S. 4678

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2023, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2022

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Appropriations

A BILL

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2023, and for other purposes.

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2023, and for other purposes, namely:
TITLE I

DEPARTMENTAL MANAGEMENT, OPERATIONS, INTELLIGENCE, AND OVERSIGHT

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

OPERATIONS AND SUPPORT

For necessary expenses of the Office of the Secretary and for executive management for operations and support, $306,045,000; of which $20,259,000 shall be for the Office of the Ombudsman for Immigration Detention, of which $3,048,000 shall remain available until September 30, 2024: Provided, That not to exceed $30,000 shall be for official reception and representation expenses.

FEDERAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Secretary and for executive management for Federal assistance through grants, contracts, cooperative agreements, and other activities, $20,000,000, which shall be transferred to “Federal Emergency Management Agency—Federal Assistance”, of which $20,000,000 shall be for targeted violence and terrorism prevention grants, to remain available until September 30, 2024.
MANAGEMENT DIRECTORATE

OPERATIONS AND SUPPORT

For necessary expenses of the Management Directorate for operations and support, including vehicle fleet modernization, $1,753,400,000, of which $76,000,000 shall remain available until September 30, 2024: Provided, That not to exceed $2,000 shall be for official reception and representation expenses.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Management Directorate for procurement, construction, and improvements, $555,245,000, of which $165,245,000 shall remain available until September 30, 2025, and of which $390,000,000 shall remain available until September 30, 2027.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally owned and leased buildings and for the operations of the Federal Protective Service.
INTELLIGENCE, ANALYSIS, AND SITUATIONAL AWARENESS

OPERATIONS AND SUPPORT

For necessary expenses of the Office of Intelligence and Analysis and the Office of Homeland Security Situational Awareness for operations and support, $341,159,000, of which $119,792,000 shall remain available until September 30, 2024: Provided, That not to exceed $3,825 shall be for official reception and representation expenses and not to exceed $2,000,000 is available for facility needs associated with secure space at fusion centers, including improvements to buildings.

OFFICE OF THE INSPECTOR GENERAL

OPERATIONS AND SUPPORT

For necessary expenses of the Office of the Inspector General for operations and support, $214,879,000: Provided, That not less than $5,000,000 shall be used to review programs and operations of the United States Secret Service: Provided further, That not to exceed $300,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

ADMINISTRATIVE PROVISIONS

Sec. 101. (a) The Secretary of Homeland Security shall submit a report not later than October 15, 2023,
to the Inspector General of the Department of Homeland Security listing all grants and contracts awarded by any means other than full and open competition during fiscal years 2022 or 2023.

(b) The Inspector General shall review the report required by subsection (a) to assess departmental compliance with applicable laws and regulations and report the results of that review to the Committees on Appropriations of the Senate and the House of Representatives not later than February 15, 2024.

SEC. 102. Not later than 30 days after the last day of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations of the Department for that month and for the fiscal year at the appropriation and program, project, and activity levels, by the source year of the appropriation.

SEC. 103. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes, which shall be specified in terms of cost, schedule, and performance.
SEC. 104. (a) The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall notify the Committees on Appropriations of the Senate and the House of Representatives of any proposed transfers of funds available under section 9705(g)(4)(B) of title 31, United States Code, from the Department of the Treasury Forfeiture Fund to any agency within the Department of Homeland Security.

(b) None of the funds identified for such a transfer may be obligated until the Committees on Appropriations of the Senate and the House of Representatives are notified of the proposed transfer.

SEC. 105. All official costs associated with the use of Government aircraft by Department of Homeland Security personnel to support official travel of the Secretary and the Deputy Secretary shall be paid from amounts made available for the Office of the Secretary.

SEC. 106. (a) The Under Secretary for Management shall brief the Committees on Appropriations of the Senate and the House of Representatives not later than 30 days after the end of each fiscal quarter on all Level 1 and Level 2 acquisition programs on the Master Acquisition Oversight list between Acquisition Decision Event 1 and Full Operational Capability, including programs that
have been removed from such list during the preceding quarter.

(b) For each such program without a department-approved acquisition program baseline, the briefing described in subsection (a) shall include—

(1) a description of the purpose of the program, including the capabilities being acquired and the component(s) sponsoring the acquisition; and

(2) the Acquisition Review Board status, including—

(A) the current acquisition phase;

(B) the date and purpose of the most recent review; and

(C) whether the program has been paused or is in breach status.

(e) For each such program with a department-approved acquisition program baseline, the briefing described in subsection (a) shall include—

(1) a description of the purpose of the program, including the capabilities being acquired and the component(s) sponsoring the acquisition;

(2) the total number of units, as appropriate, to be acquired annually until procurement is complete under the current acquisition program baseline;
(3) the Acquisition Review Board status, including—

   (A) the current acquisition phase by increment, as applicable;
   (B) the date of the most recent review; and
   (C) whether the program has been paused or is in breach status;

(4) a comparison between the initial Department-approved acquisition program baseline cost, schedule, and performance thresholds and objectives and the program’s current such thresholds and objectives, if applicable;

(5) the lifecycle cost estimate, including—

   (A) the confidence level for the estimate;
   (B) the fiscal years included in the estimate; and
   (C) a description of and rationale for any changes to the estimate during the prior fiscal year;

(6) a summary of the findings of any independent verification and validation of the items to be acquired or an explanation for why no such verification and validation has been performed;

(7) a table displaying the obligation of all program funds by prior fiscal year, the estimated obli-
ulation of funds for the current fiscal year, and an
estimate for the planned carryover of funds into the
subsequent fiscal year;
(8) a listing of prime contractors and major
subcontractors; and
(9) narrative descriptions of risks to cost,
schedule, or performance that could result in a pro-
gram breach if not successfully mitigated.
(d) The Under Secretary for Management shall sub-
mit each approved Acquisition Decision Memoranda for
programs described in this section to the Committees on
Appropriations of the Senate and the House of Represent-
atives not later than 5 business days after the date of ap-
proval of such memorandum by the Under Secretary for
Management or the designee of the Under Secretary.
SEC. 107. (a) None of the funds made available to
the Department of Homeland Security in this Act may be
obligated for any pilot or demonstration program unless
the component or office carrying out such pilot or dem-
stration has documented the information described in
subsection (c).
(b) Prior to the obligation of any such funds made
available for “Operations and Support” for a pilot or dem-
onstration, the Under Secretary for Management shall
provide a report to the Committees on Appropriations of
the Senate and the House of Representatives on the information described in subsection (c).

(c) The information required under subsections (a) and (b) for a pilot or demonstration shall include the following—

(1) documented objectives that are well-defined and measurable;

(2) an assessment methodology that details—

(A) the type and source of assessment data;

(B) the methods for, and frequency of, collecting such data; and

(C) how such data will be analyzed; and

(3) an implementation plan, including milestones, cost estimates, and implementation schedules, including a projected end date.

(d) Not later than 90 days after the date of completion of a pilot or demonstration, the Under Secretary for Management shall provide a report to the Committees on Appropriations of the Senate and the House of Representatives detailing lessons learned, actual costs, any planned expansion or continuation of the pilot or demonstration, and any planned transition of such pilot or demonstration into an enduring program or operation.
(e) For the purposes of this section, a pilot or demonstration program is a study, demonstration, experimental program, or trial that—

(1) is an experiment conducted in order to evaluate feasibility, duration, costs, or adverse events, and improve upon the design of an effort prior to implementation of a larger scale effort; and

(2) uses more than 10 full-time equivalents or obligates, or proposes to obligate, $5,000,000 or more, but does not include congressionally directed programs or enhancements and does not include programs that were in operation as of March 15, 2022.
TITLE II
SECURITY, ENFORCEMENT, AND
INVESTIGATIONS
U.S. CUSTOMS AND BORDER PROTECTION
OPERATIONS AND SUPPORT
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of U.S. Customs and Border Protection for operations and support, including the transportation of unaccompanied alien minors; the provision of air and marine support to Federal, State, local, and international agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; at the discretion of the Secretary of Homeland Security, the provision of such support to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts; the purchase and lease of up to 7,500 (6,500 for replacement only) police-type vehicles; the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems; and contracting with individuals for personal services abroad; $15,515,296,000; of which $3,274,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding se-
tion 1511(e)(1) of the Homeland Security Act of 2002 (6
U.S.C. 551(e)(1)); of which $700,000,000 shall be avail-
able until September 30, 2024; and of which such sums
as become available in the Customs User Fee Account, ex-
cept sums subject to section 13031(f)(3) of the Consoli-
dated Omnibus Budget Reconciliation Act of 1985 (19
U.S.C. 58c(f)(3)), shall be derived from that account: Pro-
vided, That not to exceed $34,425 shall be for official re-
ception and representation expenses: Provided further,
That not to exceed $150,000 shall be available for pay-
ment for rental space in connection with preclearance op-
erations: Provided further, That not to exceed $2,000,000
shall be for awards of compensation to informants, to be
accounted for solely under the certificate of the Secretary
of Homeland Security: Provided further, That not to ex-
ceed $5,000,000 may be transferred to the Bureau of In-
dian Affairs for the maintenance and repair of roads on
Native American reservations used by the U.S. Border Pa-
trol.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of U.S. Customs and Border
Protection for procurement, construction, and improve-
ments, including procurement of marine vessels, aircraft,
and unmanned aerial systems, $548,975,000, of which
$177,009,000 shall remain available until September 30,
2025; and of which $371,966,000 shall remain available until September 30, 2027.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

OPERATIONS AND SUPPORT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of U.S. Immigration and Customs Enforcement for operations and support, including the purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; overseas vetted units; and maintenance, minor construction, and minor leasehold improvements at owned and leased facilities; $8,038,280,000; of which not less than $6,000,000 shall remain available until expended for efforts to enforce laws against forced child labor; of which $46,696,000 shall remain available until September 30, 2024; of which not less than $1,500,000 is for paid apprenticeships for participants in the Human Exploitation Rescue Operative Child-Rescue Corps; of which not less than $15,000,000 shall be available for investigation of intellectual property rights violations, including operation of the National Intellectual Property Rights Coordination Center; and of which not less than $3,663,384,000 shall be for enforcement, detention, and removal operations, including transportation of unaccompanied alien minors: Provided, That not to exceed $11,475 shall be for official reception and representation.
expenses: Provided further, That not to exceed $10,000,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081): Provided further, That not to exceed $2,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided further, That $15,000,000, to remain available until September 30, 2024, shall be transferred to “Health and Human Services—Administration for Children and Families—Refugee and Entrant Assistance” for an Asylum Seeker Case Management Test Program: Provided further, That not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled aliens unlawfully present in the United States.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of U.S. Immigration and Customs Enforcement for procurement, construction, and improvements, $100,762,000, of which $22,997,000 shall remain available until September 30, 2025, and of which $77,765,000 shall remain available until September 30, 2027.
TRANSPORTATION SECURITY ADMINISTRATION

OPERATIONS AND SUPPORT

For necessary expenses of the Transportation Security Administration for operations and support, $8,677,075,000, to remain available until September 30, 2024: Provided, That not to exceed $7,650 shall be for official reception and representation expenses: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2023 so as to result in a final fiscal year appropriation from the general fund estimated at not more than $6,187,075,000.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Transportation Security Administration for procurement, construction, and improvements, $119,345,000, to remain available until September 30, 2025.

RESEARCH AND DEVELOPMENT

For necessary expenses of the Transportation Security Administration for research and development,
$33,532,000, to remain available until September 30, 2024.

**COAST GUARD**

**OPERATIONS AND SUPPORT**

For necessary expenses of the Coast Guard for operations and support including the Coast Guard Reserve; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; purchase or lease of small boats for contingent and emergent requirements (at a unit cost of not more than $700,000) and repairs and service-life replacements, not to exceed a total of $31,000,000; purchase, lease, or improvements of boats necessary for overseas deployments and activities; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $9,698,639,000, of which $530,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $5,000,000 shall remain available until September 30, 2025; of which $24,359,000 shall remain available until September 30, 2027, for environmental compliance and restoration; and of which $70,000,000 shall remain available until September 30, 2024, which shall only be available for vessel
depot level maintenance: Provided, That not to exceed $23,000 shall be for official reception and representation expenses.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Coast Guard for procurement, construction, and improvements, including aids to navigation, shore facilities (including facilities at Department of Defense installations used by the Coast Guard), and vessels and aircraft, including equipment related thereto, $1,925,510,000, to remain available until September 30, 2027; of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

RESEARCH AND DEVELOPMENT

For necessary expenses of the Coast Guard for research and development; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; $7,476,000, to remain available until September 30, 2025, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authori-
ties, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

**RETIRED PAY**

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman’s Family Protection and Survivor Benefits Plans, payment for career status bonuses, payment of continuation pay under section 356 of title 37, United States Code, concurrent receipts, combat-related special compensation, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $2,044,414,000, to remain available until expended.

**UNITED STATES SECRET SERVICE**

**OPERATIONS AND SUPPORT**

For necessary expenses of the United States Secret Service for operations and support, including purchase of not to exceed 652 vehicles for police-type use; hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; rental of buildings in the District of Columbia; fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; conduct of and participation in...
in firearms matches; presentation of awards; conduct of behavioral research in support of protective intelligence and operations; payment in advance for commercial accommodations as may be necessary to perform protective functions; and payment, without regard to section 5702 of title 5, United States Code, of subsistence expenses of employees who are on protective missions, whether at or away from their duty stations; $2,652,010,000; of which $52,296,000 shall remain available until September 30, 2024, and of which $6,000,000 shall be for a grant for activities related to investigations of missing and exploited children; and of which up to $17,000,000 may be for calendar year 2022 premium pay in excess of the annual equivalent of the limitation on the rate of pay contained in section 5547(a) of title 5, United States Code, pursuant to section 2 of the Overtime Pay for Protective Services Act of 2016 (5 U.S.C. 5547 note), as last amended by Public Law 116–269: Provided, That not to exceed $19,125 shall be for official reception and representation expenses: Provided further, That not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in criminal investigations within the jurisdiction of the United States Secret Service.
PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the United States Secret Service for procurement, construction, and improvements, $77,888,000, to remain available until September 30, 2025.

RESEARCH AND DEVELOPMENT

For necessary expenses of the United States Secret Service for research and development, $4,025,000, to remain available until September 30, 2024.

ADMINISTRATIVE PROVISIONS

SEC. 201. Section 201 of the Department of Homeland Security Appropriations Act, 2018 (division F of Public Law 115–141), related to overtime compensation limitations, shall apply with respect to funds made available in this Act in the same manner as such section applied to funds made available in that Act, except that “fiscal year 2023” shall be substituted for “fiscal year 2018”.

SEC. 202. Funding made available under the headings “U.S. Customs and Border Protection—Operations and Support” and “U.S. Customs and Border Protection—Procurement, Construction, and Improvements” shall be available for customs expenses when necessary to maintain operations and prevent adverse personnel actions in Puerto Rico and the U.S. Virgin Islands, in addition
to funding provided by sections 740 and 1406i of title 48, United States Code.

SEC. 203. As authorized by section 601(b) of the United States-Colombia Trade Promotion Agreement Implementation Act (Public Law 112–42), fees collected from passengers arriving from Canada, Mexico, or an adjacent island pursuant to section 13031(a)(5) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(5)) shall be available until expended.

SEC. 204. (a) For an additional amount for “U.S. Customs and Border Protection—Operations and Support”, $31,000,000, to remain available until expended, to be reduced by amounts collected and credited to this appropriation in fiscal year 2023 from amounts authorized to be collected by section 286(i) of the Immigration and Nationality Act (8 U.S.C. 1356(i)), section 10412 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8311), and section 817 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125), or other such authorizing language.

(b) To the extent that amounts realized from such collections exceed $31,000,000, those amounts in excess of $31,000,000 shall be credited to this appropriation, to remain available until expended.
SEC. 205. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: Provided, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: Provided further, That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 206. (a) Notwithstanding any other provision of law, none of the funds provided in this or any other Act shall be used to approve a waiver of the navigation and vessel-inspection laws pursuant to section 501(b) of title 46, United States Code, for the transportation of crude oil distributed from and to the Strategic Petroleum Reserve until the Secretary of Homeland Security, after consultation with the Secretaries of the Departments of
Energy and Transportation and representatives from the United States flag maritime industry, takes adequate measures to ensure the use of United States flag vessels.

(b) The Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives within 2 business days of any request for waivers of navigation and vessel-inspection laws pursuant to section 501(b) of title 46, United States Code, with respect to such transportation, and the disposition of such requests.

Sec. 207. (a) Beginning on the date of enactment of this Act, the Secretary of Homeland Security shall not—

(1) establish, collect, or otherwise impose any new border crossing fee on individuals crossing the Southern border or the Northern border at a land port of entry; or

(2) conduct any study relating to the imposition of a border crossing fee.

(b) In this section, the term “border crossing fee” means a fee that every pedestrian, cyclist, and driver and passenger of a private motor vehicle is required to pay
for the privilege of crossing the Southern border or the
Northern border at a land port of entry.

SEC. 208. (a) Not later than 90 days after the date
of enactment of this Act, the Secretary of Homeland Secu-
rity shall submit an expenditure plan for any amounts
made available for “U.S. Customs and Border Protec-
tion—Procurement, Construction, and Improvements” in
this Act and prior Acts to the Committees on Appropria-
tions of the Senate and the House of Representatives.

(b) No such amounts may be obligated prior to the
submission of such plan.

SEC. 209. Section 211 of the Department of Home-
land Security Appropriations Act, 2021 (division F of
Public Law 116–260), prohibiting the use of funds for the
construction of fencing in certain areas, shall apply with
respect to funds made available in this Act in the same
manner as such section applied to funds made available
in that Act.

SEC. 210. (a) The unobligated balances of amounts
specified in paragraphs (1) through (5) of section 230(a)
of division F of the Consolidated Appropriations Act, 2018
(Public Law 115–141), section 230(a)(1) of division A of
the Consolidated Appropriations Act, 2019 (Public Law
116–6), section 209(a)(1) of division D of the Consoli-
dated Appropriations Act, 2020 (Public Law 116–93), and
section 210 of division F of the Consolidated Appropriations Act, 2021 (Public Law 116–260) shall, in addition to the purposes for which they were originally appropriated, be available for—

(1) the construction and improvement of roads along the southwest border;

(2) control of vegetation along the southwest border that creates obstacles to the detection of illegal entry;

(3) remediation and environmental mitigation, including scientific studies, related to border barrier construction, including barrier construction undertaken by the Department of Defense; and

(4) the acquisition and deployment of border security technology at and between ports of entry along the southwest border.

(b) Amounts repurposed by this section shall be in addition to any other amounts made available for such purposes.

Sec. 211. The Secretary of Homeland Security may transfer up to $200,000,000 in unobligated balances available from prior appropriations Acts under the heading “U.S. Customs and Border Protection—Procurement, Construction, and Improvements” to the Department of the Interior (including any agency or bureau within the
Department of the Interior) or the Forest Service within the Department of Agriculture for the execution of environmental and other mitigation projects or activities, including the acquisition of land and scientific studies, related to the construction of border barriers on the southwest border during fiscal years 2017 through 2021 by U.S. Customs and Border Protection and the Department of Defense.

SEC. 212. Section 230(b) of division F of the Consolidated Appropriations Act, 2018 (Public Law 115–141), section 230(b) of division A of the Consolidated Appropriations Act, 2019 (Public Law 116–6), section 209(b) of division D of the Consolidated Appropriations Act, (Public Law 116–93) (including with respect to section 210 of division F of the Consolidated Appropriations Act, 2021 (Public Law 116–260)) shall no longer apply.

SEC. 213. (a) Funds made available in this Act may be used to alter operations within the National Targeting Center of U.S. Customs and Border Protection.

(b) None of the funds provided by this Act, provided by previous appropriations Acts that remain available for obligation or expenditure in fiscal year 2023, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the components funded by this Act, may be used to reduce antici-
pated or planned vetting operations at existing locations
unless specifically authorized by a statute enacted after
the date of enactment of this Act.

SEC. 214. None of the funds provided under the
heading “U.S. Immigration and Customs Enforcement—
Operations and Support” may be used to continue a dele-
gation of law enforcement authority authorized under sec-
tion 287(g) of the Immigration and Nationality Act (8
U.S.C. 1357(g)) if the Department of Homeland Security
Inspector General determines that the terms of the agree-
ment governing the delegation of authority have been ma-
terially violated.

SEC. 215. (a) None of the funds provided under the
heading “U.S. Immigration and Customs Enforcement—
Operations and Support” may be used to continue any
contract for the provision of detention services if the two
most recent overall performance evaluations received by
the contracted facility are less than “adequate” or the
equivalent median score in any subsequent performance
evaluation system.

(b) The performance evaluations referenced in sub-
section (a) shall be conducted by the U.S. Immigration
and Customs Enforcement Office of Professional Respon-
sibility.
SEC. 216. The reports required to be submitted under section 216 of the Department of Homeland Security Appropriations Act, 2021 (division F of Public Law 116–260) shall continue to be submitted semimonthly and each matter required to be included in such report by such section 216 shall apply in the same manner and to the same extent during the period described in this section.

SEC. 217. The terms and conditions of sections 216 and 217 of the Department of Homeland Security Appropriations Act, 2020 (division D of Public Law 116–93) shall apply to this Act.

SEC. 218. (a) None of the funds provided under the heading “U.S. Immigration and Customs Enforcement—Operations and Support” may be used to engage in civil immigration enforcement activities, such as arrests, expulsions, custodial detention, removals, or referrals, processing, or issuance of charging documents, using Homeland Security Investigations personnel, resources, or capabilities, absent probable cause that the individual facing such enforcement action has been convicted of a criminal offense, excluding State, local, or Federal offenses for which an essential element was the noncitizen’s immigration status.

(b) For the purposes of this section, criminal offenses for which an essential element was the noncitizen’s immi-
migration status includes, but is not limited to, offenses identified in sections 264, 266(a) or (b), 275, or 276 of the Immigration and Nationality Act and State and local offenses for which an essential element was the noncitizen’s immigration status.

SEC. 219. Not later than 60 days after the date of enactment of this Act, the Director shall ensure that all persons who come into the custody of U.S. Immigration and Customs Enforcement, undergo an individualized assessment examining the necessity of continued detention within 30 days of coming into such custody: Provided, That for the purpose of such assessment, adjudicating officers shall consider a continuum of custody options, which may include a combination of legal or physical custody options, including, but not limited to, release on recognizance or supervision, conditions on release, release, and alternatives to detention programs, and shall consider whether the person represents a specific danger to the public or a serious risk of flight: Provided further, That after full consideration as described above, and notwithstanding any other provision of law, adjudicating officers shall select the least restrictive form of custody: Provided further, That for the purposes of this section, custody shall mean either legal or physical custody of the person that is a restraint on liberty not shared by the public generally, including
conditions on release, restrictions on liberty, reporting requirements, and other methods, but does not necessarily mean detention.

Sec. 220. Members of the United States House of Representatives and the United States Senate, including the leadership; the heads of Federal agencies and commissions, including the Secretary, Deputy Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General, Deputy Attorney General, Assistant Attorneys General, and the United States Attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget, shall not be exempt from Federal passenger and baggage screening.

Sec. 221. Any award by the Transportation Security Administration to deploy explosives detection systems shall be based on risk, the airport’s current reliance on other screening solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness, and increased cost effectiveness.

Sec. 222. Notwithstanding section 44923 of title 49, United States Code, for fiscal year 2023, any funds in the Aviation Security Capital Fund established by section 44923(h) of title 49, United States Code, may be used
for the procurement and installation of explosives detection systems or for the issuance of other transaction agreements for the purpose of funding projects described in section 44923(a) of such title.

Sec. 223. Not later than 30 days after the submission of the President’s budget proposal, the Administrator of the Transportation Security Administration shall submit to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations and Homeland Security in the House of Representatives a single report that fulfills the following requirements:

(1) a Capital Investment Plan that includes a plan for continuous and sustained capital investment in new, and the replacement of aged, transportation security equipment;

(2) the 5-year technology investment plan as required by section 1611 of title XVI of the Homeland Security Act of 2002, as amended by section 3 of the Transportation Security Acquisition Reform Act (Public Law 113–245); and

(3) the Advanced Integrated Passenger Screening Technologies report as required by the Senate Report accompanying the Department of Homeland
SEC. 224. (a) None of the funds made available by this Act under the heading “Coast Guard—Operations and Support” shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from owners of yachts and credited to the appropriation made available by this Act under the heading “Coast Guard—Operations and Support”.

(b) To the extent such fees are insufficient to pay expenses of recreational vessel documentation under such section 12114, and there is a backlog of recreational vessel applications, personnel performing non-recreational vessel documentation functions under subchapter II of chapter 121 of title 46, United States Code, may perform documentation under section 12114.

SEC. 225. Without regard to the limitation as to time and condition of section 503(d) of this Act, after June 30, in accordance with the notification requirement described in subsection (b) of such section, up to the following amounts may be reprogrammed within “Coast Guard—Operations and Support”—

(1) $10,000,000 to or from the “Military Personnel” funding category; and
(2) $10,000,000 between the “Field Operations” funding subcategories.

SEC. 226. Notwithstanding any other provision of law, the Commandant of the Coast Guard shall submit to the Committees on Appropriations of the Senate and the House of Representatives a future-years capital investment plan as described in the second proviso under the heading “Coast Guard—Acquisition, Construction, and Improvements” in the Department of Homeland Security Appropriations Act, 2015 (Public Law 114–4), which shall be subject to the requirements in the third and fourth provisos under such heading.

SEC. 227. Of the funds made available for defense-related activities under the heading “Coast Guard—Operations and Support”, up to $190,000,000 that are used for enduring overseas missions in support of the global fight against terrorism may be reallocated by program, project, and activity, notwithstanding section 503 of this Act.

SEC. 228. None of the funds in this Act shall be used to reduce the Coast Guard’s legacy Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 229. None of the funds appropriated by this Act may be used to conduct, or to implement the results of,
a competition under Office of Management and Budget Circular A–76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

SEC. 230. Funds made available in this Act may be used to alter operations within the Civil Engineering Program of the Coast Guard nationwide, including civil engineering units, facilities design and construction centers, maintenance and logistics commands, and the Coast Guard Academy, except that none of the funds provided in this Act may be used to reduce operations within any civil engineering unit unless specifically authorized by a statute enacted after the date of enactment of this Act.

SEC. 231. Amounts deposited into the Coast Guard Housing Fund in fiscal year 2023 shall be available until expended to carry out the purposes of section 2946 of title 14, United States Code, and shall be in addition to funds otherwise available for such purposes.

SEC. 232. (a) Notwithstanding section 2110 of title 46, United States Code, none of the funds made available in this Act shall be used to charge a fee for an inspection of a towing vessel, as defined in 46 CFR 136.110, that utilizes the Towing Safety Management System option for a Certificate of Inspection issued under subchapter M of title 46, Code of Federal Regulations.
(b) Subsection (a) shall not apply after the date the Commandant of the Coast Guard makes a determination under section 815(a) of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282) and, as necessary based on such determination, carries out the requirements of section 815(b) of such Act.

SEC. 233. The United States Secret Service is authorized to obligate funds in anticipation of reimbursements from executive agencies, as defined in section 105 of title 5, United States Code, for personnel receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under the heading “United States Secret Service—Operations and Support” at the end of the fiscal year.

SEC. 234. (a) None of the funds made available to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security.

(b) The Director of the United States Secret Service may enter into agreements to provide such protection on a fully reimbursable basis.
Sec. 235. For purposes of section 503(a)(3) of this Act, up to $15,000,000 may be reprogrammed within “United States Secret Service—Operations and Support”.

Sec. 236. Funding made available in this Act for “United States Secret Service—Operations and Support” is available for travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if the Director of the United States Secret Service or a designee notifies the Committees on Appropriations of the Senate and the House of Representatives 10 or more days in advance, or as early as practicable, prior to such expenditures.

Sec. 237. Of the amounts made available by this Act under the heading “United States Secret Service—Operations and Support”, $9,500,000, to remain available until expended, shall be distributed as a grant or cooperative agreement for existing National Computer Forensics Institute facilities currently used by the United States Secret Service to carry out activities under section 383 of title 6, United States Code, of which not to exceed 5 percent, or the applicable negotiated rate, shall be for the administrative costs of the Department of Homeland Security in carrying out this section.
TITLE III
PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

Cybersecurity and Infrastructure Security Agency

Operations and Support

For necessary expenses of the Cybersecurity and Infrastructure Security Agency for operations and support, $2,324,925,000, of which $36,293,000 shall remain available until September 30, 2024: Provided, That not to exceed $3,825 shall be for official reception and representation expenses.

Procurement, Construction, and Improvements

For necessary expenses of the Cybersecurity and Infrastructure Security Agency for procurement, construction, and improvements, $582,994,000, to remain available until September 30, 2025.

Research and Development

For necessary expenses of the Cybersecurity and Infrastructure Security Agency for research and development, $3,931,000, to remain available until September 30, 2024.
For necessary expenses of the Federal Emergency Management Agency for operations and support, $1,530,713,000: *Provided,* That not to exceed $2,250 shall be for official reception and representation expenses.

For necessary expenses of the Federal Emergency Management Agency for procurement, construction, and improvements, $188,919,000, of which $122,025,000 shall remain available until September 30, 2025, and of which $66,894,000 shall remain available until September 30, 2027.

For activities of the Federal Emergency Management Agency for Federal assistance through grants, contracts, cooperative agreements, and other activities, $3,875,619,000, which shall be allocated as follows:

1. $510,000,000 for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605), of which $90,000,000 shall be for Operation Stonegarden and $15,000,000 shall be for Tribal Homeland Security Grants under section 2005 of

Provided, That notwithstanding subsection (c)(4) of such section 2004, for fiscal year 2023, the Commonwealth of Puerto Rico shall make available to local and tribal governments amounts provided to the Commonwealth of Puerto Rico under this paragraph in accordance with subsection (c)(1) of such section 2004.


(3) $360,000,000 is for the Nonprofit Security Grant Program under sections 2003 and 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605), of which $180,000,000 is for eligible recipients located in high-risk urban areas that receive funding under section 2003 of such Act, and $180,000,000 is for eligible recipients that are located outside such areas: Provided, That eligible recipients are those described in section 2009(b) of such Act (6 U.S.C. 609a(b)) or are an otherwise eligible recipient at risk of a terrorist or other extremist attack.

(4) $105,000,000 for Public Transportation Security Assistance, Railroad Security Assistance, and Over-the-Road Bus Security Assistance under sec-
tions 1406, 1513, and 1532 of the Implementing
Recommendations of the 9/11 Commission Act of
2007 (6 U.S.C. 1135, 1163, and 1182), of which
$10,000,000 shall be for Amtrak security and
$2,000,000 shall be for Over-the-Road Bus Security:
Provided, That such public transportation security
assistance shall be provided directly to public trans-
portation agencies.

(5) $100,000,000 for Port Security Grants in
accordance with section 70107 of title 46, United
States Code.

(6) $740,000,000, to remain available until
September 30, 2024, of which $370,000,000 shall be
for Assistance to Firefighter Grants and
$370,000,000 shall be for Staffing for Adequate
Fire and Emergency Response Grants under sec-
tions 33 and 34, respectively, of the Federal Fire
2229 and 2229a).

(7) $355,000,000 for emergency management
performance grants under the National Flood Insur-
ance Act of 1968 (42 U.S.C. 4001 et seq.), the Rob-
ert T. Stafford Disaster Relief and Emergency As-
sistance Act (42 U.S.C. 5121), the Earthquake Haz-
ards Reduction Act of 1977 (42 U.S.C. 7701), sec-
tion 762 of title 6, United States Code, and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.).

(8) $275,500,000 for necessary expenses for Flood Hazard Mapping and Risk Analysis, in addition to and to supplement any other sums appropriated under the National Flood Insurance Fund, and such additional sums as may be provided by States or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)), to remain available until expended.

(9) $12,000,000 for Regional Catastrophic Preparedness Grants.

(10) $12,000,000 for Rehabilitation of High Hazard Potential Dams under section 8A of the National Dam Safety Program Act (33 U.S.C. 467f–2).

(11) $130,000,000 for the emergency food and shelter program under title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331), to remain available until September 30, 2024: Provided, That not to exceed 3.5 percent shall be for total administrative costs.

(12) $200,000,000 for the emergency food and shelter program under title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331),
to remain available until September 30, 2024, for
the purpose of providing shelter and other services
to families and individuals encountered by the De-
partment of Homeland Security: Provided, That not
to exceed 5 percent shall be for total administrative
costs: Provided further, That notwithstanding sec-
tions 313(a) and 316 of such Act, up to
$50,000,000 of the funds made available in this
paragraph may be used for the construction of new,
and the expansion of existing, shelter facilities: Pro-
vided further, That notwithstanding section 311 of
such Act, funds made available for the purposes de-
scribed in the preceding proviso may be awarded to
the Emergency Food and Shelter Program National
Board up to 6 months after the date of enactment
of this Act and, notwithstanding sections 315 and
316(b) of such Act, funds made available in the pre-
ceding proviso may be disbursed by the Emergency
Food and Shelter Program National Board up to 24
months after the date on which such funds become
available: Provided further, That the Emergency
Food and Shelter Program National Board shall dis-
tribute funds made available in this paragraph only
to jurisdictions or local recipient organizations serv-
ing communities that such Board determines have
experienced a significant increase of such families and individuals.

(13) $40,000,000 for the Next Generation Warning System.

(14) $115,000,000 for Congressionally Directed Spending grants, which shall be for the purposes, and the amounts, specified in the table entitled “Congressionally Directed Spending Items” in the explanatory statement accompanying this Act, of which—

(A) $36,392,000, in addition to amounts otherwise made available for such purpose, is for emergency operations center grants under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c);

(B) $77,608,000, in addition to amounts otherwise made available for such purpose, is for pre-disaster mitigation grants under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(e), notwithstanding subsections (f), (g), and (l) of that section (42 U.S.C. 5133(f), (g), (l)); and
(C) $1,000,000 shall be transferred to “Federal Emergency Management Agency—Operations and Support”, to manage and administer Congressionally Directed Spending grants.

(15) $316,119,000 to sustain current operations for training, exercises, technical assistance, and other programs.

DISASTER RELIEF FUND

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $19,945,000,000, to remain available until expended, shall be for major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and is designated by the Congress as being for disaster relief pursuant to a concurrent resolution on the budget.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141, 126 Stat. 916), and the Homeowner Flood Insurance Affordability Act of 2014 (Public Law 113–89; 128 Stat. 1020), $225,000,000, to remain available until September 30, 2024, which shall be derived...
from offsetting amounts collected under section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)); of which $18,500,000 shall be available for mission support associated with flood management; and of which $206,500,000 shall be available for flood plain management and flood mapping: Provided, That any additional fees collected pursuant to section 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)) shall be credited as offsetting collections to this account, to be available for flood plain management and flood mapping: Provided further, That in fiscal year 2023, no funds shall be available from the National Flood Insurance Fund under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017) in excess of—

1. $223,770,000 for operating expenses and salaries and expenses associated with flood insurance operations;
2. $960,647,000 for commissions and taxes of agents;
3. such sums as are necessary for interest on Treasury borrowings; and
4. $175,000,000, which shall remain available until expended, for flood mitigation actions and for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C.
Provided further, That the amounts collected under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) and section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)), shall be deposited in the National Flood Insurance Fund to supplement other amounts specified as available for section 1366 of the National Flood Insurance Act of 1968, notwithstanding section 102(f)(8), section 1366(e) of the National Flood Insurance Act of 1968, and paragraphs (1) through (3) of section 1367(b) of such Act (42 U.S.C. 4012a(f)(8), 4104c(e), 4104d(b)(1)–(3)).

Provided further, That total administrative costs shall not exceed 4 percent of the total appropriation; Provided further, That up to $5,000,000 is available to carry out section 24 of the Homeowner Flood Insurance Affordability Act of 2014 (42 U.S.C. 4033).

ADMINISTRATIVE PROVISIONS
(INCLUDING TRANSFER OF FUNDS)

Sec. 301. (a) Funds made available under the heading “Cybersecurity and Infrastructure Security Agency—Operations and Support” may be made available for the necessary expenses of carrying out the competition specified in section 2(e) of Executive Order No. 13870 (May 22, 2019), including the provision of monetary and non-
monetary awards for Federal civilian employees and members of the uniformed services, the necessary expenses for the honorary recognition of any award recipients, and activities to encourage participation in the competition, including promotional items.

(b) Any awards made pursuant to this section shall be of the same type and amount as those authorized under sections 4501 through 4505 of title 5, United States Code.

Sec. 302. Notwithstanding sections 204(e)(1)(A) and 204(e)(1)(B) of the Homeland Security Act of 2002 (6 U.S.C. 605(e)(1)(A) and 605(e)(1)(B)), the meaning of “total funds appropriated for grants under this section and section 2003” in each place that it appears shall not include any funds provided for the Nonprofit Security Grant Program in paragraph (3) under the heading “Federal Emergency Management Agency—Federal Assistance” in this Act.

Sec. 303. (a) Notwithstanding section 2008(a)(12) of the Homeland Security Act of 2002 (6 U.S.C. 609(a)(12)) or any other provision of law, not more than 5 percent of the amount of a grant made available in paragraphs (1) through (5) under “Federal Emergency Management Agency—Federal Assistance”, may be used by the recipient for expenses directly related to administration of the grant.
(b) The authority provided in subsection (a) shall also apply to a state recipient for the administration of a grant under such paragraph (3).

Sec. 304. Applications for grants under the heading “Federal Emergency Management Agency—Federal Assistance”, for paragraphs (1) through (5), shall be made available to eligible applicants not later than 60 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 80 days after the grant announcement, and the Administrator of the Federal Emergency Management Agency shall act within 65 days after the receipt of an application.

Sec. 305. Under the heading “Federal Emergency Management Agency—Federal Assistance”, for grants under paragraphs (1) through (5), (9), and (10), the Administrator of the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives 5 full business days in advance of announcing publicly the intention of making an award.

Sec. 306. Under the heading “Federal Emergency Management Agency—Federal Assistance”, for grants under paragraphs (1) through (3), the installation of communications towers is not considered construction of a building or other physical facility.
SEC. 307. The reporting requirements in paragraphs 1 (1) and (2) under the heading “Federal Emergency Man-
agement Agency—Disaster Relief Fund” in the Depart-
ment of Homeland Security Appropriations Act, 2015 2 (Public Law 114–4) shall be applied in fiscal year 2023 3 with respect to budget year 2024 and current fiscal year 4 2023, respectively—
5 (1) in paragraph (1) by substituting “fiscal 6 year 2024” for “fiscal year 2016”; and 7 (2) in paragraph (2) by inserting “business” 8 after “fifth”.

SEC. 308. In making grants under the heading “Fed-
eral Emergency Management Agency—Federal Assist-
ance”, for Staffing for Adequate Fire and Emergency Re-
sponse grants, the Administrator of the Federal Emer-
gency Management Agency may grant waivers from the 16 requirements in subsections (a)(1)(A), (a)(1)(B), 17 (a)(1)(E), (e)(1), (e)(2), and (e)(4) of section 34 of the 19 Federal Fire Prevention and Control Act of 1974 (15 20 U.S.C. 2229a).

SEC. 309. (a) The aggregate charges assessed during 21 fiscal year 2023, as authorized in title III of the Depart-
ments of Veterans Affairs and Housing and Urban Devel-
opment, and Independent Agencies Appropriations Act, 22 1999 (42 U.S.C. 5196e), shall not be less than 100 per-
cent of the amounts anticipated by the Department of Homeland Security to be necessary for its Radiological Emergency Preparedness Program for the next fiscal year.

(b) The methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees.

(c) Such fees shall be deposited in a Radiological Emergency Preparedness Program account as offsetting collections and will become available for authorized purposes on October 1, 2023, and remain available until expended.


Sec. 311. (a) Of the amount made available by section 4005 of the American Rescue Plan Act of 2021 (Public Law 117–2)—

(1) not less than $2,000,000,000, in addition to any other amounts set aside pursuant to section 203(i) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(i)) for
such purpose, shall be for the Building Resilient Infrastructure and Communities program to mitigate the effects of climate change and a notice of funding opportunity for such purpose shall be announced not later than September 30, 2023; and

(2) $14,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for oversight of the obligations of funds made available under such section 4005.
TITLE IV
RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
OPERATIONS AND SUPPORT

For necessary expenses of U.S. Citizenship and Immigration Services for operations and support, including for the E-Verify Program, application processing, the reduction of backlogs within asylum, field, and service center offices, and support of the refugee program; $816,705,000, of which $87,619,000 shall remain available until September 30, 2024: Provided, That such amounts shall be in addition to any other amounts made available for such purposes, and shall not be construed to require any reduction of any fee described in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)): Provided further, That at least $10,000,000 shall be for the implementation of the Deferred Action for Childhood Arrivals Program of the Secretary of Homeland Security, established pursuant to the memorandum from the Secretary of Homeland Security entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” dated June 15, 2012, including for the processing of applications for such program and all related forms: Provided further, That not
to exceed $2,500 shall be for official reception and rep-
resentation expenses.

FEDERAL ASSISTANCE

For necessary expenses of U.S. Citizenship and Im-
migration Services for Federal assistance for the Citizen-
ship and Integration Grant Program, $50,000,000: Pro-
vided, That not less than $30,000,000, to remain available
until September 30, 2024, shall be awarded as competitive
grants to organizations to provide pro-bono legal counsel,
or pro-bono accredited representation, to individuals ap-
ppearing before U.S. Citizenship and Immigration Services
during either an affirmative asylum or asylum merits
interview.

FEDERAL LAW ENFORCEMENT TRAINING CENTERS

OPERATIONS AND SUPPORT

For necessary expenses of the Federal Law Enforce-
ment Training Centers for operations and support, includ-
ing the purchase of not to exceed 117 vehicles for police-
type use and hire of passenger motor vehicles, and services
as authorized by section 3109 of title 5, United States
Code, $355,247,000, of which $66,665,000 shall remain
available until September 30, 2024: Provided, That not
to exceed $7,180 shall be for official reception and rep-
resentation expenses.
PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Federal Law Enforcement Training Centers for procurement, construction, and improvements, $41,300,000, to remain available until September 30, 2027, for acquisition of necessary additional real property and facilities, construction and ongoing maintenance, facility improvements and related expenses of the Federal Law Enforcement Training Centers.

SCIENCE AND TECHNOLOGY DIRECTORATE

OPERATIONS AND SUPPORT

For necessary expenses of the Science and Technology Directorate for operations and support, including the purchase or lease of not to exceed five vehicles, $391,172,000, of which $215,085,000 shall remain available until September 30, 2024: Provided, That not to exceed $10,000 shall be for official reception and representation expenses.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Science and Technology Directorate for procurement, construction, and improvements, $89,466,000, to remain available until September 30, 2027.

RESEARCH AND DEVELOPMENT

For necessary expenses of the Science and Technology Directorate for research and development,
$461,218,000, to remain available until September 30, 2025.

COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

OPERATIONS AND SUPPORT

For necessary expenses of the Countering Weapons of Mass Destruction Office for operations and support, $151,970,000, of which $50,446,000 shall remain available until September 30, 2024: Provided, That not to exceed $2,250 shall be for official reception and representation expenses.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of the Countering Weapons of Mass Destruction Office for procurement, construction, and improvements, $55,304,000, to remain available until September 30, 2025.

RESEARCH AND DEVELOPMENT

For necessary expenses of the Countering Weapons of Mass Destruction Office for research and development, $84,515,000, to remain available until September 30, 2025.

FEDERAL ASSISTANCE

For necessary expenses of the Countering Weapons of Mass Destruction Office for Federal assistance through grants, contracts, cooperative agreements, and other ac-
tivities, $139,183,000, to remain available until Sep-
tember 30, 2025.

**Administrative Provisions**

Sec. 401. (a) Notwithstanding any other provision of law, funds otherwise made available to U.S. Citizenship and Immigration Services may be used to acquire, operate, equip, and dispose of up to five vehicles, for replacement only, for areas where the Administrator of General Services does not provide vehicles for lease.

(b) The Director of U.S. Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles to travel between the employees' residences and places of employment.

Sec. 402. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided by employees (including employees serving on a temporary or term basis) of U.S. Citizenship and Immigration Services of the Department of Homeland Security who are known as Immigration Information Officers, Immigration Service Analysts, Contact Representatives, Investigative Assistants, or Immigration Services Officers.

Sec. 403. The terms and conditions of section 403 of the Department of Homeland Security Appropriations
Act, 2020 (division D of Public Law 116–93) shall apply to this Act.

SEC. 404. Notwithstanding the seventh proviso under the heading “Immigration and Naturalization Service—Salaries and Expenses” in Public Law 105–119 (relating to FD–258 fingerprint cards), or any other provision of law, any Federal funds made available to U.S. Citizenship and Immigration Services may be used for the collection and use of biometrics taken at a U.S. Citizenship and Immigration Services Application Support Center that is overseen virtually by U.S. Citizenship and Immigration Services personnel using appropriate technology.

SEC. 405. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be applied by substituting “September 30, 2023” for “September 30, 2015”.


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SEC. 408. Notwithstanding the numerical limitation set forth in section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)), the Secretary of Homeland Security, after consultation with the Secretary of Labor, and upon the determination that the needs of American businesses cannot be satisfied in fiscal year 2023 with United States workers who are willing, qualified, and able to perform temporary nonagricultural labor, shall increase the total number of aliens who may receive a visa under section 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) in such fiscal year above such limitation by not more than the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which returning workers were exempt from such numerical limitation.

SEC. 409. (a) Recapture of Unused Immigrant Visa Numbers.—

(1) Ensuring future use of all immigrant visas.—Section 201(c)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(1)(B)(ii)) is amended to read as follows:

“(ii) In no case shall the number computed under subparagraph (A) be less than the sum of—
“(I) 226,000; and

“(II) the number computed under paragraph (3).”.

(2) RECAPTURING UNUSED VISAS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

“(g) RECAPTURING UNUSED VISAS.—

“(1) FAMILY-SPONSORED VISAS.—

“(A) IN GENERAL.—Notwithstanding the numerical limitations set forth in this section or in sections 202 or 203, beginning in fiscal year 2023, the number of family-sponsored immigrant visas that may be issued under section 203(a) shall be increased by the number computed under subparagraph (B).

“(B) UNUSED VISAS.—The number computed under this subparagraph is the difference, if any, between—

“(i) the difference, if any, between—

“(I) the number of visas that were originally made available to family-sponsored immigrants under section 201(c)(1) for fiscal years 1992 through 2022, setting aside any un-
used visas made available to such im-
migrants in such fiscal years under
section 201(c)(3); and

“(II) the number of visas de-
scribed in subclause (I) that were
issued under section 203(a), or, in ac-
cordance with section 201(d)(2)(C),
under section 203(b); and

“(ii) the number of visas resulting
from the calculation under clause (i) issued
under section 203(a) after fiscal year
2022.

“(2) EMPLOYMENT-BASED VISAS.—

“(A) IN GENERAL.—Notwithstanding the
numerical limitations set forth in this section or
in sections 202 or 203, beginning in fiscal year
2023, the number of employment-based immi-
grant visas that may be issued under section
203(b) shall be increased by the number com-
puted under subparagraph (B).

“(B) UNUSED VISAS.—The number com-
puted under this paragraph is the difference, if
any, between—

“(i) the difference, if any, between—
“(I) the number of visas that were originally made available to employment-based immigrants under section 201(d)(1) for fiscal years 1992 through 2022, setting aside any unused visas made available to such immigrants in such fiscal years under section 201(d)(2); and

“(II) the number of visas described in subclause (I) that were issued under section 203(b), or, in accordance with section 201(c)(3)(C), under section 203(a); and

“(ii) the number of visas resulting from the calculation under clause (i) issued under section 203(b) after fiscal year 2022.

“(3) DIVERSITY VISAS.—Notwithstanding section 204(a)(1)(I)(ii)(II) or 201(e), an immigrant visa for an alien selected in accordance with section 203(e)(2) in fiscal year 2017, 2018, 2019, 2020, 2021, or 2022 shall remain available to such alien (and the spouse and children of such alien) if—

“(A) the alien was refused a visa, prevented from seeking or obtaining admission or
a visa interview, or denied admission to the
United States solely because of Executive Order
13769, Executive Order 13780, Presidential
Proclamation 9645, or Presidential Proclama-
tion 9983; or
“(B) because of restrictions or limitations
on visa processing, visa issuance, travel, or
other effects associated with the COVID–19
public health emergency—
“(i) the alien was unable to receive a
visa interview despite submitting an Online
Immigrant Visa and Alien Registration
Application (Form DS–260) to the Sec-
retary of State; or
“(ii) the alien was unable to seek ad-
mission or was denied admission to the
United States despite being approved for a
visa under section 203(c).”.

Sec. 410. (a) The numerical limitations in sections
201, 202, and 203 of the Immigration and Nationality Act
(8 U.S.C. 1151, 1152 and 1153) shall not apply during
fiscal year 2023 or during any subsequent fiscal year to
an alien described in section 101(a)(27)(J) of that Act (8
U.S.C. 1101(a)(27)(J)) for whom a petition for classifica-
tion under section 203(b)(4) of that Act (8 U.S.C. 1153(b)(4)) was filed before October 1, 2023.

(b) This section shall take effect on June 1, 2023.

SEC. 411. The Director of the Federal Law Enforcement Training Centers is authorized to distribute funds to Federal law enforcement agencies for expenses incurred participating in training accreditation.

SEC. 412. The Federal Law Enforcement Training Accreditation Board, including representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, shall lead the Federal law enforcement training accreditation process to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 413. (a) The Director of the Federal Law Enforcement Training Centers may accept transfers to its “Procurement, Construction, and Improvements” account from Government agencies requesting the construction of special use facilities, as authorized by the Economy Act (31 U.S.C. 1535(b)).

(b) The Federal Law Enforcement Training Centers shall maintain administrative control and ownership upon completion of such facilities.
TITLE V

GENERAL PROVISIONS

(INCLUDING TRANSFERS AND RESCISSIONS OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act, may be merged with funds in the applicable established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the components in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2023, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the components funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates or eliminates a program, project, or activity, or increases funds for any program, project,
or activity for which funds have been denied or restricted by the Congress;

(2) contracts out any function or activity presently performed by Federal employees or any new function or activity proposed to be performed by Federal employees in the President’s budget proposal for fiscal year 2023 for the Department of Homeland Security;

(3) augments funding for existing programs, projects, or activities in excess of $5,000,000 or 10 percent, whichever is less;

(4) reduces funding for any program, project, or activity, or numbers of personnel, by 10 percent or more; or

(5) results from any general savings from a reduction in personnel that would result in a change in funding levels for programs, projects, or activities as approved by the Congress.

(b) Subsection (a) shall not apply if the Committees on Appropriations of the Senate and the House of Representatives are notified at least 15 days in advance of such reprogramming.

(e) Up to 2 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous
appropriations Acts may be transferred between such ap-
propriations if the Committees on Appropriations of the
Senate and the House of Representatives are notified at
least 30 days in advance of such transfer, but no such
appropriation, except as otherwise specifically provided,
shall be increased by more than 10 percent by such trans-
fer.

(d) Notwithstanding subsections (a), (b), and (e), no
funds shall be reprogrammed within or transferred be-
tween appropriations based upon an initial notification
provided after June 30, except in extraordinary cir-
cumstances that imminently threaten the safety of human
life or the protection of property.

(e) The notification thresholds and procedures set
forth in subsections (a), (b), (c), and (d) shall apply to
any use of deobligated balances of funds provided in pre-
vious Department of Homeland Security Appropriations
Acts that remain available for obligation in the current
year.

(f) Notwithstanding subsection (e), the Secretary of
Homeland Security may transfer to the fund established
by 8 U.S.C. 1101 note, up to $20,000,000 from appro-
priations available to the Department of Homeland Secu-
rity: Provided, That the Secretary shall notify the Com-
mittees on Appropriations of the Senate and the House
of Representatives at least 5 days in advance of such transfer.

SEC. 504. (a) Section 504 of the Department of Homeland Security Appropriations Act, 2017 (division F of Public Law 115–31), related to the operations of a working capital fund, shall apply with respect to funds made available in this Act in the same manner as such section applied to funds made available in that Act.

(b) Funds from such working capital fund may be obligated and expended in anticipation of reimbursements from components of the Department of Homeland Security.

SEC. 505. (a) Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2023, as recorded in the financial records at the time of a reprogramming notification, but not later than June 30, 2024, from appropriations for “Operations and Support” for fiscal year 2023 in this Act shall remain available through September 30, 2024, in the account and for the purposes for which the appropriations were provided.

(b) Prior to the obligation of such funds, a notification shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives in accordance with section 503 of this Act.
Sec. 506. (a) Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2023 until the enactment of an Act authorizing intelligence activities for fiscal year 2023.

(b) Amounts described in subsection (a) made available for “Intelligence, Analysis, and Situational Awareness—Operations and Support” that exceed the amounts in such authorization for such account shall be transferred to and merged with amounts made available under the heading “Management Directorate—Operations and Support”.

(c) Prior to the obligation of any funds transferred under subsection (b), the Management Directorate shall brief the Committees on Appropriations of the Senate and the House of Representatives on a plan for the use of such funds.

Sec. 507. (a) The Secretary of Homeland Security, or the designee of the Secretary, shall notify the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of—

(1) making or awarding a grant allocation or grant in excess of $1,000,000;
(2) making or awarding a contract, other transaction agreement, or task or delivery order on a Department of Homeland Security multiple award contract, or to issue a letter of intent totaling in excess of $4,000,000;

(3) awarding a task or delivery order requiring an obligation of funds in an amount greater than $10,000,000 from multi-year Department of Homeland Security funds;

(4) making a sole-source grant award; or

(5) announcing publicly the intention to make or award items under paragraph (1), (2), (3), or (4), including a contract covered by the Federal Acquisition Regulation.

(b) If the Secretary of Homeland Security determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification, and the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives not later than 5 full business days after such an award is made or letter issued.

(c) A notification under this section—

(1) may not involve funds that are not available for obligation; and
(2) shall include the amount of the award; the fiscal year for which the funds for the award were appropriated; the type of contract; and the account from which the funds are being drawn.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without advance notification to the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Centers is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training that cannot be accommodated in existing Centers’ facilities.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for which a prospectus otherwise required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. Sections 520, 522, and 530 of the Department of Homeland Security Appropriations Act, 2008 (di-
vision E of Public Law 110–161; 121 Stat. 2073 and
2074) shall apply with respect to funds made available in
this Act in the same manner as such sections applied to
funds made available in that Act.

Sec. 511. (a) None of the funds made available in
this Act may be used in contravention of the applicable
provisions of the Buy American Act.

(b) For purposes of subsection (a), the term “Buy
American Act” means chapter 83 of title 41, United
States Code.

Sec. 512. None of the funds made available in this
Act may be used to amend the oath of allegiance required
by section 337 of the Immigration and Nationality Act

Sec. 513. None of the funds provided or otherwise
made available in this Act shall be available to carry out
section 872 of the Homeland Security Act of 2002 (6
U.S.C. 452) unless explicitly authorized by the Congress.

Sec. 514. None of the funds made available in this
Act may be used for planning, testing, piloting, or develop-
ing a national identification card.

Sec. 515. Any official that is required by this Act
to report or to certify to the Committees on Appropria-
tions of the Senate and the House of Representatives may
not delegate such authority to perform that act unless specifically authorized herein.

Sec. 516. None of the funds made available in this Act may be used for first-class travel by the employees of agencies funded by this Act in contravention of sections 301–10.122 through 301–10.124 of title 41, Code of Federal Regulations.

Sec. 517. None of the funds made available in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

Sec. 518. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to pay award or incentive fees for contractor performance that has been judged to be below satisfactory performance or performance that does not meet the basic requirements of a contract.

Sec. 519. None of the funds appropriated or otherwise made available by this Act may be used by the Department of Homeland Security to enter into any Federal contract unless such contract is entered into in accordance with the requirements of subtitle I of title 41, United States Code, or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such
contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

SEC. 520. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

(b) Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

SEC. 521. None of the funds made available in this Act may be used by a Federal law enforcement officer to facilitate the transfer of an operable firearm to an individual if the Federal law enforcement officer knows or suspects that the individual is an agent of a drug cartel unless law enforcement personnel of the United States continuously monitor or control the firearm at all times.

SEC. 522. (a) None of the funds made available in this Act may be used to pay for the travel to or attendance of more than 50 employees of a single component of the Department of Homeland Security, who are stationed in the United States, at a single international conference unless the Secretary of Homeland Security, or a designee, determines that such attendance is in the national interest and notifies the Committees on Appropriations of the Sen-
ate and the House of Representatives within at least 10
days of that determination and the basis for that deter-
mination.

(b) For purposes of this section the term “inter-
national conference” shall mean a conference occurring
outside of the United States attended by representatives
of the United States Government and of foreign govern-
ments, international organizations, or nongovernmental
organizations.

(c) The total cost to the Department of Homeland
Security of any such conference shall not exceed $500,000.

(d) Employees who attend a conference virtually
without travel away from their permanent duty station
within the United States shall not be counted for purposes
of this section, and the prohibition contained in this sec-
tion shall not apply to payments for the costs of attend-
ance for such employees.

SEC. 523. None of the funds made available in this
Act may be used to reimburse any Federal department
or agency for its participation in a National Special Secu-

SEC. 524. (a) None of the funds made available to
the Department of Homeland Security by this or any other
Act may be obligated for the implementation of any struc-
tural pay reform or the introduction of any new position
classification that will affect more than 100 full-time posi-
tions or costs more than $5,000,000 in a single year be-
fore the end of the 30-day period beginning on the date
on which the Secretary of Homeland Security submits to
Congress a notification that includes—

(1) the number of full-time positions affected by
such change;

(2) funding required for such change for the
current fiscal year and through the Future Years
Homeland Security Program;

(3) justification for such change; and

(4) for a structural pay reform, an analysis of
compensation alternatives to such change that were
considered by the Department.

(b) Subsection (a) shall not apply to such change if—

(1) it was proposed in the President’s budget
proposal for the fiscal year funded by this Act; and

(2) funds for such change have not been explic-
itly denied or restricted in this Act.

Sec. 525. (a) Any agency receiving funds made avail-
able in this Act shall, subject to subsections (b) and (c),
post on the public website of that agency any report re-
quired to be submitted by the Committees on Appropria-
tions of the Senate and the House of Representatives in
this Act, upon the determination by the head of the agency that it shall serve the national interest.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises homeland or national security; or

(2) the report contains proprietary information.

(c) The head of the agency posting such report shall do so only after such report has been made available to the Committees on Appropriations of the Senate and the House of Representatives for not less than 45 days except as otherwise specified in law.

Sec. 526. (a) Funding provided in this Act for “Operations and Support” may be used for minor procurement, construction, and improvements.

(b) For purposes of subsection (a), “minor” refers to end items with a unit cost of $250,000 or less for personal property, and $2,000,000 or less for real property.

Sec. 527. The authority provided by section 532 of the Department of Homeland Security Appropriations Act, 2018 (Public Law 115–141) regarding primary and secondary schooling of dependents shall continue in effect during fiscal year 2023.

Sec. 528. (a) For an additional amount for “Federal Emergency Management Agency—Federal Assistance”, $3,000,000, to remain available until September 30, 2024,
exclusively for providing reimbursement of extraordinary law enforcement or other emergency personnel costs for protection activities directly and demonstrably associated with any residence of the President that is designated or identified to be secured by the United States Secret Service.

(b) Subsections (b) through (f) of section 534 of the Department of Homeland Security Appropriations Act, 2018 (Public Law 115–141), shall be applied with respect to amounts made available by subsection (a) of this section by substituting “October 1, 2023” for “October 1, 2018” and “October 1, 2022” for “October 1, 2017”.

Sec. 529. (a) Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) shall be applied—

(1) in subsection (a), by substituting “September 30, 2023,” for “September 30, 2017,”; and

(2) in subsection (c)(1), by substituting “September 30, 2023,” for “September 30, 2017”.

(b) The Secretary of Homeland Security, under the authority of section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391(a)), may carry out prototype projects under section 4022 of title 10, United States Code, and the Secretary shall perform the functions of the Secretary of Defense as prescribed.
(c) The Secretary of Homeland Security under section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391(d)) may use the definition of nontraditional government contractor as defined in section 4022(e) of title 10, United States Code.

SEC. 530. (a) None of the funds appropriated or otherwise made available to the Department of Homeland Security by this Act may be used to prevent any of the following persons from entering, for the purpose of conducting oversight, any facility operated by or for the Department of Homeland Security used to detain or otherwise house aliens, or to make any temporary modification at any such facility that in any way alters what is observed by a visiting Member of Congress or such designated employee, compared to what would be observed in the absence of such modification:

(1) A Member of Congress.

(2) An employee of the United States House of Representatives or the United States Senate designated by such a Member for the purposes of this section.

(b) Nothing in this section may be construed to require a Member of Congress to provide prior notice of the intent to enter a facility described in subsection (a) for the purpose of conducting oversight.
(c) With respect to individuals described in subsection (a)(2), the Department of Homeland Security may require that a request be made at least 24 hours in advance of an intent to enter a facility described in subsection (a).

Sec. 531. (a) Except as provided in subsection (b), none of the funds made available in this Act may be used to place restraints on a noncitizen in the custody of the Department of Homeland Security (including during transport, in a detention facility, or at an outside medical facility) who is pregnant or in post-delivery recuperation.

(b) Subsection (a) shall not apply with respect to a pregnant noncitizen if—

(1) an appropriate official of the Department of Homeland Security makes an individualized determination that the noncitizen—

(A) is a serious flight risk, and such risk cannot be prevented by other means; or

(B) poses an immediate and serious threat to harm themselves or others that cannot be prevented by other means; or

(2) a medical professional responsible for the care of the pregnant noncitizen determines that the use of therapeutic restraints is appropriate for the medical safety of the noncitizen.
(c) If a pregnant noncitizen is restrained pursuant to subsection (b), only the safest and least restrictive restraints, as determined by the appropriate medical professional treating the noncitizen, may be used. In no case may restraints be used on a noncitizen who is in active labor or delivery, and in no case may a pregnant noncitizen be restrained in a face-down position with four-point restraints, on their back, or in a restraint belt that constricts the area of the pregnancy. A pregnant noncitizen who is immobilized by restraints shall be positioned, to the maximum extent feasible, on their left side.

Sec. 532. (a) None of the funds made available by this Act may be used to destroy any document, recording, or other record pertaining to any—

(1) death of,

(2) potential sexual assault or abuse perpetrated against, or

(3) allegation of abuse, criminal activity, or disruption committed by

an individual held in the custody of the Department of Homeland Security.

(b) The records referred to in subsection (a) shall be made available, in accordance with applicable laws and regulations, and Federal rules governing disclosure in litigation, to an individual who has been charged with a
crime, been placed into segregation, or otherwise punished as a result of an allegation described in paragraph (3),
upon the request of such individual.

Sec. 533. Section 519 of division F of Public Law 114–113, regarding a prohibition on funding for any posi-
tion designated as a Principal Federal Official, shall apply with respect to any Federal funds in the same manner as such section applied to funds made available in that Act.

Sec. 534. Within 60 days of any budget submission for the Department of Homeland Security for fiscal year 2024 that assumes revenues or proposes a reduction from the previous year based on user fees proposals that have not been enacted into law prior to the submission of the budget, the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives specific reductions in proposed discretionary budget authority commensurate with the revenues assumed in such proposals in the event that they are not enacted prior to October 1, 2023.

Sec. 535. None of the funds made available by this Act may be obligated or expended to implement the Arms Trade Treaty until the Senate approves a resolution of ratification for the Treaty.
Sec. 536. (a) Not later than 10 days after the date
on which the budget of the President for a fiscal year is
submitted to Congress pursuant to section 1105(a) of title
31, United States Code, the Under Secretary for Manage-
ment of Homeland Security shall submit to the Commit-
tees on Appropriations of the Senate and the House of
Representatives a report on the unfunded priorities, for
the Department of Homeland Security and separately for
each departmental component, for which discretionary
funding would be classified as budget function 050.
(b) Each report under this section shall specify, for
each such unfunded priority—
(1) a summary description, including the objec-
tives to be achieved if such priority is funded
(whether in whole or in part);
(2) the description, including the objectives to
be achieved if such priority is funded (whether in
whole or in part);
(3) account information, including the following
(as applicable):
        (A) appropriation account; and
        (B) program, project, or activity name;
        and
(4) the additional number of full-time or part-
time positions to be funded as part of such priority.
(c) In this section, the term “unfunded priority”, in the case of a fiscal year, means a requirement that—

(1) is not funded in the budget referred to in subsection (a);

(2) is necessary to fulfill a requirement associated with an operational or contingency plan for the Department; and

(3) would have been recommended for funding through the budget referred to in subsection (a) if—

(A) additional resources had been available for the budget to fund the requirement;

(B) the requirement has emerged since the budget was formulated; or

(C) the requirement is necessary to sustain prior-year investments.

Sec. 537. (a) Not later than 10 days after a determination is made by the President to evaluate and initiate protection under any authority for a former or retired Government official or employee, or for an individual who, during the duration of the directed protection, will become a former or retired Government official or employee (referred to in this section as a “covered individual”), the Secretary of Homeland Security shall submit a notification to congressional leadership and the Committees on Appropriations of the Senate and the House of Represent-
atives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Oversight and Reform of the House of Representatives (referred to in this section as the “appropriate congressional committees”).

(b) Such notification may be submitted in classified form, if necessary, and in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, as appropriate, and shall include the threat assessment, scope of the protection, and the anticipated cost and duration of such protection.

(e) Not later than 15 days before extending, or 30 days before terminating, protection for a covered individual, the Secretary of Homeland Security shall submit a notification regarding the extension or termination and any change to the threat assessment to the congressional leadership and the appropriate congressional committees.

(d) Not later than 45 days after the date of enactment of this Act, and quarterly thereafter, the Secretary shall submit a report to the congressional leadership and the appropriate congressional committees, which may be submitted in classified form, if necessary, detailing each
covered individual, and the scope and associated cost of protection.

Sec. 538. (a) None of the funds provided to the Department of Homeland Security in this or any prior Act may be used by an agency to submit an initial project proposal to the Technology Modernization Fund (as authorized by section 1078 of subtitle G of title X of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91)) unless, concurrent with the submission of an initial project proposal to the Technology Modernization Board, the head of the agency—

(1) notifies the Committees on Appropriations of the Senate and the House of Representatives of the proposed submission of the project proposal;

(2) submits to the Committees on Appropriations a copy of the project proposal; and

(3) provides a detailed analysis of how the proposed project funding would supplement or supplant funding requested as part of the Department’s most recent budget submission.

(b) None of the funds provided to the Department of Homeland Security by the Technology Modernization Fund shall be available for obligation until 15 days after a report on such funds has been transmitted to the Com-
mittees on Appropriations of the Senate and the House of Representatives.

(c) The report described in subsection (b) shall include—

(1) the full project proposal submitted to and approved by the Fund’s Technology Modernization Board;

(2) the finalized interagency agreement between the Department and the Fund including the project’s deliverables and repayment terms, as applicable;

(3) a detailed analysis of how the project will supplement or supplant existing funding available to the Department for similar activities;

(4) a plan for how the Department will repay the Fund, including specific planned funding sources, as applicable; and

(5) other information as determined by the Secretary.

Sec. 539. Subsection (c) of section 16005 of title VI of division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) shall be applied as if the language read as follows: “Subsection (a) shall apply until September 30, 2023.”.
Sec. 540. For necessary expenses related to providing customs and immigration inspection and pre-inspection services at, or in support of ports of entry, pursuant to section 1356 of title 8, United States Code, and section 58c(f) of title 19, United States Code, and in addition to any other funds made available for this purpose, there is appropriated, out of any money in the Treasury not otherwise appropriated, $187,391,000, to offset the loss resulting from the coronavirus pandemic of Immigration User Fee receipts collected pursuant to section 286(h) of the Immigration and Nationality Act (8 U.S.C. 1356(h)), and fees for certain customs services collected pursuant to paragraphs (1) through (8) and paragraph (10) of subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1)–(8) and (a)(10)).

Sec. 541. (a) The Secretary of Homeland Security (in this section referred to as the “Secretary”) shall, on a bimonthly basis beginning immediately after the date of enactment of this Act, develop estimates of the number of noncitizens anticipated to arrive at the southwest border of the United States.

(b) The Secretary shall ensure that, at a minimum, the estimates developed pursuant to subsection (a)—
(1) cover the current fiscal year and the following fiscal year;

(2) include a breakout by demographics, to include single adults, family units, and unaccompanied children;

(3) undergo an independent validation and verification review;

(4) are used to inform policy planning and budgeting processes within the Department of Homeland Security; and

(5) are included in the budget materials submitted to Congress in support of the President’s annual budget request pursuant to section 1105 of title 31, United States Code, for each fiscal year beginning after the date of enactment of this Act and, for such budget materials shall include—

(A) the most recent bimonthly estimates developed pursuant to subsection (a);

(B) a description and quantification of the estimates used to justify funding requests for Department programs related to border security, immigration enforcement, and immigration services;
(C) a description and quantification of the anticipated workload and requirements resulting from such estimates; and

(D) a confirmation as to whether the budget requests for impacted agencies were developed using the same estimates.

(e) The Secretary shall share the bimonthly estimates developed pursuant to subsection (a) with the Secretary of Health and Human Services, the Attorney General, the Secretary of State, and the Committees on Appropriations of the Senate and the House of Representatives.

(RESCISSIONS OF FUNDS)

Sec. 542. Of the funds appropriated to the Department of Homeland Security, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: 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 the budget or the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177):

(1) $15,000,000 from Public Law 117–103 under the heading “Office of the Secretary and Executive Management—Federal Assistance”.

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(2) $65,000,000 from Public Law 116–93 under the heading “Coast Guard—Procurement, Construction, and Improvements”.

This Act may be cited as the “Department of Homeland Security Appropriations Act, 2023”.

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