec. 401. (a) Repatriation and Reintegration.—Of the funds appropriated in titles III and IV of division K of Public Law 113–76, and in prior Acts making appropriations for the Department of State, foreign operations, and related programs, for assistance for the countries in Central America, up to $40,000,000 shall be made available for such countries for repatriation and reintegration activities: Provided, That funds made available pursuant to this section may be obligated notwithstanding subsections (c) and (e) of section 7045 of division K of Public Law 113–76.

(b) Report.—Prior to the initial obligation of funds made available pursuant to this section, but not later than 15 days after the date of enactment of this Act, and every
90 days thereafter until September 30, 2015, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the appropriate congressional committees a report on the obligation of funds made available pursuant to this section by country and the steps taken by the government of each country to—

(1) improve border security;

(2) enforce laws and policies to stem the flow of illegal entries into the United States;

(3) enact laws and implement new policies to stem the flow of illegal entries into the United States, including increasing penalties for human smuggling;

(4) conduct public outreach campaigns to explain the dangers of the journey to the Southwest Border of the United States and to emphasize the lack of immigration benefits available; and

(5) cooperate with United States Federal agencies to facilitate and expedite the return, repatriation, and reintegration of illegal migrants arriving at the Southwest Border of the United States.

(e) SUSPENSION OF ASSISTANCE.—The Secretary of State shall suspend assistance provided pursuant to this section to the government of a country if such government
is not making significant progress on each item described
in paragraphs (1) through (5) of subsection (b): *Provided,*
That assistance may only be resumed if the Secretary re-
ports to the appropriate congressional committees that
subsequent to the suspension of assistance such govern-
ment is making significant progress on each of the items
enumerated in such subsection.

(d) **Notification Requirement.**—Funds made
available pursuant to this section shall be subject to the
regular notification procedures of the Committees on Ap-
propriations of the House of Representatives and the Sen-
ate.

*(Rescission)*

**Sec. 402.** Of the unexpended balances available to
the President for bilateral economic assistance under the
heading “Economic Support Fund” from prior Acts mak-
ing appropriations for the Department of State, foreign
operations, and related programs, $197,000,000 is re-
scinded: *Provided,* That no amounts may be rescinded
from amounts that were designated by the Congress for
Overseas Contingency Operations/Global War on Ter-
rorism pursuant to section 251(b)(2)(A) of the Balanced
Budget and Emergency Deficit Control Act of 1985 or as
an emergency requirement pursuant to a concurrent reso-
solution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for “Refugee and Entrant Assistance”, $197,000,000, to be merged with and available for the same time period and for the same purposes as the funds made available under this heading in division H of Public Law 113–76 “for carrying out such sections 414, 501, 462, and 235”: Provided, That of this amount, $47,000,000 shall be for the Social Services and Targeted Assistance programs.

This division may be cited as the “Secure the Southwest Border Supplemental Appropriations Act, 2014”.
DIVISION B—SECURE THE SOUTHWEST

BORDER ACT OF 2014

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This division may be cited as the “Secure the Southwest Border Act of 2014”.

(b) Table of Contents.—The table of contents for this division is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROTECTING CHILDREN

Sec. 102. Expedited due process and screening of unaccompanied alien children.
Sec. 103. Due process protections for unaccompanied alien children present in the United States.
Sec. 104. Emergency immigration judge resources.
Sec. 105. Protecting children from human traffickers, sex offenders, and other criminals.
Sec. 106. Inclusion of additional grounds for per se ineligibility for asylum.

TITLE II—USE OF NATIONAL GUARD TO IMPROVE BORDER SECURITY

Sec. 201. National Guard support for border operations.

TITLE III—NATIONAL SECURITY AND FEDERAL LANDS PROTECTION

Sec. 301. Prohibition on actions that impede border security on certain Federal land.
Sec. 302. Sense of Congress on placement of unauthorized aliens at military installations.

TITLE I—PROTECTING CHILDREN

SEC. 101. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

Section 235(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)) is amended—
(1) in paragraph (2)—

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

(B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a national or habitual resident of a country that is contiguous with the United States”; and

(C) in subparagraph (C)—

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

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

(2) in paragraph (5)(D)—

(A) in the subparagraph heading, by striking “PLACEMENT IN REMOVAL PROCEEDINGS” and inserting “EXPEDITED DUE PROCESS AND SCREENING FOR UNACCOMPANIED ALIEN CHILDREN”;
(B) in the matter preceding clause (i), by striking “, except for an unaccompanied alien child from a contiguous country subject to the exceptions under subsection (a)(2), shall be—” and inserting “who meets the criteria listed in paragraph (2)(A)—”;

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

“(i) shall be placed in a proceeding in accordance with section 235B of the Immigration and Nationality Act, which shall commence not later than 7 days after the screening of an unaccompanied alien child described in paragraph (4);”;

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

(E) by inserting after clause (i) the following:

“(ii) may not be placed in the immediate custody of a nongovernmental sponsor or otherwise released from the custody of the United States Government until the child is repatriated unless the child is the subject of an order under section
235B(e)(1) of the Immigration and Nationality Act;

(F) in clause (iii), as redesignated, by inserting “is” before “eligible”; and

(G) in clause (iv), as redesignated, by inserting “shall be” before “provided”.

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

(a) Amendments to Immigration and Nationality Act.—

(1) In general.—Chapter 4 of the Immigration and Nationality Act is amended by inserting after section 235A the following:

“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.

“(a) Defined term.—In this section, the term ‘asylum officer’ had the meaning given such term in section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)).

“(b) Proceeding.—

“(1) In general.—Not later than 7 days after the screening of an unaccompanied alien child under section 235(a)(4) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of
2008 (8 U.S.C. 1232(a)(4)), an immigration judge shall conduct a proceeding to inspect, screen, and determine the status of an unaccompanied alien child who is an applicant for admission to the United States.

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

“(c) CONDUCT OF PROCEEDING.—

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

“(A) shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses;

“(B) may issue subpoenas for the attendance of witnesses and presentation of evidence; and

“(C) is authorized to sanction by civil money penalty any action (or inaction) in contempt of the judge’s proper exercise of authority under this Act.
“(2) Form of Proceeding.—A proceeding under this section may take place—

“(A) in person;

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

“(C) through video conference; or

“(D) through telephone conference.

“(3) Presence of Alien.—If it is impracticable by reason of an alien’s mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

“(4) Rights of the Alien.—In a proceeding under this section—

“(A) the alien shall be given the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings;

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

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

“(ii) to present evidence on the alien’s own behalf; and
“(iii) to cross-examine witnesses presented by the Government;

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

“(i) to examine such national security information as the Government may proffer in opposition to the alien’s admission to the United States; or

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

“(D) a complete record shall be kept of all testimony and evidence produced at the proceeding.

“(5) WITHDRAWAL OF APPLICATION FOR ADMISSION.—In the discretion of the Attorney General, an alien applying for admission to the United States may, and at any time, be permitted to withdraw such application and immediately be returned to the alien’s country of nationality or country of last habitual residence.

“(6) CONSEQUENCES OF FAILURE TO APPEAR.—Any alien who fails to appear at a proceeding required under this section, shall be ordered removed in absentia if the Government establishes
by a preponderance of the evidence that the alien
was at fault for their absence from the proceedings.

“(d) DECISION AND BURDEN OF PROOF.—

“(1) DECISION.—

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

“(i) admissible to the United States;
or

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

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

“(2) BURDEN OF PROOF.—

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

“(i) is likely to be entitled to be law-
fully admitted to the United States or eli-
gible for any form of relief from removal
under this Act; or
“(ii) is lawfully present in the United States pursuant to a prior admission.

“(B) Access to documents.—In meeting the burden of proof under subparagraph (A)(ii), the alien shall be given access to—

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

“(ii) any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien’s admission or presence in the United States.

“(e) Orders.—

“(1) Placement in further proceedings.—If an immigration judge determines that the unaccompanied alien child has met the burden of proof under subsection (d)(2), the judge shall order the alien to be placed in further proceedings in accordance with section 240.

“(2) Orders of removal.—If an immigration judge determines that the unaccompanied alien child has not met the burden of proof required under subsection (d)(2), the judge shall order the alien removed from the United States without further hearing or review unless the alien claims—
“(A) an intention to apply for asylum under section 208; or

“(B) a fear of persecution.

“(3) CLAIMS FOR ASYLUM.—If an unaccompanied alien child described in paragraph (2) claims an intention to apply for asylum under section 208 or a fear of persecution, the judge shall order the alien referred for an interview by an asylum officer under subsection (f).

“(f) ASYLUM INTERVIEWS.—

“(1) DEFINED TERM.—In this subsection, the term ‘credible fear of persecution’ has the meaning given such term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)).

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

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

“(4) Removal without further review if no credible fear of persecution.—

“(A) In general.—Subject to subparagraph (C), if the asylum officer determines that an alien does not have a credible fear of persecution the officer shall order the alien removed from the United States without further hearing or review.

“(B) Record of determination.—The officer shall prepare a written record of a determination under subparagraph (A), which shall include—

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

“(ii) such additional facts (if any) relied upon by the officer;

“(iii) the officer’s analysis of why, in light of such facts, the alien has not established a credible fear of persecution; and

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

“(C) Review of determination.—
“(i) Rulemaking.—The Attorney General shall establish, by regulation, a process by which an immigration judge will conduct a prompt review, upon the alien’s request, of a determination under subparagraph (A) that the alien does not have a credible fear of persecution.

“(ii) Mandatory Components.—The review described in clause (i)—

“(I) shall include an opportunity for the alien to be heard and questioned by the immigration judge, either in person or by telephonic or video connection; and

“(II) shall be conducted—

“(aa) as expeditiously as possible;

“(bb) within the 24-hour period beginning at the time the asylum officer makes a determination under subparagraph (A), to the maximum extent practicable; and

“(cc) in no case later than 7 days after such determination.
“(5) MANDATORY PROTECTIVE CUSTODY.—Any alien subject to the procedures under this subsection shall be held in the custody of the Secretary of Health and Human Services pursuant to Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b))—

“(A) pending a final determination of an asylum application under section 208; or

“(B) after a determination that the alien does not have a credible fear of persecution, until the alien is removed.

“(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

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

“(2) RULEMAKING.—The Attorney General shall establish, by regulation, a process for the prompt review of an order under subsection (e)(2) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penal ties for falsely making such claim under such conditions to have been—
“(A) lawfully admitted for permanent residence;

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

“(C) granted asylum under section 208.

“(h) LAST IN, FIRST OUT.—In any proceedings, determinations, or removals under this section, priority shall be accorded to the alien who has most recently arrived in the United States.”.

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

“Sec. 235B. Humane and expedited inspection and screening for unaccompanied alien children.”.

(b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—

Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

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

(B) in paragraph (2)—
(i) by inserting “or section 235B” after “section 235(b)(1)” each place it appears; and

(ii) in subparagraph (A)—

(I) in the subparagraph heading, by inserting “OR 235B” after “SECTION 235(B)(1)”;

and

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

(2) in subsection (e)—

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

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

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

and

(D) in subparagraph (3)(A), by inserting “or section 235B” after “section 235(b).
SEC. 103. DUE PROCESS PROTECTIONS FOR UNACCOMPANIED ALIEN CHILDREN PRESENT IN THE UNITED STATES.

(a) FILING AUTHORIZED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, notwithstanding any other provision of law, shall, at an immigration court designated to conduct proceedings under section 235B of the Immigration and Nationality Act, permit an unaccompanied alien child who was issued a Notice to Appear under section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) during the period beginning on January 1, 2013, and ending on the date of the enactment of this Act—

(1) to appear, in-person, before an immigration judge who has been authorized by the Attorney General to conduct proceedings under section 235B of the Immigration and Nationality Act, as added by section 102;

(2) to attest to their desire to apply for admission to the United States; and

(3) to file a motion—

(A) to replace any Notice to Appear issued between January 1, 2013 and the date of the enactment of this Act under section 239 of the Immigration and Nationality Act (8 U.S.C. 1229); and
(B) to apply for admission to the United States by being placed in proceedings under section 235B of the Immigration and Nationality Act.

(b) MOTION GRANTED.—An immigration judge may, at the sole and unreviewable discretion of the judge, grant a motion filed under subsection (a)(3) upon a finding that—

(1) the petitioner was an unaccompanied alien child (as such term is defined in section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279)) on the date on which a Notice to Appear described in subsection (a) was issued to the alien;

(2) the Notice to Appear was issued during the period beginning on January 1, 2013, and ending on the date of the enactment of this Act;

(3) the unaccompanied alien child is applying for admission to the United States; and

(4) the granting of such motion would not be manifestly unjust.

(c) EFFECT OF MOTION.—Notwithstanding any other provision of law, upon the granting of a motion to replace under subsection (b), the immigration judge who granted such motion shall—
(1) while the petitioner remains in-person, immediately inspect and screen the petitioner for admission to the United States by conducting a proceeding under section 235B of the Immigration and Nationality Act, as added by section 102;

(2) immediately notify the petitioner of the petitioner’s ability, under section 235B(c)(5) of the Immigration and Nationality Act to withdraw the petitioner’s application for admission to the United States and immediately be returned to the petitioner’s country of nationality or country of last habitual residence; and

(3) replace the petitioner’s notice to appear with an order under section 235B(e) of the Immigration and Nationality Act.

(d) PROTECTIVE CUSTODY.—An unaccompanied alien child who has been granted a motion under subsection (b) shall be held in the custody of the Secretary of Health and Human Services pursuant to section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232).

SEC. 104. EMERGENCY IMMIGRATION JUDGE RESOURCES.

(a) DESIGNATION.—Not later than 14 days after the date of the enactment of this Act, the Attorney General shall designate up to 40 immigration judges, including
through the hiring of retired immigration judges, administrative law judges, or magistrate judges, or the reassignment of current immigration judges, that are dedicated to conducting humane and expedited inspection and screening for unaccompanied alien children under section 235B of the Immigration and Nationality Act, as added by section 102. Such designations shall remain in effect solely for the duration of the humanitarian crisis at the southern border (as determined by the Secretary of Homeland Security, in consultation with the Attorney General).

(b) REQUIREMENT.—The Attorney General shall ensure that sufficient immigration judge resources are dedicated to the purpose described in subsection (a) to comply with the requirement under section 235B(b)(1) of the Immigration and Nationality Act.

SEC. 105. PROTECTING CHILDREN FROM HUMAN TRAFFICKERS, SEX OFFENDERS, AND OTHER CRIMINALS.

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

(1) in subparagraph (A), by inserting “, including a mandatory biometric criminal history check” before the period at the end; and

(2) by adding at the end the following—
“(D) Prohibition on placement with sex offenders and human traffickers.—

“(i) In general.—The Secretary of Health and Human Services may not place an unaccompanied alien child in the custody of an individual who has been convicted of—

“(I) a sex offense, (as defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911); or

“(II) a crime involving a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)).

“(ii) Requirements of criminal background check.—A biometric criminal history check under subparagraph (A) shall be based on a set of fingerprints or other biometric identifiers and conducted through—

“(I) the Federal Bureau of Investigation; and
“(II) criminal history repositories of all States that the individual lists as current or former residences.”.

SEC. 106. INCLUSION OF ADDITIONAL GROUNDS FOR PER SE INELIGIBILITY FOR ASYLUM.

Section 208(b)(2)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(iii)) is amended by inserting after “a serious nonpolitical crime” the following: “(including any drug-related offense punishable by a term of imprisonment greater than 1 year)”.

TITLE II—USE OF NATIONAL GUARD TO IMPROVE BORDER SECURITY

SEC. 201. NATIONAL GUARD SUPPORT FOR BORDER OPERATIONS.

(a) Deployment Authority and Funding.—Amounts appropriated for the Department of Defense in this Act shall be expended for any units or personnel of the National Guard deployed to perform operations and missions under section 502(f) of title 32, United States Code, on the southern border of the United States.

(b) Assignment of Operations and Missions.—

(1) In general.—National Guard units and personnel deployed under subsection (a) may be assigned such operations as may be necessary to pro-
vide assistance for operations on the southern bor-
der, with priority given to high traffic areas experi-
encing the highest number of crossings by unaccomp-
panied alien children.

(2) NATURE OF DUTY.—The duty of National
Guard personnel performing operations and missions
on the southern border shall be full-time duty under
title 32, United States Code.

(e) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
retary of Defense shall deploy such materiel and equip-
ment and logistical support as may be necessary to ensure
success of the operations and missions conducted by the
National Guard under this section.

(d) EXCLUSION FROM NATIONAL GUARD PER-
SONNEL STRENGTH LIMITATIONS.—National Guard per-
sonnel deployed under subsection (a) shall not be included
in—

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

(2) limits on the number of National Guard
personnel that may be placed on active duty for
operational support under section 115 of title 10,
United States Code.
(c) **HIGH TRAFFIC AREAS DEFINED.**—In this section:

(1) The term “high traffic areas” means sectors along the northern and southern borders of the United States that are within the responsibility of the Border Patrol that have the most illicit cross-border activity, informed through situational awareness.

(2) The term “unaccompanied alien child” means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.
TITLE III—NATIONAL SECURITY
AND FEDERAL LANDS PROTECTION

SEC. 301. PROHIBITION ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) Prohibition on Secretaries of the Interior and Agriculture.—The Secretary of the Interior or the Secretary of Agriculture shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on Federal land located within 100 miles of the United States border with Mexico that is under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, to execute search and rescue operations, and to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through such international land border of the United States. These authorities of U.S. Customs and Border Protection on such Federal land apply whether or not a state of emergency exists.

(b) Authorized Activities of U.S. Customs and Border Protection.—U.S. Customs and Border Protection shall have immediate access to Federal land within 100 miles of the United States border with Mexico that is under the jurisdiction of the Secretary of the Interior
or the Secretary of Agriculture for purposes of conducting the following activities on such land that prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through such international land border of the United States:

(1) Construction and maintenance of roads.

(2) Construction and maintenance of barriers.

(3) Use of vehicles to patrol, apprehend, or rescue.

(4) Installation, maintenance, and operation of communications and surveillance equipment and sensors.

(5) Deployment of temporary tactical infrastructure.

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including any termination date relating to the waiver referred to in this subsection), the waiver by the Secretary of Homeland Security on April 1, 2008, under section 102(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note; Public Law 104–208) of the laws described in paragraph (2)
with respect to certain sections of the international border between the United States and Mexico shall be considered to apply to all Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture within 100 miles of such international land border of the United States for the activities of U.S. Customs and Border Protection described in subsection (b).


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

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

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

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

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

(2) not provide authority on or access to State or private lands.
(f) Tribal Sovereignty.—Nothing in this section supersedes, replaces, negates, or diminishes treaties or other agreements between the United States and Indian tribes.

SEC. 302. SENSE OF CONGRESS ON PLACEMENT OF UNAUTHORIZED ALIENS AT MILITARY INSTALLATIONS.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the Secretary of Defense should not allow the placement of unauthorized aliens at a military installation unless—

(A) the Secretary submits written notice to the congressional defense committees and each Member of Congress representing any jurisdiction in which an affected military installation is situated; and

(B) the Secretary publishes notice in the Federal Register;

(2) the placement of unauthorized aliens at a military institution should not displace active members of the Armed Forces;

(3) the placement of unauthorized aliens at a military institution should not interfere with any mission of the Department of Defense;
(4) the Secretary of Health and Human Services should not use a military installation for the placement of unauthorized aliens unless all other facilities of the Department of Health and Human Services are unavailable;

(5) the Secretary of Health and Human Services should not use a military installation for the placement of unauthorized aliens for more than 120 days;

(6) the Secretary of Health and Human Services should ensure that all unauthorized alien children are vaccinated upon arrival at a military installation as set forth in the guidelines of the Office of Refugee Resettlement;

(7) the Secretary of Health and Human Services should ensure that all individuals under the supervision of the Secretary with access to unauthorized alien children at a military installation are properly cleared according to the procedures set forth in the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.);

(8) the Secretary of Health and Human Services should fully comply with the provisions of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) with respect to background checks
and should retain full legal responsibility for such compliance; and

(9) in accordance with section 1535 of title 31, United States Code (commonly referred to as the “Economy Act”), the Secretary of Health and Human Services should reimburse the Secretary of Defense for all expenses incurred by the Secretary of Defense in carrying out the placement of unauthorized aliens at a military installation.

(b) DEFINITIONS.—In this section:

(1) The term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) The term “Member of Congress” has the meaning given that term in section 1591(c)(1) of title 10, United States Code.

(3) The term “military installation” has the meaning given that term in section 2801(c)(4) of title 10, United States Code, but does not include an installation located outside of the United States.

(4) The term “placement” means the placement of an unauthorized alien in either a detention facility or an alternative to such a facility.

(5) The term “unauthorized alien” means an alien unlawfully present in the United States, but
does not include a dependent of a member of the Armed Forces.