

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5230

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

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IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2014

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

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## 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 Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That the following sums are appropriated, out of any  
4 money in the Treasury not otherwise appropriated, for the  
5 fiscal year ending September 30, 2014, and for other pur-  
6 poses, namely:

1           **DIVISION A—SUPPLEMENTAL**  
2           **APPROPRIATIONS AND RESCISSIONS**

3                           **TITLE I**

4           **DEPARTMENT OF HOMELAND SECURITY**

5                   **U.S. CUSTOMS AND BORDER PROTECTION**

6                                   **SALARIES AND EXPENSES**

7           For an additional amount for “Salaries and Ex-  
8 penses”, \$71,000,000, to remain available until September  
9 30, 2015, for necessary expenses to apprehend, transport,  
10 and provide temporary shelter associated with the signifi-  
11 cant rise in unaccompanied alien children and alien adults  
12 accompanied by an alien minor at the Southwest Border  
13 of the United States, including related activities to secure  
14 the border, disrupt transnational crime, and the necessary  
15 acquisition, construction, improvement, repair, and man-  
16 agement of facilities: *Provided*, That not later than 30  
17 days after the date of the enactment of this Act, the Sec-  
18 retary of Homeland Security shall submit to the Commit-  
19 tees on Appropriations of the House of Representatives  
20 and the Senate an obligation and quarterly expenditure  
21 plan for these funds: *Provided further*, That the Secretary  
22 shall provide to such Committees quarterly updates on the  
23 expenditure of these funds.

1 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
2 SALARIES AND EXPENSES

3 For an additional amount for “Salaries and Ex-  
4 penses”, \$334,000,000, to remain available until Sep-  
5 tember 30, 2015, for necessary expenses to respond to the  
6 significant rise in unaccompanied alien children and alien  
7 adults accompanied by an alien minor at the Southwest  
8 Border of the United States, including for enforcement of  
9 immigration and customs law, including detention and re-  
10 moval operations, of which \$262,000,000 shall be for Cus-  
11 tody Operations and \$72,000,000 shall be for Transpor-  
12 tation and Removal operations: *Provided*, That not later  
13 than 30 days after the date of the enactment of this Act,  
14 the Secretary of Homeland Security shall submit to the  
15 Committees on Appropriations of the House of Represent-  
16 atives and the Senate an obligation and quarterly expendi-  
17 ture plan for these funds: *Provided further*, That the Sec-  
18 retary shall provide to such Committees quarterly updates  
19 on the expenditure of these funds.

20 GENERAL PROVISIONS—THIS TITLE  
21 (INCLUDING RESCISSION)

22 SEC. 101. Notwithstanding any other provision of  
23 law, none of the funds provided by this title shall be avail-  
24 able for obligation or expenditure through a reprogram-  
25 ming or transfer of funds that proposes to use funds di-

1 rected for a specific activity by either of the Committees  
2 on Appropriations of the House of Representatives or the  
3 Senate for a different purpose than for which the appro-  
4 priations were provided: *Provided*, That prior to the obli-  
5 gation of such funds, a request for approval shall be sub-  
6 mitted to such Committees.

7       SEC. 102. The Secretary of Homeland Security shall  
8 provide to the Congress quarterly reports that include: (1)  
9 the number of apprehensions at the border delineated by  
10 unaccompanied alien children and alien adults accom-  
11 panied by an alien minor; (2) the number of claims of a  
12 credible fear of persecution delineated by unaccompanied  
13 alien children and alien adults accompanied by an alien  
14 minor, and the number of determinations of valid claims  
15 of a credible fear of persecution delineated by unaccom-  
16 panied alien children and alien adults accompanied by an  
17 alien minor; (3) the number of unaccompanied alien chil-  
18 dren and alien adults accompanied by an alien minor  
19 granted asylum by an immigration judge, delineated by  
20 year of apprehension; (4) the number of alien adults ac-  
21 companied by an alien minor in detention facilities, alter-  
22 natives to detention, and other non-detention forms of su-  
23 pervision; and (5) the number of removals delineated by  
24 unaccompanied alien children and alien adults accom-  
25 panied by an alien minor.

1        SEC. 103. Of the unobligated balance available for  
2 “Department of Homeland Security—Federal Emergency  
3 Management Agency—Disaster Relief Fund”,  
4 \$405,000,000 is rescinded: *Provided*, That no amounts  
5 may be rescinded from amounts that were designated by  
6 the Congress as an emergency requirement pursuant to  
7 a concurrent resolution on a budget or the Balanced  
8 Budget and Emergency Deficit Control Act of 1985: *Pro-*  
9 *vided further*, That no amounts may be rescinded from the  
10 amounts that were designated by the Congress as being  
11 for disaster relief pursuant to section 251(b)(2)(D) of the  
12 Balanced Budget and Emergency Deficit Control Act of  
13 1985.

14        SEC. 104. Notwithstanding any other provision of  
15 law, grants awarded under sections 2003 or 2004 of the  
16 Homeland Security Act of 2002 (6 U.S.C. 604 and 605)  
17 using funds provided under the heading “Federal Emer-  
18 gency Management Agency—State and Local Programs”  
19 in division F of Public Law 113–76, division D of Public  
20 Law 113–6, or division D of Public Law 112–74 may be  
21 used by State and local law enforcement and public safety  
22 agencies within local units of government along the South-  
23 west Border of the United States for costs incurred during  
24 the award period of performance for personnel, overtime,  
25 travel, costs related to combating illegal immigration and

1 drug smuggling, and costs related to providing humani-  
2 tarian relief to unaccompanied alien children and alien  
3 adults accompanied by an alien minor who have entered  
4 the United States.

5

## TITLE II

6

## DEPARTMENT OF DEFENSE—MILITARY

7

## MILITARY PERSONNEL

8

## NATIONAL GUARD PERSONNEL, ARMY

9

For an additional amount for “National Guard Per-  
10 sonnel, Army”, \$12,419,000, to remain available until  
11 September 30, 2015, for necessary expenses related to the  
12 Southwest Border of the United States.

13

## NATIONAL GUARD PERSONNEL, AIR FORCE

14

For an additional amount for “National Guard Per-  
15 sonnel, Air Force”, \$2,258,000, to remain available until  
16 September 30, 2015, for necessary expenses related to the  
17 Southwest Border of the United States.

18

## OPERATION AND MAINTENANCE

19

## OPERATION AND MAINTENANCE, ARMY NATIONAL

20

## GUARD

21

For an additional amount for “Operation and Main-  
22 tenance, Army National Guard”, \$15,807,000, to remain  
23 available until September 30, 2015, for necessary expenses  
24 related to the Southwest Border of the United States.

1 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD  
2 For an additional amount for “Operation and Main-  
3 tenance, Air National Guard”, \$4,516,000, to remain  
4 available until September 30, 2015, for necessary expenses  
5 related to the Southwest Border of the United States.

6 GENERAL PROVISION—THIS TITLE

7 (RESCISSION)

8 SEC. 201. Of the unobligated balances of amounts ap-  
9 propriated in title II of division C of Public Law 113–  
10 76 for “Operation and Maintenance, Defense-Wide”,  
11 \$35,000,000 is hereby rescinded to reflect excess cash bal-  
12 ances in Department of Defense Working Capital Funds.

13 TITLE III

14 DEPARTMENT OF JUSTICE

15 GENERAL ADMINISTRATION

16 ADMINISTRATIVE REVIEW AND APPEALS

17 For an additional amount for “Administrative Review  
18 and Appeals” for necessary expenses to respond to the sig-  
19 nificant rise in unaccompanied alien children and alien  
20 adults accompanied by an alien minor at the Southwest  
21 Border of the United States, \$22,000,000, to remain  
22 available until September 30, 2015, of which \$12,900,000  
23 shall be for additional temporary immigration judges and  
24 related expenses, and \$9,100,000 shall be for technology

1 for judges to expedite the adjudication of immigration  
2 cases.

3                   GENERAL PROVISION—THIS TITLE

4                                   (RESCISSION)

5           SEC. 301. Of the unobligated balances available for  
6 “Department of Justice—Legal Activities—Assets For-  
7 feiture Fund”, \$22,000,000 is hereby permanently re-  
8 scinded.

9                                   TITLE IV

10                   GENERAL PROVISIONS—THIS TITLE

11                                   REPATRIATION AND REINTEGRATION

12           SEC. 401. (a) REPATRIATION AND REINTEGRA-  
13 TION.—Of the funds appropriated in titles III and IV of  
14 division K of Public Law 113–76, and in prior Acts mak-  
15 ing appropriations for the Department of State, foreign  
16 operations, and related programs, for assistance for the  
17 countries in Central America, up to \$40,000,000 shall be  
18 made available for such countries for repatriation and re-  
19 integration activities: *Provided*, That funds made available  
20 pursuant to this section may be obligated notwithstanding  
21 subsections (c) and (e) of section 7045 of division K of  
22 Public Law 113–76.

23           (b) REPORT.—Prior to the initial obligation of funds  
24 made available pursuant to this section, but not later than  
25 15 days after the date of enactment of this Act, and every



1 90 days thereafter until September 30, 2015, the Sec-  
2 retary of State, in consultation with the Administrator of  
3 the United States Agency for International Development,  
4 shall submit to the appropriate congressional committees  
5 a report on the obligation of funds made available pursu-  
6 ant to this section by country and the steps taken by the  
7 government of each country to—

8 (1) improve border security;

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

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

15 (4) conduct public outreach campaigns to ex-  
16 plain the dangers of the journey to the Southwest  
17 Border of the United States and to emphasize the  
18 lack of immigration benefits available; and

19 (5) cooperate with United States Federal agen-  
20 cies to facilitate and expedite the return, repatri-  
21 ation, and reintegration of illegal migrants arriving  
22 at the Southwest Border of the United States.

23 (c) SUSPENSION OF ASSISTANCE.—The Secretary of  
24 State shall suspend assistance provided pursuant to this  
25 section to the government of a country if such government

1 is not making significant progress on each item described  
2 in paragraphs (1) through (5) of subsection (b): *Provided*,  
3 That assistance may only be resumed if the Secretary re-  
4 ports to the appropriate congressional committees that  
5 subsequent to the suspension of assistance such govern-  
6 ment is making significant progress on each of the items  
7 enumerated in such subsection.

8 (d) NOTIFICATION REQUIREMENT.—Funds made  
9 available pursuant to this section shall be subject to the  
10 regular notification procedures of the Committees on Ap-  
11 propriations of the House of Representatives and the Sen-  
12 ate.

13 (RESCISSION)

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

1 lution on the budget or the Balanced Budget and Emer-  
2 gency Deficit Control Act of 1985.

3 TITLE V  
4 DEPARTMENT OF HEALTH AND HUMAN  
5 SERVICES  
6 ADMINISTRATION FOR CHILDREN AND FAMILIES  
7 REFUGEE AND ENTRANT ASSISTANCE

8 For an additional amount for “Refugee and Entrant  
9 Assistance”, \$197,000,000, to be merged with and avail-  
10 able for the same time period and for the same purposes  
11 as the funds made available under this heading in division  
12 H of Public Law 113–76 “for carrying out such sections  
13 414, 501, 462, and 235”: *Provided*, That of this amount,  
14 \$47,000,000 shall be for the Social Services and Targeted  
15 Assistance programs.

16 This division may be cited as the “Secure the South-  
17 west Border Supplemental Appropriations Act, 2014”.

18 **DIVISION B—SECURE THE SOUTHWEST**  
19 **BORDER ACT OF 2014**

20 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

21 (a) SHORT TITLE.—This division may be cited as the  
22 “Secure the Southwest Border Act of 2014”.

23 (b) TABLE OF CONTENTS.—The table of contents for  
24 this division is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROTECTING CHILDREN

- Sec. 101. Repatriation of unaccompanied alien 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.

1                   **TITLE I—PROTECTING**  
 2                   **CHILDREN**  
 3 **SEC. 101. REPATRIATION OF UNACCOMPANIED ALIEN CHILD-**  
 4                   **DREN.**

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

8                   (1) in paragraph (2)—

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

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

1 (C) in subparagraph (C)—

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

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

11 (2) in paragraph (5)(D)—

12 (A) in the subparagraph heading, by strik-  
13 ing “PLACEMENT IN REMOVAL PROCEEDINGS”  
14 and inserting “EXPEDITED DUE PROCESS AND  
15 SCREENING FOR UNACCOMPANIED ALIEN CHIL-  
16 DREN”;

17 (B) in the matter preceding clause (i), by  
18 striking “, except for an unaccompanied alien  
19 child from a contiguous country subject to the  
20 exceptions under subsection (a)(2), shall be—”  
21 and inserting “who meets the criteria listed in  
22 paragraph (2)(A)—”;

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

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

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

9           (E) by inserting after clause (i) the fol-  
10          lowing:

11           “(ii) may not be placed in the imme-  
12          diate custody of a nongovernmental spon-  
13          sor or otherwise released from the custody  
14          of the United States Government until the  
15          child is repatriated unless the child is the  
16          subject of an order under section  
17          235B(e)(1) of the Immigration and Na-  
18          tionality Act;”;

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

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

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

3 (a) AMENDMENTS TO IMMIGRATION AND NATION-  
4 ALITY ACT.—

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

8 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**  
9 **SCREENING FOR UNACCOMPANIED ALIEN**  
10 **CHILDREN.**

11 “(a) DEFINED TERM.—In this section, the term ‘asy-  
12 lum officer’ had the meaning given such term in section  
13 235(b)(1)(E) of the Immigration and Nationality Act (8  
14 U.S.C. 1225(b)(1)(E)).

15 “(b) PROCEEDING.—

16 “(1) IN GENERAL.—Not later than 7 days after  
17 the screening of an unaccompanied alien child under  
18 section 235(a)(4) of the William Wilberforce Traf-  
19 ficking Victims Protection Reauthorization Act of  
20 2008 (8 U.S.C. 1232(a)(4)), an immigration judge  
21 shall conduct a proceeding to inspect, screen, and  
22 determine the status of an unaccompanied alien  
23 child who is an applicant for admission to the  
24 United States.

25 “(2) TIME LIMIT.—Not later than 72 hours  
26 after the conclusion of a proceeding with respect to

1 an unaccompanied alien child under this section, the  
2 immigration judge who conducted such proceeding  
3 shall issue an order pursuant to subsection (e).

4 “(c) CONDUCT OF PROCEEDING.—

5 “(1) AUTHORITY OF IMMIGRATION JUDGE.—

6 The immigration judge conducting a proceeding  
7 under this section—

8 “(A) shall administer oaths, receive evi-  
9 dence, and interrogate, examine, and cross-ex-  
10 amine the alien and any witnesses;

11 “(B) may issue subpoenas for the attend-  
12 ance of witnesses and presentation of evidence;  
13 and

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

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

20 “(A) in person;

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

23 “(C) through video conference; or

24 “(D) through telephone conference.



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

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

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

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

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

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

18                          “(iii) to cross-examine witnesses pre-  
19                          sented by the Government;

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

22                          “(i) to examine such national security  
23                          information as the Government may prof-  
24                          fer in opposition to the alien’s admission to  
25                          the United States; or

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

3                   “(D) a complete record shall be kept of all  
4                   testimony and evidence produced at the pro-  
5                   ceeding.

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

13                  “(6) CONSEQUENCES OF FAILURE TO AP-  
14                  PEAR.—Any alien who fails to appear at a pro-  
15                  ceeding required under this section, shall be ordered  
16                  removed in absentia if the Government establishes  
17                  by a preponderance of the evidence that the alien  
18                  was at fault for their absence from the proceedings.

19                  “(d) DECISION AND BURDEN OF PROOF.—

20                  “(1) DECISION.—

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

1           “(i) admissible to the United States;

2           or

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

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

9           “(2) BURDEN OF PROOF.—

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

14           “(i) is likely to be entitled to be law-  
15           fully admitted to the United States or eli-  
16           gible for any form of relief from removal  
17           under this Act; or

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

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

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

1           “(ii) any other records and docu-  
2           ments, not considered by the Attorney  
3           General to be confidential, pertaining to  
4           the alien’s admission or presence in the  
5           United States.

6           “(e) ORDERS.—

7           “(1) PLACEMENT IN FURTHER PRO-  
8           CEEDINGS.—If an immigration judge determines  
9           that the unaccompanied alien child has met the bur-  
10          den of proof under subsection (d)(2), the judge shall  
11          order the alien to be placed in further proceedings  
12          in accordance with section 240.

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

19                  “(A) an intention to apply for asylum  
20                  under section 208; or

21                  “(B) a fear of persecution.

22          “(3) CLAIMS FOR ASYLUM.—If an unaccom-  
23          panied alien child described in paragraph (2) claims  
24          an intention to apply for asylum under section 208  
25          or a fear of persecution, the judge shall order the

1 alien referred for an interview by an asylum officer  
2 under subsection (f).

3 “(f) ASYLUM INTERVIEWS.—

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

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

12 “(3) REFERRAL OF CERTAIN ALIENS.—If the  
13 officer determines at the time of the interview that  
14 an alien has a credible fear of persecution, the alien  
15 shall be held in the custody of the Secretary of  
16 Health and Human Services pursuant to section  
17 235(b) of the William Wilberforce Trafficking Vic-  
18 tims Protection Reauthorization Act of 2008 (8  
19 U.S.C. 1232(b)) during further consideration of the  
20 application for asylum.

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

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (C), if the asylum officer determines that  
25 an alien does not have a credible fear of perse-

1           cution the officer shall order the alien removed  
2           from the United States without further hearing  
3           or review.

4           “(B) RECORD OF DETERMINATION.—The  
5           officer shall prepare a written record of a deter-  
6           mination under subparagraph (A), which shall  
7           include—

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

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

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

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

17           “(C) REVIEW OF DETERMINATION.—

18                   “(i) RULEMAKING.—The Attorney  
19                   General shall establish, by regulation, a  
20                   process by which an immigration judge will  
21                   conduct a prompt review, upon the alien’s  
22                   request, of a determination under subpara-  
23                   graph (A) that the alien does not have a  
24                   credible fear of persecution.

1 “(ii) MANDATORY COMPONENTS.—

2 The review described in clause (i)—

3 “(I) shall include an opportunity  
4 for the alien to be heard and ques-  
5 tioned by the immigration judge, ei-  
6 ther in person or by telephonic or  
7 video connection; and

8 “(II) shall be conducted—

9 “(aa) as expeditiously as  
10 possible;

11 “(bb) within the 24-hour pe-  
12 riod beginning at the time the  
13 asylum officer makes a deter-  
14 mination under subparagraph  
15 (A), to the maximum extent  
16 practicable; and

17 “(cc) in no case later than 7  
18 days after such determination.

19 “(5) MANDATORY PROTECTIVE CUSTODY.—Any  
20 alien subject to the procedures under this subsection  
21 shall be held in the custody of the Secretary of  
22 Health and Human Services pursuant to section  
23 235(b) of the William Wilberforce Trafficking Vic-  
24 tims Protection Reauthorization Act of 2008 (8  
25 U.S.C. 1232(b))—

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

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

6           “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

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

11          “(2) RULEMAKING.—The Attorney General  
12          shall establish, by regulation, a process for the  
13          prompt review of an order under subsection (e)(2)  
14          against an alien who claims under oath, or as per-  
15          mitted under penalty of perjury under section 1746  
16          of title 28, United States Code, after having been  
17          warned of the penalties for falsely making such  
18          claim under such conditions to have been—

19                  “(A) lawfully admitted for permanent resi-  
20                  dence;

21                  “(B) admitted as a refugee under section  
22                  207; or

23                  “(C) granted asylum under section 208.

24          “(h) LAST IN, FIRST OUT.—In any proceedings, de-  
25          terminations, or removals under this section, priority shall



1 be accorded to the alien who has most recently arrived  
2 in the United States.”.

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

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

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

10 (1) in subsection (a)—

11 (A) in paragraph (1), by inserting “, or an  
12 order of removal issued to an unaccompanied  
13 alien child after proceedings under section  
14 235B” after “section 235(b)(1)”; and

15 (B) in paragraph (2)—

16 (i) by inserting “or section 235B”  
17 after “section 235(b)(1)” each place it ap-  
18 pears; and

19 (ii) in subparagraph (A)—

20 (I) in the subparagraph heading,  
21 by inserting “OR 235B” after “SEC-  
22 TION 235(b)(1)”; and

23 (II) in clause (iii), by striking  
24 “section 235(b)(1)(B),” and inserting

1 “section 235(b)(1)(B) or 235B(f);”;

2 and

3 (2) in subsection (e)—

4 (A) in the subsection heading, by inserting

5 “OR 235B” after “SECTION 235(b)(1)”;

6 (B) by inserting “or section 235B” after

7 “section 235(b)(1)” in each place it appears;

8 (C) in subparagraph (2)(C), by inserting

9 “or section 235B(g)” after “section  
10 235(b)(1)(C)”; and

11 (D) in subparagraph (3)(A), by inserting

12 “or section 235B” after “section 235(b)”.

13 **SEC. 103. DUE PROCESS PROTECTIONS FOR UNACCOM-**  
14 **PANIED ALIEN CHILDREN PRESENT IN THE**  
15 **UNITED STATES.**

16 (a) **FILING AUTHORIZED.**—Not later than 60 days  
17 after the date of the enactment of this Act, the Secretary  
18 of Homeland Security, notwithstanding any other provi-  
19 sion of law, shall, at an immigration court designated to  
20 conduct proceedings under section 235B of the Immigra-  
21 tion and Nationality Act, permit an unaccompanied alien  
22 child who was issued a Notice to Appear under section  
23 239 of the Immigration and Nationality Act (8 U.S.C.  
24 1229) during the period beginning on January 1, 2013,  
25 and ending on the date of the enactment of this Act—

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

6           (2) to attest to their desire to apply for admis-  
7 sion to the United States; and

8           (3) to file a motion—

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

14                 (B) to apply for admission to the United  
15 States by being placed in proceedings under  
16 section 235B of the Immigration and Nation-  
17 ality Act.

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

22                 (1) the petitioner was an unaccompanied alien  
23 child (as such term is defined in section 462 of the  
24 Homeland Security Act of 2002 (6 U.S.C. 279)) on

1 the date on which a Notice to Appear described in  
2 subsection (a) was issued to the alien;

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

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

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

10 (c) EFFECT OF MOTION.—Notwithstanding any  
11 other provision of law, upon the granting of a motion to  
12 replace under subsection (b), the immigration judge who  
13 granted such motion shall—

14 (1) while the petitioner remains in-person, im-  
15 mediately inspect and screen the petitioner for ad-  
16 mission to the United States by conducting a pro-  
17 ceeding under section 235B of the Immigration and  
18 Nationality Act, as added by section 102;

19 (2) immediately notify the petitioner of the peti-  
20 tioner’s ability, under section 235B(c)(5) of the Im-  
21 migration and Nationality Act to withdraw the peti-  
22 tioner’s application for admission to the United  
23 States and immediately be returned to the peti-  
24 tioner’s country of nationality or country of last ha-  
25 bitual residence; and

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

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

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

11           (a) DESIGNATION.—Not later than 14 days after the  
12 date of the enactment of this Act, the Attorney General  
13 shall designate up to 40 immigration judges, including  
14 through the hiring of retired immigration judges, adminis-  
15 trative law judges, or magistrate judges, or the reassign-  
16 ment of current immigration judges, that are dedicated  
17 to conducting humane and expedited inspection and  
18 screening for unaccompanied alien children under section  
19 235B of the Immigration and Nationality Act, as added  
20 by section 102. Such designations shall remain in effect  
21 solely for the duration of the humanitarian crisis at the  
22 southern border (as determined by the Secretary of Home-  
23 land Security, in consultation with the Attorney General).

24           (b) REQUIREMENT.—The Attorney General shall en-  
25 sure that sufficient immigration judge resources are dedi-

1 cated to the purpose described in subsection (a) to comply  
2 with the requirement under section 235B(b)(1) of the Im-  
3 migration and Nationality Act.

4 **SEC. 105. PROTECTING CHILDREN FROM HUMAN TRAF-**  
5 **FICKERS, SEX OFFENDERS, AND OTHER**  
6 **CRIMINALS.**

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

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

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

14 “(D) PROHIBITION ON PLACEMENT WITH  
15 SEX OFFENDERS AND HUMAN TRAFFICKERS.—

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

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

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

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

12                   “(I) the Federal Bureau of Inves-  
13                   tigation; and

14                   “(II) criminal history repositories  
15                   of all States that the individual lists  
16                   as current or former residences.”.

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

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

1 **TITLE II—USE OF NATIONAL**  
2 **GUARD TO IMPROVE BORDER**  
3 **SECURITY**

4 **SEC. 201. NATIONAL GUARD SUPPORT FOR BORDER OPER-**  
5 **ATIONS.**

6 (a) DEPLOYMENT AUTHORITY AND FUNDING.—  
7 Amounts appropriated for the Department of Defense in  
8 this Act shall be expended for any units or personnel of  
9 the National Guard deployed to perform operations and  
10 missions under section 502(f) of title 32, United States  
11 Code, on the southern border of the United States.

12 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

13 (1) IN GENERAL.—National Guard units and  
14 personnel deployed under subsection (a) may be as-  
15 signed such operations as may be necessary to pro-  
16 vide assistance for operations on the southern bor-  
17 der, with priority given to high traffic areas experi-  
18 encing the highest number of crossings by unaccom-  
19 panied alien children.

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

24 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-  
25 retary of Defense shall deploy such materiel and equip-



1 ment and logistical support as may be necessary to ensure  
2 success of the operations and missions conducted by the  
3 National Guard under this section.

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

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

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

15 (e) HIGH TRAFFIC AREAS DEFINED.—In this sec-  
16 tion:

17 (1) The term “high traffic areas” means sec-  
18 tors along the northern and southern borders of the  
19 United States that are within the responsibility of  
20 the Border Patrol that have the most illicit cross-  
21 border activity, informed through situational aware-  
22 ness.

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

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

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

4 (C) with respect to whom—

5 (i) there is no parent or legal guard-  
6 ian in the United States; or

7 (ii) no parent or legal guardian in the  
8 United States is available to provide care  
9 and physical custody.

10 **TITLE III—NATIONAL SECURITY**  
11 **AND FEDERAL LANDS PRO-**  
12 **TECTION**

13 **SEC. 301. PROHIBITION ON ACTIONS THAT IMPEDE BOR-**  
14 **DER SECURITY ON CERTAIN FEDERAL LAND.**

15 (a) PROHIBITION ON SECRETARIES OF THE INTE-  
16 RIOR AND AGRICULTURE.—The Secretary of the Interior  
17 or the Secretary of Agriculture shall not impede, prohibit,  
18 or restrict activities of U.S. Customs and Border Protec-  
19 tion on Federal land located within 100 miles of the  
20 United States border with Mexico that is under the juris-  
21 diction of the Secretary of the Interior or the Secretary  
22 of Agriculture, to execute search and rescue operations,  
23 and to prevent all unlawful entries into the United States,  
24 including entries by terrorists, other unlawful aliens, in-  
25 struments of terrorism, narcotics, and other contraband

1 through such international land border of the United  
2 States. These authorities of U.S. Customs and Border  
3 Protection on such Federal land apply whether or not a  
4 state of emergency exists.

5 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND  
6 BORDER PROTECTION.—U.S. Customs and Border Pro-  
7 tection shall have immediate access to Federal land within  
8 100 miles of the United States border with Mexico that  
9 is under the jurisdiction of the Secretary of the Interior  
10 or the Secretary of Agriculture for purposes of conducting  
11 the following activities on such land that prevent all un-  
12 lawful entries into the United States, including entries by  
13 terrorists, other unlawful aliens, instruments of terrorism,  
14 narcotics, and other contraband through such inter-  
15 national land border of the United States:

16 (1) Construction and maintenance of roads.

17 (2) Construction and maintenance of barriers.

18 (3) Use of vehicles to patrol, apprehend, or res-  
19 cue.

20 (4) Installation, maintenance, and operation of  
21 communications and surveillance equipment and sen-  
22 sors.

23 (5) Deployment of temporary tactical infra-  
24 structure.

1 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-  
2 ITY.—

3 (1) IN GENERAL.—Notwithstanding any other  
4 provision of law (including any termination date re-  
5 lating to the waiver referred to in this subsection),  
6 the waiver by the Secretary of Homeland Security  
7 on April 1, 2008, under section 102(e)(1) of the Ille-  
8 gal Immigration Reform and Immigrant Responsi-  
9 bility Act of 1996 (8 U.S.C. 1103 note; Public Law  
10 104–208) of the laws described in paragraph (2)  
11 with respect to certain sections of the international  
12 border between the United States and Mexico shall  
13 be considered to apply to all Federal land under the  
14 jurisdiction of the Secretary of the Interior or the  
15 Secretary of Agriculture within 100 miles of such  
16 international land border of the United States for  
17 the activities of U.S. Customs and Border Protection  
18 described in subsection (b).

19 (2) DESCRIPTION OF LAWS WAIVED.—The laws  
20 referred to in paragraph (1) are limited to the Wil-  
21 derness Act (16 U.S.C. 1131 et seq.), the National  
22 Environmental Policy Act of 1969 (42 U.S.C. 4321  
23 et seq.), the Endangered Species Act of 1973 (16  
24 U.S.C. 1531 et seq.), the National Historic Preser-  
25 vation Act (16 U.S.C. 470 et seq.), Public Law 86–

1 523 (16 U.S.C. 469 et seq.), the Act of June 8,  
2 1906 (commonly known as the “Antiquities Act of  
3 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic  
4 Rivers Act (16 U.S.C. 1271 et seq.), the Federal  
5 Land Policy and Management Act of 1976 (43  
6 U.S.C. 1701 et seq.), the National Wildlife Refuge  
7 System Administration Act of 1966 (16 U.S.C.  
8 668dd et seq.), the Fish and Wildlife Act of 1956  
9 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-  
10 ordination Act (16 U.S.C. 661 et seq.), subchapter  
11 II of chapter 5, and chapter 7, of title 5, United  
12 States Code (commonly known as the “Administra-  
13 tive Procedure Act”), the National Park Service Or-  
14 ganic Act (16 U.S.C. 1 et seq.), the General Au-  
15 thorities Act of 1970 (Public Law 91–383) (16  
16 U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404  
17 of the National Parks and Recreation Act of 1978  
18 (Public Law 95–625, 92 Stat. 3467), and the Ari-  
19 zona Desert Wilderness Act of 1990 (16 U.S.C.  
20 1132 note; Public Law 101–628).

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

23 (1) authority to restrict legal uses, such as  
24 grazing, hunting, mining, or public-use recreational  
25 and backcountry airstrips on land under the jurisdic-

1           tion of the Secretary of the Interior or the Secretary  
2           of Agriculture; or

3           (2) any additional authority to restrict legal ac-  
4           cess to such land.

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

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

9           (2) not provide authority on or access to State  
10          or private lands.

11          (f) TRIBAL SOVEREIGNTY.—Nothing in this section  
12 supersedes, replaces, negates, or diminishes treaties or  
13 other agreements between the United States and Indian  
14 tribes.

15 **SEC. 302. SENSE OF CONGRESS ON PLACEMENT OF UNAU-**  
16 **THORIZED ALIENS AT MILITARY INSTALLA-**  
17 **TIONS.**

18          (a) SENSE OF CONGRESS.—It is the sense of Con-  
19 gress that—

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

23                   (A) the Secretary submits written notice to  
24                   the congressional defense committees and each  
25                   Member of Congress representing any jurisdic-

1           tion in which an affected military installation is  
2           situated; and

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

5           (2) the placement of unauthorized aliens at a  
6           military institution should not displace active mem-  
7           bers of the Armed Forces;

8           (3) the placement of unauthorized aliens at a  
9           military institution should not interfere with any  
10          mission of the Department of Defense;

11          (4) the Secretary of Health and Human Serv-  
12          ices should not use a military installation for the  
13          placement of unauthorized aliens unless all other fa-  
14          cilities of the Department of Health and Human  
15          Services are unavailable;

16          (5) the Secretary of Health and Human Serv-  
17          ices should not use a military installation for the  
18          placement of unauthorized aliens for more than 120  
19          days;

20          (6) the Secretary of Health and Human Serv-  
21          ices should ensure that all unauthorized alien chil-  
22          dren are vaccinated upon arrival at a military instal-  
23          lation as set forth in the guidelines of the Office of  
24          Refugee Resettlement;

1           (7) the Secretary of Health and Human Serv-  
2           ices should ensure that all individuals under the su-  
3           pervision of the Secretary with access to unauthor-  
4           ized alien children at a military installation are  
5           properly cleared according to the procedures set  
6           forth in the Victims of Child Abuse Act of 1990 (42  
7           U.S.C. 13001 et seq.);

8           (8) the Secretary of Health and Human Serv-  
9           ices should fully comply with the provisions of the  
10          Victims of Child Abuse Act of 1990 (42 U.S.C.  
11          13001 et seq.) with respect to background checks  
12          and should retain full legal responsibility for such  
13          compliance; and

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

21          (b) DEFINITIONS.—In this section:

22                 (1) The term “congressional defense commit-  
23                 tees” has the meaning given that term in section  
24                 101(a)(16) of title 10, United States Code.



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

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

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

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

○