

111TH CONGRESS  
1ST SESSION

# S. 2767

To provide additional resources and funding for construction and infrastructure improvements at United States land ports of entry, to open additional inspection lanes, to hire more inspectors, and to provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Southern Border.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2009

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide additional resources and funding for construction and infrastructure improvements at United States land ports of entry, to open additional inspection lanes, to hire more inspectors, and to provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Southern Border.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Port of  
3 Entry Personnel and Infrastructure Funding Act of  
4 2009”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) NORTHERN BORDER.—The term “Northern  
8 border” means the international border between the  
9 United States and Canada.

10 (2) SOUTHERN BORDER.—The term “Southern  
11 border” means the international border between the  
12 United States and Mexico.

13 **SEC. 3. CUSTOMS AND BORDER PROTECTION PERSONNEL.**

14 (a) STAFF ENHANCEMENTS.—

15 (1) REVISIONS TO FISCAL YEAR ALLOCATIONS  
16 AND FUNDING.—Title II of the Department of  
17 Homeland Security Appropriations Act, 2010 (Pub-  
18 lic Law 111–83), is amended by inserting “*Provided*  
19 *further*, That of the total amount provided,  
20 \$40,000,000 shall be used to pay the salaries and  
21 related compensation for 250 additional Customs  
22 and Border Protection officers and 25 associated  
23 support staff personnel, who shall be devoted to new  
24 inspection lanes at new land ports of entry on the  
25 Southwest border” before the period at the end of  
26 the first paragraph.

1           (2) NEW PERSONNEL.—In addition to positions  
2           authorized before the date of the enactment of this  
3           Act and any existing officer vacancies within United  
4           States Customs and Border Protection on such date,  
5           the Secretary of Homeland Security shall hire, train,  
6           and assign to duty, not later than September 30,  
7           2013—

8                   (A) 2,500 full-time Customs and Border  
9                   Protection officers to serve on all inspection  
10                  lanes (primary, secondary, incoming, and out-  
11                  going) and enforcement teams at United States  
12                  land ports of entry on the Northern border;

13                  (B) 2,500 full-time Customs and Border  
14                  Protection officers to serve on all inspection  
15                  lanes (primary, secondary, incoming, and out-  
16                  going) and enforcement teams at United States  
17                  land ports of entry on the Southern border; and

18                  (C) 350 full-time support staff for all  
19                  United States ports of entry.

20           (b) WAIVER OF FTE LIMITATION.—The Secretary of  
21           Homeland Security may waive any limitation on the num-  
22           ber of full-time equivalent personnel assigned to the De-  
23           partment of Homeland Security in order to fulfill the re-  
24           quirements under subsection (a).

25           (c) REPORT TO CONGRESS.—

1           (1) OUTBOUND INSPECTIONS.—Not later than  
2           90 days after the date of the enactment of this Act,  
3           the Secretary of Homeland Security shall submit a  
4           report containing the Department of Homeland Se-  
5           curity’s plans for ensuring the placement of suffi-  
6           cient United States Customs and Border Protection  
7           officers on outbound inspections at all Southern bor-  
8           der land ports of entry to—

9                   (A) the Committee on the Judiciary of the  
10                  Senate;

11                   (B) the Committee on the Judiciary of the  
12                  House of Representatives;

13                   (C) the Committee on Homeland Security  
14                  and Governmental Affairs of the Senate; and

15                   (D) the Committee on Homeland Security  
16                  of the House of Representatives.

17           (2) AGRICULTURAL SPECIALISTS.—Not later  
18           than 90 days after the date of the enactment of this  
19           Act, the Secretary of Homeland Security, in con-  
20           sultation with the Secretary of Agriculture, shall  
21           submit a report to the committees set forth in para-  
22           graph (1) that contains plans for ensuring the place-  
23           ment of sufficient agriculture specialists at all  
24           Southern border land ports of entry.

25           (d) RETENTION INCENTIVES AND SALARIES.—

1           (1) IN GENERAL.—The Secretary of Homeland  
2 Security shall ensure that the requirements under  
3 this subsection are met.

4           (2) RECRUITMENT AND RETENTION PAY-  
5 MENTS.—The Secretary may make incentive pay-  
6 ments of \$5,000 to \$10,000, during the 6-year pe-  
7 riod beginning on October 1, 2009, to the extent  
8 necessary to recruit and retain qualified United  
9 States Customs and Border Protection port of entry  
10 officers.

11           (3) SPECIAL RULES FOR INCENTIVE PAY-  
12 MENTS.—

13           (A) RECRUITMENT INCENTIVES.—Each re-  
14 cruitment incentive payment made under this  
15 subsection shall be paid to each new employee,  
16 in a lump sum, after the employee has entered  
17 on duty and completed 6 months of service.

18           (B) RETENTION INCENTIVES.—Each re-  
19 tention incentive payment—

20           (i) shall be paid to an employee, in a  
21 lump sum, at the end of the fiscal year in  
22 which the qualified employee is selected by  
23 the Secretary, or a delegate of the Sec-  
24 retary, for receipt of such payment;

1 (ii) shall not be limited solely to work  
2 performance, but may be based on criteria  
3 such as—

4 (I) comparative salaries for law  
5 enforcement officers in other Federal  
6 agencies;

7 (II) costs for replacement and  
8 training of a new employee; and

9 (III) volume of work at the port  
10 of entry;

11 (iii) shall be contingent upon the se-  
12 lected employee signing an agreement,  
13 under penalty of perjury, to remain in  
14 Federal service as a United States Cus-  
15 toms and Border Protection officer serving  
16 at a land port of entry for at least 3 years;  
17 and

18 (iv) shall be subject to reimbursement  
19 if the employee fails to complete the re-  
20 quired 3 years of Federal service due to  
21 voluntary or involuntary separation from  
22 service.

23 (C) LIMITATIONS.—

24 (i) FISCAL YEAR 2010.—In fiscal year  
25 2010, the Secretary may not make more

1 than 1,500 incentives payments under this  
2 subsection.

3 (ii) FISCAL YEAR 2011 THROUGH  
4 2015.—In each of the fiscal years 2011  
5 through 2015, the Secretary may not make  
6 more than 500 incentive payments under  
7 this subsection.

8 (iii) ELIGIBILITY.—Any individual re-  
9 ceiving an incentive payment in a given fis-  
10 cal year shall not be eligible to receive an-  
11 other incentive payment until the indi-  
12 vidual completes at least 2 years of service  
13 with the Department of Homeland Secu-  
14 rity after receiving the payment.

15 **SEC. 4. SECURE COMMUNICATION; EQUIPMENT; AND**  
16 **GRANTS FOR BORDER PERSONNEL.**

17 (a) SECURE COMMUNICATION.—The Secretary of  
18 Homeland Security shall ensure that each United States  
19 Customs and Border Protection officer is equipped with  
20 a secure 2-way communication and satellite-enabled de-  
21 vice, supported by system interoperability, that allows  
22 such officers to communicate between ports of entry and  
23 inspection stations, and with other Federal, State, local,  
24 and tribal law enforcement entities.

1 (b) BORDER AREA SECURITY INITIATIVE GRANT  
 2 PROGRAM.—The Secretary of Homeland Security shall es-  
 3 tablish a program for awarding grants for the purchase  
 4 of detection equipment at land ports of entry and mobile,  
 5 hand-held, 2-way communication and biometric devices for  
 6 State and local law enforcement officers serving on the  
 7 Southern border.

8 **SEC. 5. INFRASTRUCTURE IMPROVEMENTS AND EXPAN-**  
 9 **SION OF TEXAS LAND PORTS OF ENTRY.**

10 (a) AMENDMENTS TO AMERICAN RECOVERY AND RE-  
 11 INVESTMENT ACT OF 2009.—Title VI of the American  
 12 Recovery and Reinvestment Act of 2009 (Public Law 111–  
 13 5), under the heading entitled “CONSTRUCTION” is  
 14 amended—

15 (1) by striking “U.S. Customs and Border Pro-  
 16 tection owned”; and

17 (2) by inserting “*Provided further, That*  
 18 \$100,000,000 shall be used for infrastructure im-  
 19 provements, expansion, and new construction (or re-  
 20 imbursement for new construction costs incurred  
 21 during fiscal years 2007 through 2009) of high-vol-  
 22 ume ports of entry in Texas, regardless of port own-  
 23 ership” before the period at the end.

24 (b) EFFECTIVE DATE.—The amendments made  
 25 under subsection (a) shall take effect as if included in the



1 American Recovery and Reinvestment Act of 2009, as of  
2 the date of the enactment of such Act.

3 **SEC. 6. ADDITIONAL AUTHORITIES FOR PORT OF ENTRY**  
4 **CONSTRUCTION.**

5 (a) IN GENERAL.—In order to aid in the enforcement  
6 of Federal customs, immigration, and agriculture laws, the  
7 Customs and Border Protection Commissioner may—

8 (1) design, construct, and modify land ports of  
9 entry and other structures and facilities, including  
10 living quarters for officers, agents, and personnel;

11 (2) acquire, by purchase, donation, exchange or  
12 otherwise, land or any interest in land determined to  
13 be necessary to carry out the Commissioner’s duties  
14 under this section; and

15 (3) construct additional ports of entry along the  
16 Southern border and the Northern border.

17 (b) CONSULTATION.—

18 (1) LOCATIONS FOR NEW PORTS OF ENTRY.—

19 The Secretary of Homeland Security is encouraged  
20 to consult with the Secretary of the Interior, the  
21 Secretary of Agriculture, the Secretary of State, the  
22 International Boundary and Water Commission, the  
23 International Joint Commission, and appropriate  
24 representatives of States, local governments, Indian  
25 tribes, and property owners to—

1 (A) determine locations for new ports of  
2 entry; and

3 (B) minimize adverse impacts from such  
4 ports on the environment, historic and cultural  
5 resources, commerce, and quality of life for the  
6 communities and residents located near such  
7 ports.

8 (2) SAVINGS PROVISION.—Nothing in this sub-  
9 section may be construed to—

10 (A) create any right or liability of the par-  
11 ties described in paragraph (1);

12 (B) affect the legality and validity of any  
13 determination under this Act by the Secretary;  
14 or

15 (C) affect any consultation requirement  
16 under any other law.

17 **SEC. 7. AUTHORITY TO ACQUIRE LEASEHOLDS.**

18 Notwithstanding any other provision of law, the Sec-  
19 retary of Homeland Security may acquire a leasehold in-  
20 terest in real property, and may construct or modify any  
21 facility on the leased property, if the Secretary determines  
22 that the acquisition of such interest, and such construction  
23 or modification, are necessary to facilitate the implementa-  
24 tion of this Act.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated, to carry out  
3 this Act during the 6-year period beginning on October  
4 1, 2009, \$6,000,000,000, of which—

5           (1) \$55,000,000 shall be used for incentive pay-  
6       ments authorized under section 3(d); and

7           (2) \$30,000,000 shall be used for Border Area  
8       Security Grants authorized under section 4(b).

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