

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 2579

To amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. FLAKE

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

4 (a) **SHORT TITLES.**—This Act may be cited as the
5 “Preserving Immigration Legal Levels and Achieving
6 Readiness Act” or the “PILLAR Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short titles; table of contents.

TITLE I—BORDER SECURITY

Subtitle A—Appropriations for U.S. Customs and Border Protection

Sec. 101. Operations and support.

Subtitle B—Border Security

- Sec. 111. Border access roads.
- Sec. 112. Flexibility in employment authorities.
- Sec. 113. ICE detainer indemnification.
- Sec. 114. Criminal gangs and cartels.
- Sec. 115. Immigration court improvement.
- Sec. 116. Improving immigration court efficiency and reducing costs by increasing access to legal information.
- Sec. 117. Office of Legal Access Programs.
- Sec. 118. Codifying board of immigration appeals.
- Sec. 119. Improved training for immigration judges and Board Members.

TITLE II—DACA LEGALIZATION

Subtitle A—DACA Recipient Legalization

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. Permanent resident status on a conditional basis for certain long-term residents who entered the United States as children.
- Sec. 204. Terms of permanent resident status on a conditional basis.
- Sec. 205. Removal of conditional basis of permanent resident status.
- Sec. 206. Documentation requirements.
- Sec. 207. Rulemaking.
- Sec. 208. Confidentiality of information.
- Sec. 209. Restoration of state option to determine residency for purposes of higher education benefits.
- Sec. 210. Limitation on parents of certain long-term residents who entered the united states as children.

Subtitle B—Provisional Protected Presence for Certain Aliens

- Sec. 211. Provisional protected presence.

TITLE III—NUCLEAR FAMILIES

- Sec. 301. Sponsorship by citizens of spouses and children only.
- Sec. 302. Sponsorship by lawful permanent residents of spouses and children only.
- Sec. 303. Effective date.
- Sec. 304. Visa reallocation.

TITLE IV—TERMINATION OF DIVERSITY IMMIGRANT VISA PROGRAM

- Sec. 401. Termination of Diversity Immigrant Visa Program.

TITLE V—HIGH-SKILLED IMMIGRANT COUNTRY CAPS

- Sec. 501. Short title.
- Sec. 502. Numerical limitation to any single foreign state.
- Sec. 503. Transition rules for employment-based immigrants.

1 **TITLE I—BORDER SECURITY**
2 **Subtitle A—Appropriations for U.S.**
3 **Customs and Border Protection**

4 **SEC. 101. OPERATIONS AND SUPPORT.**

5 (a) **PURPOSE.**—It is the purpose of this section to
6 establish a Border Security Enforcement Fund (referred
7 to in this section as the “Fund”), to be administered
8 through the Department of Homeland Security and, in fis-
9 cal year 2018 only, through the Department of State, to
10 provide for costs necessary to implement this Act and
11 other Acts related to border security for activities, includ-
12 ing—

13 (1) constructing, installing, deploying, oper-
14 ating, and maintaining tactical infrastructure and
15 technology in the vicinity of the United States bor-
16 der—

17 (A) to achieve situational awareness and
18 operational control of the border; and

19 (B) to deter, impede, and detect illegal ac-
20 tivity in high traffic areas; and

21 (C) to implement other border security
22 provisions under titles I and II;

23 (2) implementing port of entry provisions under
24 titles I and II;

1 (3) purchasing new aircraft, vessels, spare
2 parts, and equipment to operate and maintain such
3 craft; and

4 (4) hiring and recruitment.

5 (b) FUNDING.—There are hereby authorized to be
6 appropriated, and are appropriated, to the Fund, out of
7 any monies in the Treasury not otherwise appropriated,
8 a total of \$25,000,000,000, as follows:

9 (1) For fiscal year 2018, \$2,947,000,000, to re-
10 main available through fiscal year 2022.

11 (2) For fiscal year 2019, \$2,225,000,000, to re-
12 main available through fiscal year 2023.

13 (3) For fiscal year 2020, \$2,467,000,000, to re-
14 main available through fiscal year 2024.

15 (4) For fiscal year 2021, \$2,644,000,000, to re-
16 main available through fiscal year 2025.

17 (5) For fiscal year 2022, \$2,862,000,000, to re-
18 main available through fiscal year 2026.

19 (6) For fiscal year 2023, \$2,370,000,000, to re-
20 main available through fiscal year 2027.

21 (7) For fiscal year 2024, \$2,371,000,000, to re-
22 main available through fiscal year 2028.

23 (8) For fiscal year 2025, \$2,401,000,000, to re-
24 main available through fiscal year 2029.

1 (9) For fiscal year 2026, \$2,371,000,000, to re-
2 main available through fiscal year 2030.

3 (10) For fiscal year 2027, \$2,342,000,000, to
4 remain available through fiscal year 2031.

5 (e) PHYSICAL BARRIERS.—

6 (1) IN GENERAL.—In each of the following fis-
7 cal years, the Secretary of Homeland Security shall
8 transfer, from the Fund to the U.S. Customs and
9 Border Protection—Procurement, Construction and
10 Improvements account, for the purpose of con-
11 structing, replacing, or planning physical barriers
12 along the United States land border, a total of
13 \$18,000,000,000, as follows:

14 (A) \$1,571,000,000 for fiscal year 2018.

15 (B) \$1,600,000,000 for fiscal year 2019.

16 (C) \$1,842,000,000 for fiscal year 2020.

17 (D) \$2,019,000,000 for fiscal year 2021.

18 (E) \$2,237,000,000 for fiscal year 2022.

19 (F) \$1,745,000,000 for fiscal year 2023.

20 (G) \$1,746,000,000 for fiscal year 2024.

21 (H) \$1,776,000,000 for fiscal year 2025.

22 (I) \$1,746,000,000 for fiscal year 2026.

23 (J) \$1,718,000,000 for fiscal year 2027.

24 (2) AVAILABILITY OF FUNDS.—Notwith-
25 standing section 1552(a) of title 31, United States

1 Code, any amounts obligated for the purposes de-
2 scribed in this subsection shall remain available for
3 disbursement until expended.

4 (d) TRANSFER AUTHORITY.—Other than the
5 amounts transferred by the Secretary of Homeland Secu-
6 rity and the Secretary of State pursuant to subsections
7 (b) and (c), the Committee on Appropriations of the Sen-
8 ate and the Committee on Appropriations of the House
9 of Representatives may provide for the transfer of
10 amounts in the Fund for each fiscal year to eligible activi-
11 ties under this section, including—

12 (1) for the purpose of constructing, replacing,
13 or planning for physical barriers along the United
14 States land border; or

15 (2) for any of the technologies described in sub-
16 section (a).

17 (e) USE OF FUND.—If the Committee on Appropria-
18 tions of the Senate and the Committee on Appropriations
19 of the House of Representatives do not provide for the
20 transfer of funds in a full-year appropriation in any fiscal
21 year in accordance with subsection (d), the Secretary of
22 Homeland Security shall transfer amounts in the Fund
23 to accounts within the Department of Homeland Security
24 for eligible activities under this section, including not less
25 than the amounts specified in subsection (c) for the pur-

1 pose of constructing, replacing, or planning for physical
2 barriers along the United States land border.

3 (f) BUDGET REQUEST.—A request for the transfer
4 of amounts in the Fund under this section—

5 (1) shall be included in each budget for a fiscal
6 year submitted by the President under section 1105
7 of title 31, United States Code; and

8 (2) shall detail planned obligations by program,
9 project, and activity in the receiving account at the
10 same level of detail provided for in the request for
11 other appropriations in that account.

12 (g) REPORTING REQUIREMENT.—During fiscal year
13 2019, and annually thereafter, the Secretary of Homeland
14 Security shall submit a report to the Committee on Home-
15 land Security and Governmental Affairs of the Senate, the
16 Committee on the Judiciary of the Senate, the Committee
17 on Homeland Security of the House of Representatives,
18 and the Committee on the Judiciary of the House of Rep-
19 resentatives that describes—

20 (1) the status of border security; and

21 (2) the anticipated expenditures related to bor-
22 der security during the following fiscal year.

23 **Subtitle B—Border Security**

24 **SEC. 111. BORDER ACCESS ROADS.**

25 (a) CONSTRUCTION.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall construct roads along the Southern
3 land border of the United States to facilitate safe
4 and swift access for U.S. Customs and Border Pro-
5 tection personnel to access the border for purposes
6 of patrol and apprehension.

7 (2) TYPES OF ROADS.—The roads constructed
8 under paragraph (1) shall include—

9 (A) access roads;

10 (B) border roads;

11 (C) patrol roads; and

12 (D) Federal, State, local, and privately-
13 owned roads.

14 (b) MAINTENANCE.—The Secretary of Homeland Se-
15 curity, in partnership with local stakeholders, shall main-
16 tain roads used for patrol and apprehension.

17 (c) POLICY GUIDANCE.—The Secretary of Homeland
18 Security shall—

19 (1) develop such policies and guidance for docu-
20 menting agreements with landowners relating to the
21 construction of roads under subsection (a) as the
22 Secretary determines to be necessary;

23 (2) share the policies and guidance developed
24 under paragraph (1) with each Border Patrol Sector
25 of U.S. Customs and Border Protection;

1 (3) document and communicate the process and
2 criteria for prioritizing funding for operational roads
3 not owned by the Federal Government; and

4 (4) assess the feasibility of options for address-
5 ing the maintenance of non-Federal public roads, in-
6 cluding any data needs relating to such mainte-
7 nance.

8 **SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.**

9 (a) IN GENERAL.—Chapter 97 of title 5, United
10 States Code, is amended by adding at the end the fol-
11 lowing:

12 **“§ 9702. U.S. Customs and Border Protection employ-
13 ment authorities**

14 “(a) DEFINITIONS.—For purposes of this section—

15 “(1) the term ‘CBP employee’ means an em-
16 ployee of U.S. Customs and Border Protection;

17 “(2) the term ‘Commissioner’ means the Com-
18 missioner of U.S. Customs and Border Protection;

19 “(3) the term ‘Director’ means the Director of
20 the Office of Personnel Management;

21 “(4) the term ‘rural or remote area’ means an
22 area within the United States that is not within an
23 area defined and designated as an urbanized area by
24 the Bureau of the Census during the most recently
25 completed decennial census; and

1 “(5) the term ‘Secretary’ means the Secretary
2 of Homeland Security.

3 “(b) DEMONSTRATION OF RECRUITMENT AND RE-
4 TENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

5 “(1) IN GENERAL.—For purposes of sub-
6 sections (c) and (d), the Secretary shall determine,
7 for a rural or remote area, whether there is—

8 “(A) a critical hiring need in the area; and

9 “(B) a direct relationship between—

10 “(i) the rural or remote nature of the
11 area; and

12 “(ii) difficulty in the recruitment and
13 retention of CBP employees in the area.

14 “(2) FACTORS.—To determine the existence of
15 a direct relationship under paragraph (1)(B), the
16 Secretary may consider evidence—

17 “(A) that the Secretary—

18 “(i) is unable to efficiently and effec-
19 tively recruit individuals for positions as
20 CBP employees, which may be dem-
21 onstrated with various types of evidence,
22 including—

23 “(I) evidence that multiple posi-
24 tions have been continuously vacant
25 for significantly longer than the na-

1 tional average period for which similar
2 positions in U.S. Customs and Border
3 Protection are vacant; or

4 “(II) recruitment studies that
5 demonstrate the inability of the Sec-
6 retary to efficiently and effectively re-
7 cruit CBP employees for positions in
8 the area; or

9 “(ii) experiences a consistent inability
10 to retain CBP employees that negatively
11 impacts agency operations at a local or re-
12 gional level; or

13 “(B) of any other inability, directly related
14 to recruitment or retention difficulties, that the
15 Secretary determines sufficient.

16 “(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND
17 RELOCATION BONUSES; RETENTION BONUSES.—

18 “(1) DIRECT HIRE AUTHORITY.—

19 “(A) IN GENERAL.—The Secretary may
20 appoint, without regard to any provision under
21 sections 3309 through 3319, candidates to posi-
22 tions in the competitive service as CBP employ-
23 ees in a rural or remote area if the Secretary—

24 “(i) determines that—

12

1 “(I) there is a critical hiring
2 need; and

3 “(II) a severe shortage of quali-
4 fied candidates exists because of the
5 direct relationship identified by the
6 Secretary under subsection (b)(1)(B)
7 between—

8 “(aa) the rural or remote
9 nature of the area; and

10 “(bb) the difficulty in re-
11 cruiting and retaining CBP em-
12 ployees in the area; and

13 “(ii) has given public notice for the
14 positions.

15 “(B) PRIORITIZATION OF HIRING VET-
16 ERANS.—If the Secretary uses the direct hiring
17 authority under subparagraph (A), the Sec-
18 retary shall apply the principles of preference
19 for the hiring of veterans established under sub-
20 chapter I of chapter 33.

21 “(2) RECRUITMENT AND RELOCATION BO-
22 NUSES.—The Secretary may pay a bonus to an indi-
23 vidual (other than an individual described in section
24 5753(a)(2)) if—

25 “(A) the Secretary determines that—

1 “(i) conditions consistent with the
2 conditions described in paragraphs (1) and
3 (2) of section 5753(b) are satisfied with re-
4 spect to the individual (without regard to
5 any other provision under section 5753);
6 and

7 “(ii) the position to which the indi-
8 vidual is appointed or to which the indi-
9 vidual moves or will relocate—

10 “(I) is a position as a CBP em-
11 ployee; and

12 “(II) is in a rural or remote area
13 for which the Secretary has identified
14 a direct relationship under subsection
15 (b)(1)(B) between—

16 “(aa) the rural or remote
17 nature of the area; and

18 “(bb) the difficulty in re-
19 cruiting and retaining CBP em-
20 ployees in the area; and

21 “(B) the individual enters into a written
22 service agreement with the Secretary—

23 “(i) under which the individual is re-
24 quired to complete at least 2 years of em-
25 ployment as a CBP employee; and

1 “(ii) that includes—

2 “(I) the commencement and ter-
3 mination dates of the required service
4 period (or provisions for the deter-
5 mination of such period);

6 “(II) the amount of the bonus;
7 and

8 “(III) other terms and conditions
9 under which the bonus is payable,
10 subject to the requirements under this
11 subsection, including—

12 “(aa) the conditions under
13 which the agreement may be ter-
14 minated before the agreed-upon
15 service period has been com-
16 pleted; and

17 “(bb) the effect of a termi-
18 nation described in item (aa).

19 “(3) RETENTION BONUSES.—The Secretary
20 may pay a retention bonus to a CBP employee
21 (other than an individual described in section
22 5754(a)(2)) if—

23 “(A) the Secretary determines that—

24 “(i) a condition consistent with the
25 condition described in section 5754(b)(1) is

1 satisfied with respect to the CBP employee
2 (without regard to any other provision of
3 section 5754);

4 “(ii) the CBP employee is employed in
5 a rural or remote area for which the Sec-
6 retary has identified a direct relationship
7 under subsection (b)(1)(B) between—

8 “(I) the rural or remote nature
9 of the area; and

10 “(II) the difficulty in recruiting
11 and retaining CBP employees in the
12 area; and

13 “(iii) in the absence of a retention
14 bonus, the CBP employee would be likely
15 to leave—

16 “(I) the Federal service; or

17 “(II) for a different position in
18 the Federal service, including a posi-
19 tion in another agency or component
20 of the Department of Homeland Secu-
21 rity; and

22 “(B) the individual enters into a written
23 service agreement with the Secretary—

1 “(i) under which the individual is re-
2 quired to complete at least 2 years of em-
3 ployment as a CBP employee; and

4 “(ii) that includes—

5 “(I) the commencement and ter-
6 mination dates of the required service
7 period (or provisions for the deter-
8 mination of such period);

9 “(II) the amount of the bonus;
10 and

11 “(III) other terms and conditions
12 under which the bonus is payable,
13 subject to the requirements under this
14 subsection, including—

15 “(aa) the conditions under
16 which the agreement may be ter-
17 minated before the agreed-upon
18 service period has been com-
19 pleted; and

20 “(bb) the effect of a termi-
21 nation described in item (aa).

22 “(4) RULES FOR BONUSES.—

23 “(A) MAXIMUM BONUS.—

24 “(i) RECRUITMENT AND RELOCATION
25 BONUSES.—A bonus paid to an employee

1 under paragraph (2) may not exceed 100
2 percent of the annual rate of basic pay of
3 the employee as of the commencement date
4 of the applicable service period.

5 “(ii) RETENTION BONUSES.—A bonus
6 paid to an employee under paragraph (3)
7 may not exceed 50 percent of the annual
8 rate of basic pay of the employee as of the
9 commencement date of the applicable serv-
10 ice period.

11 “(B) RELATION TO BASIC PAY.—A bonus
12 paid to an employee under paragraph (2) or (3)
13 may not be considered to be part of the basic
14 pay of the employee for any purpose.

15 “(5) OFFICE OF PERSONNEL MANAGEMENT
16 OVERSIGHT.—The Director, to the extent prac-
17 ticable, shall—

18 “(A) set aside a determination of the Sec-
19 retary under this subsection if the Director
20 finds substantial evidence that the Secretary
21 abused the discretion of the Secretary in mak-
22 ing the determination; and

23 “(B) oversee the compliance of the Sec-
24 retary with this subsection.

1 “(d) SPECIAL PAY AUTHORITY.—In addition to the
2 circumstances described in section 5305(b), the Director
3 may establish special rates of pay in accordance with sec-
4 tion 5305 if the Director determines that the recruitment
5 or retention efforts of the Secretary with respect to posi-
6 tions for CBP employees in 1 or more areas or locations
7 are, or are likely to become, significantly handicapped be-
8 cause the positions are located in a rural or remote area
9 for which the Secretary has identified a direct relationship
10 under subsection (b)(1)(B) between—

11 “(1) the rural or remote nature of the area; and

12 “(2) the difficulty in recruiting and retaining
13 CBP employees in the area.

14 “(e) REGULAR REVIEW.—

15 “(1) ENSURING FLEXIBILITIES TO MEET
16 NEEDS.—The Secretary shall annually review the
17 use of the hiring flexibilities under subsections (c)
18 and (d) to fill positions at a location in a rural or
19 remote area to determine—

20 “(A) the impact of the use of such flexibili-
21 ties on solving hiring and retention challenges
22 at the location;

23 “(B) whether hiring and retention chal-
24 lenges still exist at the location; and

1 “(C) whether the Secretary needs to con-
2 tinue to use such flexibilities at the location.

3 “(2) CONSIDERATION.—In conducting the re-
4 view under paragraph (1), the Secretary shall con-
5 sider—

6 “(A) whether any CBP employee, after ac-
7 cepting an employment incentive under sub-
8 section (c) or (d), transferred to a new location
9 or left U.S. Customs and Border Protection;
10 and

11 “(B) the length of time that each employee
12 identified under subparagraph (A) remained at
13 the original location before transferring to a
14 new location or leaving U.S. Customs and Bor-
15 der Protection.

16 “(3) DISTRIBUTION.—The Secretary shall sub-
17 mit an annual report to Congress that contains a
18 summary of each review conducted under paragraph
19 (1) during the previous year.

20 “(f) IMPROVING HIRING AND RETENTION.—

21 “(1) EDUCATION OF HIRING OFFICIALS.—Not
22 later than 180 days after the date of the enactment
23 of the PILLAR Act, the Secretary, in conjunction
24 with the Chief Human Capital Officer of the Depart-
25 ment of Homeland Security, shall develop and imple-

1 ment a strategy to improve the education of all em-
2 ployees who serve at agency headquarters or in field
3 offices and are involved in the recruitment, hiring,
4 assessment, or selection of candidates for locations
5 in a rural or remote area regarding—

6 “(A) hiring and human resources flexibili-
7 ties (including hiring and human resources
8 flexibilities for locations in rural or remote
9 areas); and

10 “(B) retaining current employees.

11 “(2) ELEMENTS.—The strategy under para-
12 graph (1) shall include—

13 “(A) developing or updating training and
14 educational materials regarding—

15 “(i) hiring and human resources flexi-
16 bilities for employees who are involved in
17 the recruitment, hiring, assessment, or se-
18 lection of candidates; and

19 “(ii) retaining current employees;

20 “(B) regular training sessions for per-
21 sonnel who are critical to filling open positions
22 in rural or remote areas;

23 “(C) developing pilot programs or other
24 programs, as appropriate, to address identified
25 hiring challenges in rural or remote areas;

1 “(D) developing and enhancing strategic
2 recruiting efforts through relationships with in-
3 stitutions of higher education (as defined in sec-
4 tion 102 of the Higher Education Act of 1965
5 (20 U.S.C. 1002)), veterans transition and em-
6 ployment centers, and job placement programs
7 in regions that could assist in filling positions
8 in rural or remote areas;

9 “(E) examining existing agency programs
10 on how to most effectively aid spouses and fam-
11 ilies of individuals who are candidates or new
12 hires in a rural or remote area;

13 “(F) receiving feedback from individuals
14 who are candidates or new hires at locations in
15 a rural or remote area, including feedback on
16 the quality of life in rural or remote areas for
17 new hires and their families;

18 “(G) receiving feedback from CBP employ-
19 ees (other than new hires) who are stationed at
20 locations in a rural or remote area, including
21 feedback on the quality of life in rural or re-
22 mote areas for those CBP employees and their
23 families; and

24 “(H) evaluating Department of Homeland
25 Security internship programs and the useful-

1 ness of such programs in improving hiring in
2 rural or remote areas:

3 “(3) EVALUATION.—

4 “(A) IN GENERAL.—The Secretary shall
5 annually—

6 “(i) evaluate the extent to which the
7 strategy developed and implemented under
8 paragraph (1) has improved the ability of
9 the Department to hire and retain employ-
10 ees; and

11 “(ii) make any appropriate updates to
12 such strategy.

13 “(B) INFORMATION.—The evaluation
14 under subparagraph (A) shall include—

15 “(i) an analysis of any reduction in
16 the time taken by the Secretary to fill mis-
17 sion-critical positions in rural or remote
18 areas;

19 “(ii) a general assessment of the im-
20 pact of the strategy implemented under
21 paragraph (1) on hiring challenges in rural
22 or remote areas; and

23 “(iii) other information that the Sec-
24 retary determines to be relevant.

1 “(g) INSPECTOR GENERAL REVIEW.—Not later than
2 2 years after the date of the enactment of the PILLAR
3 Act, the Inspector General of the Department of Home-
4 land Security shall review the use of hiring flexibilities
5 under subsections (e) and (d) to determine whether those
6 flexibilities are helping the Secretary meet hiring and re-
7 tention needs in rural and remote areas.

8 “(h) EXERCISE OF AUTHORITY.—

9 “(1) SOLE DISCRETION.—Notwithstanding
10 chapter 71, the exercise of authority under sub-
11 section (e) shall be subject to the sole and exclusive
12 discretion of the Secretary or of the Commissioner,
13 as applicable.

14 “(2) DELEGATION.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), the Secretary may delegate any au-
17 thority under this section to the Commissioner.

18 “(B) OVERSIGHT.—The Commissioner
19 may not make a determination under subsection
20 (b)(1) unless the Secretary approves such deter-
21 mination.

22 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion may be construed to exempt the Secretary or the Di-
24 rector from the applicability of the merit system principles
25 set forth in section 2301.”.

1 (b) SUNSET.—Subsections (c) and (d) of section
2 9702 of title 5, United States Code, are repealed on the
3 date that is 5 years after the date of the enactment of
4 this Act.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for chapter 97 of title 5, United States Code, is amended
7 by adding at the end the following:

“9702. U.S. Customs and Border Protection employment authorities.”.

8 **SEC. 113. ICE DETAINER INDEMNIFICATION.**

9 (a) PURPOSE.—The purpose of this section is to en-
10 sure that States and local governments do not incur costs
11 by complying in good faith with immigration detainers
12 issued by the Federal Government.

13 (b) COSTS.—Since immigration detainers are issued
14 by Federal officials based upon information about an
15 alien’s immigration status that is often only known by
16 such officials, the Federal Government shall be responsible
17 to pay for the costs of any legally cognizable injuries to
18 third parties resulting from the issuance and execution of
19 such detainers.

20 (c) INDEMNIFICATION.—Section 287 of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1357) is amended by
22 adding at the end the following:

23 “(i) Subject to available appropriations, a State, a po-
24 litical subdivision of a State, and an employee or elected
25 official of a State or political subdivision of a State that

1 receives a request from U.S. Immigration and Customs
2 Enforcement to temporarily detain an alien or transport
3 the alien to a Federal detention center shall be indem-
4 nified and held harmless by the Secretary of Homeland
5 Security from all claims by any person that may arise
6 from good faith compliance with such request.”.

7 (d) SAVINGS PROVISION.—Nothing in this section
8 may be construed to preclude a legal cause of action.

9 **SEC. 114. CRIMINAL GANGS AND CARTELS.**

10 (a) DESIGNATION OF A CRIMINAL GANG OR CAR-
11 TEL.—

12 (1) IN GENERAL.—Chapter 2 of title II of the
13 Immigration and Nationality Act (8 U.S.C. 1181 et
14 seq.) is amended by adding at the end the following:

15 **“SEC. 220. DESIGNATION OF A CRIMINAL GANG OR CARTEL.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) CLASSIFIED INFORMATION.—The term
18 ‘classified information’ has the meaning given the
19 term in section 1(a) of the Classified Information
20 Procedures Act (18 U.S.C. App.).

21 “(2) NATIONAL SECURITY.—The term ‘national
22 security’ means the national defense, foreign rela-
23 tions, or economic interests of the United States.

24 “(b) DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security may designate a group, club, organization,
3 or association compromised of 5 or more individuals
4 as a criminal gang or cartel if the Secretary deter-
5 mines that—

6 “(A) the group, club, organization, or asso-
7 ciation has, as a primary purpose, the commis-
8 sion of 1 or more criminal offenses described in
9 paragraph (2); and

10 “(B) the members of the group, club, orga-
11 nization, or association engage in, or, during
12 the 5 years immediately preceding a designation
13 under this subsection, have engaged in, a con-
14 tinuing series of offenses described in para-
15 graph (2).

16 “(2) OFFENSES.—The criminal offenses de-
17 scribed in this paragraph, whether committed in vio-
18 lation of Federal, State, or foreign law and regard-
19 less of whether an offense occurred before, on, or
20 after the date of enactment of this section, are—

21 “(A) a felony drug offense (as defined in
22 section 102 of the Controlled Substances Act
23 (21 U.S.C. 802));

24 “(B) an offense described in section 274 of
25 the Immigration and Nationality Act (8 U.S.C.

1 1324), relating to bringing in and harboring
2 certain aliens;

3 “(C) an offense described in section 277 of
4 such Act (8 U.S.C. 1327), relating to aiding or
5 assisting certain aliens to enter the United
6 States;

7 “(D) an offense described in section 278 of
8 such Act (8 U.S.C. 1328), relating to importa-
9 tion of an alien for an immoral purpose;

10 “(E) a crime of violence (as defined in sec-
11 tion 16 of title 18, United States Code);

12 “(F) a crime involving—

13 “(i) obstruction of justice;

14 “(ii) tampering with, or retaliating
15 against, a witness, victim, or informant; or

16 “(iii) burglary;

17 “(G) any conduct punishable under—

18 “(i) section 1028 or 1029 of title 18,
19 United States Code (relating to fraud and
20 related activity in connection with identi-
21 fication documents or access devices);

22 “(ii) sections 1581 through 1594 of
23 such title (relating to peonage, slavery, and
24 trafficking in persons);

1 “(iii) section 1951 of such title (relat-
2 ing to interference with commerce by
3 threats or violence);

4 “(iv) section 1952 of such title (relat-
5 ing to interstate and foreign travel or
6 transportation in aid of racketeering enter-
7 prises);

8 “(v) section 1956 of such title (relat-
9 ing to the laundering of monetary instru-
10 ments);

11 “(vi) section 1957 of such title (relat-
12 ing to engaging in monetary transactions
13 in property derived from specified unlawful
14 activity); or

15 “(vii) section 2312, 2313, 2314, or
16 2315 of such title (relating to interstate
17 transportation of stolen motor vehicles or
18 stolen property); and

19 “(H) a conspiracy to commit an offense
20 described in any of subparagraphs (A) through
21 (G).

22 “(3) PROCEDURE.—

23 “(A) NOTIFICATION.—Not later than 7
24 days before the date on which the Secretary of
25 Homeland Security designates a criminal gang

1 or cartel under this subsection, the Secretary
2 shall submit a notice to the Speaker and minor-
3 ity leader of the House of Representatives, the
4 President pro tempore, majority leader, and mi-
5 nority leader of the Senate, and the members of
6 the relevant committees, by classified commu-
7 nication, of the Secretary's intent to designate
8 the criminal gang or cartel that describes the
9 factual basis for such designation.

10 “(B) PUBLICATION IN THE FEDERAL REG-
11 ISTER.—Not later than 7 days after the sub-
12 mission of the notice described in subparagraph
13 (A), the Secretary shall publish notice of the
14 designation described in subparagraph (A) in
15 the Federal Register.

16 “(4) RECORD.—

17 “(A) IN GENERAL.—In making a designa-
18 tion under this subsection, the Secretary shall
19 develop an administrative record.

20 “(B) CLASSIFIED INFORMATION.—

21 “(i) IN GENERAL.—In making a des-
22 ignation under this subsection, the Sec-
23 retary may consider classified information,
24 which shall not be subject to disclosure for
25 any period during which the classified in-

1 information remains classified, except as pro-
2 vided in clause (ii).

3 “(ii) DISCLOSURE FOR JUDICIAL RE-
4 VIEW.—For purposes of judicial review
5 under subsection (d), classified information
6 referred to in clause (i) may be disclosed
7 to a court *ex parte* and *in camera*.

8 “(5) PERIOD OF DESIGNATION.—A designation
9 under this subsection shall be effective until the date
10 on which the designation—

11 “(A) is revoked pursuant to paragraph (7);

12 or

13 “(B) is set aside pursuant to subsection
14 (d)(3).

15 “(6) REVIEW OF DESIGNATION.—

16 “(A) PETITION FOR REVIEW.—

17 “(i) IN GENERAL.—The Secretary
18 shall review the designation of a criminal
19 gang or cartel in accordance with the pro-
20 cedures described in clauses (iii) and (iv) if
21 the criminal gang or cartel submits a peti-
22 tion for review to the Secretary not later
23 than—

24 “(I) 2 years after the date on
25 which the Secretary makes the des-

1 ignation if the designated criminal
2 gang or cartel has not previously sub-
3 mitted a petition for review under this
4 subparagraph; and

5 “(II) 2 years after the date on
6 which the Secretary last made a de-
7 termination under clause (iv) regard-
8 ing the most recent petition for review
9 submitted by the criminal gang or
10 cartel.

11 “(ii) EVIDENCE.—A petition for re-
12 view under this subparagraph submitted by
13 any group, club, organization, or associa-
14 tion designated as criminal gang or cartel
15 shall include evidence that the group, club,
16 organization, or association does not meet
17 the criteria for designation as a criminal
18 gang or cartel under paragraph (I).

19 “(iii) DETERMINATION.—

20 “(I) IN GENERAL.—Not later
21 than 180 days after the date on which
22 the Secretary receives a petition for
23 review under this subparagraph, the
24 Secretary shall make a determination
25 on the petition.

1 “(II) CLASSIFIED INFORMA-
2 TION.—

3 “(aa) IN GENERAL.—In
4 making a determination on a pe-
5 tition for review under this sub-
6 paragraph, the Secretary may
7 consider classified information,
8 which shall not be subject to dis-
9 closure for any period during
10 which the classified information
11 remains classified, except as pro-
12 vided in item (bb).

13 “(bb) DISCLOSURE FOR JU-
14 DICIAL REVIEW.—Classified in-
15 formation referred to in item (aa)
16 may be disclosed to a court ex
17 parte and in camera for purposes
18 of judicial review under sub-
19 section (d).

20 “(III) PUBLICATION OF DETER-
21 MINATION.—Not later than 90 days
22 after the date on which the Secretary
23 makes a determination on a petition
24 for review under this clause, the Sec-

1 retary shall publish the determination
2 in the Federal Register.

3 “(IV) PROCEDURES.—Any rev-
4 ocation of a designation by the Sec-
5 retary under paragraph (1) shall be
6 made in accordance with paragraph
7 (7).

8 “(B) OTHER REVIEW OF DESIGNATION.—

9 “(i) IN GENERAL.—Not later than 5
10 years after the date on which the Secretary
11 designates a criminal gang or cartel under
12 paragraph (1), in the case of a criminal
13 gang or cartel for which a review has not
14 been carried out under subparagraph (A),
15 the Secretary shall initiate a review of the
16 designation to determine whether to revoke
17 the designation under paragraph (7).

18 “(ii) PROCEDURES.—

19 “(I) IN GENERAL.—A review ini-
20 tiated by the Secretary under clause
21 (i) shall be carried out in accordance
22 with such procedures determined by
23 the Secretary to be appropriate.

24 “(II) JUDICIAL REVIEW.—A re-
25 view under subclause (I) and the pro-

1 cedures established under that sub-
2 clause shall not be subject to judicial
3 review.

4 “(iii) PUBLICATION OF RESULTS OF
5 REVIEW.—Not later than 90 days after the
6 date on which the Secretary makes a de-
7 termination based on a review under this
8 subparagraph, the Secretary shall publish
9 the determination in the Federal Register.

10 “(7) REVOCATION BASED ON CHANGE IN CIR-
11 CUMSTANCES.—

12 “(A) IN GENERAL.—The Secretary—

13 “(i) may revoke a designation under
14 paragraph (1) at any time; and

15 “(ii) shall revoke a designation under
16 paragraph (1) if, after a review carried out
17 in accordance with paragraph (6), the Sec-
18 retary determines that—

19 “(I) the criminal gang or cartel
20 does not meet the criteria for designa-
21 tion as a criminal gang or cartel
22 under paragraph (1); or

23 “(II) the national security or the
24 law enforcement interests of the
25 United States warrants a revocation.

1 “(B) NOTIFICATION.—Not later than 7
2 days before revoking a designation under para-
3 graph (A), the Secretary shall submit a notice
4 to the Speaker and minority leader of the
5 House of Representatives, the President pro
6 tempore, majority leader, and minority leader of
7 the Senate, and the members of the relevant
8 committees, by classified communication, of the
9 Secretary’s intent to revoke the designation de-
10 scribing the basis for the revocation.

11 “(C) PUBLICATION IN THE FEDERAL REG-
12 ISTER.—Not later than 7 days after the sub-
13 mission of a notice under subparagraph (B),
14 the Secretary shall publish a notice of revoca-
15 tion of the designation under paragraph (1) in
16 the Federal Register.

17 “(D) RECORD.—

18 “(i) IN GENERAL.—In revoking a des-
19 ignation under this paragraph, the Sec-
20 retary shall develop an administrative
21 record.

22 “(ii) CLASSIFIED INFORMATION.—

23 “(I) IN GENERAL.—In revoking a
24 designation under this paragraph, the
25 Secretary may consider classified in-

1 formation, which, except as provided
2 in subclause (II), shall not be subject
3 to disclosure for any period during
4 which the classified information re-
5 mains classified.

6 “(II) DISCLOSURE FOR JUDICIAL
7 REVIEW.—Classified information re-
8 ferred to in subclause (I) may be dis-
9 closed to a court ex parte and in cam-
10 era for purposes of judicial review
11 under subsection (d).

12 “(E) EFFECTIVE DATE.—A revocation
13 under this paragraph shall take effect—

14 “(i) on the date specified in the notice
15 of revocation published under subpara-
16 graph (C); or

17 “(ii) if a date is not specified in the
18 notice of revocation, on the date on which
19 the notice of revocation is published in the
20 Federal Register.

21 “(8) EFFECT OF REVOCATION.—A revocation
22 under paragraph (7) shall not affect any action or
23 proceeding based on conduct that occurs before the
24 effective date of the revocation.

1 “(9) USE OF DESIGNATION IN REMOVAL PRO-
2 CEEDINGS.—The Attorney General shall not allow
3 an alien in removal proceedings to raise, as a de-
4 fense or an objection, a question relating to the va-
5 lidity of a designation under paragraph (1).

6 “(e) MODIFICATIONS TO A DESIGNATION.—

7 “(1) IN GENERAL.—The Secretary of Homeland
8 Security may modify a designation under subsection
9 (b)(1) if the Secretary determines that the criminal
10 gang or cartel has—

11 “(A) changed its name;

12 “(B) adopted a new alias;

13 “(C) dissolved and reestablished under 1
14 or more different names; or

15 “(D) merged with another criminal gang
16 or cartel.

17 “(2) PROCEDURE.—

18 “(A) NOTIFICATION.—Not later than 7
19 days before the date on which the Secretary
20 modifies the designation of a criminal gang or
21 cartel under this subsection, the Secretary shall
22 submit a notice to the Speaker and minority
23 leader of the House of Representatives, the
24 President pro tempore, majority leader, and mi-
25 nority leader of the Senate, and the members of

1 the relevant committees, by classified commu-
2 nication, of the Secretary's intent to modify the
3 designation describing the factual basis for the
4 modification.

5 “(B) PUBLICATION IN THE FEDERAL REG-
6 ISTER.—Not later than 7 days after submission
7 of a notice under subparagraph (A), the Sec-
8 retary shall publish notice of the modification in
9 the Federal Register.

10 “(C) CLASSIFIED INFORMATION.—

11 “(i) IN GENERAL.—In modifying a
12 designation under this subsection, the Sec-
13 retary may consider classified information,
14 which, except as provided in clause (ii),
15 shall not be subject to disclosure for any
16 period during which the classified informa-
17 tion remains classified.

18 “(ii) DISCLOSURE FOR JUDICIAL RE-
19 VIEW.—For purposes of judicial review
20 under subsection (d), classified information
21 referred to in clause (i) may be disclosed
22 to a court ex parte and in camera.

23 “(D) EFFECTIVE DATE.—Any modification
24 under this subsection shall take effect on the
25 date on which notice of the modification is pub-

1 lished in the Federal Register pursuant to sub-
2 paragraph (B).

3 “(3) ADMINISTRATIVE RECORD.—The adminis-
4 trative record developed under subsection (b)(4)
5 shall include—

6 “(A) any modification under this sub-
7 section; and

8 “(B) any relevant information that sup-
9 ports the modification.

10 “(d) JUDICIAL REVIEW OF DESIGNATION.—

11 “(1) IN GENERAL.—Not later than 30 days
12 after the date on which a designation under sub-
13 section (b)(1), a determination under subsection
14 (b)(6)(A)(iii), or a modification under subsection (c)
15 is published in the Federal Register, a criminal gang
16 or cartel may seek judicial review of the designation,
17 determination, or modification, as applicable, in the
18 United States Court of Appeals for the District of
19 Columbia Circuit (referred to in this subsection as
20 the “Court”).

21 “(2) BASIS OF REVIEW.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), judicial review under this
24 subsection shall be based only on the adminis-

1 trative record developed under subsection
2 (b)(4).

3 “(B) EXCEPTION.—The Government may
4 submit, for ex parte and in camera review, clas-
5 sified information used as a basis for—

6 “(i) a designation under subsection
7 (b)(1);

8 “(ii) a determination under subsection
9 (b)(6)(A)(iii); or

10 “(iii) a modification under subsection
11 (c).

12 “(3) SCOPE OF REVIEW.—The Court shall hold
13 unlawful and set aside any designation under sub-
14 section (b)(1), determination under subsection
15 (b)(6)(A)(iii), or modification under subsection (c)
16 that the Court determines to be—

17 “(A) arbitrary, capricious, an abuse of dis-
18 cretion, or otherwise not in accordance with the
19 law;

20 “(B) contrary to constitutional right,
21 power, privilege, or immunity;

22 “(C) in excess of statutory jurisdiction, au-
23 thority, or limitation;

24 “(D) short of statutory right;

25 “(E) lacking substantial support—

1 “(i) in the administrative record,
2 taken into consideration as a whole; or

3 “(ii) in classified information sub-
4 mitted to the court under paragraph
5 (2)(B); or

6 “(F) not in accordance with a procedure
7 required by law.

8 “(4) JUDICIAL REVIEW INVOKED.—The pend-
9 ency of an action for judicial review under this sub-
10 section shall not affect the application of this section
11 to a criminal gang or cartel unless the Court issues
12 a final order setting aside the designation, deter-
13 mination, or modification.”.

14 (2) CLERICAL AMENDMENT.—The table of con-
15 tents for the Immigration and Nationality Act (8
16 U.S.C. 1101 note) is amended by inserting after the
17 item relating to section 219 the following:

“Sec. 220. Designation of a criminal gang or cartel.”.

18 (b) MANDATORY DETENTION OF ALIEN MEMBERS
19 OF CRIMINAL GANGS OR CARTELS.—

20 (1) IN GENERAL.—Section 236(e)(1) of the Im-
21 migration and Nationality Act (8 U.S.C. 1226(e)(1))
22 is amended—

23 (A) in subparagraph (A), by striking the
24 comma at the end and inserting a semicolon;

1 (B) in subparagraph (B), by striking the
2 comma at the end and inserting a semicolon;

3 (C) in subparagraph (C), by striking “, or”
4 and inserting a semicolon;

5 (D) in subparagraph (D), by striking the
6 comma at the end and inserting “; or”; and

7 (E) by inserting after subparagraph (D)
8 the following:

9 “(E) is a member of a group, club, organi-
10 zation, or association designated as a criminal
11 gang or cartel under section 220(b),”.

12 (2) ANNUAL REPORT.—Not later than March 1,
13 2019, and annually thereafter, the Secretary of
14 Homeland Security, after consultation with the ap-
15 propriate Federal agencies, shall submit a report to
16 the Committee on the Judiciary of the Senate and
17 the Committee on the Judiciary of the House of
18 Representatives that identifies the number of aliens
19 detained pursuant to section 236(c)(1)(E) of the Im-
20 migration and Nationality Act, as added by para-
21 graph (1)(E), during the preceding calendar year.

22 (e) RELIEF BASED ON GANG AFFILIATION.—

23 (1) INAPPLICABILITY OF RESTRICTION ON RE-
24 MOVAL TO CERTAIN COUNTRIES.—Section

1 241(b)(3)(B) of the Immigration and Nationality
2 Act (8 U.S.C. 1231(b)(3)(B)) is amended—

3 (A) by redesignating clauses (i) through
4 (iv) as items (aa) through (dd), respectively,
5 and moving the redesignated items 2 ems to the
6 right;

7 (B) in the matter preceding item (aa), as
8 redesignated, by striking “apply to an alien de-
9 portable under section 237(a)(4)(D) or if the
10 Attorney General decides that—” and inserting
11 the following: “apply—

12 “(i) to an alien who—

13 “(I) is a member of a group,
14 club, organization, or association des-
15 ignated as a criminal gang or cartel
16 under section 220(b); or

17 “(II) is deportable under section
18 237(a)(4)(D); or

19 “(ii) if the Attorney General deter-
20 mines that;” and

21 (C) in the undesignated matter following
22 item (dd), as redesignated—

23 (i) in the first sentence, by striking
24 “clause (ii)” and inserting “item (bb)”;
25 and

1 (ii) in the third sentence, by striking
2 “clause (iv)” and inserting “item (dd)”.

3 (2) INELIGIBILITY FOR ASYLUM.—Section
4 208(b)(2)(A) of the Immigration and Nationality
5 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

6 (A) in clause (v), by striking “; or” and in-
7 serting a semicolon;

8 (B) by redesignating clause (vi) as clause
9 (vii); and

10 (C) by inserting after clause (v) the fol-
11 lowing:

12 “(vi) the alien is a member of a
13 group, club, organization, or association
14 designated as a criminal gang or cartel
15 under section 220(b); or”.

16 (d) TEMPORARY PROTECTED STATUS.—

17 (1) IN GENERAL.—Section 244 of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1254a) is amend-
19 ed—

20 (A) by striking “Attorney General” each
21 place it appears and inserting “Secretary of
22 Homeland Security”;

23 (B) in subsection (e)(2)(B)—

24 (i) in clause (i), by striking “, or” and
25 inserting a semicolon;

1 (ii) in clause (ii), by striking the pe-
2 riod at the end and inserting “; or”;

3 (iii) by adding at the end the fol-
4 lowing:

5 “(iii) the alien is a member of a
6 group, club, organization, or association
7 designated as a criminal gang or cartel
8 under section 220(b).”;

9 (C) in subsection (d)—

10 (i) in paragraph (2)—

11 (I) in the first sentence, by strik-
12 ing “Subject to paragraph (3), such
13 documentation” and inserting “The
14 documentation referred to in para-
15 graph (1)”;

16 (II) in the second sentence, by
17 striking “(under paragraph (3))”;

18 (ii) by striking paragraph (3);

19 (iii) by redesignating paragraph (4) as
20 paragraph (3); and

21 (iv) in paragraph (3), as so redesi-
22 gnated, by striking “An alien provided” and
23 inserting the following:

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), the Secretary of Homeland

1 Security may detain an alien provided tem-
2 porary protected status under this section, as
3 determined by the Secretary to be appropriate
4 under the law.

5 “(B) EXCEPTION.—An alien provided”.

6 (2) CONFORMING AMENDMENT.—Section
7 244(b)(3)(B) of the Immigration and Nationality
8 Act (8 U.S.C. 1254a(b)(3)(B)) is amended in the
9 second sentence by striking “is effective in accord-
10 ance with subsection (d)(3), but”.

11 (c) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
12 101(a)(27)(J)(iii) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

14 (1) in subclause (I), by striking “; and” and in-
15 serting a semicolon;

16 (2) in subclause (II), by striking the semicolon
17 at the end and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(III) no alien described in section
20 212(a)(2)(J) or section 237(a)(2)(G) shall
21 be eligible for any immigration benefit
22 under this subparagraph;”.

23 (f) PAROLE.—Section 212(d)(5) of the Immigration
24 and Nationality Act (8 U.S.C. 1182(d)(5)) is amended—

1 (1) by striking “Attorney General” each place
2 it appears and inserting “Secretary of Homeland Se-
3 curity”;

4 (2) by striking the paragraph designation and
5 all that follows through “in his discretion” in sub-
6 paragraph (A) and inserting the following:

7 “(5) PAROLE.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraphs (B) and (C) and in section
10 214(f), the Secretary of Homeland Security
11 may;” and

12 (3) by adding at the end the following:

13 “(C) ALIENS ASSOCIATED WITH CRIMINAL
14 GANGS OR CARTELS.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), the Secretary of Home-
17 land Security shall not parole into the
18 United States an alien who is a member of
19 a group, club, organization, or association
20 designated as a criminal gang or cartel
21 under section 220(b).

22 “(ii) EXCEPTION.—The Secretary of
23 Homeland Security may parole into the
24 United States an alien described in clause
25 (i) if—

1 “(I) the alien is assisting or has
2 assisted the Government in a law en-
3 forcement matter, including a criminal
4 investigation; and

5 “(II) the presence of the alien in
6 the United States is required by the
7 Government for purposes of such as-
8 sistance.”.

9 (g) **APPLICABILITY.**—The amendments made by this
10 section shall apply to conduct that occurs before, on, or
11 after the date of enactment of this Act.

12 **SEC. 115. IMMIGRATION COURT IMPROVEMENT.**

13 (a) **IMMIGRATION COURT JUDGES.**—The Attorney
14 General shall increase the total number of immigration
15 judges to adjudicate current pending cases and efficiently
16 process future cases by not fewer than—

- 17 (1) 75 in fiscal year 2019;
18 (2) 75 in fiscal year 2020; and
19 (3) 75 in fiscal year 2021.

20 (b) **NECESSARY SUPPORT STAFF FOR IMMIGRATION**
21 **COURT JUDGES.**—The Attorney General shall address the
22 shortage of support staff for immigration judges by ensur-
23 ing that each immigration judge has the assistance of the
24 necessary support staff, including the equivalent of 1 staff
25 attorney or law clerk and 1 legal assistant.

1 (e) ANNUAL INCREASES IN BOARD OF IMMIGRATION
2 APPEALS PERSONNEL.—The Attorney General shall in-
3 crease the number of Board of Immigration Appeals staff
4 attorneys (including the necessary additional support
5 staff) to efficiently process cases by at least—

6 (1) 30 in fiscal year 2019;

7 (2) 30 in fiscal year 2020; and

8 (3) 30 in fiscal year 2021.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to carry out this section.

12 **SEC. 116. IMPROVING IMMIGRATION COURT EFFICIENCY**
13 **AND REDUCING COSTS BY INCREASING AC-**
14 **CESS TO LEGAL INFORMATION.**

15 (a) APPOINTMENT OF COUNSEL IN CERTAIN CASES;
16 RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL
17 PROCEEDINGS.—Section 240(b) of the Immigration and
18 Nationality Act (8 U.S.C. 1229a(b)) is amended—

19 (1) in paragraph (4)—

20 (A) in subparagraph (A)—

21 (i) by striking “, at no expense to the
22 Government,”; and

23 (ii) by striking the comma at the end
24 and inserting a semicolon;

1 (B) in subparagraph (B), by striking “,
2 and” and inserting a semicolon;

3 (C) by redesignating subparagraphs (B)
4 and (C) as subparagraphs (C) and (F), respec-
5 tively;

6 (D) by inserting after subparagraph (A)
7 the following:

8 “(B) the alien shall, unless the alien waives
9 the right to receive the documents described in
10 clauses (i) and (ii) by executing a knowing and
11 voluntary waiver in a language that he or she
12 understands fluently, automatically receive, at
13 the beginning of the proceedings or shortly
14 thereafter—

15 “(i) a complete copy of all relevant
16 documents in the possession of the Depart-
17 ment of Homeland Security, including all
18 documents (other than documents pro-
19 tected from disclosure by privilege, includ-
20 ing national security information described
21 in subparagraph (C), law enforcement sen-
22 sitive information, and information prohib-
23 ited from disclosure pursuant to any other
24 provision of law) contained in the file
25 maintained by the Government that in-

1 includes information with respect to all
2 transactions involving the alien during the
3 immigration process (commonly referred to
4 as an 'A-file'); and

5 “(ii) all documents pertaining to the
6 alien that the Department of Homeland
7 Security has obtained or received from
8 other government agencies;”; and

9 (E) by inserting after subparagraph (C),
10 as redesignated, the following:

11 “(D) the Government is not required to
12 provide counsel to aliens, but the Attorney Gen-
13 eral may, in the Attorney General’s sole and
14 unreviewable discretion, appoint or provide
15 counsel at Government expense to aliens;”; and
16 (2) by adding at the end the following:

17 “(8) FAILURE TO PROVIDE ALIEN REQUIRED
18 DOCUMENTS.—In the absence of a waiver under
19 paragraph (4)(B), a removal proceeding may not
20 proceed until the alien has received the documents
21 required under such paragraph.”.

22 (b) CLARIFICATION REGARDING THE AUTHORITY OF
23 THE ATTORNEY GENERAL TO APPOINT COUNSEL TO
24 ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 of

1 the Immigration and Nationality Act (8 U.S.C. 1362) is
2 amended—

3 (1) by striking “If any” and inserting the fol-
4 lowing:

5 “(a) IN GENERAL.—In any”;

6 (2) in subsection (a), as redesignated—

7 (A) by striking “(at no expense to the Gov-
8 ernment)”;

9 (B) by striking “he shall” and inserting
10 “the person shall”; and

11 (3) by adding at the end the following:

12 “(b) DISCRETIONARY APPOINTMENT.—Except as
13 provided in subsection (c), the Attorney General may, in
14 the Attorney General’s sole and unreviewable discretion,
15 appoint or provide counsel to aliens in immigration pro-
16 ceedings conducted under section 240.”;

17 (c) APPOINTMENT OF COUNSEL FOR UNACCOM-
18 PANIED ALIEN CHILDREN AND ALIENS WITH A SERIOUS
19 MENTAL DISABILITY.—Section 292 of the Immigration
20 and Nationality Act (8 U.S.C. 1362), as amended by sub-
21 section (b), is further amended by adding at the end the
22 following:

23 “(c) MANDATORY APPOINTMENT.—Notwithstanding
24 subsection (b), the Attorney General shall appoint counsel,
25 at the expense of the Government, if necessary, to rep-

1 represent an alien in a removal proceeding who has been de-
2 termined by the Secretary to be—

3 “(1) an unaccompanied alien child;

4 “(2) incompetent to represent himself or herself
5 due to a serious mental disability that would be in-
6 cluded in section 3(1) of the Americans with Disabil-
7 ities Act of 1990 (42 U.S.C. 12102(1)); or

8 “(3) particularly vulnerable compared to other
9 aliens in removal proceedings, such that the appoint-
10 ment of counsel is necessary to help ensure fair reso-
11 lution and efficient adjudication of the pro-
12 ceedings.”

13 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated such sums as may be
15 necessary to carry out this section and the amendments
16 made by this section.

17 **SEC. 117. OFFICE OF LEGAL ACCESS PROGRAMS.**

18 (a) **ESTABLISHMENT OF OFFICE OF LEGAL ACCESS**
19 **PROGRAMS.**—The Attorney General shall maintain, within
20 the Executive Office for Immigration Review, the Office
21 of Legal Access Programs, which shall—

22 (1) develop and administer a system of legal
23 orientation programs to make immigration pro-
24 ceedings more efficient and cost effective by edu-
25 cating aliens regarding administrative procedures

1 and legal rights under United States immigration
2 law; and

3 (2) establish other programs to assist in pro-
4 viding aliens access to legal information.

5 (b) LEGAL ORIENTATION PROGRAMS.—The legal ori-
6 entation programs developed under subsection (a)(1)—

7 (1) shall assist detained aliens in making in-
8 formed and timely decisions regarding their removal
9 and eligibility for relief from removal—

10 (A) to increase efficiency and reduce costs
11 in immigration proceedings and Federal custody
12 processes; and

13 (B) to improve access to counsel and other
14 legal services;

15 (2) may provide services to—

16 (A) detained aliens in immigration pro-
17 ceedings under section 235, 238, 240, or
18 241(a)(5) of the Immigration and Nationality
19 Act (8 U.S.C. 1225, 1228, 1229a, and
20 1231(a)(5)); and

21 (B) other aliens in immigration and asy-
22 lum proceedings under section 235, 238, or 240
23 of such Act; and

24 (3) shall identify unaccompanied alien children,
25 aliens with a serious mental disability, and other

1 particularly vulnerable aliens for consideration by
2 the Attorney General under section 292(c) of the
3 Immigration and Nationality Act, as added by sec-
4 tion 116(e).

5 (c) PROCEDURES.—The Secretary of Homeland Se-
6 curity, in consultation with the Attorney General, shall es-
7 tablish procedures—

8 (1) to make legal orientation programs available
9 for all detained aliens not later than 5 days after ar-
10 rival into custody; and

11 (2) to provide such aliens with—

12 (A) basic immigration hearing procedures;

13 (B) information about their rights relating
14 to immigration hearings under Federal immi-
15 gration law;

16 (C) information that may deter such aliens
17 from filing frivolous legal claims; and

18 (D) any other information deemed appro-
19 priate by the Attorney General, such as a con-
20 tact list of potential legal resources and pro-
21 viders.

22 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion may be construed to create any substantive or proce-
24 dural right or benefit that is legally enforceable by any

1 party against the United States or its agencies or officers
2 or any other person.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section.

6 **SEC. 118. CODIFYING BOARD OF IMMIGRATION APPEALS.**

7 (a) DEFINITION OF BOARD MEMBER.—Section
8 101(a) of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)) is amended by adding at the end the following:

10 “(53) The term ‘Board Member’ means an at-
11 torney appointed by the Attorney General to serve
12 on the Board of Immigration Appeals within the Ex-
13 ecutive Office of Immigration Review who is quali-
14 fied to review decisions of immigration judges and
15 other matters within the jurisdiction of the Board of
16 Immigration Appeals.”.

17 (b) BOARD OF IMMIGRATION APPEALS.—Section
18 240(a)(1) of the Immigration and Nationality Act (8
19 U.S.C. 1229a(a)(1)) is amended by adding at the end the
20 following: “The Board of Immigration Appeals and its
21 Board Members shall review decisions of immigration
22 judges under this section.”.

23 (c) APPEALS.—Section 240(b)(4) of the Immigration
24 and Nationality Act (8 U.S.C. 1229a(b)(4)), as amended

1 by section 116(a), is further amended by inserting after
2 subparagraph (D) the following:

3 “(E) the alien or the Department of
4 Homeland Security may appeal the immigration
5 judge’s decision to a 3-judge panel of the Board
6 of Immigration Appeals; and”.

7 (d) DECISION AND BURDEN OF PROOF.—Section
8 240(c)(1)(A) of the Immigration and Nationality Act (8
9 U.S.C. 1229a(c)(1)(A)) is amended to read as follows:

10 “(A) IN GENERAL.—At the conclusion of
11 the proceeding, the immigration judge shall de-
12 cide whether an alien is removable from the
13 United States. The determination of the immi-
14 gration judge shall be based only on the evi-
15 dence produced at the hearing. On appeal, the
16 Board of Immigration Appeals shall issue a
17 written opinion. The opinion shall address all
18 dispositive arguments raised by the parties. The
19 panel may incorporate by reference the opinion
20 of the immigration judge whose decision is
21 being reviewed, provided that the panel also ad-
22 dresses any arguments made by the nonpre-
23 vailing party regarding purported errors of law,
24 fact, or discretion.”.

1 (e) REVIEW.—Section 242(b)(2) of the Immigration
2 and Nationality Act (8 U.S.C. 1252(b)(2)) is amended to
3 read as follows:

4 “(2) VENUE AND FORMS.—The petition for re-
5 view shall be filed with the U.S. Court of Appeals
6 for the District of Columbia Circuit. The record and
7 briefs do not have to be printed. The court of ap-
8 peals shall review the proceeding on a typewritten
9 record and on typewritten briefs.”

10 **SEC. 119. IMPROVED TRAINING FOR IMMIGRATION JUDGES**
11 **AND BOARD MEMBERS.**

12 (a) IN GENERAL.—Section 240 of the Immigration
13 and Nationality Act (8 U.S.C. 1229a) is amended—

14 (1) by redesignating subsection (e) as sub-
15 section (f); and

16 (2) by inserting after subsection (d) the fol-
17 lowing:

18 “(e) IMPROVED TRAINING.—

19 “(1) IMPROVED TRAINING FOR IMMIGRATION
20 JUDGES AND BOARD MEMBERS.—

21 “(A) IN GENERAL.—In consultation with
22 the Attorney General and the Director of the
23 Federal Judicial Center, the Director of the Ex-
24 ecutive Office for Immigration Review shall re-
25 view and modify, as appropriate, training pro-

1 grams for immigration judges and Board Mem-
2 bers.

3 “(B) ELEMENTS OF REVIEW.—Each re-
4 view under subparagraph (A) shall study—

5 “(i) the expansion of the training pro-
6 gram for new immigration judges and
7 Board Members;

8 “(ii) continuing education regarding
9 current developments in the field of immi-
10 gration law; and

11 “(iii) methods to ensure that immigra-
12 tion judges are trained on properly crafting
13 and dictating decisions.

14 “(2) IMPROVED TRAINING AND GUIDANCE FOR
15 STAFF.—The Director of the Executive Office for
16 Immigration Review shall—

17 “(A) modify guidance and training regard-
18 ing screening standards and standards of re-
19 view; and

20 “(B) ensure that Board Members provide
21 staff attorneys with appropriate guidance in
22 drafting decisions in individual cases, consistent
23 with the policies and directives of the Director
24 of the Executive Office for Immigration Review

1 and the Chairman of the Board of Immigration
2 Appeals.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out the amendments made by this sec-
6 tion.

7 **TITLE II—DACA LEGALIZATION**
8 **Subtitle A—DACA Recipient**
9 **Legalization**

10 **SEC. 201. SHORT TITLE.**

11 This subtitle may be cited as the “DACA Recipient
12 Legalization Act of 2018”.

13 **SEC. 202. DEFINITIONS.**

14 In this subtitle:

15 (1) IN GENERAL.—Except as otherwise specifi-
16 cally provided, any term used in this subtitle that is
17 used in the immigration laws shall have the meaning
18 given the term in the immigration laws.

19 (2) APPLICABLE FEDERAL TAX LIABILITY.—
20 The term “applicable Federal tax liability” means li-
21 ability for Federal taxes imposed under the Internal
22 Revenue Code of 1986, including any penalties and
23 interest on taxes imposed under the Internal Rev-
24 enue Code of 1986.

1 (3) **DACA.**—The term “DACA” means de-
2 ferred action granted to an alien pursuant to the
3 Deferred Action for Childhood Arrivals program es-
4 tablished through a memorandum issued by the Sec-
5 retary of Homeland Security on June 15, 2012.

6 (4) **DISABILITY.**—The term “disability” has the
7 meaning given the term in section 3(1) of the Amer-
8 icans with Disabilities Act of 1990 (42 U.S.C.
9 12102(1)).

10 (5) **EARLY CHILDHOOD EDUCATION PRO-**
11 **GRAM.**—The term “early childhood education pro-
12 gram” has the meaning given the term in section
13 103 of the Higher Education Act of 1965 (20
14 U.S.C. 1003).

15 (6) **ELEMENTARY SCHOOL; HIGH SCHOOL; SEC-**
16 **ONDARY SCHOOL.**—The terms “elementary school”,
17 “high school”, and “secondary school” have the
18 meanings given the terms in section 8101 of the Ele-
19 mentary and Secondary Education Act of 1965 (20
20 U.S.C. 7801).

21 (7) **FELONY.**—The term “felony” means a Fed-
22 eral, State, or local criminal offense (excluding a
23 State or local offense for which an essential element
24 is the immigration status of an alien) punishable by
25 imprisonment for a term exceeding 1 year.

1 (8) IMMIGRATION LAWS.—The term “immigra-
2 tion laws” has the meaning given the term in section
3 101(a)(17) of the Immigration and Nationality Act
4 (8 U.S.C. 1101(a)(17)).

5 (9) INSTITUTION OF HIGHER EDUCATION.—The
6 term “institution of higher education”—

7 (A) except as provided in subparagraph
8 (B), has the meaning given the term in section
9 102 of the Higher Education Act of 1965 (20
10 U.S.C. 1002); and

11 (B) does not include an institution of high-
12 er education outside of the United States.

13 (10) MISDEMEANOR.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term “misdemeanor”
16 means a Federal, State, or local criminal of-
17 fense for which—

18 (i) the maximum term of imprison-
19 ment is—

20 (I) more than 5 days; and

21 (II) not more than 1 year; and

22 (ii) the individual was sentenced to
23 time in custody of 90 days or less.

1 (B) EXCLUSION.—The term “mis-
2 demenor” does not include a State or local of-
3 fense for which an essential element is—

4 (i) the immigration status of the
5 alien;

6 (ii) a significant misdemeanor; or

7 (iii) a minor traffic offense.

8 (11) PERMANENT RESIDENT STATUS ON A CON-
9 DITIONAL BASIS.—The term “permanent resident
10 status on a conditional basis” means status as an
11 alien lawfully admitted for permanent residence on
12 a conditional basis under this subtitle.

13 (12) POVERTY LINE.—The term “poverty line”
14 has the meaning given the term in section 673 of the
15 Community Services Block Grant Act (42 U.S.C.
16 9902).

17 (13) SECRETARY.—Except as otherwise specifi-
18 cally provided, the term “Secretary” means the Sec-
19 retary of Homeland Security.

20 (14) SIGNIFICANT MISDEMEANOR.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term “significant mis-
23 demenor” means a Federal, State, or local
24 criminal offense—

1 (i) for which the maximum term of
2 imprisonment is—

3 (I) more than 5 days; and

4 (II) not more than 1 year; and

5 (ii)(I) that, regardless of the sentence
6 imposed, is—

7 (aa) a crime of domestic violence
8 (as defined in section 237(a)(2)(E)(i)
9 of the Immigration and Nationality
10 Act (8 U.S.C. 1227(a)(2)(E)(i))); or

11 (bb) an offense of—

12 (AA) sexual abuse or exploi-
13 tation;

14 (BB) burglary;

15 (CC) unlawful possession or
16 use of a firearm;

17 (DD) drug distribution or
18 trafficking; or

19 (EE) driving under the in-
20 fluence, if the applicable State
21 law requires, as elements of the
22 offense, the operation of a motor
23 vehicle and a finding of impair-
24 ment or a blood alcohol content
25 equal to or greater than .08; or

1 (II) that resulted in a sentence of
2 time in custody of more than 90 days.

3 (B) EXCLUSIONS.—The term “significant
4 misdemeanor” does not include—

5 (i) a State or local offense for which
6 an essential element is the immigration
7 status of an alien; or

8 (ii) a Federal, State, or local criminal
9 offense that results in a sentence of time
10 in custody of more than 90 days for which
11 the sentence is suspended.

12 (15) UNIFORMED SERVICES.—The term “Uni-
13 formed Services” has the meaning given the term
14 “uniformed services” in section 101(a) of title 10,
15 United States Code.

16 **SEC. 203. PERMANENT RESIDENT STATUS ON A CONDI-**
17 **TIONAL BASIS FOR CERTAIN LONG-TERM**
18 **RESIDENTS WHO ENTERED THE UNITED**
19 **STATES AS CHILDREN.**

20 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
21 standing any other provision of law, an alien who obtains
22 the status of an alien lawfully admitted for permanent res-
23 idence under this section shall be considered to have ob-
24 tained that status on a conditional basis as of the date

1 on which the alien obtained the status, subject to the pro-
2 visions under this subtitle.

3 (b) REQUIREMENTS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, the Secretary shall cancel the re-
6 moval of, and adjust to the status of an alien law-
7 fully admitted for permanent residence on a condi-
8 tional basis, an alien who is inadmissible or deport-
9 able from the United States or is in temporary pro-
10 tected status under section 244 of the Immigration
11 and Nationality Act (8 U.S.C. 1254a), if—

12 (A) the alien has been continuously phys-
13 ically present in the United States since June
14 15, 2012;

15 (B) the alien was younger than 18 years of
16 age on the date on which the alien initially en-
17 tered the United States;

18 (C) subject to paragraphs (2) and (3), the
19 alien—

20 (i) is not inadmissible under para-
21 graph (2), (3), (6)(E), (6)(G), (8),
22 (10)(A), (10)(C), or (10)(D) of section
23 212(a) of the Immigration and Nationality
24 Act (8 U.S.C. 1182(a));

1 (ii) has not ordered, incited, assisted,
2 or otherwise participated in the persecution
3 of any person on account of race, religion,
4 nationality, membership in a particular so-
5 cial group, or political opinion; and

6 (iii) has not been convicted of—

7 (I) a felony;

8 (II) a significant misdemeanor;

9 or

10 (III) 3 or more misdemeanors—

11 (aa) not occurring on the
12 same date; and

13 (bb) not arising out of the
14 same act, omission, or scheme of
15 misconduct;

16 (D) the alien—

17 (i) has been admitted to an institution
18 of higher education;

19 (ii) has earned a high school diploma
20 or a commensurate alternative award from
21 a public or private high school, or has ob-
22 tained a general education development
23 certificate recognized under State law or a
24 high school equivalency diploma in the
25 United States;

1 (iii) is enrolled in secondary school or
2 in an education program assisting students
3 in—

4 (I) obtaining a regular high
5 school diploma or the recognized
6 equivalent of a regular high school di-
7 ploma under State law; or

8 (II) passing a general educational
9 development exam, a high school
10 equivalence diploma examination, or
11 other similar State-authorized exam;
12 or

13 (iv)(I) has served, is serving, or has
14 enlisted in the Armed Forces; and

15 (II) in the case of an alien who has
16 been discharged from the Armed Forces,
17 has received an honorable discharge; and

18 (E)(i) the alien has paid any applicable
19 Federal tax liability incurred by the alien dur-
20 ing the entire period for which the alien was a
21 DACA recipient; or

22 (ii) the alien has entered into an agree-
23 ment to pay any applicable Federal tax liability
24 incurred by the alien during the entire period
25 for which the alien was a DACA recipient

1 through a payment installment plan approved
2 by the Commissioner of Internal Revenue.

3 (2) WAIVER.—

4 (A) IN GENERAL.—With respect to any
5 benefit under this subtitle, the Secretary may,
6 on a case-by-case basis, waive the grounds of
7 inadmissibility under paragraph (2), (6)(E),
8 (6)(G), or (10)(D) of section 212(a) of the Im-
9 migration and Nationality Act (8 U.S.C.
10 1182(a))—

11 (i) for humanitarian purposes; or

12 (ii) if the waiver is otherwise in the
13 public interest.

14 (B) QUARTERLY REPORTS.—Not later
15 than 180 days after the date of enactment of
16 this Act, and quarterly thereafter, the Secretary
17 shall submit to Congress a report that includes,
18 for the preceding quarter—

19 (i) the number of requests submitted
20 by aliens for a waiver under subparagraph
21 (A);

22 (ii) the number of waivers granted
23 under that subparagraph; and

1 (iii) the number of requests for a
2 waiver under that subparagraph denied by
3 the Secretary.

4 (3) TREATMENT OF EXPUNGED CONVIC-
5 TIONS.—

6 (A) IN GENERAL.—An expunged conviction
7 shall not automatically be treated as a convic-
8 tion referred to in paragraph (1)(C)(iii).

9 (B) CASE-BY-CASE EVALUATION.—The
10 Secretary shall evaluate an expunged conviction
11 on a case-by-case basis according to the nature
12 and severity of the offense underlying the ex-
13 punged conviction, based on the record of con-
14 viction, to determine whether, under the par-
15 ticular circumstances, the alien is eligible for
16 cancellation of removal, adjustment to perma-
17 nent resident status on a conditional basis, or
18 other adjustment of status.

19 (4) DACA RECIPIENTS.—With respect to an
20 alien granted DACA, the Secretary shall cancel the
21 removal of the alien and adjust the status of the
22 alien to the status of an alien lawfully admitted for
23 permanent residence on a conditional basis unless,
24 since the date on which the alien was granted

1 DACA, the alien has engaged in conduct that would
2 render an alien ineligible for DACA.

3 (5) APPLICATION FEE.—

4 (A) IN GENERAL.—The Secretary may re-
5 quire an alien applying for permanent resident
6 status on a conditional basis to pay a reason-
7 able fee that is commensurate with the cost of
8 processing the application.

9 (B) EXEMPTION.—An applicant may be
10 exempted from paying the fee required under
11 subparagraph (A) only if the alien—

12 (i)(I) is younger than 18 years of age;

13 (II) received total income, during the
14 1-year period immediately preceding the
15 date on which the alien files an application
16 under this section, that is less than 150
17 percent of the poverty line; and

18 (III) is in foster care or otherwise
19 lacking any parental or other familial sup-
20 port;

21 (ii) is younger than 18 years of age
22 and is homeless;

23 (iii)(I) cannot care for himself or her-
24 self because of a serious, chronic disability;
25 and

1 (II) received total income, during the
2 1-year period immediately preceding the
3 date on which the alien files an application
4 under this section, that is less than 150
5 percent of the poverty line; or

6 (iv)(I) during the 1-year period imme-
7 diately preceding the date on which the
8 alien files an application under this sec-
9 tion, accumulated \$10,000 or more in debt
10 as a result of unreimbursed medical ex-
11 penses incurred by the alien or an imme-
12 diate family member of the alien; and

13 (II) received total income, during the
14 1-year period immediately preceding the
15 date on which the alien files an application
16 under this section, that is less than 150
17 percent of the poverty line.

18 (6) SUBMISSION OF BIOMETRIC AND BIO-
19 GRAPHIC DATA.—

20 (A) IN GENERAL.—The Secretary may not
21 grant an alien permanent resident status on a
22 conditional basis under this section unless the
23 alien submits biometric and biographic data, in
24 accordance with procedures established by the
25 Secretary.

1 (B) ALTERNATIVE PROCEDURE.—The Sec-
2 retary shall provide an alternative procedure for
3 any alien who is unable to provide the biometric
4 or biographic data referred to in subparagraph
5 (A) due to a physical impairment.

6 (7) BACKGROUND CHECKS.—

7 (A) REQUIREMENT FOR BACKGROUND
8 CHECKS.—The Secretary shall use biometric,
9 biographic, and other data that the Secretary
10 determines to be appropriate—

11 (i) to conduct security and law en-
12 forcement background checks of an alien
13 seeking permanent resident status on a
14 conditional basis under this section; and

15 (ii) to determine whether there is any
16 criminal, national security, or other factor
17 that would render the alien ineligible for
18 permanent resident status on a conditional
19 basis.

20 (B) COMPLETION OF BACKGROUND
21 CHECKS.—The security and law enforcement
22 background checks of an alien required under
23 subparagraph (A) shall be completed, to the
24 satisfaction of the Secretary, before the date on

1 which the Secretary grants the alien permanent
2 resident status on a conditional basis.

3 (C) CRIMINAL RECORDS REQUESTS.—With
4 respect to an alien seeking permanent resident
5 status on a conditional basis under this section,
6 the Secretary, in cooperation with the Secretary
7 of State, shall seek to obtain from INTERPOL,
8 EUROPOL, or any other international or na-
9 tional law enforcement agency of the country of
10 nationality, country of citizenship, or country of
11 last habitual residence of the alien, information
12 about any criminal activity—

13 (i) in which the alien engaged in the
14 country of nationality, country of citizen-
15 ship, or country of last habitual residence
16 of the alien; or

17 (ii) for which the alien was convicted
18 in the country of nationality, country of
19 citizenship, or country of last habitual resi-
20 dence of the alien.

21 (8) MEDICAL EXAMINATION.—

22 (A) REQUIREMENT.—An alien applying for
23 permanent resident status on a conditional
24 basis shall undergo a medical examination.

1 (B) POLICIES AND PROCEDURES.—The
2 Secretary, with the concurrence of the Sec-
3 retary of Health and Human Services, shall
4 prescribe policies and procedures for the nature
5 and timing of the examination under subpara-
6 graph (A).

7 (9) MILITARY SELECTIVE SERVICE.—An alien
8 applying for permanent resident status on a condi-
9 tional basis under this section shall establish that
10 the alien has registered under the Military Selective
11 Service Act (50 U.S.C. 3801 et seq.), if the alien is
12 subject to registration under that Act.

13 (c) DETERMINATION OF CONTINUOUS PRESENCE.—

14 (1) TERMINATION OF CONTINUOUS PERIOD.—
15 Any period of continuous physical presence in the
16 United States of an alien who applies for permanent
17 resident status on a conditional basis under this sec-
18 tion shall not terminate on the date on which the
19 alien is served a notice to appear under section
20 239(a) of the Immigration and Nationality Act (8
21 U.S.C. 1229(a)).

22 (2) TREATMENT OF CERTAIN BREAKS IN PRES-
23 ENCE.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraphs (B) and (C), an alien shall be

1 considered to have failed to maintain contin-
2 uous physical presence in the United States
3 under subsection (b)(1)(A) if the alien has de-
4 parted from the United States for any period
5 greater than 90 days or for any periods, in the
6 aggregate, greater than 180 days.

7 (B) EXTENSIONS FOR EXTENUATING CIR-
8 CUMSTANCES.—The Secretary may extend the
9 time periods described in subparagraph (A) for
10 an alien who demonstrates that the failure to
11 timely return to the United States was due to
12 extenuating circumstances beyond the control of
13 the alien, including the serious illness of the
14 alien, or death or serious illness of a parent,
15 grandparent, sibling, or child of the alien.

16 (C) TRAVEL AUTHORIZED BY THE SEC-
17 RETARY.—Any period of travel outside of the
18 United States by an alien that was authorized
19 by the Secretary may not be counted toward
20 any period of departure from the United States
21 under subparagraph (A).

22 (d) LIMITATION ON REMOVAL OF CERTAIN
23 ALIENS.—

1 (1) IN GENERAL.—The Secretary or the Attor-
2 ney General may not remove an alien who appears
3 prima facie eligible for relief under this section.

4 (2) ALIENS SUBJECT TO REMOVAL.—With re-
5 spect to an alien who is in removal proceedings, the
6 subject of a final removal order, or the subject of a
7 voluntary departure order, the Attorney General
8 shall provide the alien with a reasonable opportunity
9 to apply for relief under this section.

10 (3) CERTAIN ALIENS ENROLLED IN ELEMEN-
11 TARY OR SECONDARY SCHOOL.—

12 (A) STAY OF REMOVAL.—The Attorney
13 General shall stay the removal proceedings of
14 an alien who—

15 (i) meets all the requirements under
16 subparagraphs (A), (B), and (C) of sub-
17 section (b)(1), subject to paragraphs (2)
18 and (3) of that subsection;

19 (ii) is at least 5 years of age; and

20 (iii) is enrolled in an elementary
21 school, a secondary school, or an early
22 childhood education program.

23 (B) COMMENCEMENT OF REMOVAL PRO-
24 CEEDINGS.—The Secretary may not commence

1 removal proceedings for an alien described in
2 subparagraph (A).

3 (C) EMPLOYMENT.—An alien whose re-
4 moval is stayed pursuant to subparagraph (A)
5 or who may not be placed in removal pro-
6 ceedings pursuant to subparagraph (B) shall,
7 upon application to the Secretary, be granted
8 an employment authorization document.

9 (D) LIFT OF STAY.—The Secretary or At-
10 torney General may not lift the stay granted to
11 an alien under subparagraph (A) unless the
12 alien ceases to meet the requirements under
13 such subparagraph.

14 (e) EXEMPTION FROM NUMERICAL LIMITATIONS.—
15 Nothing in this section or in any other law may be con-
16 strued to apply a numerical limitation on the number of
17 aliens who may be granted permanent resident status on
18 a conditional basis under this section.

19 **SEC. 204. TERMS OF PERMANENT RESIDENT STATUS ON A**
20 **CONDITIONAL BASIS.**

21 (a) PERIOD OF STATUS.—Permanent resident status
22 on a conditional basis is—

23 (1) valid for a period of 8 years, unless that pe-
24 riod is extended by the Secretary; and

25 (2) subject to termination under subsection (c).

1 (b) NOTICE OF REQUIREMENTS.—At the time an
2 alien obtains permanent resident status on a conditional
3 basis, the Secretary shall provide notice to the alien re-
4 garding the provisions of this subtitle and the require-
5 ments to have the conditional basis of the permanent resi-
6 dent status of the alien removed.

7 (c) TERMINATION OF STATUS.—The Secretary may
8 terminate the permanent resident status on a conditional
9 basis of an alien only if the Secretary—

10 (1) determines that the alien ceases to meet the
11 requirements under paragraph (1)(C) of section
12 203(b), subject to paragraphs (2) and (3) of that
13 section; and

14 (2) prior to the termination, provides the
15 alien—

16 (A) notice of the proposed termination;
17 and

18 (B) the opportunity for a hearing to pro-
19 vide evidence that the alien meets such require-
20 ments or otherwise contest the termination.

21 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the immigration status of an alien whose
24 permanent resident status on a conditional basis ex-
25 pires under subsection (a)(1) or is terminated under

1 subsection (c) or whose application for permanent
2 resident status on a conditional basis is denied shall
3 return to the immigration status of the alien on the
4 day before the date on which the alien received per-
5 manent resident status on a conditional basis or ap-
6 plied for such status, as appropriate.

7 (2) SPECIAL RULE FOR TEMPORARY PRO-
8 TECTED STATUS.—An alien whose permanent resi-
9 dent status on a conditional basis expires under sub-
10 section (a)(1) or is terminated under subsection (c)
11 or whose application for permanent resident status
12 on a conditional basis is denied and who had tem-
13 porary protected status under section 244 of the Im-
14 migration and Nationality Act (8 U.S.C. 1254a) im-
15 mediately before receiving or applying for permanent
16 resident status on a conditional basis, as appro-
17 priate, may not return to temporary protected status
18 if—

19 (A) the relevant designation under section
20 244(b) of the Immigration and Nationality Act
21 (8 U.S.C. 1254a(b)) has been terminated; or

22 (B) the Secretary determines that the rea-
23 son for terminating the permanent resident sta-
24 tus on a conditional basis renders the alien in-
25 eligible for temporary protected status.

1 **SEC. 205. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
2 **NENT RESIDENT STATUS.**

3 (a) **ELIGIBILITY FOR REMOVAL OF CONDITIONAL**
4 **BASIS.—**

5 (1) **IN GENERAL.**—Subject to paragraph (2),
6 the Secretary shall remove the conditional basis of
7 the permanent resident status of an alien granted
8 under this subtitle and grant the alien status as an
9 alien lawfully admitted for permanent residence if
10 the alien—

11 (A) is described in paragraph (1)(C) of
12 section 203(b), subject to paragraphs (2) and
13 (3) of that section;

14 (B) has not abandoned the residence of the
15 alien in the United States;

16 (C)(i) has acquired a degree from an insti-
17 tution of higher education or has completed at
18 least 2 years, in good standing, in a program
19 for a bachelor's degree or higher degree in the
20 United States;

21 (ii)(I) has served in the Uniformed Serv-
22 ices for at least 2 years; or

23 (II) in the case of an alien who has been
24 discharged from the Uniformed Services, has
25 received an honorable discharge; or

1 (iii) has been employed for periods totaling
2 at least 3 years and at least 75 percent of the
3 time that the alien has had a valid employment
4 authorization, except that any period during
5 which the alien is not employed while having a
6 valid employment authorization and is enrolled
7 in an institution of higher education, a sec-
8 ondary school, or an education program de-
9 scribed in section 203(b)(1)(D)(iii), shall not
10 count toward the time requirements under this
11 clause; and

12 (D)(i) has paid any applicable Federal tax
13 liability incurred by the alien during the entire
14 period for which the alien was in permanent
15 resident status on a conditional basis; or

16 (ii) has entered into an agreement to pay
17 the applicable Federal tax liability incurred by
18 the alien during the entire period for which the
19 alien was in permanent resident status on a
20 conditional basis through a payment installment
21 plan approved by the Commissioner of Internal
22 Revenue.

23 (2) HARDSHIP EXCEPTION.—

24 (A) IN GENERAL.—The Secretary shall re-
25 move the conditional basis of the permanent

1 resident status of an alien and grant the alien
2 status as an alien lawfully admitted for perma-
3 nent residence if the alien—

4 (i) satisfies the requirements under
5 subparagraphs (A) and (B) of paragraph
6 (1);

7 (ii) demonstrates compelling cir-
8 cumstances for the inability to satisfy the
9 requirements under subparagraph (C) of
10 such paragraph; and

11 (iii) demonstrates that—

12 (I) the alien has a disability;

13 (II) the alien is a full-time care-
14 giver of a minor child; or

15 (III) the removal of the alien
16 from the United States would result
17 in extreme hardship to the alien or
18 the alien's spouse, parent, or child
19 who is a national of the United States
20 or is lawfully admitted for permanent
21 residence.

22 (3) CITIZENSHIP REQUIREMENT.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), the conditional basis of the
25 permanent resident status granted to an alien

1 under this subtitle may not be removed unless
2 the alien demonstrates that the alien satisfies
3 the requirements under section 312(a) of the
4 Immigration and Nationality Act (8 U.S.C.
5 1423(a)).

6 (B) EXCEPTION.—Subparagraph (A) shall
7 not apply to an alien who is unable to meet the
8 requirements under section 312(a) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1423(a))
10 due to disability.

11 (4) APPLICATION FEE.—

12 (A) IN GENERAL.—The Secretary may re-
13 quire an alien applying for lawful permanent
14 resident status under this section to pay a rea-
15 sonable fee that is commensurate with the cost
16 of processing the application.

17 (B) EXEMPTION.—An applicant may be
18 exempted from paying the fee required under
19 subparagraph (A) only if the alien—

20 (i)(I) is younger than 18 years of age;

21 (II) received total income, during the

22 1-year period immediately preceding the

23 date on which the alien files an application

24 under this section, that is less than 150

25 percent of the poverty line; and

1 (III) is in foster care or otherwise
2 lacking any parental or other familial sup-
3 port;

4 (ii) is younger than 18 years of age
5 and is homeless;

6 (iii)(I) cannot care for himself or her-
7 self because of a serious, chronic disability;
8 and

9 (II) received total income, during the
10 1-year period immediately preceding the
11 date on which the alien files an application
12 under this section, that is less than 150
13 percent of the poverty line; or

14 (iv)(I) during the 1-year period imme-
15 diately preceding the date on which the
16 alien files an application under this sec-
17 tion, the alien accumulated \$10,000 or
18 more in debt as a result of unreimbursed
19 medical expenses incurred by the alien or
20 an immediate family member of the alien;
21 and

22 (II) received total income, during the
23 1-year period immediately preceding the
24 date on which the alien files an application

1 under this section, that is less than 150
2 percent of the poverty line.

3 (5) SUBMISSION OF BIOMETRIC AND BIO-
4 GRAPHIC DATA.—

5 (A) IN GENERAL.—The Secretary may not
6 remove the conditional basis of the permanent
7 resident status of an alien unless the alien sub-
8 mits biometric and biographic data, in accord-
9 ance with procedures established by the Sec-
10 retary.

11 (B) ALTERNATIVE PROCEDURE.—The Sec-
12 retary shall provide an alternative procedure for
13 any applicant who is unable to provide the bio-
14 metric or biographic data referred to in sub-
15 paragraph (A) due to physical impairment.

16 (6) BACKGROUND CHECKS.—

17 (A) REQUIREMENT FOR BACKGROUND
18 CHECKS.—The Secretary shall use biometric,
19 biographic, and other data that the Secretary
20 determines to be appropriate—

21 (i) to conduct security and law en-
22 forcement background checks of an alien
23 applying for removal of the conditional
24 basis of the permanent resident status of
25 the alien; and

1 (ii) to determine whether there is any
2 criminal, national security, or other factor
3 that would render the alien ineligible for
4 removal of the conditional basis of the per-
5 manent resident status of the alien.

6 (B) COMPLETION OF BACKGROUND
7 CHECKS.—The security and law enforcement
8 background checks of an alien required under
9 subparagraph (A) shall be completed, to the
10 satisfaction of the Secretary, before the date on
11 which the Secretary removes the conditional
12 basis of the permanent resident status of the
13 alien.

14 (b) NATURALIZATION.—

15 (1) IN GENERAL.—For purposes of title III of
16 the Immigration and Nationality Act (8 U.S.C. 1401
17 et seq.), an alien granted permanent resident status
18 on a conditional basis shall be considered to have
19 been admitted to the United States, and to be
20 present in the United States, as an alien lawfully ad-
21 mitted for permanent residence.

22 (2) LIMITATIONS ON APPLICATION FOR NATU-
23 RALIZATION.—

24 (A) IN GENERAL.—An alien may not be
25 naturalized—

1 (i) on any date on which the alien is
 2 in permanent resident status on a condi-
 3 tional basis; or

4 (ii) before the date that is 12 years
 5 after the date on which the alien was
 6 granted permanent resident status on a
 7 conditional basis.

8 (B) REDUCTION IN PERIOD.—

9 (i) IN GENERAL.—Subject to clause
 10 (ii), the 12-year period referred to in sub-
 11 paragraph (A)(ii) shall be reduced by the
 12 number of days that the alien was a DACA
 13 recipient.

14 (ii) LIMITATION.—Notwithstanding
 15 clause (i), the 12-year period may not be
 16 reduced by more than 2 years.

17 (C) ADVANCED FILING DATE.—With re-
 18 spect to an alien granted permanent resident
 19 status on a conditional basis under this subtitle,
 20 the alien may file an application for naturaliza-
 21 tion not more than 90 days before the date on
 22 which the applicant meets the requirements for
 23 naturalization under subparagraph (A).

1 **SEC. 206. DOCUMENTATION REQUIREMENTS.**

2 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
3 alien's application for permanent resident status on a con-
4 ditional basis may include, as proof of identity—

5 (1) a passport or national identity document
6 from the alien's country of origin that includes the
7 alien's name and the alien's photograph or finger-
8 print;

9 (2) the alien's birth certificate and an identity
10 card that includes the alien's name and photograph;

11 (3) a school identification card that includes the
12 alien's name and photograph, and school records
13 showing the alien's name and that the alien is or
14 was enrolled at the school;

15 (4) a Uniformed Services identification card
16 issued by the Department of Defense;

17 (5) any immigration or other document issued
18 by the United States Government bearing the alien's
19 name and photograph; or

20 (6) a State-issued identification card bearing
21 the alien's name and photograph.

22 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
23 ICAL PRESENCE IN THE UNITED STATES.—To establish
24 that an alien has been continuously physically present in
25 the United States, as required under section 203(b)(1)(A),
26 or to establish that an alien has not abandoned residence

1 in the United States, as required under section
2 205(a)(1)(B), the alien may submit documents to the Sec-
3 retary, including—

4 (1) employment records that include the em-
5 ployer's name and contact information;

6 (2) records from any educational institution the
7 alien has attended in the United States;

8 (3) records of service from the Uniformed Serv-
9 ices;

10 (4) official records from a religious entity con-
11 firming the alien's participation in a religious cere-
12 mony;

13 (5) passport entries;

14 (6) a birth certificate for a child of the alien
15 who was born in the United States;

16 (7) automobile license receipts or registration;

17 (8) deeds, mortgages, or rental agreement con-
18 tracts;

19 (9) tax receipts;

20 (10) insurance policies;

21 (11) remittance records;

22 (12) rent receipts or utility bills bearing the
23 alien's name or the name of an immediate family
24 member of the alien, and the alien's address;

1 (13) copies of money order receipts for money
2 sent in or out of the United States;

3 (14) dated bank transactions; and

4 (15) 2 or more sworn affidavits from individ-
5 uals who are not related to the alien who have direct
6 knowledge of the alien's continuous physical pres-
7 ence in the United States, that contain—

8 (A) the name, address, and telephone num-
9 ber of the affiant; and

10 (B) the nature and duration of the rela-
11 tionship between the affiant and the alien.

12 (c) DOCUMENTS ESTABLISHING INITIAL ENTRY
13 INTO THE UNITED STATES.—To establish under section
14 203(b)(1)(B) that an alien was younger than 18 years of
15 age on the date on which the alien initially entered the
16 United States, an alien may submit documents to the Sec-
17 retary, including—

18 (1) an admission stamp on the alien's passport;

19 (2) records from any educational institution the
20 alien has attended in the United States;

21 (3) any document from the Department of Jus-
22 tice or the Department of Homeland Security stat-
23 ing the alien's date of entry into the United States;

24 (4) hospital or medical records showing medical
25 treatment or hospitalization, the name of the med-

1 ical facility or physician, and the date of the treat-
2 ment or hospitalization;

3 (5) rent receipts or utility bills bearing the
4 alien's name or the name of an immediate family
5 member of the alien, and the alien's address;

6 (6) employment records that include the em-
7 ployer's name and contact information;

8 (7) official records from a religious entity con-
9 firming the alien's participation in a religious cere-
10 mony;

11 (8) a birth certificate for a child of the alien
12 who was born in the United States;

13 (9) automobile license receipts or registration;

14 (10) deeds, mortgages, or rental agreement con-
15 tracts;

16 (11) tax receipts;

17 (12) travel records;

18 (13) copies of money order receipts sent in or
19 out of the country;

20 (14) dated bank transactions;

21 (15) remittance records; and

22 (16) insurance policies.

23 (d) DOCUMENTS ESTABLISHING ADMISSION TO AN
24 INSTITUTION OF HIGHER EDUCATION.—To establish that
25 an alien has been admitted to an institution of higher edu-

1 cation, the alien shall submit to the Secretary a document
2 from the institution of higher education certifying that the
3 alien—

4 (1) has been admitted to the institution; or

5 (2) is currently enrolled in the institution as a
6 student.

7 (e) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
8 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—

9 To establish that an alien has acquired a degree from an
10 institution of higher education in the United States, the
11 alien shall submit to the Secretary a diploma or other doc-
12 ument from the institution stating that the alien has re-
13 ceived such a degree.

14 (f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH
15 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
16 MENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—

17 To establish that an alien has earned a high school di-
18 ploma or a commensurate alternative award from a public
19 or private high school, or has obtained a general edu-
20 cational development certificate recognized under State
21 law or a high school equivalency diploma in the United
22 States, the alien shall submit to the Secretary—

23 (1) a high school diploma, certificate of comple-
24 tion, or other alternate award;

1 (2) a high school equivalency diploma or certifi-
2 cate recognized under State law; or

3 (3) evidence that the alien passed a State-au-
4 thorized exam, including the general educational de-
5 velopment exam, in the United States.

6 (g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
7 EDUCATIONAL PROGRAM.—To establish that an alien is
8 enrolled in any school or education program described in
9 section 203(b)(1)(D)(iii), 203(d)(3)(A)(iii), or
10 205(a)(1)(C)(i), the alien shall submit school records from
11 the United States school that the alien is currently attend-
12 ing that include—

13 (1) the name of the school; and

14 (2) the alien's name, periods of attendance, and
15 current grade or educational level.

16 (h) DOCUMENTS ESTABLISHING EXEMPTION FROM
17 APPLICATION FEES.—To establish that an alien is exempt
18 from an application fee under section 203(b)(5)(B) or
19 205(a)(4)(B), the alien shall submit to the Secretary the
20 following relevant documents:

21 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
22 tablish that an alien meets an age requirement, the
23 alien shall provide proof of identity, as described in
24 subsection (a), that establishes that the alien is
25 younger than 18 years of age.

1 (2) DOCUMENTS TO ESTABLISH INCOME.—To
2 establish the alien's income, the alien shall provide—

3 (A) employment records that have been
4 maintained by the Social Security Administra-
5 tion, the Internal Revenue Service, or any other
6 Federal, State, or local government agency;

7 (B) bank records; or

8 (C) at least 2 sworn affidavits from indi-
9 viduals who are not related to the alien and
10 who have direct knowledge of the alien's work
11 and income that contain—

12 (i) the name, address, and telephone
13 number of the affiant; and

14 (ii) the nature and duration of the re-
15 lationship between the affiant and the
16 alien.

17 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
18 LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR
19 SERIOUS, CHRONIC DISABILITY.—To establish that
20 the alien was in foster care, lacks parental or famil-
21 ial support, is homeless, or has a serious, chronic
22 disability, the alien shall provide at least 2 sworn af-
23 fidavits from individuals who are not related to the
24 alien and who have direct knowledge of the cir-
25 cumstances that contain—

1 (A) a statement that the alien is in foster
2 care, otherwise lacks any parental or other fa-
3 miliar support, is homeless, or has a serious,
4 chronic disability, as appropriate;

5 (B) the name, address, and telephone num-
6 ber of the affiant; and

7 (C) the nature and duration of the rela-
8 tionship between the affiant and the alien.

9 (4) DOCUMENTS TO ESTABLISH UNPAID MED-
10 ICAL EXPENSE.—To establish that the alien has debt
11 as a result of unreimbursed medical expenses, the
12 alien shall provide receipts or other documentation
13 from a medical provider that—

14 (A) bear the provider's name and address;

15 (B) bear the name of the individual receiv-
16 ing treatment; and

17 (C) document that the alien has accumu-
18 lated \$10,000 or more in debt in the past 12
19 months as a result of unreimbursed medical ex-
20 penses incurred by the alien or an immediate
21 family member of the alien.

22 (i) DOCUMENTS ESTABLISHING QUALIFICATION FOR
23 HARDSHIP EXEMPTION.—To establish that an alien satis-
24 fies 1 of the criteria for the hardship exemption described
25 in section 205(a)(2)(A)(iii), the alien shall submit to the

1 Secretary at least 2 sworn affidavits from individuals who
2 are not related to the alien and who have direct knowledge
3 of the circumstances that warrant the exemption, that
4 contain—

5 (1) the name, address, and telephone number of
6 the affiant; and

7 (2) the nature and duration of the relationship
8 between the affiant and the alien.

9 (j) DOCUMENTS ESTABLISHING SERVICE IN THE
10 UNIFORMED SERVICES.—To establish that an alien has
11 served in the Uniformed Services for at least 2 years and,
12 if discharged, received an honorable discharge, the alien
13 shall submit to the Secretary—

14 (1) a Department of Defense form DD-214;

15 (2) a National Guard Report of Separation and
16 Record of Service form 22;

17 (3) personnel records for such service from the
18 appropriate Uniformed Service; or

19 (4) health records from the appropriate Uni-
20 formed Service.

21 (k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

22 (1) IN GENERAL.—An alien may satisfy the em-
23 ployment requirement under section
24 205(a)(1)(C)(iii) by submitting records that—

1 (A) establish compliance with such employ-
2 ment requirement; and

3 (B) have been maintained by the Social Se-
4 curity Administration, the Internal Revenue
5 Service, or any other Federal, State, or local
6 government agency.

7 (2) OTHER DOCUMENTS.—An alien who is un-
8 able to submit the records described in paragraph
9 (1) may satisfy the employment requirement by sub-
10 mitting at least 2 types of reliable documents that
11 provide evidence of employment, including—

12 (A) bank records;

13 (B) business records;

14 (C) employer records;

15 (D) records of a labor union, day labor
16 center, or organization that assists workers in
17 employment;

18 (E) sworn affidavits from individuals who
19 are not related to the alien and who have direct
20 knowledge of the alien's work, that contain—

21 (i) the name, address, and telephone
22 number of the affiant; and

23 (ii) the nature and duration of the re-
24 lationship between the affiant and the
25 alien; and

1 (F) remittance records.

2 (I) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
3 UMENTS.—If the Secretary determines, after publication
4 in the Federal Register and an opportunity for public com-
5 ment, that any document or class of documents does not
6 reliably establish identity or that permanent resident sta-
7 tus on a conditional basis is being obtained fraudulently
8 to an unacceptable degree, the Secretary may prohibit or
9 restrict the use of such document or class of documents.

10 **SEC. 207. RULEMAKING.**

11 (a) INITIAL PUBLICATION.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the Secretary
14 shall publish in the Federal Register regulations im-
15 plementing this subtitle.

16 (2) AFFIRMATIVE APPLICATION.—The regula-
17 tions published under paragraph (1) shall allow any
18 eligible individual to immediately apply affirmatively
19 for the relief available under section 203 without
20 being placed in removal proceedings.

21 (b) INTERIM REGULATIONS.—Notwithstanding sec-
22 tion 553 of title 5, United States Code, the regulations
23 published pursuant to subsection (a)(1) shall be effective,
24 on an interim basis, immediately on publication in the
25 Federal Register, but may be subject to change and revi-

1 sion after public notice and opportunity for a period of
2 public comment.

3 (c) FINAL REGULATIONS.—Not later than 180 days
4 after the date on which interim regulations are published
5 under this section, the Secretary shall publish final regula-
6 tions implementing this subtitle.

7 (d) PAPERWORK REDUCTION ACT.—The require-
8 ments under chapter 35 of title 44, United States Code,
9 (commonly known as the “Paperwork Reduction Act”)
10 shall not apply to any action to implement this subtitle.

11 **SEC. 208. CONFIDENTIALITY OF INFORMATION.**

12 (a) IN GENERAL.—The Secretary may not disclose
13 or use for the purpose of immigration enforcement any
14 information provided in—

- 15 (1) an application filed under this subtitle; or
16 (2) a request for DACA.

17 (b) REFERRALS PROHIBITED.—The Secretary may
18 not refer to U.S. Immigration and Customs Enforcement,
19 U.S. Customs and Border Protection, or any designee of
20 U.S. Immigration and Customs Enforcement or U.S. Cus-
21 toms and Border Protection any individual who—

- 22 (1) has been granted permanent resident status
23 on a conditional basis; or
24 (2) was granted DACA.

1 (c) LIMITED EXCEPTION.—Notwithstanding sub-
2 sections (a) and (b), information provided in an applica-
3 tion for permanent resident status on a conditional basis
4 or a request for DACA may be shared with a Federal secu-
5 rity or law enforcement agency—

6 (1) for assistance in the consideration of an ap-
7 plication for permanent resident status on a condi-
8 tional basis;

9 (2) to identify or prevent fraudulent claims;

10 (3) for national security purposes; or

11 (4) for the investigation or prosecution of any
12 felony not related to immigration status.

13 (d) PENALTY.—Any person who knowingly uses, pub-
14 lishes, or permits information to be examined in violation
15 of this section shall be fined not more than \$10,000.

16 **SEC. 209. RESTORATION OF STATE OPTION TO DETERMINE**
17 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**
18 **CATION BENEFITS.**

19 (a) IN GENERAL.—Section 505 of the Illegal Immi-
20 gration Reform and Immigrant Responsibility Act of 1996
21 (8 U.S.C. 1623) is repealed.

22 (b) EFFECTIVE DATE.—The repeal under subsection
23 (a) shall take effect as if included in the original enact-
24 ment of the Illegal Immigration Reform and Immigrant

1 Responsibility Act of 1996 (division C of Public Law 104-
2 208; 110 Stat. 3009-546).

3 **SEC. 210. LIMITATION ON PARENTS OF CERTAIN LONG-**
4 **TERM RESIDENTS WHO ENTERED THE**
5 **UNITED STATES AS CHILDREN.**

6 An alien who—

7 (1) is the parent of an alien granted permanent
8 resident status on a conditional basis under this sub-
9 title; and

10 (2) entered, or attempted to enter, the United
11 States unlawfully together with the alien granted
12 permanent resident status on a conditional basis
13 shall not be eligible to adjust status to that of a law-
14 ful permanent resident based on a petition filed by
15 any of the parent's children.

16 **Subtitle B—Provisional Protected**
17 **Presence for Certain Aliens**

18 **SEC. 211. PROVISIONAL PROTECTED PRESENCE.**

19 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
20 gration and Nationality Act (8 U.S.C. 1221 et seq.) is
21 amended by adding at the end the following:

22 **“SEC. 244A. PROVISIONAL PROTECTED PRESENCE.**

23 **“(a) DEFINITIONS.—In this section:**

1 “(1) ELIGIBLE CHILD.—The term ‘eligible
2 child’ means an alien who is eligible, under the
3 DACA Recipient Legalization Act of 2018, for—

4 “(A) permanent resident status on a condi-
5 tional basis; or

6 “(B) a stay of removal.

7 “(2) FELONY.—The term ‘felony’ means a Fed-
8 eral, State, or local criminal offense (excluding a
9 State or local offense for which an essential element
10 was the alien’s immigration status) punishable by
11 imprisonment for a term exceeding 1 year.

12 “(3) MISDEMEANOR.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), the term ‘misdemeanor’
15 means a Federal, State, or local criminal of-
16 fense for which—

17 “(i) the maximum term of imprison-
18 ment is greater than 5 days and not great-
19 er than 1 year; and

20 “(ii) the individual was sentenced to
21 time in custody of 90 days or less.

22 “(B) EXCLUSION.—The term ‘mis-
23 demeanor’ does not include—

1 “(i) a State or local offense for which
2 an essential element is the immigration
3 status of an alien;

4 “(ii) a significant misdemeanor; or

5 “(iii) a minor traffic offense.

6 “(4) SECRETARY.—The term ‘Secretary’ means
7 the Secretary of Homeland Security.

8 “(5) SIGNIFICANT MISDEMEANOR.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘significant mis-
11 demeanor’ means a Federal, State, or local
12 criminal offense—

13 “(i) for which the maximum term of
14 imprisonment is—

15 “(I) more than 5 days; and

16 “(II) not more than 1 year; and

17 “(ii)(I) that, regardless of the sen-
18 tence imposed, is—

19 “(aa) a crime of domestic vio-
20 lence (as defined in section
21 237(a)(2)(E)(i) of the Immigration
22 and Nationality Act (8 U.S.C.
23 1227(a)(2)(E)(i))); or

24 “(bb) an offense of—

1 “(AA) sexual abuse or ex-
2 ploitation;

3 “(BB) burglary;

4 “(CC) unlawful possession
5 or use of a firearm;

6 “(DD) drug distribution or
7 trafficking; or

8 “(EE) driving under the in-
9 fluence, if the applicable State
10 law requires, as elements of the
11 offense, the operation of a motor
12 vehicle and a finding of impair-
13 ment or a blood alcohol content
14 equal to or greater than .08; or

15 “(II) that resulted in a sentence of
16 time in custody of more than 90 days.

17 “(B) EXCLUSIONS.—The term ‘significant
18 misdemeanor’ does not include—

19 “(i) a State or local offense for which
20 an essential element is the immigration
21 status of an alien; or

22 “(ii) a Federal, State, or local crimi-
23 nal offense that results in a sentence of
24 time in custody of more than 90 days for
25 which the sentence is suspended.

1 “(6) THREAT TO NATIONAL SECURITY.—With
2 respect to an alien, the term ‘threat to national se-
3 curity’ means an alien who is—

4 “(A) inadmissible under section 212(a)(3);

5 or

6 “(B) deportable under section 237(a)(4).

7 “(7) THREAT TO PUBLIC SAFETY.—With re-
8 spect to an alien, the term ‘threat to public safety’
9 means an alien who has —

10 “(A) been convicted of an offense for which
11 an element was participation in a criminal
12 street gang (as defined in section 521(a) of title
13 18, United States Code); or

14 “(B) engaged in a continuing criminal en-
15 terprise (as defined in section 408(c) of the
16 Comprehensive Drug Abuse Prevention and
17 Control Act of 1970 (21 U.S.C. 848(c)).

18 “(b) AUTHORIZATION.—The Secretary—

19 “(1) shall grant provisional protected presence
20 and employment authorization to an alien who—

21 “(A) files an application demonstrating
22 that the alien meets the eligibility criteria de-
23 scribed in subsection (c); and

24 “(B) pays the appropriate application fee;
25 and

1 “(2) may not remove an alien granted provi-
2 sional protected presence under paragraph (1) from
3 the United States during the period in which the
4 provisional protected presence of the alien is in ef-
5 fect unless the provisional protected presence is re-
6 scinded pursuant to subsection (i).

7 “(c) ELIGIBILITY CRITERIA.—An alien is eligible for
8 provisional protected presence under this section and em-
9 ployment authorization if the alien—

10 “(1) is the parent of an eligible child;

11 “(2) continuously resided in the United States
12 between—

13 “(A) December 31, 2017; and

14 “(B) the date on which the alien files an
15 application under this section;

16 “(3) was unlawfully present in the United
17 States on—

18 “(A) December 31, 2017; and

19 “(B) the date on which the alien files an
20 application under this section;

21 “(4) has not been convicted of—

22 “(A) a felony;

23 “(B) a significant misdemeanor; or

24 “(C) 3 or more misdemeanors—

1 “(i) not occurring on the same date;
2 and

3 “(ii) not arising out of the same act,
4 omission, or scheme of misconduct; and

5 “(5) does not otherwise pose a threat to na-
6 tional security or a threat to public safety.

7 “(d) DURATION OF PROVISIONAL PROTECTED PRES-
8 ENCE AND EMPLOYMENT AUTHORIZATION.—

9 “(1) IN GENERAL.—Provisional protected pres-
10 ence and employment authorization granted under
11 this section shall be effective until the date that is
12 3 years after the date on which the provisional pro-
13 tected presence and employment authorization are
14 granted.

15 “(2) RENEWAL.—

16 “(A) IN GENERAL.—An alien is eligible to
17 renew for successive 3-year periods the provi-
18 sional protected presence of the alien if, since
19 the date on which the provisional protected
20 presence was granted, the alien—

21 “(i) remains eligible based on the cri-
22 teria described in subsection (c);

23 “(ii) has not traveled outside of the
24 United States without authorization from
25 the Secretary; and

1 “(iii) has not ceased to continuously
2 reside in the United States.

3 “(B) APPLICATION FOR RENEWAL.—Be-
4 ginning on the date that is 180 days before the
5 date on which the provisional protected pres-
6 ence of an alien expires, the alien may file an
7 application to renew the provisional protected
8 presence of the alien.

9 “(C) SUBMISSION OF BIOMETRIC AND BIO-
10 GRAPHIC DATA.—

11 “(i) IN GENERAL.—The Secretary
12 may not grant a renewal of the provisional
13 protected presence of an alien unless the
14 alien submits biometric and biographic
15 data, in accordance with procedures estab-
16 lished by the Secretary.

17 “(ii) ALTERNATIVE PROCEDURE.—
18 The Secretary shall provide an alternative
19 procedure for any alien who is unable to
20 provide the biometric or biographic data
21 referred to in clause (i) due to a physical
22 impairment.

23 “(e) STATUS DURING PERIOD OF PROVISIONAL PRO-
24 TECTED PRESENCE.—

1 “(1) IN GENERAL.—An alien granted provi-
2 sional protected presence shall not be considered to
3 be unlawfully present in the United States during
4 the period beginning on the date on which the provi-
5 sional protected presence of the alien is granted and
6 ending on the date described in subsection (d)(1),
7 including any renewal period granted under sub-
8 section (d)(2).

9 “(2) STATUS OUTSIDE PERIOD.—A grant of
10 provisional protected presence under this section
11 does not excuse any period of unlawful presence that
12 has accrued before, or accrues after, the period of
13 provisional protected presence.

14 “(f) APPLICATION.—

15 “(1) APPLICATION FEE.—The Secretary may
16 require an alien applying for provisional protected
17 presence and employment authorization under this
18 section to pay a reasonable fee that is commensurate
19 with the cost of processing the application.

20 “(2) REMOVAL STAYED WHILE APPLICATION
21 PENDING.—The Secretary or the Attorney General
22 may not remove from the United States an alien
23 who appears to be prima facie eligible for provisional
24 protected presence.

1 “(3) ALIENS SUBJECT TO REMOVAL.—With re-
2 spect to an alien who is in removal proceedings, the
3 subject of a final removal order, or the subject of a
4 voluntary departure order, the Secretary shall pro-
5 vide the alien with a reasonable opportunity to apply
6 for provisional protected presence under this section.

7 “(4) CONFIDENTIALITY.—

8 “(A) IN GENERAL.—The Secretary may
9 not disclose or use for the purpose of immigra-
10 tion enforcement any information provided in
11 an application for provisional protected pres-
12 ence under this section.

13 “(B) REFERRALS PROHIBITED.—The Sec-
14 retary may not refer to U.S. Immigration and
15 Customs Enforcement, U.S. Customs and Bor-
16 der Protection, or any designee of U.S. Immi-
17 gration and Customs Enforcement or U.S. Cus-
18 toms and Border Protection any individual who
19 has been granted provisional protected presence
20 under this section.

21 “(C) LIMITED EXCEPTION.—Notwith-
22 standing subparagraphs (A) and (B), informa-
23 tion submitted in an application for provisional
24 protected presence under this section may be

1 shared with a national security or law enforce-
2 ment agency—

3 “(i) for assistance in the consideration
4 of the application;

5 “(ii) to identify or prevent fraudulent
6 claims;

7 “(iii) for national security purposes;
8 and

9 “(iv) for the investigation or prosecu-
10 tion of any felony not relating to immigra-
11 tion status.

12 “(g) BACKGROUND CHECKS.—

13 “(1) REQUIREMENT FOR BACKGROUND
14 CHECKS.—The Secretary shall use biometric, bio-
15 graphic, and other data that the Secretary deter-
16 mines to be appropriate—

17 “(A) to conduct security and law enforce-
18 ment background checks of an alien seeking
19 provisional protected presence under this sec-
20 tion; and

21 “(B) to determine whether there is any
22 criminal, national security, or other factor that
23 would render the alien ineligible for provisional
24 protected presence.

1 “(2) COMPLETION OF BACKGROUND CHECKS.—

2 The security and law enforcement background
3 checks required under paragraph (1) shall be com-
4 pleted, to the satisfaction of the Secretary, before
5 the date on which the Secretary grants the alien
6 provisional protected presence under this section.

7 “(3) CRIMINAL RECORDS REQUESTS.—With re-
8 spect to an alien seeking permanent resident status
9 on a conditional basis under this section, the Sec-
10 retary, in cooperation with the Secretary of State,
11 shall seek to obtain from INTERPOL, EUROPOL,
12 or any other international or national law enforce-
13 ment agency of the country of nationality, country
14 of citizenship, or country of last habitual residence
15 of the alien, information about any criminal activ-
16 ity—

17 “(A) in which the alien engaged in the
18 country of nationality, country of citizenship, or
19 country of last habitual residence of the alien;
20 or

21 “(B) for which the alien was convicted in
22 the country of nationality, country of citizen-
23 ship, or country of last habitual residence of the
24 alien.

25 “(h) DOCUMENTATION REQUIREMENTS.—

1 “(1) DOCUMENTS ESTABLISHING IDENTITY.—

2 An alien’s application for provisional protected pres-
3 ence may include, as proof of identity—

4 “(A) a passport or national identity docu-
5 ment from the alien’s country of origin that in-
6 cludes the alien’s name and the alien’s photo-
7 graph or fingerprint;

8 “(B) the alien’s birth certificate and an
9 identity card that includes the alien’s name and
10 photograph;

11 “(C) a school identification card that in-
12 cludes the alien’s name and photograph, and
13 school records showing the alien’s name and
14 that the alien is or was enrolled at the school;

15 “(D) a Uniformed Services identification
16 card issued by the Department of Defense;

17 “(E) any immigration or other document
18 issued by the United States Government bear-
19 ing the alien’s name and photograph; or

20 “(F) a State-issued identification card
21 bearing the alien’s name and photograph.

22 “(2) DOCUMENTS ESTABLISHING PHYSICAL
23 PRESENCE IN THE UNITED STATES.—To establish
24 that an alien has been physically present in the

1 United States, the alien may submit documents to
2 the Secretary, including—

3 “(A) employment records that include the
4 employer’s name and contact information;

5 “(B) records from any educational institu-
6 tion the alien has attended in the United
7 States;

8 “(C) records of service from the Uniformed
9 Services;

10 “(D) official records from a religious entity
11 confirming the alien’s participation in a reli-
12 gious ceremony;

13 “(E) passport entries;

14 “(F) a birth certificate for a child of the
15 alien who was born in the United States;

16 “(G) automobile license receipts or reg-
17 istration;

18 “(H) deeds, mortgages, or rental agree-
19 ment contracts;

20 “(I) tax receipts;

21 “(J) insurance policies;

22 “(K) remittance records;

23 “(L) rent receipts or utility bills bearing
24 the alien’s name or the name of an immediate

1 family member of the alien, and the alien's ad-
2 dress;

3 “(M) copies of money order receipts for
4 money sent in or out of the United States;

5 “(N) dated bank transactions; and

6 “(O) 2 or more sworn affidavits from indi-
7 viduals who are not related to the alien who
8 have direct knowledge of the alien's continuous
9 physical presence in the United States, that
10 contain—

11 “(i) the name, address, and telephone
12 number of the affiant; and

13 “(ii) the nature and duration of the
14 relationship between the affiant and the
15 alien.

16 “(i) RESCISSION OF PROVISIONAL PROTECTED
17 PRESENCE.—The Secretary may not rescind the provi-
18 sional protected presence or employment authorization
19 granted to an alien under this section unless the Sec-
20 retary—

21 “(1) determines that the alien—

22 “(A) has been convicted of—

23 “(i) a felony;

24 “(ii) a significant misdemeanor; or

25 “(iii) 3 or more misdemeanors—

1 “(I) not occurring on the same
2 date; and

3 “(II) not arising out of the same
4 act, omission, or scheme of mis-
5 conduct;

6 “(B) poses a threat to national security or
7 a threat to public safety;

8 “(C) has traveled outside of the United
9 States without authorization from the Sec-
10 retary; or

11 “(D) has ceased to continuously reside in
12 the United States; and

13 “(2) prior to the rescission, provides the alien—

14 “(A) notice of the proposed rescission; and

15 “(B) an opportunity for a hearing in which
16 the alien may—

17 “(i) provide evidence that the alien
18 meets the requirements for provisional pro-
19 tected presence; or

20 “(ii) otherwise contest the rescission.

21 “(j) AUTHORIZED TRAVEL.—For purposes of sub-
22 sections (d)(2)(A)(iii) and (i)(4), an alien shall not be con-
23 sidered to have ceased to continuously reside in the United
24 States due to travel outside of the United States that oc-

1 curs on or after the date of enactment of this section if
2 the travel is authorized by the Secretary.

3 “(k) TREATMENT OF EXPUNGED CONVICTIONS.—

4 “(1) IN GENERAL.—For purposes of sub-
5 sections (c)(4) and (i)(1), an expunged conviction
6 shall not automatically be treated as a disqualifying
7 felony, significant misdemeanor, or misdemeanor.

8 “(2) CASE-BY-CASE EVALUATION.—The Sec-
9 retary shall evaluate an expunged conviction on a
10 case-by-case basis according to the nature and sever-
11 ity of the offense underlying the expunged convic-
12 tion, based on the record of conviction, to determine
13 whether, under the particular circumstances, the
14 alien is eligible for provisional protected presence
15 under this section.

16 “(l) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
17 DATA.—

18 “(1) IN GENERAL.—The Secretary may not
19 grant an alien provisional protected presence under
20 this section unless the alien submits biometric and
21 biographic data, in accordance with procedures es-
22 tablished by the Secretary.

23 “(2) ALTERNATIVE PROCEDURE.—The Sec-
24 retary shall provide an alternative procedure for any
25 alien who is unable to provide the biometric or bio-

1 graphic data referred to in paragraph (1) due to a
2 physical impairment.

3 “(m) RULEMAKING.—

4 “(1) INITIAL PUBLICATION.—

5 “(A) IN GENERAL.—Not later than 90
6 days after the date of the enactment of this sec-
7 tion, the Secretary shall publish in the Federal
8 Register regulations implementing this section.

9 “(B) AFFIRMATIVE APPLICATION.—The
10 regulations published under subparagraph (A)
11 shall allow any eligible individual to imme-
12 diately apply affirmatively for the relief avail-
13 able under this section without being placed in
14 removal proceedings.

15 “(2) INTERIM REGULATIONS.—Notwithstanding
16 section 553 of title 5, United States Code, the regu-
17 lations published pursuant to paragraph (1)(A) shall
18 be effective, on an interim basis, immediately on
19 publication in the Federal Register, but may be sub-
20 ject to change and revision after public notice and
21 opportunity for a period of public comment.

22 “(3) FINAL REGULATIONS.—Not later than 180
23 days after the date on which interim regulations are
24 published under this subsection, the Secretary shall
25 publish final regulations implementing this section.

1 “(4) PAPERWORK REDUCTION ACT.—The re-
2 quirements under chapter 35 of title 44, United
3 States Code, (commonly known as the ‘Paperwork
4 Reduction Act’) shall not apply to any action to im-
5 plement this section.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents for the Immigration and Nationality Act (8 U.S.C.
8 1101 note) is amended by inserting after the item relating
9 to section 244 the following:

 “Sec. 244A. Provisional protected presence.”.

10 **TITLE III—NUCLEAR FAMILIES**

11 **SEC. 301. SPONSORSHIP BY CITIZENS OF SPOUSES AND** 12 **CHILDREN ONLY.**

13 (a) IN GENERAL.—Section 203(a) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1153(a)) is amended—

15 (1) by striking paragraph (1) and inserting the
16 following new paragraph (1):

17 “(1) SPOUSES AND CHILDREN OF CITIZENS.—
18 Qualified immigrants who are the spouse or child of
19 a citizen of the United States shall be allocated visas
20 in a number not to exceed—

21 “(A) the worldwide level specified in sec-
22 tion 201(e); minus

23 “(B) 114,200.”; and

24 (2) by striking paragraphs (3) and (4).

1 (b) CONFORMING AMENDMENTS.—The Immigration
2 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

3 (1) in section 201(f) (8 U.S.C. 1151(f))—

4 (A) by striking paragraph (3);

5 (B) by redesignating paragraph (4) as
6 paragraph (3); and

7 (C) in paragraph (3), as so redesignated,
8 by striking “through (3)” and inserting “and
9 (2)”;

10 (2) in section 202 (8 U.S.C. 1152)—

11 (A) in subsection (a)(4), by striking sub-
12 paragraph (D); and

13 (B) in subsection (e)(2), by striking
14 “through (4)” and inserting “and (2)”;

15 (3) in section 204 (8 U.S.C. 1154)—

16 (A) in subsection (a)(1)—

17 (i) in subparagraph (A)(i), by striking
18 “paragraph (1), (3), or (4) of section
19 203(a)” and inserting “section 203(a)(1)”;
20 and

21 (ii) in subparagraph (D)(i)(I), by
22 striking “paragraph (1), (2), or (3)” and
23 inserting “paragraph (1) or (2)”;

1 (B) in subsection (f)(1), by striking
2 “203(a)(1), or 203(a)(3)” and inserting “or
3 203(a)(1)”;

4 (4) in section 212(d)(11) (8 U.S.C.
5 1182(d)(11)), by striking “(other than paragraph
6 (4) thereof)”.

7 **SEC. 302. SPONSORSHIP BY LAWFUL PERMANENT RESI-**
8 **DENTS OF SPOUSES AND CHILDREN ONLY.**

9 (a) IN GENERAL.—Section 203(a)(2) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1153(a)(2)) is
11 amended to read as follows:

12 “(2) SPOUSES AND CHILDREN OF PERMANENT
13 RESIDENT ALIENS.—Qualified immigrants who are
14 the spouse or child of an alien lawfully admitted for
15 permanent residence shall be allocated visas in a
16 number not to exceed the sum of—

17 “(A) 114,200;

18 “(B) the number (if any) by which such
19 worldwide level exceeds 226,000; and

20 “(C) the number of visas not required for
21 the class described in paragraph (1).”.

22 (b) CONFORMING AMENDMENTS.—The Immigration
23 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

24 (1) in section 101(a)(15)(V) (8 U.S.C.
25 1101(a)(15)(V)), by striking “section 203(a)(2)(A)”

1 each place it appears and inserting “section
2 203(a)(2)”;

3 (2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)),
4 by striking “section 203(a)(2)(A)” and inserting
5 “section 203(a)(2)”;

6 (3) in section 202 (8 U.S.C. 1152)—

7 (A) in subsection (a)—

8 (i) in paragraph (2), by striking “(3),
9 (4), and (5)” and inserting “(3) and (4)”

10 (ii) by striking paragraph (4); and

11 (iii) by redesignating paragraph (5) as
12 paragraph (4); and

13 (B) in subsection (e), by striking “, or as
14 limiting the number of visas that may be issued
15 under section 203(a)(2)(A) pursuant to sub-
16 section (a)(4)(A)”;

17 (4) in section 203(h) (8 U.S.C. 1153(h))—

18 (A) in paragraph (3), by striking “sub-
19 sections (a)(2)(A) and (d)” and inserting “sub-
20 section (d)”;

21 (B) by striking “(a)(2)(A)” each place it
22 appears and inserting “(a)(2)”;

23 (5) in section 204 (8 U.S.C. 1154)—

24 (A) in subsection (a)(1)(B)—

25 (i) in clause (ii)—

1 (I) in subclause (I), by striking
2 “if such a child has not been classified
3 under clause (iii) of section
4 203(a)(2)(A) and”; and

5 (II) in subclause (II)(cc), by
6 striking “section 203(a)(2)(A)” and
7 inserting “section 203(a)(2)”; and

8 (ii) in clause (iii), by striking “section
9 203(a)(2)(A)” and inserting “section
10 203(a)(2)”; and

11 (B) in subsection (k)(1)—

12 (i) by striking “alien unmarried son
13 or daughter’s classification as a family-
14 sponsored immigrant under section
15 203(a)(2)(B)” and inserting “alien child’s
16 classification as a family-sponsored immi-
17 grant under section 203(a)(2)”; and

18 (ii) by striking “son or daughter” and
19 inserting “child”; and

20 (iii) by striking “unmarried son or
21 daughter as a family-sponsored immigrant
22 under section 203(a)(1)” and inserting
23 “child as an immediate relative under sec-
24 tion 201(b)(2)”; and

1 (6) in section 214(q)(1)(B)(i) (8 U.S.C.
2 1184(q)(1)(B)(i)), by striking “(a)(2)(A)” each
3 place it appears and inserting “(a)(2)”.

4 **SEC. 303. EFFECTIVE DATE.**

5 The amendments made by sections 301 and 302 shall
6 take effect on the date that is 1 year after the date of
7 the enactment of this Act.

8 **SEC. 304. VISA REALLOCATION.**

9 (a) APPLICATION OF AMENDMENTS.—The amend-
10 ments made by sections 301 and 302 shall apply only with
11 respect to visas issued under section 203 of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1153) on or after the
13 effective date specified in section 303.

14 (b) VISA REALLOCATION.—Of the number of visas
15 available under section 203 of such Act after the effective
16 date that would otherwise have been available under sec-
17 tion 203(a) of such Act, as in effect before such effective
18 date, such visas shall be reallocated after such effective
19 date—

20 (1) to family-sponsored immigrants under sec-
21 tion 203(a) of such Act to reduce or eliminate the
22 backlog in visas under that section; and

23 (2) if any visas remain for allocation after the
24 elimination of the backlog in visas under section
25 203(a) of such Act—

1 (A) the number equal to 50 percent of the
2 remaining visas shall be available for aliens who
3 are members of the professions holding ad-
4 vanced degrees or aliens of exceptional ability
5 under section 203(b)(2) of such Act; and

6 (B) the number equal to 50 percent of the
7 remaining visas shall be available for aliens who
8 skilled workers, professionals, or other workers
9 under section 203(b)(3) of such Act.

10 **TITLE IV—TERMINATION OF DI-**
11 **VERSITY IMMIGRANT VISA**
12 **PROGRAM**

13 **SEC. 401. TERMINATION OF DIVERSITY IMMIGRANT VISA**
14 **PROGRAM.**

15 (a) IN GENERAL.—Section 203 of the Immigration
16 and Nationality Act (8 U.S.C. 1153) is amended by strik-
17 ing subsection (c).

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
19 Title II of the Immigration and Nationality Act (8 U.S.C.
20 1151 et seq.) is amended—

21 (1) in section 201—

22 (A) in subsection (a)—

23 (i) in paragraph (1), by adding “and”
24 at the end;

- 1 (ii) in paragraph (2), by striking “;
2 and” and inserting a period; and
3 (iii) by striking paragraph (3); and
4 (B) by striking subsection (e);
5 (2) in section 203—
6 (A) in subsection (d), by striking “sub-
7 section (a), (b), or (c)” and inserting “sub-
8 section (a) or (b)”;
9 (B) in subsection (e)—
10 (i) by striking paragraph (2); and
11 (ii) by redesignating paragraph (3) as
12 paragraph (2);
13 (C) in subsection (f), by striking “sub-
14 section (a), (b), or (c) of this section” and in-
15 serting “subsection (a) or (b)”;
16 (D) in subsection (g), by striking “sub-
17 sections (a), (b), and (c)” and inserting “sub-
18 sections (a) and (b)”;
19 (E) in subsection (h)(2)(B), by striking
20 “subsection (a), (b), or (c)” and inserting “sub-
21 section (a) or (b)”;
22 (3) in section 204—
23 (A) in subsection (a)(1), by striking sub-
24 paragraph (I);

1 (B) in subsection (e), by striking “sub-
2 section (a), (b), or (c)” and inserting “sub-
3 section (a) or (b)”;

4 (C) in subsection (1)(2)(B), by striking
5 “section 203 (a) or (d)” and inserting “sub-
6 section (a) or (d) of section 203”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the first day of the first
9 fiscal year beginning on or after the date of the enactment
10 of this Act.

11 (d) VISA REALLOCATION.—

12 (1) APPLICATION OF AMENDMENTS.—The
13 amendments made by this section shall apply only
14 with respect to visas issued under section 203 of the
15 Immigration and Nationality Act (8 U.S.C. 1153)
16 on or after the effective date specified in subsection
17 (c).

18 (2) VISA REALLOCATION.—Of the number of
19 visas available under section 203 of such Act after
20 such effective date that would otherwise have been
21 available under section 203(c) of such Act, as in ef-
22 fect before such effective date—

23 (A) 25,000 shall be reallocated after such
24 effective date to employment-based immigrants
25 under section 203(b) of such Act, of which—

1 (i) 20,000 shall be available to aliens
2 who have earned a Ph.D. degree from a
3 United States institution of higher edu-
4 cation (as defined in section 101(a) of the
5 Higher Education Act of 1965 (20 U.S.C.
6 1001(a))) in a field of science, technology,
7 engineering, or mathematics and who have
8 an offer of employment from a United
9 States employer in a field related to such
10 a degree; and

11 (ii) 5,000 shall be available to aliens
12 under section 203(b)(5) of such Act; and

13 (B) 25,000 shall be reallocated after such
14 effective date to family-sponsored immigrants
15 under section 203(a) of such Act to reduce or
16 eliminate the backlog in visas under that sec-
17 tion.

18 **TITLE V—HIGH-SKILLED**
19 **IMMIGRANT COUNTRY CAPS**

20 **SEC. 501. SHORT TITLE.**

21 This title may be cited as the “Fairness for High-
22 Skilled Immigrants Act of 2018”.

1 **SEC. 502. NUMERICAL LIMITATION TO ANY SINGLE FOR-**
2 **IGN STATE.**

3 (a) **IN GENERAL.**—Section 202(a)(2) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
5 amended to read as follows:

6 “(2) **PER COUNTRY LEVELS FOR FAMILY-SPON-**
7 **SORED IMMIGRANTS.**—Subject to paragraphs (3)
8 and (4), the total number of immigrant visas made
9 available to natives of any single foreign state or de-
10 pendent area under section 203(a) in any fiscal year
11 may not exceed 15 percent (in the case of a single
12 foreign state) or 2 percent (in the case of a depend-
13 ent area) of the total number of such visas made
14 available under such section in that fiscal year.”.

15 (b) **CONFORMING AMENDMENTS.**—Section 202 of
16 such Act (8 U.S.C. 1152) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (3), by striking “both
19 subsections (a) and (b) of section 203” and in-
20 serting “section 203(a)”; and

21 (B) by striking paragraph (5); and

22 (2) by amending subsection (c) to read as fol-
23 lows:

24 “(c) **SPECIAL RULES FOR COUNTRIES AT CEILING.**—
25 If the total number of immigrant visas made available
26 under section 203(a) to natives of any single foreign state

1 or dependent area will exceed the numerical limitation
2 specified in subsection (a)(2) in any fiscal year, immigrant
3 visas shall be allotted to such natives under section 203(a)
4 (to the extent practicable and otherwise consistent with
5 this section and section 203) in a manner so that, except
6 as provided in subsection (a)(4), the proportion of the
7 visas made available under each of paragraphs (1) through
8 (4) of section 203(a) is equal to the ratio of the total visas
9 made available under the respective paragraph to the total
10 visas made available under section 203(a).”.

11 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
12 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
13 note) is amended—

14 (1) in subsection (a), by striking “(as defined
15 in subsection (e))”;

16 (2) by striking subsection (d); and

17 (3) by redesignating subsection (e) as sub-
18 section (d).

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect as if enacted on September
21 30, 2017, and shall apply to fiscal year 2018 and to each
22 subsequent fiscal year.

1 **SEC. 503. TRANSITION RULES FOR EMPLOYMENT-BASED**
2 **IMMIGRANTS.**

3 (a) IN GENERAL.—Subject to subsections (b)
4 through (d), and notwithstanding title II of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1151 et seq.), the fol-
6 lowing rules shall apply:

7 (1) For fiscal year 2018, 15 percent of the im-
8 migrant visas made available under each of para-
9 graphs (2) and (3) of section 203(b) of such Act (8
10 U.S.C. 1153(b)) shall be allotted to immigrants who
11 are natives of a foreign state or dependent area that
12 was not 1 of the 2 states with the largest aggregate
13 numbers of natives obtaining immigrant visas during
14 fiscal year 2013 under such paragraphs.

15 (2) For fiscal year 2019, 10 percent of the im-
16 migrant visas made available under each of such
17 paragraphs shall be allotted to immigrants who are
18 natives of a foreign state or dependent area that was
19 not 1 of the 2 states with the largest aggregate
20 numbers of natives obtaining immigrant visas during
21 fiscal year 2014 under such paragraphs.

22 (3) For fiscal year 2020, 10 percent of the im-
23 migrant visas made available under each of such
24 paragraphs shall be allotted to immigrants who are
25 natives of a foreign state or dependent area that was
26 not 1 of the 2 states with the largest aggregate

1 numbers of natives obtaining immigrant visas during
2 fiscal year 2015 under such paragraphs.

3 (b) PER-COUNTRY LEVELS.—

4 (1) RESERVED VISAS.—The number of visas re-
5 served under each of paragraphs (1) through (3) of
6 subsection (a) made available to natives of any sin-
7 gle foreign state or dependent area in the appro-
8 priate fiscal year may not exceed 25 percent (in the
9 case of a single foreign state) or 2 percent (in the
10 case of a dependent area) of the total number of
11 such visas.

12 (2) UNRESERVED VISAS.—Not more than 85
13 percent of the immigrant visas made available under
14 each of paragraphs (2) and (3) of section 203(b) of
15 the Immigration and Nationality Act (8 U.S.C.
16 1153(b)) and not reserved under subsection (a), for
17 fiscal year 2018, 2019, or 2020, may be allotted to
18 immigrants who are natives of any single foreign
19 state.

20 (c) SPECIAL RULE TO PREVENT UNUSED VISAS.—
21 If, with respect to fiscal year 2018, 2019, or 2020, the
22 application of subsections (a) and (b) would prevent the
23 total number of immigrant visas made available under
24 paragraph (2) or (3) of section 203(b) of the Immigration
25 and Nationality Act (8 U.S.C. 1153(b)) from being issued,

1 such visas may be issued during the remainder of such
2 fiscal year without regard to subsections (a) and (b).

3 (d) RULES FOR CHARGEABILITY.—Section 202(b) of
4 the Immigration and Nationality Act (8 U.S.C. 1152(b))
5 shall apply in determining the foreign state to which an
6 alien is chargeable for purposes of this section.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve border security and to provide a pathway to citizenship to long-term residents who entered the United States as children.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 2579

To amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GARDNER (for himself and Mr. BENNET)

Viz:

1 At the appropriate place, insert the following:

2 **TITLE I—BORDER SECURITY**

3 **Subtitle A—Appropriations for U.S.**

4 **Customs and Border Protection**

5 **SEC. 101. BORDER SECURITY.**

6 (a) APPROPRIATIONS FOR U.S. CUSTOMS AND BOR-
7 DER PROTECTION.—There is appropriated to the Depart-
8 ment of Homeland Security, U.S. Customs and Border
9 Protection, \$25,000,000,000 for the fiscal years 2018
10 through 2027 for the construction of physical barriers;

1 border security technologies, facilities, and equipment; the
2 purchase, maintenance, or operation of marine vessels, air-
3 craft, and unmanned aerial systems; the hiring of addi-
4 tional U.S. Customs and Border Protection Officers; port
5 of entry improvement; and border access roads along the
6 Southern land border, of which—

7 (1) \$2,500,000,000 shall be available for fiscal
8 year 2018, and shall remain available until Sep-
9 tember 30, 2022, and of the amount available under
10 this paragraph—

11 (A) \$784,000,000 shall be available for 32
12 miles of border bollard fencing in the Rio
13 Grande Valley Sector, Texas;

14 (B) \$498,000,000 shall be available for 28
15 miles of a bollard levee in the Rio Grande Val-
16 ley Sector, Texas;

17 (C) \$251,000,000 shall be available for 14
18 miles of secondary fencing in the San Diego
19 Sector, California; and

20 (D) \$38,239,000 shall be available for
21 planning activities related to physical barrier
22 construction along the Southwest border;

23 (2) \$2,500,000,000 shall not be available for
24 obligation or commitment until October 1, 2018, to
25 remain available until September 30, 2023, and of

1 the amount available under this paragraph
2 \$1,600,000,000 shall be available for the construc-
3 tion of physical barriers;

4 (3) \$2,500,000,000 shall not be available for
5 obligation or commitment until October 1, 2019, to
6 remain available until September 30, 2024, and of
7 the amount available under this paragraph
8 \$1,842,000,000 shall be available for the construc-
9 tion of physical barriers;

10 (4) \$2,500,000,000 shall not be available for
11 obligation or commitment until October 1, 2020, to
12 remain available until September 30, 2025, and of
13 the amount available under this paragraph
14 \$2,019,000,000 shall be available for the construc-
15 tion of physical barriers;

16 (5) \$2,500,000,000 shall not be available for
17 obligation or commitment until October 1, 2021, to
18 remain available until September 30, 2026, and of
19 the amount available under this paragraph
20 \$1,237,000,000 shall be available for the construc-
21 tion of physical barriers;

22 (6) \$2,500,000,000 shall not be available for
23 obligation or commitment until October 1, 2022, to
24 remain available until September 30, 2027, and of
25 the amount available under this paragraph

1 \$1,745,000,000 shall be available for the construc-
2 tion of physical barriers;

3 (7) \$2,500,000,000 shall not be available for
4 obligation or commitment until October 1, 2023, to
5 remain available until September 30, 2028, and of
6 the amount available under this paragraph
7 \$1,746,000,000 shall be available for the construc-
8 tion of physical barriers;

9 (8) \$2,500,000,000 shall not be available for
10 obligation or commitment until October 1, 2024, to
11 remain available until September 30, 2029, and of
12 the amount available under this paragraph
13 \$1,776,000,000 shall be available for the construc-
14 tion of physical barriers;

15 (9) \$2,500,000,000 shall not be available for
16 obligation or commitment until October 1, 2025, to
17 remain available until September 30, 2030, and of
18 the amount available under this paragraph
19 \$1,746,000,000 shall be available for the construc-
20 tion of physical barriers; and

21 (10) \$2,500,000,000 shall not be available for
22 obligation or commitment until October 1, 2026, to
23 remain available until September 30, 2031, and of
24 the amount available under this paragraph

1 \$1,717,000,000 shall be available for the construc-
2 tion of physical barriers.

3 (b) LIMITATION.—Amounts appropriated under sub-
4 section (a) for fiscal years 2018 and 2019, the construc-
5 tion of physical barriers shall only be available for oper-
6 ationally effective designs deployed as of the date of the
7 enactment of the Consolidated Appropriations Act, 2017
8 (Public Law 115–31), such as currently deployed steel
9 bollard designs, that prioritize agent safety.

10 (c) ANNUAL REPORTS.—Not later than 180 days
11 after the date of the enactment of this Act, and annually
12 thereafter, the Secretary of Homeland Security shall sub-
13 mit a report, for which a full evaluation has been com-
14 pleted by the Government Accountability Office to deter-
15 mine its strengths and weaknesses, to the Committee on
16 Appropriations of the Senate, the Committee on Home-
17 land Security and Governmental Affairs of the Senate,
18 and the Committee on Appropriations of the House of
19 Representatives, that—

20 (1) defines goals, objectives, activities, and mile-
21 stones;

22 (2) includes a detailed implementation schedule
23 with estimates for the planned obligation of funds
24 for fiscal year 2019 through fiscal year 2023 that

1 are linked to the milestone based delivery of spe-
2 cific—

3 (A) capabilities and services;

4 (B) mission benefits and outcomes;

5 (C) program management capabilities; and

6 (D) lifecycle cost estimates;

7 (3) describes how specific projects under the
8 plan will enhance border security goals and objec-
9 tives and address the highest priority border security
10 needs;

11 (4) identifies the planned locations, quantities,
12 and types of resources, such as fencing, other phys-
13 ical barriers, or other tactical infrastructure and
14 technology and a comprehensive plan to consult
15 State and local elected officials on the eminent do-
16 main and construction process relating to such phys-
17 ical barriers;

18 (5) provides, after consultation with the Sec-
19 retary of the Interior and the Administrator of the
20 Environmental Protection Agency, a comprehensive
21 analysis of the environmental impacts of the con-
22 struction and placement of such physical barriers
23 along the Southwest border, including barriers in the
24 Santa Ana National Wildlife Refuge;

1 (6) includes a description of the methodology
2 and analyses used to select specific resources for de-
3 ployment to particular locations that includes—

4 (A) a thorough analysis and comparison of
5 alternatives to a physical barrier to determine
6 the most cost effective security solution, includ-
7 ing—

8 (i) underground sensors;

9 (ii) infrared or other day or night
10 cameras;

11 (iii) tethered or mobile aerostats;

12 (iv) drones or other airborne assets;

13 (v) integrated fixed towers; and

14 (vi) the deployment of additional bor-
15 der personnel;

16 (B) effects on communities and property
17 owners near areas of infrastructure deployment,
18 including all necessary land acquisitions, the
19 total number of necessary condemnation ac-
20 tions, and the precise number of landowners
21 that will be impacted by the construction of
22 such physical barriers; and

23 (C) other factors critical to the decision-
24 making process;

1 (7) identifies staffing requirements, including
2 full-time equivalents, contractors, and detailed per-
3 sonnel, by activity;

4 (8) identifies performance metrics for assessing
5 and reporting on the contributions of border security
6 capabilities realized from current and future invest-
7 ments;

8 (9) reports on the status of the Department of
9 Homeland Security's actions to address open rec-
10 ommendations by the Office of Inspector General
11 and the Government Accountability Office related to
12 border security, including plans, schedules, and asso-
13 ciated milestones for fully addressing such rec-
14 ommendations; and

15 (10) includes certifications by the Under Sec-
16 retary for Management, including all documents,
17 memoranda, and a description of the investment re-
18 view and information technology management over-
19 sight and processes supporting such certifications,
20 that—

21 (A) the program has been reviewed and ap-
22 proved in accordance with an acquisition review
23 management process that complies with capital
24 planning and investment control and review re-
25 quirements established by the Office of Manage-

1 ment and Budget, including as provided in Cir-
2 cular A-11, part 7; and

3 (B) all planned activities comply with Fed-
4 eral acquisition rules, requirements, guidelines,
5 and practices.

6 (d) GOVERNMENT ACCOUNTABILITY OFFICE EVAL-
7 UATION.—Not later than 180 days after the date on which
8 the Secretary of Homeland Security submits the report de-
9 scribed in subsection (c), the Comptroller General of the
10 United States shall complete the evaluation required under
11 such subsection.

12 (e) TRANSFER AUTHORITY.—The Committee on Ap-
13 propriations of the Senate and the Committee on Appro-
14 priations of the House of Representatives may provide for
15 the transfer of amounts made available in subsection (a)
16 for each fiscal year to eligible activities under this section.

17 (f) RESCISSION.—Notwithstanding any other provi-
18 sion of law, any amounts appropriated under subsection
19 (a) that remain available after the completion of the con-
20 struction projects described in the reports required under
21 subsection (c) shall be rescinded and returned to the gen-
22 eral fund of the Treasury.

23 (g) PROHIBITION.—Notwithstanding any other provi-
24 sion of law, and except for the activities described under
25 subsection (a), none of the amounts appropriated under

1 this section may be reprogrammed or transferred for any
2 other component or activity within the Department of
3 Homeland Security.

4 (h) BUDGET REQUEST.—An expenditure plan for
5 amounts made available pursuant to this section—

6 (1) shall be included in each budget for a fiscal
7 year submitted by the President under section 1105
8 of title 31, United States Code; and

9 (2) shall describe planned obligations by pro-
10 gram, project, and activity in the receiving account
11 at the same level of detail provided for in the re-
12 quest for other appropriations in that account.

13 (i) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed as limiting the availability of funds
15 made available in any other Act for carrying out the pur-
16 poses described in subsection (a).

17 (j) BUDGETARY EFFECTS.—

18 (1) IN GENERAL.—The budgetary effects of this
19 Act shall not be entered on either PAYGO scorecard
20 maintained pursuant to section 4(d) of the Statutory
21 Pay-As-You-Go Act of 2010.

22 (2) SENATE PAYGO SCORECARDS.—The budg-
23 etary effects of this Act shall not be entered on any
24 PAYGO scorecard maintained for purposes of sec-
25 tion 4106 of H.Con.Res. 71 (115th Congress).

1 **Subtitle B—Improving Border**
2 **Safety and Security**

3 **SEC. 111. BORDER ACCESS ROADS.**

4 (a) CONSTRUCTION.—

5 (1) IN GENERAL.—The Secretary of Homeland
6 Security shall construct roads along the Southern
7 land border of the United States to facilitate safe
8 and swift access for U.S. Customs and Border Pro-
9 tection personnel to access the border for purposes
10 of patrol and apprehension.

11 (2) TYPES OF ROADS.—The roads constructed
12 under paragraph (1) shall include—

13 (A) access roads;

14 (B) border roads;

15 (C) patrol roads; and

16 (D) Federal, State, local, and privately-
17 owned roads.

18 (b) MAINTENANCE.—The Secretary of Homeland Se-
19 curity, in partnership with local stakeholders, shall main-
20 tain roads used for patrol and apprehension.

21 (c) POLICY GUIDANCE.—The Secretary of Homeland
22 Security shall—

23 (1) develop such policies and guidance for docu-
24 menting agreements with landowners relating to the

1 construction of roads under subsection (a) as the
2 Secretary determines to be necessary;

3 (2) share the policies and guidance developed
4 under paragraph (1) with each Border Patrol Sector
5 of U.S. Customs and Border Protection;

6 (3) document and communicate the process and
7 criteria for prioritizing funding for operational roads
8 not owned by the Federal Government; and

9 (4) assess the feasibility of options for address-
10 ing the maintenance of non-Federal public roads, in-
11 cluding any data needs relating to such mainte-
12 nance.

13 **SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.**

14 (a) IN GENERAL.—Chapter 97 of title 5, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 9702. U.S. Customs and Border Protection employ-
18 ment authorities**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘CBP employee’ means an em-
21 ployee of U.S. Customs and Border Protection;

22 “(2) the term ‘Commissioner’ means the Com-
23 missioner of U.S. Customs and Border Protection;

24 “(3) the term ‘Director’ means the Director of
25 the Office of Personnel Management;

1 “(4) the term ‘rural or remote area’ means an
2 area within the United States that is not within an
3 area defined and designated as an urbanized area by
4 the Bureau of the Census during the most recently
5 completed decennial census; and

6 “(5) the term ‘Secretary’ means the Secretary
7 of Homeland Security.

8 “(b) DEMONSTRATION OF RECRUITMENT AND RE-
9 TENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

10 “(1) IN GENERAL.—For purposes of sub-
11 sections (c) and (d), the Secretary shall determine,
12 for a rural or remote area, whether there is—

13 “(A) a critical hiring need in the area; and

14 “(B) a direct relationship between—

15 “(i) the rural or remote nature of the
16 area; and

17 “(ii) difficulty in the recruitment and
18 retention of CBP employees in the area.

19 “(2) FACTORS.—To inform the determination
20 of a direct relationship under paragraph (1)(B), the
21 Secretary may consider evidence—

22 “(A) that the Secretary—

23 “(i) is unable to efficiently and effec-
24 tively recruit individuals for positions as
25 CBP employees, which may be dem-

1 onstrated with various types of evidence,
2 including—

3 “(I) evidence that multiple posi-
4 tions have been continuously vacant
5 for significantly longer than the na-
6 tional average period for which similar
7 positions in U.S. Customs and Border
8 Protection are vacant; or

9 “(II) recruitment studies that
10 demonstrate the inability of the Sec-
11 retary to efficiently and effectively re-
12 cruit CBP employees for positions in
13 the area; or

14 “(ii) experiences a consistent inability
15 to retain CBP employees that negatively
16 impacts agency operations at a local or re-
17 gional level; or

18 “(B) of any other inability, directly related
19 to recruitment or retention difficulties, that the
20 Secretary determines sufficient.

21 “(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND
22 RELOCATION BONUSES; RETENTION BONUSES.—

23 “(1) DIRECT HIRE AUTHORITY.—

24 “(A) IN GENERAL.—The Secretary may
25 appoint, without regard to any provision of sec-

1 tions 3309 through 3319, candidates to posi-
2 tions in the competitive service as CBP employ-
3 ees, in a rural or remote area, if the Sec-
4 retary—

5 “(i) determines that—

6 “(I) there is a critical hiring
7 need; and

8 “(II) there exists a severe short-
9 age of qualified candidates because of
10 the direct relationship identified by
11 the Secretary under subsection
12 (b)(1)(B) of this section between—

13 “(aa) the rural or remote
14 nature of the area; and

15 “(bb) difficulty in the re-
16 cruitment and retention of CBP
17 employees in the area; and

18 “(ii) has given public notice for the
19 positions.

20 “(B) PRIORITIZATION OF HIRING VET-
21 ERANS.—If the Secretary uses the direct hiring
22 authority under subparagraph (A), the Sec-
23 retary shall apply the principles of preference
24 for the hiring of veterans established under sub-
25 chapter I of chapter 33.

1 “(2) RECRUITMENT AND RELOCATION BO-
2 NUSES.—The Secretary may pay a bonus to an indi-
3 vidual (other than an individual described in sub-
4 section (a)(2) of section 5753) if—

5 “(A) the Secretary determines that—

6 “(i) conditions consistent with the
7 conditions described in paragraphs (1) and
8 (2) of subsection (b) of such section 5753
9 are satisfied with respect to the individual
10 (without regard to any other provision of
11 that section); and

12 “(ii) the position to which the indi-
13 vidual is appointed or to which the indi-
14 vidual moves or must relocate—

15 “(I) is a position as a CBP em-
16 ployee; and

17 “(II) is in a rural or remote area
18 for which the Secretary has identified
19 a direct relationship under subsection
20 (b)(1)(B) of this section between—

21 “(aa) the rural or remote
22 nature of the area; and

23 “(bb) difficulty in the re-
24 cruitment and retention of CBP
25 employees in the area; and

1 “(B) the individual enters into a written
2 service agreement with the Secretary—

3 “(i) under which the individual is re-
4 quired to complete a period of employment
5 as a CBP employee of not less than 2
6 years; and

7 “(ii) that includes—

8 “(I) the commencement and ter-
9 mination dates of the required service
10 period (or provisions for the deter-
11 mination thereof);

12 “(II) the amount of the bonus;
13 and

14 “(III) other terms and conditions
15 under which the bonus is payable,
16 subject to the requirements of this
17 subsection, including—

18 “(aa) the conditions under
19 which the agreement may be ter-
20 minated before the agreed-upon
21 service period has been com-
22 pleted; and

23 “(bb) the effect of a termi-
24 nation described in item (aa).

1 “(3) RETENTION BONUSES.—The Secretary
2 may pay a retention bonus to a CBP employee
3 (other than an individual described in subsection
4 (a)(2) of section 5754) if—

5 “(A) the Secretary determines that—

6 “(i) a condition consistent with the
7 condition described in subsection (b)(1) of
8 such section 5754 is satisfied with respect
9 to the CBP employee (without regard to
10 any other provision of that section);

11 “(ii) the CBP employee is employed in
12 a rural or remote area for which the Sec-
13 retary has identified a direct relationship
14 under subsection (b)(1)(B) of this section
15 between—

16 “(I) the rural or remote nature
17 of the area; and

18 “(II) difficulty in the recruitment
19 and retention of CBP employees in
20 the area; and

21 “(iii) in the absence of a retention
22 bonus, the CBP employee would be likely
23 to leave—

24 “(I) the Federal service; or

1 “(II) for a different position in
2 the Federal service, including a posi-
3 tion in another agency or component
4 of the Department of Homeland Secu-
5 rity; and

6 “(B) the individual enters into a written
7 service agreement with the Secretary—

8 “(i) under which the individual is re-
9 quired to complete a period of employment
10 as a CBP employee of not less than 2
11 years; and

12 “(ii) that includes—

13 “(I) the commencement and ter-
14 mination dates of the required service
15 period (or provisions for the deter-
16 mination thereof);

17 “(II) the amount of the bonus;
18 and

19 “(III) other terms and conditions
20 under which the bonus is payable,
21 subject to the requirements of this
22 subsection, including—

23 “(aa) the conditions under
24 which the agreement may be ter-
25 minated before the agreed-upon

1 service period has been com-
2 pleted; and

3 “(bb) the effect of a termi-
4 nation described in item (aa).

5 “(4) RULES FOR BONUSES.—

6 “(A) MAXIMUM BONUS.—A bonus paid to
7 an employee under—

8 “(i) paragraph (2) may not exceed
9 100 percent of the annual rate of basic pay
10 of the employee as of the commencement
11 date of the applicable service period; and

12 “(ii) paragraph (3) may not exceed 50
13 percent of the annual rate of basic pay of
14 the employee as of the commencement date
15 of the applicable service period.

16 “(B) RELATION TO BASIC PAY.—A bonus
17 paid to an employee under paragraph (2) or (3)
18 shall not be considered part of the basic pay of
19 the employee for any purpose.

20 “(5) OPM OVERSIGHT.—The Director shall, to
21 the extent practicable—

22 “(A) set aside a determination of the Sec-
23 retary under this subsection if the Director
24 finds substantial evidence that the Secretary

1 abused the discretion of the Secretary in mak-
2 ing the determination; and

3 “(B) oversee the compliance of the Sec-
4 retary with this subsection.

5 “(d) SPECIAL PAY AUTHORITY.—In addition to the
6 circumstances described in subsection (b) of section 5305,
7 the Director may establish special rates of pay in accord-
8 ance with that section if the Director finds that the re-
9 cruitment or retention efforts of the Secretary with respect
10 to positions for CBP employees in 1 or more areas or loca-
11 tions are, or are likely to become, significantly handi-
12 capped because the positions are located in a rural or re-
13 mote area for which the Secretary has identified a direct
14 relationship under subsection (b)(1)(B) of this section be-
15 tween—

16 “(1) the rural or remote nature of the area; and

17 “(2) difficulty in the recruitment and retention
18 of CBP employees in the area.

19 “(e) REGULAR CBP REVIEW.—

20 “(1) ENSURING FLEXIBILITIES MEET CBP
21 NEEDS.—Each year, the Secretary shall review the
22 use of hiring flexibilities under subsections (c) and
23 (d) to fill positions at a location in a rural or remote
24 area to determine—

1 “(A) the impact of the use of those flexi-
2 bilities on solving hiring and retention chal-
3 lenges at the location;

4 “(B) whether hiring and retention chal-
5 lenges still exist at the location; and

6 “(C) whether the Secretary needs to con-
7 tinue to use those flexibilities at the location.

8 “(2) CONSIDERATION.—In conducting the re-
9 view under paragraph (1), the Secretary shall con-
10 sider—

11 “(A) whether any CBP employee accepted
12 an employment incentive under subsection (c)
13 or (d) and then transferred to a new location or
14 left U.S. Customs and Border Protection; and

15 “(B) the length of time that each employee
16 identified under subparagraph (A) stayed at the
17 original location before transferring to a new lo-
18 cation or leaving U.S. Customs and Border
19 Protection.

20 “(3) DISTRIBUTION.—The Secretary shall sub-
21 mit to Congress a report on each review required
22 under paragraph (1).

23 “(f) IMPROVING CBP HIRING AND RETENTION.—

24 “(1) EDUCATION OF CBP HIRING OFFICIALS.—
25 Not later than 180 days after the date of the enact-

1 ment of the this section, and in conjunction with the
2 Chief Human Capital Officer of the Department of
3 Homeland Security, the Secretary shall develop and
4 implement a strategy to improve education regarding
5 hiring and human resources flexibilities (including
6 hiring and human resources flexibilities for locations
7 in rural or remote areas) for all employees, serving
8 in agency headquarters or field offices, who are in-
9 volved in the recruitment, hiring, assessment, or se-
10 lection of candidates for locations in a rural or re-
11 mote area, as well as the retention of current em-
12 ployees.

13 “(2) ELEMENTS.—Elements of the strategy
14 under paragraph (1) shall include the following:

15 “(A) Developing or updating training and
16 educational materials on hiring and human re-
17 sources flexibilities for employees who are in-
18 volved in the recruitment, hiring, assessment, or
19 selection of candidates, as well as the retention
20 of current employees.

21 “(B) Regular training sessions for per-
22 sonnel who are critical to filling open positions
23 in rural or remote areas.

24 “(C) The development of pilot programs or
25 other programs, as appropriate, to address

1 identified hiring challenges in rural or remote
2 areas.

3 “(D) Developing and enhancing strategic
4 recruiting efforts through relationships with in-
5 stitutions of higher education, as defined in sec-
6 tion 102 of the Higher Education Act of 1965
7 (20 U.S.C. 1002), veterans transition and em-
8 ployment centers, and job placement program
9 in regions that could assist in filling positions
10 in rural or remote areas.

11 “(E) Examination of existing agency pro-
12 grams on how to most effectively aid spouses
13 and families of individuals who are candidates
14 or new hires in a rural or remote area.

15 “(F) Feedback from individuals who are
16 candidates or new hires at locations in a rural
17 or remote area, including feedback on the qual-
18 ity of life in rural or remote areas for new hires
19 and their families.

20 “(G) Feedback from CBP employees, other
21 than new hires, who are stationed at locations
22 in a rural or remote area, including feedback on
23 the quality of life in rural or remote areas for
24 those CBP employees and their families.

1 “(H) Evaluation of Department of Home-
2 land Security internship programs and the use-
3 fulness of those programs in improving hiring
4 by the Secretary in rural or remote areas.

5 “(3) EVALUATION.—

6 “(A) IN GENERAL.—Each year, the Sec-
7 retary shall —

8 “(i) evaluate the extent to which the
9 strategy developed and implemented under
10 paragraph (1) has improved the hiring and
11 retention ability of the Secretary; and

12 “(ii) make any appropriate updates to
13 the strategy under paragraph (1).

14 “(B) INFORMATION.—The evaluation con-
15 ducted under subparagraph (A) shall include—

16 “(i) any reduction in the time taken
17 by the Secretary to fill mission-critical po-
18 sitions in rural or remote areas;

19 “(ii) a general assessment of the im-
20 pact of the strategy implemented under
21 paragraph (1) on hiring challenges in rural
22 or remote areas; and

23 “(iii) other information the Secretary
24 determines relevant.

1 “(g) INSPECTOR GENERAL REVIEW.—Not later than
2 2 years after the date of the enactment of the this section,
3 the Inspector General of the Department of Homeland Se-
4 curity shall review the use of hiring flexibilities by the Sec-
5 retary under subsections (c) and (d) to determine whether
6 the use of those flexibilities is helping the Secretary meet
7 hiring and retention needs in rural and remote areas.

8 “(h) EXERCISE OF AUTHORITY.—

9 “(1) SOLE DISCRETION.—The exercise of au-
10 thority under subsection (c) shall be subject to the
11 sole and exclusive discretion of the Secretary (or the
12 Commissioner, as applicable under paragraph (2) of
13 this subsection), notwithstanding chapter 71.

14 “(2) DELEGATION.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), the Secretary may delegate any au-
17 thority under this section to the Commissioner.

18 “(B) OVERSIGHT.—The Commissioner
19 may not make a determination under subsection
20 (b)(1) unless the Secretary approves the deter-
21 mination.

22 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed to exempt the Secretary or the Di-
24 rector from the applicability of the merit system principles
25 under section 2301.

1 “(j) SUNSET.—The authorities under subsections (c)
2 and (d) shall terminate on the date that is 5 years after
3 the date of the enactment of this section.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
5 The table of sections for chapter 97 of title 5, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

 “9702. U.S. Customs and Border Protection employment authorities.”.

8 **SEC. 113. DISTRESS BEACONS.**

9 (1) IN GENERAL.—The Commissioner of U.S.
10 Customs and Border Protection, working through
11 U.S. Border Patrol, shall—

12 (A) identify areas near the international
13 border between the United States and Canada
14 or the international border between the United
15 States and Mexico where migrant deaths are
16 occurring due to climatic and environmental
17 conditions; and

18 (B) deploy up to 1,000 beacon stations in
19 the areas identified pursuant to subparagraph
20 (A).

21 (2) FEATURES.—Beacon stations deployed pur-
22 suant to paragraph (1) should—

23 (A) include a self-powering mechanism,
24 such as a solar-powered radio button, to signal
25 U.S. Border Patrol personnel or other emer-

1 agency response personnel that a person at that
2 location is in distress;

3 (B) include a self-powering cellular phone
4 relay limited to 911 calls to allow persons in
5 distress in the area who are unable to get to the
6 beacon station to signal their location and ac-
7 cess emergency personnel; and

8 (C) be movable to allow U.S. Border Pa-
9 trol to relocate them as needed—

10 (i) to mitigate migrant deaths;

11 (ii) to facilitate access to emergency
12 personnel; and

13 (iii) to address any use of the beacons
14 for diversion by criminals.

15 **SEC. 114. SOUTHERN BORDER REGION EMERGENCY COM-**
16 **MUNICATIONS GRANTS.**

17 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
18 rity, in consultation with the governors of the States lo-
19 cated on the international border between the United
20 States and Mexico, shall establish a 2-year grant program
21 to improve emergency communications in the Southern
22 border region.

23 (b) **ELIGIBILITY FOR GRANTS.**—An individual is eli-
24 gible for a grant under this section if the individual dem-
25 onstrates that he or she—

1 (1) regularly resides or works in a State that
2 shares a land border with Mexico; and

3 (2) is at greater risk of border violence due to
4 a lack of cellular and LTE network service at the in-
5 dividual's residence or business and the individual's
6 proximity to the Southern border.

7 (c) USE OF GRANTS.—Grants awarded under this
8 section may be used to purchase satellite telephone com-
9 munications systems and services that—

10 (1) can provide access to 9–1–1 service; and

11 (2) are equipped with receivers for the Global
12 Positioning System.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of
15 Homeland Security such sums as may be necessary to
16 carry out this section.

17 **SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY.**

18 Not later than September 30, 2021, the Commis-
19 sioner of U.S. Customs and Border Protection shall hire,
20 train, and assign sufficient special agents at the Office of
21 Professional Responsibility to maintain an active duty
22 presence of not fewer than 550 full-time equivalent special
23 agents.

1 **Subtitle C—Additional Matters**

2 **SEC. 121. ELIMINATE IMMIGRATION COURT BACKLOGS.**

3 (a) ANNUAL INCREASES IN IMMIGRATION JUDGES.—

4 The Attorney General of the United States shall increase
5 the total number of immigration judges to adjudicate
6 pending cases and efficiently process future cases by at
7 least—

8 (1) 55 judges during fiscal year 2018;

9 (2) an additional 55 judges during fiscal year
10 2019; and

11 (3) an additional 55 judges during fiscal year
12 2020.

13 (b) QUALIFICATIONS OF IMMIGRATION JUDGES.—

14 The Attorney General shall ensure that all newly hired im-
15 migration judges are highly qualified and trained to con-
16 duct fair, impartial hearings consistent with due process
17 and that all newly hired immigration judges represent a
18 diverse pool of individuals that includes a balance of indi-
19 viduals with nongovernmental, private bar, or academic
20 experience in addition to government experience.

21 (c) NECESSARY SUPPORT STAFF FOR IMMIGRATION

22 JUDGES.—To address the shortage of support staff for
23 immigration judges, the Attorney General shall ensure
24 that each immigration judge has sufficient support staff,

1 adequate technological and security resources, and appro-
2 priate courtroom facilities.

3 (d) ANNUAL INCREASES IN BOARD OF IMMIGRATION
4 APPEALS PERSONNEL.—The Attorney General shall in-
5 crease the number of Board of Immigration Appeals staff
6 attorneys (including necessary additional support staff) to
7 efficiently process cases by at least—

8 (1) 23 attorneys during fiscal year 2018;

9 (2) an additional 23 attorneys during fiscal
10 year 2019; and

11 (3) an additional 23 attorneys during fiscal
12 year 2020.

13 (e) GAO REPORT.—The Comptroller General of the
14 United States shall—

15 (1) conduct a study of the hurdles to efficient
16 hiring of immigration court judges within the De-
17 partment of Justice; and

18 (2) propose solutions to Congress for improving
19 the efficiency of the hiring process.

20 (f) IMMIGRATION JUDGE DEFINITION.—Section
21 101(b)(4) of the Immigration and Nationality Act (8
22 U.S.C. 1101(b)(4)) is amended to read as follows:

23 “(4) The term ‘immigration judge’ means an
24 attorney whom the Attorney General appoints as an
25 administrative judge within the Executive Office for

1 Immigration Review, qualified to conduct specified
2 classes of proceedings, including a hearing under
3 section 240. The position shall be deemed to be judi-
4 cial in nature and not an attorney position. An Im-
5 migration Judge shall not be subject to any code of
6 attorney behavior conduct or actions taken while
7 performing duties as an Immigration Judge. Actions
8 taken by an Immigration Judge shall be reviewed
9 only under rules and standards pertaining to judicial
10 conduct. An Immigration Judge shall not be dis-
11 ciplined for actions or decisions made in good faith
12 while in the course of performing the duties of an
13 Immigration Judge.”.

14 **SEC. 122. IMPROVED TRAINING FOR IMMIGRATION JUDGES**
15 **AND MEMBERS OF THE BOARD OF IMMIGRA-**
16 **TION APPEALS.**

17 (a) IN GENERAL.—To ensure efficient and fair pro-
18 ceedings, the Director of the Executive Office for Immi-
19 gration Review shall facilitate robust training programs
20 for immigration judges and members of the Board of Im-
21 migration Appeals.

22 (b) MANDATORY TRAINING.—Training facilitated
23 under subsection (a) shall include—

24 (1) an expansion of the training program for
25 new immigration judges and Board members;

1 (2) continuing education regarding current de-
2 velopments in immigration law through regularly
3 available training resources and an annual con-
4 ference;

5 (3) methods to ensure that immigration judges
6 are trained on properly crafting and dictating deci-
7 sions and standards of review, including improved
8 on-bench reference materials and decision templates;

9 (4) specialized training to handle cases involv-
10 ing other vulnerable populations including survivors
11 of domestic violence, sexual assault, trafficking, and
12 individuals with mental disabilities in partnership
13 with the National Council of Juvenile and Family
14 Court Judges; and

15 (5) specialized training in child interviewing,
16 child psychology, and child trauma in partnership
17 with the National Council of Juvenile and Family
18 Court Judges for Immigration Judges.

19 **SEC. 123. NEW TECHNOLOGY TO IMPROVE COURT EFFI-**
20 **CIENCY.**

21 The Director of the Executive Office for Immigration
22 Review shall modernize its case management and related
23 electronic systems, including allowing for electronic filing,
24 to improve efficiency in the processing of immigration pro-
25 ceedings.

1 **SEC. 124. PERMANENT REAUTHORIZATION OF E-VERIFY.**

2 Section 401(b) of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (division C of Pub-
4 lic Law 104–208; 8 U.S.C. 1324a note) is amended by
5 striking “Unless the Congress otherwise provides, the Sec-
6 retary of Homeland Security shall terminate a pilot pro-
7 gram on September 30, 2015.”.

8 **TITLE II—EARNED CITIZENSHIP**
9 **FOR CHILDHOOD ARRIVALS**

10 **SEC. 201. DEFINITIONS.**

11 In this subtitle:

12 (1) **IN GENERAL.**—Except as otherwise specifi-
13 cally provided, any term used in this subtitle that is
14 used in the immigration laws shall have the meaning
15 given the term in the immigration laws.

16 (2) **APPLICABLE FEDERAL TAX LIABILITY.**—
17 The term “applicable Federal tax liability” means li-
18 ability for Federal taxes imposed under the Internal
19 Revenue Code of 1986, including any penalties and
20 interest on taxes imposed under the Internal Rev-
21 enue Code of 1986.

22 (3) **DACA.**—The term “DACA” means de-
23 ferred action granted to an alien pursuant to the
24 Deferred Action for Childhood Arrivals program an-
25 nounced by President Obama on June 15, 2012.

1 (4) **DISABILITY.**—The term “disability” has the
2 meaning given the term in section 3(1) of the Amer-
3 icans with Disabilities Act of 1990 (42 U.S.C.
4 12102(1)).

5 (5) **EARLY CHILDHOOD EDUCATION PRO-**
6 **GRAM.**—The term “early childhood education pro-
7 gram” has the meaning given the term in section
8 103 of the Higher Education Act of 1965 (20
9 U.S.C. 1003).

10 (6) **ELEMENTARY SCHOOL; HIGH SCHOOL; SEC-**
11 **ONDARY SCHOOL.**—The terms “elementary school”,
12 “high school”, and “secondary school” have the
13 meanings given the terms in section 8101 of the Ele-
14 mentary and Secondary Education Act of 1965 (20
15 U.S.C. 7801).

16 (7) **FELONY.**—The term “felony” means a Fed-
17 eral, State, or local criminal offense (excluding a
18 State or local offense for which an essential element
19 was the alien’s immigration status) punishable by
20 imprisonment for a term exceeding 1 year.

21 (8) **IMMIGRATION LAWS.**—The term “immigra-
22 tion laws” has the meaning given the term in section
23 101(a)(17) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(17)).

1 (9) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education”—

3 (A) except as provided in subparagraph
4 (B), has the meaning given the term in section
5 102 of the Higher Education Act of 1965 (20
6 U.S.C. 1002); and

7 (B) does not include an institution of high-
8 er education outside of the United States.

9 (10) MISDEMEANOR.—

10 (A) IN GENERAL.—The term “mis-
11 demeanor” means a Federal, State, or local
12 criminal offense (excluding a State or local of-
13 fense for which an essential element is the
14 alien’s immigration status, a significant mis-
15 demeanor, and a minor traffic offense) for
16 which—

17 (i) the maximum term of imprison-
18 ment is greater than 5 days and not great-
19 er than 1 year; and

20 (ii) the individual was sentenced to
21 time in custody of 90 days or less.

22 (11) PERMANENT RESIDENT STATUS ON A CON-
23 DITIONAL BASIS.—The term “permanent resident
24 status on a conditional basis” means status as an

1 alien lawfully admitted for permanent residence on
2 a conditional basis under this subtitle.

3 (12) POVERTY LINE.—The term “poverty line”
4 has the meaning given the term in section 673 of the
5 Community Services Block Grant Act (42 U.S.C.
6 9902).

7 (13) SECRETARY.—Except as otherwise specifi-
8 cally provided, the term “Secretary” means the Sec-
9 retary of Homeland Security.

10 (14) SIGNIFICANT MISDEMEANOR.—The term
11 “significant misdemeanor” means a Federal, State,
12 or local criminal offense (excluding a State or local
13 offense for which an essential element was the
14 alien’s immigration status) for which the maximum
15 term of imprisonment is greater than 5 days and not
16 greater than 1 year that—

17 (A) regardless of the sentence imposed, is
18 a crime of domestic violence (as defined in sec-
19 tion 237(a)(2)(E)(i) of the Immigration and
20 Nationality Act (8 U.S.C. 1227(a)(2)(E)(i)) or
21 an offense of sexual abuse or exploitation, bur-
22 glary, unlawful possession or use of a firearm,
23 drug distribution or trafficking, or driving
24 under the influence if the State law requires, as
25 an element of the offense, the operation of a

1 motor vehicle and a finding of impairment or a
2 blood alcohol content of .08 or higher; or

3 (B) resulted in a sentence of time in cus-
4 tody of more than 90 days, excluding an offense
5 for which the sentence was suspended.

6 (15) UNIFORMED SERVICES.—The term “Uni-
7 formed Services” has the meaning given the term
8 “uniformed services” in section 101(a) of title 10,
9 United States Code.

10 **SEC. 202. PERMANENT RESIDENT STATUS ON A CONDI-**
11 **TIONAL BASIS FOR CERTAIN LONG-TERM**
12 **RESIDENTS WHO ENTERED THE UNITED**
13 **STATES AS CHILDREN.**

14 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
15 standing any other provision of law, an alien who obtains
16 the status of an alien lawfully admitted for permanent res-
17 idence under this section shall be considered to have ob-
18 tained that status on a conditional basis as of the date
19 on which the alien obtained the status, subject to this sub-
20 title.

21 (b) **REQUIREMENTS.**—

22 (1) **IN GENERAL.**—Notwithstanding any other
23 provision of law, the Secretary shall cancel the re-
24 moval of, and adjust to the status of an alien law-
25 fully admitted for permanent residence on a condi-

1 tional basis, an alien who is inadmissible or deport-
2 able from the United States or is in temporary pro-
3 tected status under section 244 of the Immigration
4 and Nationality Act (8 U.S.C. 1254a), if—

5 (A) the alien has been continuously phys-
6 ically present in the United States since June
7 15, 2012;

8 (B) the alien was younger than 18 years of
9 age on the date on which the alien initially en-
10 tered the United States;

11 (C) subject to paragraphs (2) and (3), the
12 alien—

13 (i) is not inadmissible under para-
14 graph (2), (3), (6)(E), (6)(G), (8),
15 (10)(A), (10)(C), or (10)(D) of section
16 212(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a));

18 (ii) has not ordered, incited, assisted,
19 or otherwise participated in the persecution
20 of any person on account of race, religion,
21 nationality, membership in a particular so-
22 cial group, or political opinion; and

23 (iii) has not been convicted of—

24 (I) a felony;

1 (II) a significant misdemeanor;

2 or

3 (III) 3 or more misdemeanors—

4 (aa) not occurring on the
5 same date; and

6 (bb) not arising out of the
7 same act, omission, or scheme of
8 misconduct;

9 (D) the alien—

10 (i) has been admitted to an institution
11 of higher education;

12 (ii) has earned a high school diploma
13 or a commensurate alternative award from
14 a public or private high school, or has ob-
15 tained a general education development
16 certificate recognized under State law or a
17 high school equivalency diploma in the
18 United States;

19 (iii) is enrolled in secondary school or
20 in an education program assisting students
21 in—

22 (I) obtaining a regular high
23 school diploma or the recognized
24 equivalent of a regular high school di-
25 ploma under State law; or

1 (II) passing a general educational
2 development exam, a high school
3 equivalence diploma examination, or
4 other similar State-authorized exam;
5 or

6 (iv)(I) has served, is serving, or has
7 enlisted in the Armed Forces; and

8 (II) in the case of an alien who has
9 been discharged from the Armed Forces,
10 has received an honorable discharge; and

11 (E)(i) the alien has paid any applicable
12 Federal tax liability incurred by the alien dur-
13 ing the entire period for which the alien was a
14 DACA recipient; or

15 (ii) the alien has entered into an agree-
16 ment to pay any applicable Federal tax liability
17 incurred by the alien during the entire period
18 for which the alien was a DACA recipient
19 through a payment installment plan approved
20 by the Commissioner of Internal Revenue.

21 (2) WAIVER.—

22 (A) IN GENERAL.—With respect to any
23 benefit under this subtitle, the Secretary may,
24 on a case-by-case basis, waive the grounds of
25 inadmissibility under paragraph (2), (6)(E),

1 (6)(G), or (10)(D) of section 212(a) of the Im-
2 migration and Nationality Act (8 U.S.C.
3 1182(a))—

4 (i) for humanitarian purposes; or
5 (ii) if the waiver is otherwise in the
6 public interest.

7 (B) QUARTERLY REPORTS.—Not later
8 than 180 days after the date of enactment of
9 this Act, and quarterly thereafter, the Secretary
10 shall submit to Congress a report that includes,
11 for the preceding quarter—

12 (i) the number of requests submitted
13 by aliens for a waiver under subparagraph
14 (A);

15 (ii) the number of waivers granted
16 under that subparagraph; and

17 (iii) the number of requests for a
18 waiver under that subparagraph denied by
19 the Secretary.

20 (3) TREATMENT OF EXPUNGED CONVIC-
21 TIONS.—

22 (A) IN GENERAL.—An expunged conviction
23 shall not automatically be treated as a convic-
24 tion referred to in paragraph (1)(C)(iii).

1 (B) CASE-BY-CASE EVALUATION.—The
2 Secretary shall evaluate an expunged conviction
3 on a case-by-case basis according to the nature
4 and severity of the offense underlying the ex-
5 punged conviction, based on the record of con-
6 viction, to determine whether, under the par-
7 ticular circumstances, the alien is eligible for
8 cancellation of removal, adjustment to perma-
9 nent resident status on a conditional basis, or
10 other adjustment of status.

11 (4) DACA RECIPIENTS.—With respect to an
12 alien granted DACA, the Secretary shall cancel the
13 removal of the alien and adjust the status of the
14 alien to the status of an alien lawfully admitted for
15 permanent residence on a conditional basis unless,
16 since the date on which the alien was granted
17 DACA, the alien has engaged in conduct that would
18 render an alien ineligible for DACA.

19 (5) APPLICATION FEE.—

20 (A) IN GENERAL.—The Secretary may re-
21 quire an alien applying for permanent resident
22 status on a conditional basis to pay a reason-
23 able fee that is commensurate with the cost of
24 processing the application.

1 (B) EXEMPTION.—An applicant may be
2 exempted from paying the fee required under
3 subparagraph (A) only if the alien—

4 (i)(I) is younger than 18 years of age;

5 (II) received total income, during the
6 1-year period immediately preceding the
7 date on which the alien files an application
8 under this section, that is less than 150
9 percent of the poverty line; and

10 (III) is in foster care or otherwise
11 lacking any parental or other familial sup-
12 port;

13 (ii) is younger than 18 years of age
14 and is homeless;

15 (iii)(I) cannot care for himself or her-
16 self because of a serious, chronic disability;
17 and

18 (II) received total income, during the
19 1-year period immediately preceding the
20 date on which the alien files an application
21 under this section, that is less than 150
22 percent of the poverty line; or

23 (iv)(I) during the 1-year period imme-
24 diately preceding the date on which the
25 alien files an application under this sec-

1 tion, accumulated \$10,000 or more in debt
2 as a result of unreimbursed medical ex-
3 penses incurred by the alien or an imme-
4 diate family member of the alien; and

5 (II) received total income, during the
6 1-year period immediately preceding the
7 date on which the alien files an application
8 under this section, that is less than 150
9 percent of the poverty line.

10 (6) SUBMISSION OF BIOMETRIC AND BIO-
11 GRAPHIC DATA.—

12 (A) IN GENERAL.—The Secretary may not
13 grant an alien permanent resident status on a
14 conditional basis unless the alien submits bio-
15 metric and biographic data, in accordance with
16 procedures established by the Secretary.

17 (B) ALTERNATIVE PROCEDURE.—The Sec-
18 retary shall provide an alternative procedure for
19 any alien who is unable to provide the biometric
20 or biographic data referred to in subparagraph
21 (A) due to a physical impairment.

22 (7) BACKGROUND CHECKS.—

23 (A) REQUIREMENT FOR BACKGROUND
24 CHECKS.—The Secretary shall use biometric,

1 biographic, and other data that the Secretary
2 determines to be appropriate—

3 (i) to conduct security and law en-
4 forcement background checks of an alien
5 seeking permanent resident status on a
6 conditional basis; and

7 (ii) to determine whether there is any
8 criminal, national security, or other factor
9 that would render the alien ineligible for
10 permanent resident status on a conditional
11 basis.

12 (B) COMPLETION OF BACKGROUND
13 CHECKS.—The security and law enforcement
14 background checks of an alien required under
15 subparagraph (A) shall be completed, to the
16 satisfaction of the Secretary, before the date on
17 which the Secretary grants the alien permanent
18 resident status on a conditional basis.

19 (C) CRIMINAL RECORDS REQUESTS.—With
20 respect to an alien seeking permanent resident
21 status on a conditional basis, the Secretary, in
22 cooperation with the Secretary of State, shall
23 seek to obtain from INTERPOL, EUROPOL,
24 or any other international or national law en-
25 forcement agency of the country of nationality,

1 country of citizenship, or country of last habit-
2 ual residence of the alien, information about
3 any criminal activity—

4 (i) in which the alien engaged in the
5 country of nationality, country of citizen-
6 ship, or country of last habitual residence
7 of the alien; or

8 (ii) for which the alien was convicted
9 in the country of nationality, country of
10 citizenship, or country of last habitual resi-
11 dence of the alien.

12 (8) MEDICAL EXAMINATION.—

13 (A) REQUIREMENT.—An alien applying for
14 permanent resident status on a conditional
15 basis shall undergo a medical examination.

16 (B) POLICIES AND PROCEDURES.—The
17 Secretary, with the concurrence of the Sec-
18 retary of Health and Human Services, shall
19 prescribe policies and procedures for the nature
20 and timing of the examination under subpara-
21 graph (A).

22 (9) MILITARY SELECTIVE SERVICE.—An alien
23 applying for permanent resident status on a condi-
24 tional basis shall establish that the alien has reg-
25 istered under the Military Selective Service Act (50

1 U.S.C. 3801 et seq.), if the alien is subject to reg-
2 istration under that Act.

3 (c) DETERMINATION OF CONTINUOUS PRESENCE.—

4 (1) TERMINATION OF CONTINUOUS PERIOD.—

5 Any period of continuous physical presence in the
6 United States of an alien who applies for permanent
7 resident status on a conditional basis shall not ter-
8minate on the date on which the alien is served a
9 notice to appear under section 239(a) of the Immi-
10gration and Nationality Act (8 U.S.C. 1229(a)).

11 (2) TREATMENT OF CERTAIN BREAKS IN PRES-
12 ENCE.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraphs (B) and (C), an alien shall be
15 considered to have failed to maintain contin-
16 uous physical presence in the United States
17 under subsection (b)(1)(A) if the alien has de-
18 parted from the United States for any period
19 greater than 90 days or for any periods, in the
20 aggregate, greater than 180 days.

21 (B) EXTENSIONS FOR EXTENUATING CIR-
22 CUMSTANCES.—The Secretary may extend the
23 time periods described in subparagraph (A) for
24 an alien who demonstrates that the failure to
25 timely return to the United States was due to

1 extenuating circumstances beyond the control of
2 the alien, including the serious illness of the
3 alien, or death or serious illness of a parent,
4 grandparent, sibling, or child of the alien.

5 (C) TRAVEL AUTHORIZED BY THE SEC-
6 RETARY.—Any period of travel outside of the
7 United States by an alien that was authorized
8 by the Secretary may not be counted toward
9 any period of departure from the United States
10 under subparagraph (A).

11 (d) LIMITATION ON REMOVAL OF CERTAIN
12 ALIENS.—

13 (1) IN GENERAL.—The Secretary or the Attor-
14 ney General may not remove an alien who appears
15 prima facie eligible for relief under this section.

16 (2) ALIENS SUBJECT TO REMOVAL.—With re-
17 spect to an alien who is in removal proceedings, the
18 subject of a final removal order, or the subject of a
19 voluntary departure order, the Attorney General
20 shall provide the alien with a reasonable opportunity
21 to apply for relief under this section.

22 (3) CERTAIN ALIENS ENROLLED IN ELEMEN-
23 TARY OR SECONDARY SCHOOL.—

1 (A) STAY OF REMOVAL.—The Attorney
2 General shall stay the removal proceedings of
3 an alien who—

4 (i) meets all the requirements under
5 subparagraphs (A), (B), and (C) of sub-
6 section (b)(1), subject to paragraphs (2)
7 and (3) of that subsection;

8 (ii) is at least 5 years of age; and

9 (iii) is enrolled in an elementary
10 school, a secondary school, or an early
11 childhood education program.

12 (B) COMMENCEMENT OF REMOVAL PRO-
13 CEEDINGS.—The Secretary may not commence
14 removal proceedings for an alien described in
15 subparagraph (A).

16 (C) EMPLOYMENT.—An alien whose re-
17 moval is stayed pursuant to subparagraph (A)
18 or who may not be placed in removal pro-
19 ceedings pursuant to subparagraph (B) shall,
20 upon application to the Secretary, be granted
21 an employment authorization document.

22 (D) LIFT OF STAY.—The Secretary or At-
23 torney General may not lift the stay granted to
24 an alien under subparagraph (A) unless the

1 alien ceases to meet the requirements under
2 such subparagraph.

3 (e) EXEMPTION FROM NUMERICAL LIMITATIONS.—
4 Nothing in this section or in any other law may be con-
5 strued to apply a numerical limitation on the number of
6 aliens who may be granted permanent resident status on
7 a conditional basis.

8 **SEC. 203. TERMS OF PERMANENT RESIDENT STATUS ON A**
9 **CONDITIONAL BASIS.**

10 (a) PERIOD OF STATUS.—Permanent resident status
11 on a conditional basis is—

12 (1) valid for a period of 8 years, unless that pe-
13 riod is extended by the Secretary; and

14 (2) subject to termination under subsection (c).

15 (b) NOTICE OF REQUIREMENTS.—At the time an
16 alien obtains permanent resident status on a conditional
17 basis, the Secretary shall provide notice to the alien re-
18 garding the provisions of this subtitle and the require-
19 ments to have the conditional basis of such status re-
20 moved.

21 (c) TERMINATION OF STATUS.—The Secretary may
22 terminate the permanent resident status on a conditional
23 basis of an alien only if the Secretary—

24 (1) determines that the alien ceases to meet the
25 requirements under paragraph (1)(C) of section

1 203(b), subject to paragraphs (2) and (3) of that
2 section; and

3 (2) prior to the termination, provides the
4 alien—

5 (A) notice of the proposed termination;
6 and

7 (B) the opportunity for a hearing to pro-
8 vide evidence that the alien meets such require-
9 ments or otherwise contest the termination.

10 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the immigration status of an alien whose
13 permanent resident status on a conditional basis ex-
14 pires under subsection (a)(1) or is terminated under
15 subsection (c) or whose application for permanent
16 resident status on a conditional basis is denied shall
17 return to the immigration status of the alien on the
18 day before the date on which the alien received per-
19 manent resident status on a conditional basis or ap-
20 plied for such status, as appropriate.

21 (2) SPECIAL RULE FOR TEMPORARY PRO-
22 TECTED STATUS.—An alien whose permanent resi-
23 dent status on a conditional basis expires under sub-
24 section (a)(1) or is terminated under subsection (c)
25 or whose application for permanent resident status

1 on a conditional basis is denied and who had tem-
2 porary protected status under section 244 of the Im-
3 migration and Nationality Act (8 U.S.C. 1254a) im-
4 mediately before receiving or applying for permanent
5 resident status on a conditional basis, as appro-
6 priate, may not return to temporary protected status
7 if—

8 (A) the relevant designation under section
9 244(b) of the Immigration and Nationality Act
10 (8 U.S.C. 1254a(b)) has been terminated; or

11 (B) the Secretary determines that the rea-
12 son for terminating the permanent resident sta-
13 tus on a conditional basis renders the alien in-
14 eligible for temporary protected status.

15 (e) INELIGIBILITY FOR PUBLIC BENEFITS.—An alien
16 who has been granted permanent resident status on a con-
17 ditional basis shall not be eligible for any Federal means-
18 tested public benefit (within the meaning of section 403
19 of the Personal Responsibility and Work Opportunity Rec-
20 onciliation Act of 1996 (8 U.S.C. 1613)) until the date
21 on which the conditional permanent resident status of the
22 alien is removed.

1 **SEC. 204. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
2 **NENT RESIDENT STATUS.**

3 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
4 BASIS.—

5 (1) IN GENERAL.—Subject to paragraph (2),
6 the Secretary shall remove the conditional basis of
7 the permanent resident status of an alien granted
8 under this subtitle and grant the alien status as an
9 alien lawfully admitted for permanent residence if
10 the alien—

11 (A) is described in paragraph (1)(C) of
12 section 203(b), subject to paragraphs (2) and
13 (3) of that section;

14 (B) has not abandoned the residence of the
15 alien in the United States;

16 (C)(i) has acquired a degree from an insti-
17 tution of higher education or has completed at
18 least 2 years, in good standing, in a program
19 for a bachelor's degree or higher degree in the
20 United States;

21 (ii)(I) has served in the Uniformed Serv-
22 ices for at least 2 years; or

23 (II) in the case of an alien who has been
24 discharged from the Uniformed Services, has
25 received an honorable discharge; or

1 (iii) has been employed for periods totaling
2 at least 3 years and at least 75 percent of the
3 time that the alien has had a valid employment
4 authorization, except that any period during
5 which the alien is not employed while having a
6 valid employment authorization and is enrolled
7 in an institution of higher education, a sec-
8 ondary school, or an education program de-
9 scribed in section 203(b)(1)(D)(iii), shall not
10 count toward the time requirements under this
11 clause; and

12 (D)(i) has paid any applicable Federal tax
13 liability incurred by the alien during the entire
14 period for which the alien was in permanent
15 resident status on a conditional basis; or

16 (ii) has entered into an agreement to pay
17 the applicable Federal tax liability incurred by
18 the alien during the entire period for which the
19 alien was in permanent resident status on a
20 conditional basis through a payment installment
21 plan approved by the Commissioner of Internal
22 Revenue.

23 (2) HARDSHIP EXCEPTION.—

24 (A) IN GENERAL.—The Secretary shall re-
25 move the conditional basis of the permanent

1 resident status of an alien and grant the alien
2 status as an alien lawfully admitted for perma-
3 nent residence if the alien—

4 (i) satisfies the requirements under
5 subparagraphs (A) and (B) of paragraph
6 (1);

7 (ii) demonstrates compelling cir-
8 cumstances for the inability to satisfy the
9 requirements under subparagraph (C) of
10 such paragraph; and

11 (iii) demonstrates that—

12 (I) the alien has a disability;

13 (II) the alien is a full-time care-
14 giver of a minor child; or

15 (III) the removal of the alien
16 from the United States would result
17 in extreme hardship to the alien or
18 the alien's spouse, parent, or child
19 who is a national of the United States
20 or is lawfully admitted for permanent
21 residence.

22 (3) CITIZENSHIP REQUIREMENT.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), the conditional basis of the
25 permanent resident status granted to an alien

1 under this subtitle may not be removed unless
2 the alien demonstrates that the alien satisfies
3 the requirements under section 312(a) of the
4 Immigration and Nationality Act (8 U.S.C.
5 1423(a)).

6 (B) EXCEPTION.—Subparagraph (A) shall
7 not apply to an alien who is unable to meet the
8 requirements under section 312(a) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1423(a))
10 due to disability.

11 (4) APPLICATION FEE.—

12 (A) IN GENERAL.—The Secretary may re-
13 quire an alien applying for lawful permanent
14 resident status under this section to pay a rea-
15 sonable fee that is commensurate with the cost
16 of processing the application.

17 (B) EXEMPTION.—An applicant may be
18 exempted from paying the fee required under
19 subparagraph (A) only if the alien—

20 (i)(I) is younger than 18 years of age;

21 (II) received total income, during the
22 1-year period immediately preceding the
23 date on which the alien files an application
24 under this section, that is less than 150
25 percent of the poverty line; and

1 (III) is in foster care or otherwise
2 lacking any parental or other familial sup-
3 port;

4 (ii) is younger than 18 years of age
5 and is homeless;

6 (iii)(I) cannot care for himself or her-
7 self because of a serious, chronic disability;
8 and

9 (II) received total income, during the
10 1-year period immediately preceding the
11 date on which the alien files an application
12 under this section, that is less than 150
13 percent of the poverty line; or

14 (iv)(I) during the 1-year period imme-
15 diately preceding the date on which the
16 alien files an application under this sec-
17 tion, the alien accumulated \$10,000 or
18 more in debt as a result of unreimbursed
19 medical expenses incurred by the alien or
20 an immediate family member of the alien;
21 and

22 (II) received total income, during the
23 1-year period immediately preceding the
24 date on which the alien files an application

1 under this section, that is less than 150
2 percent of the poverty line.

3 (5) SUBMISSION OF BIOMETRIC AND BIO-
4 GRAPHIC DATA.—

5 (A) IN GENERAL.—The Secretary may not
6 remove the conditional basis of the permanent
7 resident status of an alien unless the alien sub-
8 mits biometric and biographic data, in accord-
9 ance with procedures established by the Sec-
10 retary.

11 (B) ALTERNATIVE PROCEDURE.—The Sec-
12 retary shall provide an alternative procedure for
13 any applicant who is unable to provide the bio-
14 metric or biographic data referred to in sub-
15 paragraph (A) due to physical impairment.

16 (6) BACKGROUND CHECKS.—

17 (A) REQUIREMENT FOR BACKGROUND
18 CHECKS.—The Secretary shall use biometric,
19 biographic, and other data that the Secretary
20 determines to be appropriate—

21 (i) to conduct security and law en-
22 forcement background checks of an alien
23 applying for removal of the conditional
24 basis of the permanent resident status of
25 the alien; and

1 (ii) to determine whether there is any
2 criminal, national security, or other factor
3 that would render the alien ineligible for
4 removal of the conditional basis if the per-
5 manent resident status of the alien.

6 (B) COMPLETION OF BACKGROUND
7 CHECKS.—The security and law enforcement
8 background checks of an alien required under
9 subparagraph (A) shall be completed, to the
10 satisfaction of the Secretary, before the date on
11 which the Secretary removes the conditional
12 basis of the permanent resident status of the
13 alien.

14 (b) NATURALIZATION.—

15 (1) IN GENERAL.—For purposes of title III of
16 the Immigration and Nationality Act (8 U.S.C. 1401
17 et seq.), an alien granted permanent resident status
18 on a conditional basis shall be considered to have
19 been admitted to the United States, and to be
20 present in the United States, as an alien lawfully ad-
21 mitted for permanent residence.

22 (2) LIMITATIONS ON APPLICATION FOR NATU-
23 RALIZATION.—

24 (A) IN GENERAL.—An alien may not be
25 naturalized—

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1 (i) on any date on which the alien is
2 in permanent resident status on a condi-
3 tional basis; or

4 (ii) before the date that is 12 years
5 after the date on which the alien was
6 granted permanent resident status on a
7 conditional basis.

8 (B) REDUCTION IN PERIOD.—

9 (i) IN GENERAL.—Subject to clause
10 (ii), the 12-year period referred to in sub-
11 paragraph (A)(ii) shall be reduced by the
12 number of days that the alien was a DACA
13 recipient.

14 (ii) LIMITATION.—Notwithstanding
15 clause (i), the 12-year period may not be
16 reduced by more than 2 years.

17 (C) ADVANCED FILING DATE.—With re-
18 spect to an alien granted permanent resident
19 status on a conditional basis, the alien may file
20 an application for naturalization not more than
21 90 days before the date on which the applicant
22 meets the requirements for naturalization under
23 subparagraph (A).

1 **SEC. 205. DOCUMENTATION REQUIREMENTS.**

2 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
3 alien’s application for permanent resident status on a con-
4 ditional basis may include, as proof of identity—

5 (1) a passport or national identity document
6 from the alien’s country of origin that includes the
7 alien’s name and the alien’s photograph or finger-
8 print;

9 (2) the alien’s birth certificate and an identity
10 card that includes the alien’s name and photograph;

11 (3) a school identification card that includes the
12 alien’s name and photograph, and school records
13 showing the alien’s name and that the alien is or
14 was enrolled at the school;

15 (4) a Uniformed Services identification card
16 issued by the Department of Defense;

17 (5) any immigration or other document issued
18 by the United States Government bearing the alien’s
19 name and photograph; or

20 (6) a State-issued identification card bearing
21 the alien’s name and photograph.

22 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
23 ICAL PRESENCE IN THE UNITED STATES.—To establish
24 that an alien has been continuously physically present in
25 the United States, as required under section 203(b)(1)(A),
26 or to establish that an alien has not abandoned residence

1 in the United States, as required under section
2 205(a)(1)(B), the alien may submit documents to the Sec-
3 retary, including—

4 (1) employment records that include the em-
5 ployer's name and contact information;

6 (2) records from any educational institution the
7 alien has attended in the United States;

8 (3) records of service from the Uniformed Serv-
9 ices;

10 (4) official records from a religious entity con-
11 firming the alien's participation in a religious cere-
12 mony;

13 (5) passport entries;

14 (6) a birth certificate for a child of the alien
15 who was born in the United States;

16 (7) automobile license receipts or registration;

17 (8) deeds, mortgages, or rental agreement con-
18 tracts;

19 (9) tax receipts;

20 (10) insurance policies;

21 (11) remittance records;

22 (12) rent receipts or utility bills bearing the
23 alien's name or the name of an immediate family
24 member of the alien, and the alien's address;

1 (13) copies of money order receipts for money
2 sent in or out of the United States;

3 (14) dated bank transactions; or

4 (15) 2 or more sworn affidavits from individ-
5 uals who are not related to the alien who have direct
6 knowledge of the alien's continuous physical pres-
7 ence in the United States, that contain—

8 (A) the name, address, and telephone num-
9 ber of the affiant; and

10 (B) the nature and duration of the rela-
11 tionship between the affiant and the alien.

12 (c) DOCUMENTS ESTABLISHING INITIAL ENTRY
13 INTO THE UNITED STATES.—To establish under section
14 203(b)(1)(B) that an alien was younger than 18 years of
15 age on the date on which the alien initially entered the
16 United States, an alien may submit documents to the Sec-
17 retary, including—

18 (1) an admission stamp on the alien's passport;

19 (2) records from any educational institution the
20 alien has attended in the United States;

21 (3) any document from the Department of Jus-
22 tice or the Department of Homeland Security stat-
23 ing the alien's date of entry into the United States;

24 (4) hospital or medical records showing medical
25 treatment or hospitalization, the name of the med-

1 ical facility or physician, and the date of the treat-
2 ment or hospitalization;

3 (5) rent receipts or utility bills bearing the
4 alien's name or the name of an immediate family
5 member of the alien, and the alien's address;

6 (6) employment records that include the em-
7 ployer's name and contact information;

8 (7) official records from a religious entity con-
9 firming the alien's participation in a religious cere-
10 mony;

11 (8) a birth certificate for a child of the alien
12 who was born in the United States;

13 (9) automobile license receipts or registration;

14 (10) deeds, mortgages, or rental agreement con-
15 tracts;

16 (11) tax receipts;

17 (12) travel records;

18 (13) copies of money order receipts sent in or
19 out of the country;

20 (14) dated bank transactions;

21 (15) remittance records; or

22 (16) insurance policies.

23 (d) DOCUMENTS ESTABLISHING ADMISSION TO AN
24 INSTITUTION OF HIGHER EDUCATION.—To establish that
25 an alien has been admitted to an institution of higher edu-

1 cation, the alien shall submit to the Secretary a document
2 from the institution of higher education certifying that the
3 alien—

4 (1) has been admitted to the institution; or

5 (2) is currently enrolled in the institution as a
6 student.

7 (e) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
8 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—

9 To establish that an alien has acquired a degree from an
10 institution of higher education in the United States, the
11 alien shall submit to the Secretary a diploma or other doc-
12 ument from the institution stating that the alien has re-
13 ceived such a degree.

14 (f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH
15 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
16 MENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—

17 To establish that an alien has earned a high school di-
18 ploma or a commensurate alternative award from a public
19 or private high school, or has obtained a general edu-
20 cational development certificate recognized under State
21 law or a high school equivalency diploma in the United
22 States, the alien shall submit to the Secretary—

23 (1) a high school diploma, certificate of comple-
24 tion, or other alternate award;

1 (2) a high school equivalency diploma or certifi-
2 cate recognized under State law; or

3 (3) evidence that the alien passed a State-au-
4 thorized exam, including the general educational de-
5 velopment exam, in the United States.

6 (g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
7 EDUCATIONAL PROGRAM.—To establish that an alien is
8 enrolled in any school or education program described in
9 section 203(b)(1)(D)(iii), 203(d)(3)(A)(iii), or
10 205(a)(1)(C)(i), the alien shall submit school records from
11 the United States school that the alien is currently attend-
12 ing that include—

13 (1) the name of the school; and

14 (2) the alien’s name, periods of attendance, and
15 current grade or educational level.

16 (h) DOCUMENTS ESTABLISHING EXEMPTION FROM
17 APPLICATION FEES.—To establish that an alien is exempt
18 from an application fee under section 203(b)(5)(B) or
19 205(a)(4)(B), the alien shall submit to the Secretary the
20 following relevant documents:

21 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
22 tablish that an alien meets an age requirement, the
23 alien shall provide proof of identity, as described in
24 subsection (a), that establishes that the alien is
25 younger than 18 years of age.

1 (2) DOCUMENTS TO ESTABLISH INCOME.—To
2 establish the alien’s income, the alien shall provide—

3 (A) employment records that have been
4 maintained by the Social Security Administra-
5 tion, the Internal Revenue Service, or any other
6 Federal, State, or local government agency;

7 (B) bank records; or

8 (C) at least 2 sworn affidavits from indi-
9 viduals who are not related to the alien and
10 who have direct knowledge of the alien’s work
11 and income that contain—

12 (i) the name, address, and telephone
13 number of the affiant; and

14 (ii) the nature and duration of the re-
15 lationship between the affiant and the
16 alien.

17 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
18 LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR
19 SERIOUS, CHRONIC DISABILITY.—To establish that
20 the alien was in foster care, lacks parental or famil-
21 ial support, is homeless, or has a serious, chronic
22 disability, the alien shall provide at least 2 sworn af-
23 fidavits from individuals who are not related to the
24 alien and who have direct knowledge of the cir-
25 cumstances that contain—

1 (A) a statement that the alien is in foster
2 care, otherwise lacks any parental or other fa-
3 miliar support, is homeless, or has a serious,
4 chronic disability, as appropriate;

5 (B) the name, address, and telephone num-
6 ber of the affiant; and

7 (C) the nature and duration of the rela-
8 tionship between the affiant and the alien.

9 (4) DOCUMENTS TO ESTABLISH UNPAID MED-
10 ICAL EXPENSE.—To establish that the alien has debt
11 as a result of unreimbursed medical expenses, the
12 alien shall provide receipts or other documentation
13 from a medical provider that—

14 (A) bear the provider's name and address;

15 (B) bear the name of the individual receiv-
16 ing treatment; and

17 (C) document that the alien has accumu-
18 lated \$10,000 or more in debt in the past 12
19 months as a result of unreimbursed medical ex-
20 penses incurred by the alien or an immediate
21 family member of the alien.

22 (i) DOCUMENTS ESTABLISHING QUALIFICATION FOR
23 HARDSHIP EXEMPTION.—To establish that an alien satis-
24 fies 1 of the criteria for the hardship exemption described
25 in section 205(a)(2)(A)(iii), the alien shall submit to the

1 Secretary at least 2 sworn affidavits from individuals who
2 are not related to the alien and who have direct knowledge
3 of the circumstances that warrant the exemption, that
4 contain—

5 (1) the name, address, and telephone number of
6 the affiant; and

7 (2) the nature and duration of the relationship
8 between the affiant and the alien.

9 (j) DOCUMENTS ESTABLISHING SERVICE IN THE
10 UNIFORMED SERVICES.—To establish that an alien has
11 served in the Uniformed Services for at least 2 years and,
12 if discharged, received an honorable discharge, the alien
13 shall submit to the Secretary—

14 (1) a Department of Defense form DD-214;

15 (2) a National Guard Report of Separation and
16 Record of Service form 22;

17 (3) personnel records for such service from the
18 appropriate Uniformed Service; or

19 (4) health records from the appropriate Uni-
20 formed Service.

21 (k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

22 (1) IN GENERAL.—An alien may satisfy the em-
23 ployment requirement under section
24 205(a)(1)(C)(iii) by submitting records that—

1 (A) establish compliance with such employ-
2 ment requirement; and

3 (B) have been maintained by the Social Se-
4 curity Administration, the Internal Revenue
5 Service, or any other Federal, State, or local
6 government agency.

7 (2) OTHER DOCUMENTS.—An alien who is un-
8 able to submit the records described in paragraph
9 (1) may satisfy the employment requirement by sub-
10 mitting at least 2 types of reliable documents that
11 provide evidence of employment, including—

12 (A) bank records;

13 (B) business records;

14 (C) employer records;

15 (D) records of a labor union, day labor
16 center, or organization that assists workers in
17 employment;

18 (E) sworn affidavits from individuals who
19 are not related to the alien and who have direct
20 knowledge of the alien's work, that contain—

21 (i) the name, address, and telephone
22 number of the affiant; and

23 (ii) the nature and duration of the re-
24 lationship between the affiant and the
25 alien; and

1 (F) remittance records.

2 (I) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
3 UMENTS.—If the Secretary determines, after publication
4 in the Federal Register and an opportunity for public com-
5 ment, that any document or class of documents does not
6 reliably establish identity or that permanent resident sta-
7 tus on a conditional basis is being obtained fraudulently
8 to an unacceptable degree, the Secretary may prohibit or
9 restrict the use of such document or class of documents.

10 **SEC. 206. RULEMAKING.**

11 (a) INITIAL PUBLICATION.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the Secretary
14 shall publish in the Federal Register regulations im-
15 plementing this subtitle.

16 (2) AFFIRMATIVE APPLICATION.—The regula-
17 tions published under paragraph (1) shall allow any
18 eligible individual to immediately apply affirmatively
19 for the relief available under section 203 without
20 being placed in removal proceedings.

21 (b) INTERIM REGULATIONS.—Notwithstanding sec-
22 tion 553 of title 5, United States Code, the regulations
23 published pursuant to subsection (a)(1) shall be effective,
24 on an interim basis, immediately on publication in the
25 Federal Register, but may be subject to change and revi-

1 sion after public notice and opportunity for a period of
2 public comment.

3 (c) FINAL REGULATIONS.—Not later than 180 days
4 after the date on which interim regulations are published
5 under this section, the Secretary shall publish final regula-
6 tions implementing this subtitle.

7 (d) PAPERWORK REDUCTION ACT.—The require-
8 ments under chapter 35 of title 44, United States Code,
9 (commonly known as the “Paperwork Reduction Act”)
10 shall not apply to any action to implement this subtitle.

11 **SEC. 207. CONFIDENTIALITY OF INFORMATION.**

12 (a) IN GENERAL.—The Secretary may not disclose
13 or use for the purpose of immigration enforcement any
14 information provided in—

15 (1) an application filed under this subtitle; or

16 (2) a request for DACA.

17 (b) REFERRALS PROHIBITED.—The Secretary may
18 not refer to U.S. Immigration and Customs Enforcement,
19 U.S. Customs and Border Protection, or any designee of
20 U.S. Immigration and Customs Enforcement or U.S. Cus-
21 toms and Border Protection any individual who—

22 (1) has been granted permanent resident status
23 on a conditional basis; or

24 (2) was granted DACA.

1 (c) LIMITED EXCEPTION.—Notwithstanding sub-
2 sections (a) and (b), information provided in an applica-
3 tion for permanent resident status on a conditional basis
4 or a request for DACA may be shared with a Federal secu-
5 rity or law enforcement agency—

6 (1) for assistance in the consideration of an ap-
7 plication for permanent resident status on a condi-
8 tional basis;

9 (2) to identify or prevent fraudulent claims;

10 (3) for national security purposes; or

11 (4) for the investigation or prosecution of any
12 felony not related to immigration status.

13 (d) PENALTY.—Any person who knowingly uses, pub-
14 lishes, or permits information to be examined in violation
15 of this section shall be fined not more than \$10,000.

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 2579

To amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. GRASSLEY (for himself, Mrs. ERNST, Mr. TILLIS, Mr. LANKFORD, Mr. COTTON, Mr. PERDUE, and Mr. CORNYN)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

4 (a) SHORT TITLES.—This Act may be cited as the
5 “SECURE and SUCCEED Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short titles; table of contents.

TITLE I—BUILDING AMERICA’S TRUST ACT

Sec. 1001. Short title.

Subtitle A—Border Security

Sec. 1101. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

- Sec. 1111. Strengthening the requirements for barriers along the southern border.
- Sec. 1112. Air and Marine Operations flight hours.
- Sec. 1113. Capability deployment to specific sectors and transit zone.
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- Sec. 1719. Sanctions for countries that delay or prevent repatriation of their nationals.
- Sec. 1720. Enhanced penalties for construction and use of border tunnels.
- Sec. 1721. Enhanced penalties for fraud and misuse of visas, permits, and other documents.
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- Sec. 1731. Short title.
- Sec. 1732. Visa security.
- Sec. 1733. Electronic passport screening and biometric matching.
- Sec. 1734. Reporting visa overstays.
- Sec. 1735. Student and exchange visitor information system verification.
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- Sec. 1741. Cancellation of additional visas.
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- Sec. 1806. Prohibition on terrorists and aliens who pose a threat to national security or public safety from receiving an adjustment of status.
- Sec. 1807. Treatment of applications for adjustment of status during pending denaturalization proceedings.
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- Sec. 1822. Terrorist bar to good moral character.
- Sec. 1823. Prohibition on judicial review of naturalization applications for aliens in removal proceedings.
- Sec. 1824. Limitation on judicial review when agency has not made decision on naturalization application and on denials.
- Sec. 1825. Clarification of denaturalization authority.
- Sec. 1826. Denaturalization of terrorists.
- Sec. 1827. Treatment of pending applications during denaturalization proceedings.
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VERIFY

- Sec. 2001. Permanent reauthorization.
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- Sec. 3001. Short titles.
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- Sec. 3003. Cancellation of removal of certain long-term residents who entered the United States as children.
- Sec. 3004. Conditional temporary resident status.
- Sec. 3005. Removal of conditional basis for temporary residence.
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- Sec. 3009. Restriction on welfare benefits for conditional temporary residents.
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- Sec. 4001. Short title.
- Sec. 4002. Family-Sponsored immigration priorities.
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TITLE V—OTHER MATTERS

- Sec. 5001. Other Immigration and Nationality Act amendments.
- Sec. 5002. Exemption from the Administrative Procedure Act.
- Sec. 5003. Exemption from the Paperwork Reduction Act.
- Sec. 5004. Exemption from government contracting and hiring rules.
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- Sec. 5006. Severability.
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TITLE VI—TECHNICAL AMENDMENTS

- Sec. 6001. References to the Immigration and Nationality Act.
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- Sec. 6005. Technical amendment to title IV of the Immigration and Nationality Act.
- Sec. 6006. Technical amendments to title V of the Immigration and Nationality Act.
- Sec. 6007. Other amendments.
- Sec. 6008. Repeals; rule of construction.
- Sec. 6009. Miscellaneous technical correction.

1 **TITLE I—BUILDING AMERICA’S**
2 **TRUST ACT**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Building America’s
5 Trust Act”.

6 **Subtitle A—Border Security**

7 **SEC. 1101. DEFINITIONS.**

8 In this subtitle:

9 (1) **ADVANCED UNATTENDED SURVEILLANCE**
10 **SENSORS.**—The term “advanced unattended surveil-
11 lance sensors” means sensors that utilize an onboard
12 computer to analyze detections in an effort to dis-
13 cern between vehicles, humans, and animals, and ul-
14 timately filter false positives before transmission.

15 (2) **APPROPRIATE CONGRESSIONAL COM-**
16 **MITTEE.**—The term “appropriate congressional com-
17 mittee” has the meaning given the term in section
18 2(2) of the Homeland Security Act of 2002 (6
19 U.S.C. 101(2)).

20 (3) **COMMISSIONER.**—The term “Commis-
21 sioner” means the Commissioner of U.S. Customs
22 and Border Protection.

23 (4) **HIGH TRAFFIC AREAS.**—The term “high
24 traffic areas” has the meaning given the term in sec-
25 tion 102(e)(1) of the Illegal Immigration Reform

1 and Immigrant Responsibility Act of 1996, as added
2 by section 1111.

3 (5) OPERATIONAL CONTROL.—The term “oper-
4 ational control” has the meaning given the term in
5 section 2(b) of the Secure Fence Act of 2006 (8
6 U.S.C. 1701 note; Public Law 109–367).

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

9 (7) SITUATIONAL AWARENESS.—The term “sit-
10 uational awareness” has the meaning given the term
11 in section 1092(a)(7) of the National Defense Au-
12 thorization Act for Fiscal Year 2017 (6 U.S.C.
13 223(a)(7); Public Law 114–328).

14 (8) SMALL UNMANNED AERIAL VEHICLE.—The
15 term “small unmanned aerial vehicle” has the mean-
16 ing given the term “small unmanned aircraft” in
17 section 331 of the FAA Modernization and Reform
18 Act of 2012 (Public Law 112–95; 49 U.S.C. 40101
19 note).

20 (9) TRANSIT ZONE.—The term “transit zone”
21 has the meaning given the term in section
22 1092(a)(8) of the National Defense Authorization
23 Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Pub-
24 lic Law 114–328).

1 (10) UNMANNED AERIAL SYSTEM.—The term
2 “unmanned aerial system” has the meaning given
3 the term “unmanned aircraft system” in section 331
4 of the FAA Modernization and Reform Act of 2012
5 (Public Law 112–95; 49 U.S.C. 40101 note).

6 (11) UNMANNED AERIAL VEHICLE.—The term
7 “unmanned aerial vehicle” has the meaning given
8 the term “unmanned aircraft system” in section 331
9 of the FAA Modernization and Reform Act of 2012
10 (Public Law 112–95; 49 U.S.C. 40101 note).

11 **CHAPTER 1—INFRASTRUCTURE AND**
12 **EQUIPMENT**

13 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-**
14 **RIERS ALONG THE SOUTHERN BORDER.**

15 Section 102 of the Illegal Immigration Reform and
16 Immigrant Responsibility Act of 1996 (Division C of Pub-
17 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

18 (1) by amending subsection (a) to read as fol-
19 lows:

20 “(a) IN GENERAL.—The Secretary of Homeland Se-
21 curity shall take such actions as may be necessary (includ-
22 ing the removal of obstacles to detection of illegal en-
23 trants) to construct, install, deploy, operate, and perma-
24 nently maintain physical barriers, tactical infrastructure
25 and technology in the vicinity of the United States border

1 to achieve situational awareness and operational control
2 of the border and deter, impede, and detect illegal activity
3 in high traffic areas.”;

4 (2) in subsection (b)—

5 (A) in the subsection heading, by striking
6 “FENCING AND ROAD IMPROVEMENTS” and in-
7 serting “PHYSICAL BARRIERS”;

8 (B) in paragraph (1)—

9 (i) in subparagraph (A)—

10 (I) by striking “subsection (a)”
11 and inserting “this section”;

12 (II) by striking “roads, lighting,
13 cameras, and sensors” and inserting
14 “tactical infrastructure, and tech-
15 nology”; and

16 (III) by striking “gain” and in-
17 serting “achieve situational awareness
18 and”; and

19 (ii) by amending subparagraph (B) to
20 read as follows:

21 “(B) PHYSICAL BARRIERS AND TACTICAL
22 INFRASTRUCTURE.—

23 “(i) IN GENERAL.—Not later than
24 September 30, 2022, the Secretary of
25 Homeland Security, in carrying out this

1 section, shall deploy along the United
2 States border the most practical and effec-
3 tive physical barriers and tactical infra-
4 structure available for achieving situational
5 awareness and operational control of the
6 border.

7 “(ii) CONSIDERATION FOR CERTAIN
8 PHYSICAL BARRIERS AND TACTICAL INFRA-
9 STRUCTURE.—The deployment of physical
10 barriers and tactical infrastructure under
11 this subparagraph shall not apply in any
12 area or region along the border where nat-
13 ural terrain features, natural barriers, or
14 the remoteness of such area or region
15 would make any such deployment ineffec-
16 tive, as determined by the Secretary, for
17 the purposes of gaining situational aware-
18 ness or operational control of such area or
19 region.”;

20 (iii) in subparagraph (C)—

21 (I) by amending clause (i) to
22 read as follows:

23 “(i) IN GENERAL.—In carrying out
24 this section, the Secretary of Homeland
25 Security shall, before constructing physical

1 barriers in a specific area or region, con-
2 sult with the Secretary of the Interior, the
3 Secretary of Agriculture, appropriate rep-
4 resentatives of Federal, State, local, and
5 tribal governments, and appropriate pri-
6 vate property owners in the United States
7 to minimize the impact on the environ-
8 ment, culture, commerce, and quality of
9 life for the communities and residents lo-
10 cated near the sites at which such physical
11 barriers are to be constructed.”;

12 (II) by redesignating clause (ii)
13 as clause (iii); and

14 (III) by inserting after clause (i),
15 as amended, the following:

16 “(ii) NOTIFICATION.—Not later than
17 60 days after the consultation required
18 under clause (i), the Secretary of Home-
19 land Security shall notify the Committee
20 on Homeland Security of the House of
21 Representatives and the Committee on
22 Homeland Security and Governmental Af-
23 fairs of the Senate of the type of physical
24 barriers, tactical infrastructure, or tech-
25 nology the Secretary has determined is

1 most practical and effective to achieve situ-
2 ational awareness and operational control
3 in a specific area and the other alter-
4 natives the Secretary considered before
5 making such a determination.”; and

6 (IV) in clause (iii), as redesign-
7 nated—

8 (aa) in subclause (I), by
9 striking “or” at the end;

10 (bb) by amending subclause
11 (II) to read as follows:

12 “(II) delay the transfer of the
13 possession of property to the United
14 States or affect the validity of any
15 property acquisition by purchase or
16 eminent domain, or to otherwise affect
17 the eminent domain laws of the
18 United States or of any state; or”;
19 and

20 (cc) by adding at the end
21 the following:

22 “(III) create any right or liability
23 for any party.”; and

24 (iv) by striking subparagraph (D);

25 (C) in paragraph (2)—

1 (i) by striking “Attorney General”
2 and inserting “Secretary of Homeland Se-
3 curity”;

4 (ii) by striking “this subsection” and
5 inserting “this section”; and

6 (iii) by striking “construction of
7 fences” and inserting “the construction of
8 physical barriers”; and

9 (D) by amending paragraph (3) to read as
10 follows:

11 “(3) AGENT SAFETY.—In carrying out this sec-
12 tion, the Secretary of Homeland Security, when de-
13 signing, constructing, and deploying physical bar-
14 riers, tactical infrastructure, or technology, shall in-
15 corporate such safety features into the design, con-
16 struction, or deployment of such physical barriers,
17 tactical infrastructure, or technology, as the case
18 may be, that the Secretary determines, in the Sec-
19 retary’s sole discretion, are necessary to maximize
20 the safety and effectiveness of officers or agents of
21 the Department of Homeland Security or of any
22 other Federal agency deployed in the vicinity of such
23 physical barriers, tactical infrastructure, or tech-
24 nology.”;

1 (3) in subsection (e), by amending paragraph
2 (1) to read as follows:

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of law, the Secretary of Homeland Security
5 shall have the authority to waive all legal require-
6 ments that the Secretary, in the Secretary’s sole dis-
7 cretion, determines necessary to ensure the expedi-
8 tious design, testing, construction, installation, de-
9 ployment, operation, and maintenance of the phys-
10 ical barriers, tactical infrastructure and technology
11 under this section. Any such decision by the Sec-
12 retary shall be effective upon publication in the Fed-
13 eral Register.”; and

14 (4) by adding after subsection (d) the following:

15 “(e) TECHNOLOGY.—Not later than September 30,
16 2022, the Secretary of Homeland Security, in carrying out
17 this section, shall deploy, operate, and permanently main-
18 tain along the United States border the most practical and
19 effective technology available for achieving situational
20 awareness and operational control of the border.

21 “(f) LIMITATION ON REQUIREMENTS.—Nothing in
22 this section may be construed as requiring the Secretary
23 to install tactical infrastructure, technology, and physical
24 barriers in a particular location along an international
25 border of the United States if the Secretary determines

1 that the use or placement of such resources is not the most
2 appropriate means to achieve and maintain situational
3 awareness and operational control over the international
4 border at such location.

5 “(g) DEFINITIONS.—In this section:

6 “(1) HIGH TRAFFIC AREAS.—The term ‘high
7 traffic areas’ means areas in the vicinity of the
8 United States border that—

9 “(A) are within the responsibility of U.S.
10 Customs and Border Protection; and

11 “(B) have significant unlawful cross-border
12 activity, as determined by the Secretary of
13 Homeland Security.

14 “(2) OPERATIONAL CONTROL.—The term ‘oper-
15 ational control’ has the meaning given the term in
16 section 2(b) of the Secure Fence Act of 2006 (8
17 U.S.C. 1701 note; Public Law 109–367).

18 “(3) PHYSICAL BARRIERS.—The term ‘physical
19 barriers’ includes reinforced fencing, a border wall
20 system, and levee walls.

21 “(4) SITUATIONAL AWARENESS DEFINED.—The
22 term ‘situational awareness’ has the meaning given
23 the term in section 1092(a)(7) of the National De-
24 fense Authorization Act for Fiscal Year 2017 (6
25 U.S.C. 223(a)(7); Public Law 114–328).

1 “(5) TACTICAL INFRASTRUCTURE.—The term
2 ‘tactical infrastructure’ includes boat ramps, access
3 gates, checkpoints, lighting, and roads.

4 “(6) TECHNOLOGY.—The term ‘technology’
5 means border surveillance and detection technology,
6 including—

7 “(A) tower-based surveillance technology;

8 “(B) deployable, lighter-than-air ground
9 surveillance equipment;

10 “(C) Vehicle and Dismount Exploitation
11 Radars (VADER);

12 “(D) 3-dimensional, seismic acoustic detec-
13 tion and ranging border tunneling detection
14 technology;

15 “(E) advanced unattended surveillance
16 sensors;

17 “(F) mobile vehicle-mounted and man-
18 portable surveillance capabilities;

19 “(G) unmanned aerial vehicles; and

20 “(H) other border detection, communica-
21 tion, and surveillance technology.

22 “(7) UNMANNED AERIAL VEHICLES.—The term
23 ‘unmanned aerial vehicle’ has the meaning given the
24 term ‘unmanned aircraft’ in section 331 of the FAA

1 Modernization and Reform Act of 2012 (Public Law
2 112–95; 49 U.S.C. 40101 note).”.

3 **SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

4 (a) INCREASED FLIGHT HOURS.—The Secretary
5 shall ensure that not fewer than 95,000 annual flight
6 hours are carried out by Air and Marine Operations of
7 U.S. Customs and Border Protection.

8 (b) UNMANNED AERIAL SYSTEM.—The Secretary,
9 after coordination with the Administrator of the Federal
10 Aviation Administration, shall ensure that Air and Marine
11 Operations operate unmanned aerial systems on the south-
12 ern border of the United States for not fewer than 24
13 hours per day for 5 days per week.

14 (c) CONTRACT AIR SUPPORT AUTHORIZATION.—The
15 Commissioner shall contract for the unfulfilled identified
16 air support mission critical hours, as identified by the
17 Chief of the U.S. Border Patrol.

18 (d) PRIMARY MISSION.—The Commissioner shall en-
19 sure that—

20 (1) the primary missions for Air and Marine
21 Operations are to directly support U.S. Border Pa-
22 trol activities along the southern border of the
23 United States and Joint Interagency Task Force
24 South operations in the transit zone; and

1 (2) the Executive Assistant Commissioner of
2 Air and Marine Operations assigns the greatest pri-
3 ority to support missions established by the Commis-
4 sioner to carry out the requirements under this Act.

5 (e) HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.—
6 In accordance with subsection (d), the Commissioner shall
7 ensure that U.S. Border Patrol Sector Chiefs—

8 (1) identify critical flight hour requirements;
9 and

10 (2) direct Air and Marine Operations to sup-
11 port requests from Sector Chiefs as their primary
12 mission.

13 (f) SMALL UNMANNED AERIAL VEHICLES.—

14 (1) IN GENERAL.—The Chief of the U.S. Bor-
15 der Patrol shall be the executive agent for U.S. Cus-
16 toms and Border Protection’s use of small, un-
17 manned aerial vehicles for the purpose of meeting
18 the U.S. Border Patrol’s unmet flight hour oper-
19 ational requirements and to achieve situational
20 awareness and operational control.

21 (2) COORDINATION.—In carrying out para-
22 graph (1), the Chief of the U.S. Border Patrol
23 shall—

24 (A) coordinate flight operations with the
25 Administrator of the Federal Aviation Adminis-

1 tration to ensure the safe and efficient oper-
2 ation of the National Airspace System; and

3 (B) coordinate with the Executive Assist-
4 ant Commissioner for Air and Marine Oper-
5 ations of U.S. Customs and Border Protection
6 to ensure the safety of other aircraft flying in
7 the vicinity of small, unmanned aerial vehicles
8 operated by the U.S. Border Patrol.

9 (3) CONFORMING AMENDMENT.—Section
10 411(e)(3) of the Homeland Security Act of 2002 (6
11 U.S.C. 211(e)(3)) is amended—

12 (A) in subparagraph (B), by striking
13 “and” at the end;

14 (B) by redesignating subparagraph (C) as
15 subparagraph (D); and

16 (C) by inserting after subparagraph (B)
17 the following:

18 “(C) carry out the small unmanned aerial
19 vehicle requirements pursuant to section
20 1112(f) of the Building America’s Trust Act;
21 and”.

22 (g) SAVINGS CLAUSE.—Nothing in this section may
23 be construed to confer, transfer, or delegate to the Sec-
24 retary, the Commissioner, the Executive Assistant Com-
25 missioner for Air and Marine Operations of U.S. Customs

1 and Border Protection, or the Chief of the U.S. Border
2 Patrol any authority of the Secretary of Transportation
3 or the Administrator of the Federal Aviation Administra-
4 tion relating to the use of airspace or aviation safety.

5 **SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
6 **TORS AND TRANSIT ZONE.**

7 (a) IN GENERAL.—Not later than September 30,
8 2022, the Secretary, in implementing section 102 of the
9 Illegal Immigration Reform and Immigrant Responsibility
10 Act of 1996, as amended by section 1111, and acting
11 through the appropriate component of the Department of
12 Homeland Security, shall deploy to each sector or region
13 of the southern border and the northern border, in a
14 prioritized manner to achieve situational awareness and
15 operational control of such borders, the following addi-
16 tional capabilities:

17 (1) SAN DIEGO SECTOR.—For the San Diego
18 sector, the following:

19 (A) Tower-based surveillance technology.

20 (B) Subterranean surveillance and detec-
21 tion technologies.

22 (C) To increase coastal maritime domain
23 awareness, the following:

24 (i) Deployable, lighter-than-air surface
25 surveillance equipment.

1 (ii) Unmanned aerial vehicles with
2 maritime surveillance capability.

3 (iii) U.S. Customs and Border Protec-
4 tion maritime patrol aircraft.

5 (iv) Coastal radar surveillance sys-
6 tems.

7 (v) Maritime signals intelligence capa-
8 bilities.

9 (D) Ultralight aircraft detection capabili-
10 ties.

11 (E) Advanced unattended surveillance sen-
12 sors.

13 (F) A rapid reaction capability supported
14 by aviation assets.

15 (G) Mobile vehicle-mounted and man-port-
16 able surveillance capabilities.

17 (H) Man-portable unmanned aerial vehi-
18 cles.

19 (I) Improved agent communications capa-
20 bilities.

21 (2) EL CENTRO SECTOR.—For the El Centro
22 sector, the following:

23 (A) Tower-based surveillance technology.

24 (B) Deployable, lighter-than-air ground
25 surveillance equipment.

1 (C) Man-portable unmanned aerial vehi-
2 cles.

3 (D) Ultralight aircraft detection capabili-
4 ties.

5 (E) Advanced unattended surveillance sen-
6 sors.

7 (F) A rapid reaction capability supported
8 by aviation assets.

9 (G) Man-portable unmanned aerial vehi-
10 cles.

11 (H) Improved agent communications capa-
12 bilities.

13 (3) YUMA SECTOR.—For the Yuma sector, the
14 following:

15 (A) Tower-based surveillance technology.

16 (B) Deployable, lighter-than-air ground
17 surveillance equipment.

18 (C) Ultralight aircraft detection capabili-
19 ties.

20 (D) Advanced unattended surveillance sen-
21 sors.

22 (E) A rapid reaction capability supported
23 by aviation assets.

24 (F) Mobile vehicle-mounted and man-port-
25 able surveillance systems.

1 (G) Man-portable unmanned aerial vehi-
2 cles.

3 (H) Improved agent communications capa-
4 bilities.

5 (4) TUCSON SECTOR.—For the Tucson sector,
6 the following:

7 (A) Tower-based surveillance technology.

8 (B) Increased flight hours for aerial detec-
9 tion, interdiction, and monitoring operations ca-
10 pability.

11 (C) Deployable, lighter-than-air ground
12 surveillance equipment.

13 (D) Ultralight aircraft detection capabili-
14 ties.

15 (E) Advanced unattended surveillance sen-
16 sors.

17 (F) A rapid reaction capability supported
18 by aviation assets.

19 (G) Man-portable unmanned aerial vehi-
20 cles.

21 (H) Improved agent communications capa-
22 bilities.

23 (5) EL PASO SECTOR.—For the El Paso sector,
24 the following:

25 (A) Tower-based surveillance technology.

1 (B) Deployable, lighter-than-air ground
2 surveillance equipment.

3 (C) Ultralight aircraft detection capabili-
4 ties.

5 (D) Advanced unattended surveillance sen-
6 sors.

7 (E) Mobile vehicle-mounted and man-port-
8 able surveillance systems.

9 (F) A rapid reaction capability supported
10 by aviation assets.

11 (G) Mobile vehicle-mounted and man-port-
12 able surveillance capabilities.

13 (H) Man-portable unmanned aerial vehi-
14 cles.

15 (I) Improved agent communications capa-
16 bilities.

17 (6) BIG BEND SECTOR.—For the Big Bend sec-
18 tor, the following:

19 (A) Tower-based surveillance technology.

20 (B) Deployable, lighter-than-air ground
21 surveillance equipment.

22 (C) Improved agent communications capa-
23 bilities.

24 (D) Ultralight aircraft detection capabili-
25 ties.

1 (E) Advanced unattended surveillance sen-
2 sors.

3 (F) A rapid reaction capability supported
4 by aviation assets.

5 (G) Mobile vehicle-mounted and man-port-
6 able surveillance capabilities.

7 (H) Man-portable unmanned aerial vehi-
8 cles.

9 (I) Improved agent communications capa-
10 bilities.

11 (7) DEL RIO SECTOR.—For the Del Rio sector,
12 the following:

13 (A) Tower-based surveillance technology.

14 (B) Increased monitoring for cross-river
15 dams, culverts, and footpaths.

16 (C) Improved agent communications capa-
17 bilities.

18 (D) Improved maritime capabilities in the
19 Amistad National Recreation Area.

20 (E) Advanced unattended surveillance sen-
21 sors.

22 (F) A rapid reaction capability supported
23 by aviation assets.

24 (G) Mobile vehicle-mounted and man-port-
25 able surveillance capabilities.

1 (H) Man-portable unmanned aerial vehi-
2 cles.

3 (I) Improved agent communications capa-
4 bilities.

5 (8) LAREDO SECTOR.—For the Laredo sector,
6 the following:

7 (A) Tower-based surveillance technology.

8 (B) Maritime detection resources for the
9 Falcon Lake region.

10 (C) Increased flight hours for aerial detec-
11 tion, interdiction, and monitoring operations ca-
12 pability.

13 (D) Increased monitoring for cross-river
14 dams, culverts, and footpaths.

15 (E) Ultralight aircraft detection capability.

16 (F) Advanced unattended surveillance sen-
17 sors.

18 (G) A rapid reaction capability supported
19 by aviation assets.

20 (H) Man-portable unmanned aerial vehi-
21 cles.

22 (I) Improved agent communications capa-
23 bilities.

24 (9) RIO GRANDE VALLEY SECTOR.—For the Rio
25 Grande Valley sector, the following:

- 1 (A) Tower-based surveillance technology.
- 2 (B) Deployable, lighter-than-air ground
3 surveillance equipment.
- 4 (C) Increased flight hours for aerial detec-
5 tion, interdiction, and monitoring operations ca-
6 pability.
- 7 (D) Ultralight aircraft detection capability.
- 8 (E) Advanced unattended surveillance sen-
9 sors.
- 10 (F) Increased monitoring for cross-river
11 dams, culverts, footpaths.
- 12 (G) A rapid reaction capability supported
13 by aviation assets.
- 14 (H) Increased maritime interdiction capa-
15 bilities.
- 16 (I) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.
- 18 (J) Man-portable unmanned aerial vehi-
19 cles.
- 20 (K) Improved agent communications capa-
21 bilities.
- 22 (10) BLAINE SECTOR.—For the Blaine sector,
23 the following:

1 (A) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (B) Coastal radar surveillance systems.

5 (C) Increased maritime interdiction capa-
6 bilities.

7 (D) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

9 (E) Advanced unattended surveillance sen-
10 sors.

11 (F) Ultralight aircraft detection capabili-
12 ties.

13 (G) Man-portable unmanned aerial vehi-
14 cles.

15 (H) Improved agent communications capa-
16 bilities.

17 (11) SPOKANE SECTOR.—For the Spokane sec-
18 tor, the following:

19 (A) Increased flight hours for aerial detec-
20 tion, interdiction, and monitoring operations ca-
21 pability.

22 (B) Increased maritime interdiction capa-
23 bilities.

24 (C) Mobile vehicle-mounted and man-port-
25 able surveillance capabilities.

1 (D) Advanced unattended surveillance sen-
2 sors.

3 (E) Ultralight aircraft detection capabili-
4 ties.

5 (F) Completion of six miles of the Bog
6 Creek road.

7 (G) Man-portable unmanned aerial vehi-
8 cles.

9 (H) Improved agent communications sys-
10 tems.

11 (12) HAVRE SECTOR.—For the Havre sector,
12 the following:

13 (A) Increased flight hours for aerial detec-
14 tion, interdiction, and monitoring operations ca-
15 pability.

16 (B) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.

18 (C) Advanced unattended surveillance sen-
19 sors.

20 (D) Ultralight aircraft detection capabili-
21 ties.

22 (E) Man-portable unmanned aerial vehi-
23 cles.

24 (F) Improved agent communications sys-
25 tems.

1 (13) GRAND FORKS SECTOR.—For the Grand
2 Forks sector, the following:

3 (A) Increased flight hours for aerial detec-
4 tion, interdiction, and monitoring operations ca-
5 pability.

6 (B) Mobile vehicle-mounted and man-port-
7 able surveillance capabilities.

8 (C) Advanced unattended surveillance sen-
9 sors.

10 (D) Ultralight aircraft detection capabili-
11 ties.

12 (E) Man-portable unmanned aerial vehi-
13 cles.

14 (F) Improved agent communications sys-
15 tems.

16 (14) DETROIT SECTOR.—For the Detroit sec-
17 tor, the following:

18 (A) Increased flight hours for aerial detec-
19 tion, interdiction, and monitoring operations ca-
20 pability.

21 (B) Coastal radar surveillance systems.

22 (C) Increased maritime interdiction capa-
23 bilities.

24 (D) Mobile vehicle-mounted and man-port-
25 able surveillance capabilities.

1 (E) Advanced unattended surveillance sen-
2 sors.

3 (F) Ultralight aircraft detection capabili-
4 ties.

5 (G) Man-portable unmanned aerial vehi-
6 cles.

7 (H) Improved agent communications sys-
8 tems.

9 (15) BUFFALO SECTOR.—For the Buffalo sec-
10 tor, the following:

11 (A) Increased flight hours for aerial detec-
12 tion, interdiction, and monitoring operations ca-
13 pability.

14 (B) Coastal radar surveillance systems.

15 (C) Increased maritime interdiction capa-
16 bilities.

17 (D) Mobile vehicle-mounted and man-port-
18 able surveillance capabilities.

19 (E) Advanced unattended surveillance sen-
20 sors.

21 (F) Ultralight aircraft detection capabili-
22 ties.

23 (G) Man-portable unmanned aerial vehi-
24 cles.

1 (H) Improved agent communications sys-
2 tems.

3 (16) SWANTON SECTOR.—For the Swanton sec-
4 tor, the following:

5 (A) Increased flight hours for aerial detec-
6 tion, interdiction, and monitoring operations ca-
7 pability.

8 (B) Mobile vehicle-mounted and man-port-
9 able surveillance capabilities.

10 (C) Advanced unattended surveillance sen-
11 sors.

12 (D) Ultralight aircraft detection capabili-
13 ties.

14 (E) Man-portable unmanned aerial vehi-
15 cles.

16 (F) Improved agent communications sys-
17 tems.

18 (17) HOULTON SECTOR.—For the Houlton sec-
19 tor, the following:

20 (A) Increased flight hours for aerial detec-
21 tion, interdiction, and monitoring operations ca-
22 pability.

23 (B) Mobile vehicle-mounted and man-port-
24 able surveillance capabilities.

1 (C) Advanced unattended surveillance sen-
2 sors.

3 (D) Ultralight aircraft detection capabili-
4 ties.

5 (E) Man-portable unmanned aerial vehi-
6 cles.

7 (F) Improved agent communications sys-
8 tems.

9 (18) TRANSIT ZONE.—For the transit zone, the
10 following:

11 (A) Not later than 2 years after the date
12 of the enactment of this Act, an increase in the
13 number of overall cutter, boat, and aircraft
14 hours spent conducting interdiction operations
15 over the average number of such hours during
16 the preceding 3 fiscal years.

17 (B) Increased maritime signals intelligence
18 capabilities.

19 (C) To increase maritime domain aware-
20 ness—

21 (i) unmanned aerial vehicles with
22 maritime surveillance capability; and

23 (ii) increased maritime aviation patrol
24 hours.

1 (D) Increased operational hours for mari-
2 time security components dedicated to joint
3 counter-smuggling and interdiction efforts with
4 other Federal agencies, including the
5 Deployable Specialized Forces of the Coast
6 Guard.

7 (E) Coastal radar surveillance systems
8 with long range day and night cameras capable
9 of providing full maritime domain awareness of
10 the United States territorial waters surrounding
11 Puerto Rico, Mona Island, Desecheo Island,
12 Vieques Island, Culebra Island, Saint Thomas,
13 Saint John, and Saint Croix.

14 (b) REIMBURSEMENT RELATED TO THE LOWER RIO
15 GRANDE VALLEY FLOOD CONTROL PROJECT.—The
16 International Boundary and Water Commission is author-
17 ized to reimburse State and local governments for any ex-
18 penses incurred before, on, or after the date of the enact-
19 ment of this Act by such governments in designing, con-
20 structing, and rehabilitating the Lower Rio Grande Valley
21 Flood Control Project of the Commission.

22 (c) TACTICAL FLEXIBILITY.—

23 (1) SOUTHERN AND NORTHERN LAND BOR-
24 DERS.—

1 (A) IN GENERAL.—Beginning on Sep-
2 tember 30, 2021, or after the Secretary has de-
3 ployed at least 25 percent of the capabilities re-
4 quired in each sector specified in subsection (a),
5 whichever comes later, the Secretary may devi-
6 ate from such capability deployments if the Sec-
7 retary determines that such deviation is re-
8 quired to achieve situational awareness or oper-
9 ational control.

10 (B) NOTIFICATION.—If the Secretary exer-
11 cises the authority described in subparagraph
12 (A), the Secretary shall, not later than 90 days
13 after such exercise, notify the Committee on
14 Homeland Security and Governmental Affairs
15 of the Senate and the Committee on Homeland
16 Security of the House of Representatives re-
17 garding the deviation under such subparagraph
18 that is the subject of such exercise. If the Sec-
19 retary makes any changes to such deviation, the
20 Secretary shall, not later than 90 days after
21 any such change, notify such committees re-
22 garding such change.

23 (2) TRANSIT ZONE.—

24 (A) NOTIFICATION.—The Secretary shall
25 notify the Committee on Homeland Security

1 and Governmental Affairs of the Senate, the
2 Committee on Commerce, Science, and Trans-
3 portation of the Senate, the Committee on
4 Homeland Security of the House of Representa-
5 tives, and the Committee on Transportation
6 and Infrastructure of the House of Representa-
7 tives regarding the capability deployments for
8 the transit zone specified in paragraph (18) of
9 subsection (a), including information relating
10 to—

11 (i) the number and types of assets
12 and personnel deployed; and

13 (ii) the impact such deployments have
14 on the capability of the Coast Guard to
15 conduct its mission in the transit zone re-
16 ferred to in paragraph (18) of subsection
17 (a).

18 (B) ALTERATION.—The Secretary may
19 alter the capability deployments referred to in
20 this section if the Secretary—

21 (i) determines, after consultation with
22 the committees referred to in subpara-
23 graph (A), that such alteration is nec-
24 essary; and

1 (ii) not later than 30 days after mak-
2 ing a determination under clause (i), noti-
3 fies the committees referred to in such
4 subparagraph regarding such alteration,
5 including information relating to—

6 (I) the number and types of as-
7 sets and personnel deployed pursuant
8 to such alteration; and

9 (II) the impact such alteration
10 has on the capability of the Coast
11 Guard to conduct its mission in the
12 transit zone referred to in paragraph
13 (18) of subsection (a).

14 (d) EXIGENT CIRCUMSTANCES.—

15 (1) IN GENERAL.—Notwithstanding subsection
16 (b), the Secretary may deploy the capabilities re-
17 ferred to in subsection (a) in a manner that is incon-
18 sistent with the requirements specified in such sub-
19 section if, after the Secretary has deployed at least
20 25 percent of such capabilities, the Secretary deter-
21 mines that exigent circumstances demand such an
22 inconsistent deployment or that such an inconsistent
23 deployment is vital to the national security interests
24 of the United States.

1 (2) NOTIFICATION.—The Secretary shall notify
2 the Committee on Homeland Security of the House
3 of Representatives and the Committee on Homeland
4 Security and Governmental Affairs of the Senate, ,
5 not later than 30 days after making a determination
6 under paragraph (1). Such notification shall include
7 a detailed justification for such determination.

8 **SEC. 1114. U.S. BORDER PATROL ACTIVITIES.**

9 The Chief of the U.S. Border Patrol shall prioritize
10 the deployment of U.S. Border Patrol agents to as close
11 to the physical land border as possible, consistent with
12 border security enforcement priorities and accessibility to
13 such areas.

14 (a) CLERICAL AMENDMENT.—The table of contents
15 in section 1(b) of the Homeland Security Act of 2002 is
16 amended by inserting after the item relating to section
17 433 the following:

 “Sec. 434. Border security technology program management.”.

18 (b) PROHIBITION ON ADDITIONAL AUTHORIZATION
19 OF APPROPRIATIONS.—No additional funds are author-
20 ized to be appropriated to carry out section 434 of the
21 Homeland Security Act of 2002, as added by subsection
22 (a). Such section shall be carried out using amounts other-
23 wise authorized for such purposes.

1 **SEC. 1115. NATIONAL GUARD SUPPORT TO SECURE THE**
2 **SOUTHERN BORDER.**

3 (a) IN GENERAL.—The Secretary may request that
4 the Secretary of Defense support, pursuant to chapter 15
5 of title 10, United States Code, the Secretary's efforts to
6 secure the southern border of the United States. The Sec-
7 retary of Defense may authorize the provision of such sup-
8 port under section 502(f) of title 32, United States Code,
9 including pursuant to chapter 9 of such title 32.

10 (b) TYPE OF SUPPORT AUTHORIZED.—The support
11 provided in accordance with subsection (a) may include—

12 (1) construction of reinforced fencing or other
13 physical barriers;

14 (2) operation of ground-based surveillance sys-
15 tems;

16 (3) deployment of manned aircraft, unmanned
17 aerial surveillance systems, and ground-based sur-
18 veillance systems to support continuous surveillance
19 of the southern border; and

20 (4) intelligence analysis support.

21 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
22 retary of Defense may deploy such materiel, equipment,
23 and logistical support as may be necessary to ensure the
24 effectiveness of the assistance provided under subsection
25 (a).

1 (d) READINESS.—To ensure that the use of units and
2 personnel of the National Guard of a State authorized
3 pursuant to this section does not degrade the training and
4 readiness of such units and personnel, in determining the
5 homeland defense activities that such units and personnel
6 may perform, the following requirements shall apply:

7 (1) The performance of such activities shall not
8 affect adversely the quality of such training or readi-
9 ness or otherwise interfere with the ability of a unit
10 or personnel of the National Guard of a State to
11 perform the military functions of such member or
12 unit.

13 (2) The performance of such activities shall not
14 degrade the military skills of the units or personnel
15 of the National Guard of a State performing such
16 activities.

17 (e) REIMBURSEMENT NOTIFICATION.—Prior to pro-
18 viding any support in accordance with subsection (a), the
19 Secretary of Defense shall notify the Secretary whether
20 such support qualifies for a reimbursement waiver under
21 chapter 15 of title 10, United States Code.

22 (f) REPORTS.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of the enactment of this Act, and bi-
25 annually thereafter through December 31, 2021, the

1 Secretary of Defense shall submit a report to the
2 congressional defense committees (as defined in sec-
3 tion 101(a)(16) of title 10, United States Code) that
4 describes any support provided pursuant to sub-
5 section (a) during the 6-month period preceding
6 each such report.

7 (2) ELEMENTS.—Each report under paragraph
8 (1) shall include a description of—

9 (A) the support provided; and

10 (B) the sources and amounts of funds obli-
11 gated and expended to provide such support

12 **SEC. 1116. OPERATION PHALANX.**

13 (a) IN GENERAL.—The Secretary of Defense, with
14 the concurrence of the Secretary, shall provide assistance
15 to U.S. Customs and Border Protection for purposes of
16 increasing ongoing efforts to secure the southern border.

17 (b) TYPES OF ASSISTANCE AUTHORIZED.—The as-
18 sistance provided under subsection (a) may include—

19 (1) deployment of manned aircraft, unmanned
20 aerial surveillance systems, and ground-based sur-
21 veillance systems to support continuous surveillance
22 of the southern border; and

23 (2) intelligence analysis support.

24 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
25 retary of Defense may deploy such materiel, equipment,

1 and logistics support as may be necessary to ensure the
2 effectiveness of the assistance provided under subsection
3 (a).

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated for the Department of
6 Defense \$75,000,000 to provide assistance under this sec-
7 tion. The Secretary of Defense may not seek reimburse-
8 ment from the Secretary for any assistance provided under
9 this section.

10 (e) REPORTS.—

11 (1) IN GENERAL.—Not later than 90 days after
12 the date of the enactment of this Act and annually
13 thereafter, the Secretary of Defense shall submit a
14 report to the appropriate congressional defense com-
15 mittees (as defined in section 101(a)(16) of title 10,
16 United States Code) regarding any assistance pro-
17 vided under subsection (a) during the period speci-
18 fied in paragraph (3).

19 (2) ELEMENTS.—Each report under paragraph
20 (1) shall include, for the period specified in para-
21 graph (3), a description of—

22 (A) the assistance provided;

23 (B) the sources and amounts of funds used
24 to provide such assistance; and

1 (C) the amounts obligated to provide such
2 assistance.

3 (3) PERIOD SPECIFIED.—The period specified
4 in this paragraph is—

5 (A) in the case of the first report required
6 under paragraph (1), the 90-day period begin-
7 ning on the date of the enactment of this Act;
8 and

9 (B) in the case of any subsequent report
10 submitted under paragraph (1), the calendar
11 year for which the report is submitted.

12 **SEC. 1117. MERIDA INITIATIVE.**

13 (a) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that assistance to Mexico, including assistance from
15 the Department of State and the Department of Defense
16 and any aid related to the Merida Initiative—

17 (1) should be focused on providing enhanced
18 border security at Mexico’s northern and southern
19 borders, judicial reform, and support for Mexico’s
20 anti-drug efforts; and

21 (2) should return to its original focus and
22 prioritize security, training, and acquisition of equip-
23 ment for Mexican security forces involved in border
24 security and anti-drug efforts as well as be used to
25 train prosecutors in ongoing justice reform efforts.

1 (b) ASSISTANCE FOR MEXICO.—The Secretary of
2 State, in coordination with the Secretary and the Sec-
3 retary of Defense, shall provide level and consistent assist-
4 ance to Mexico—

5 (1) to combat drug production and trafficking
6 and related violence, transnational organized crimi-
7 nal organizations, and corruption;

8 (2) to build a secure, modern border security
9 system capable of preventing illegal migration;

10 (3) to support border security and cooperation
11 with United States military, intelligence, and law en-
12 forcement agencies on border incursions;

13 (4) to support judicial reform, institution build-
14 ing, and rule of law activities to build judicial capac-
15 ity, address corruption and impunity, and support
16 human rights; and

17 (5) to provide for training and equipment for
18 Mexican security forces involved in efforts to eradi-
19 cate and interdict drugs.

20 (c) ALLOCATION OF FUNDS; REPORT.—

21 (1) IN GENERAL.—Notwithstanding any other
22 provision of law, 50 percent of any assistance appro-
23 priated in any appropriations Act to implement this
24 section shall be withheld until after the Secretary of
25 State submits a written report to the congressional

1 committees specified in paragraph (3) certifying that
2 the Government of Mexico is—

3 (A) significantly reducing illegal migration,
4 drug trafficking, and cross-border criminal ac-
5 tivities on Mexico’s northern and southern bor-
6 ders;

7 (B) taking significant action to address
8 corruption, impunity, and human rights abuses;
9 and

10 (C) improving the transparency and ac-
11 countability of Mexican Federal police forces
12 and working with Mexican State and municipal
13 authorities to improve the transparency and ac-
14 countability of Mexican State and municipal po-
15 lice forces.

16 (2) MATTERS TO INCLUDE.—The report re-
17 quired under paragraph (1) shall include a descrip-
18 tion of—

19 (A) actions taken by the Government of
20 Mexico to address the matters described in such
21 paragraph;

22 (B) any relevant assessments by civil soci-
23 ety and non-government organizations in Mex-
24 ico relating to such matters; and

1 (C) any instances in which the Secretary
2 determines that the actions taken by the Gov-
3 ernment of Mexico are inadequate to address
4 such matters.

5 (3) CONGRESSIONAL COMMITTEES SPECI-
6 FIED.—The congressional committees specified in
7 this paragraph are—

8 (A) the Committee on Appropriations of
9 the Senate;

10 (B) the Committee on Homeland Security
11 and Governmental Affairs of the Senate;

12 (C) the Committee on the Judiciary of the
13 Senate;

14 (D) the Committee on Foreign Relations of
15 the Senate;

16 (E) the Committee on Appropriations of
17 the House of Representatives;

18 (F) the Committee on Homeland Security
19 of the House of Representatives;

20 (G) the Committee on the Judiciary of the
21 House of Representatives; and

22 (H) the Committee on Foreign Affairs of
23 the House of Representatives.

1 (d) NOTIFICATIONS.—Any assistance made available
2 by the Secretary of State under this section shall be sub-
3 ject to—

4 (1) the notification procedures set forth in sec-
5 tion 634A of the Foreign Assistance Act of 1961 (22
6 U.S.C. 2394–1); and

7 (2) the notification requirements of—

8 (A) the Committee on Homeland Security
9 and Governmental Affairs of the Senate;

10 (B) the Committee on the Judiciary of the
11 Senate;

12 (C) the Committee on Foreign Relations of
13 the Senate;

14 (D) the Committee on Homeland Security
15 of the House of Representatives;

16 (E) the Committee on the Judiciary of the
17 House of Representatives; and

18 (F) the Committee on Foreign Affairs of
19 the House of Representatives.

20 (e) SPENDING PLAN.—Not later than 60 days after
21 the date of the enactment of this Act, the Secretary of
22 State shall submit, to the congressional committees speci-
23 fied in subsection (c)(3), a detailed spending plan for as-
24 sistance to Mexico under this section, which shall include

1 a strategy, developed after consulting with relevant au-
2 thorities of the Government of Mexico, for—

3 (1) combating drug trafficking and related vio-
4 lence and organized crime; and

5 (2) anti-corruption and rule of law activities,
6 which shall include concrete goals, actions to be
7 taken, budget proposals, and a description of antici-
8 pated results.

9 **SEC. 1118. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
10 **DER SECURITY ON CERTAIN FEDERAL LAND.**

11 (a) PROHIBITION ON INTERFERENCE WITH U.S.
12 CUSTOMS AND BORDER PROTECTION.—

13 (1) IN GENERAL.—The Secretary concerned
14 shall not impede, prohibit, or restrict activities of
15 U.S. Customs and Border Protection on covered
16 Federal land to carry out the activities described in
17 subsection (b).

18 (2) APPLICABILITY.—The authority of U.S.
19 Customs and Border Protection to conduct activities
20 described in subsection (b) on covered Federal land
21 applies without regard to whether a state of emer-
22 gency exists.

23 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
24 BORDER PROTECTION.—

1 (1) IN GENERAL.—U.S. Customs and Border
2 Protection shall have immediate access to covered
3 Federal land to conduct the activities described in
4 paragraph (2) on such land to prevent all unlawful
5 entries into the United States, including entries by
6 terrorists, unlawful aliens, instruments of terrorism,
7 narcotics, and other contraband through the south-
8 ern border or the northern border.

9 (2) ACTIVITIES DESCRIBED.—The activities de-
10 scribed in this paragraph are—

11 (A) the execution of search and rescue op-
12 erations;

13 (B) the use of motorized vehicles, foot pa-
14 trols, and horseback to patrol the border area,
15 apprehend illegal entrants, and rescue individ-
16 uals; and

17 (C) the design, testing, construction, in-
18 stallation, deployment, and operation of phys-
19 ical barriers, tactical infrastructure, and tech-
20 nology pursuant to section 102 of the Illegal
21 Immigration Reform and Immigrant Responsi-
22 bility Act of 1996, as amended by section 1111
23 of this title.

24 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
25 ITY.—

1 (1) IN GENERAL.—The activities of U.S. Cus-
2 toms and Border Protection described in subsection
3 (b)(2) may be carried out without regard to the pro-
4 visions of law specified in paragraph (2).

5 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
6 visions of law specified in this paragraph are all
7 Federal, State, or other laws, regulations, and legal
8 requirements of, deriving from, or related to the sub-
9 ject of, the following laws:

10 (A) The National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.).

12 (B) The Endangered Species Act of 1973
13 (16 U.S.C. 1531 et seq.).

14 (C) The Federal Water Pollution Control
15 Act (33 U.S.C. 1251 et seq.) (commonly re-
16 ferred to as the “Clean Water Act”).

17 (D) Division A of subtitle III of title 54,
18 United States Code (54 U.S.C. 300301 et seq.)
19 (formerly known as the “National Historic
20 Preservation Act”).

21 (E) The Migratory Bird Treaty Act (16
22 U.S.C. 703 et seq.).

23 (F) The Clean Air Act (42 U.S.C. 7401 et
24 seq.).

1 (G) The Archaeological Resources Protec-
2 tion Act of 1979 (16 U.S.C. 470aa et seq.).

3 (H) The Safe Drinking Water Act (42
4 U.S.C. 300f et seq.).

5 (I) The Noise Control Act of 1972 (42
6 U.S.C. 4901 et seq.).

7 (J) The Solid Waste Disposal Act (42
8 U.S.C. 6901 et seq.).

9 (K) The Comprehensive Environmental
10 Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9601 et seq.).

12 (L) Chapter 3125 of title 54, United
13 States Code (formerly known as the “Archeo-
14 logical and Historic Preservation Act”).

15 (M) The Antiquities Act (16 U.S.C. 431 et
16 seq.).

17 (N) Chapter 3203 of title 54, United
18 States Code (formerly known as the “Historic
19 Sites, Buildings, and Antiquities Act”).

20 (O) The Wild and Scenic Rivers Act (16
21 U.S.C. 1271 et seq.).

22 (P) The Farmland Protection Policy Act
23 (7 U.S.C. 4201 et seq.).

24 (Q) The Coastal Zone Management Act of
25 1972 (16 U.S.C. 1451 et seq.).

1 (R) The Wilderness Act (16 U.S.C. 1131
2 et seq.).

3 (S) The Federal Land Policy and Manage-
4 ment Act of 1976 (43 U.S.C. 1701 et seq.).

5 (T) The National Wildlife Refuge System
6 Administration Act of 1966 (16 U.S.C. 668dd
7 et seq.).

8 (U) The Fish and Wildlife Act of 1956 (16
9 U.S.C. 742a et seq.).

10 (V) The Fish and Wildlife Coordination
11 Act (16 U.S.C. 661 et seq.).

12 (W) Subchapter II of chapter 5, and chap-
13 ter 7, of title 5, United States Code (commonly
14 known as the “Administrative Procedure Act”).

15 (X) The Otay Mountain Wilderness Act of
16 1999 (Public Law 106–145).

17 (Y) Sections 102(29) and 103 of the Cali-
18 fornia Desert Protection Act of 1994 (Public
19 Law 103–433).

20 (Z) Division A of subtitle I of title 54,
21 United States Code (formerly known as the
22 “National Park Service Organic Act”).

23 (AA) The National Park Service General
24 Authorities Act (Public Law 91–383, 16 U.S.C.
25 1a–1 et seq.).

1 (BB) Sections 401(7), 403, and 404 of the
2 National Parks and Recreation Act of 1978
3 (Public Law 95–625).

4 (CC) Sections 301(a) through (f) of the
5 Arizona Desert Wilderness Act (Public Law
6 101–628).

7 (DD) The Rivers and Harbors Act of 1899
8 (33 U.S.C. 403).

9 (EE) The Eagle Protection Act (16 U.S.C.
10 668 et seq.).

11 (FF) The Native American Graves Protec-
12 tion and Repatriation Act (25 U.S.C. 3001 et
13 seq.).

14 (GG) The American Indian Religious Free-
15 dom Act (42 U.S.C. 1996).

16 (HH) The Religious Freedom Restoration
17 Act (42 U.S.C. 2000bb).

18 (II) The National Forest Management Act
19 of 1976 (16 U.S.C. 1600 et seq.).

20 (JJ) The Multiple Use and Sustained
21 Yield Act of 1960 (16 U.S.C. 528 et seq.).

22 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
23 LAWS.—If a provision of law specified in paragraph
24 (2) was repealed and incorporated into title 54,
25 United States Code, after April 1, 2008, and before

1 the date of the enactment of this Act, the waiver de-
2 scribed in paragraph (1) shall apply to the provision
3 of such title that corresponds to the provision of law
4 specified in paragraph (2) to the same extent the
5 waiver applied to that provision of law.

6 (4) SAVINGS CLAUSE.—The waiver authority
7 under this subsection may not be construed as af-
8 fecting, negating, or diminishing in any manner the
9 applicability of section 552 of title 5, United States
10 Code (commonly referred to as the “Freedom of In-
11 formation Act”), in any relevant matter.

12 (d) PROTECTION OF LEGAL USES.—Nothing in this
13 section may be construed to provide—

14 (1) authority to restrict legal uses, such as
15 grazing, hunting, mining, or recreation or the use of
16 backcountry airstrips, on land under the jurisdiction
17 of the Secretary of the Interior or the Secretary of
18 Agriculture; or

19 (2) any additional authority to restrict legal ac-
20 cess to such land.

21 (e) EFFECT ON STATE AND PRIVATE LAND.—This
22 section shall have no force or effect on State lands or pri-
23 vate lands and shall not provide authority, on or access
24 to, State lands or private lands.

1 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
2 may be construed to supersede, replace, negate, or dimin-
3 ish treaties or other agreements between the United States
4 and Indian tribes.

5 (g) MEMORANDA OF UNDERSTANDING.—The re-
6 quirements under this section shall not apply to the extent
7 that such requirements are incompatible with any memo-
8 randum of understanding or similar agreement entered
9 into between the Commissioner of U.S. Customs and Bor-
10 der Protection and a National Park Unit before, on, or
11 after the date of the enactment of this Act.

12 (h) DEFINITIONS.—In this section:

13 (1) COVERED FEDERAL LAND.—The term “cov-
14 ered Federal land” includes all land under the con-
15 trol of the Secretary concerned that is located within
16 100 miles of the southern border or the northern
17 border.

18 (2) SECRETARY CONCERNED.—The term “Sec-
19 retary concerned” means—

20 (A) with respect to land under the jurisdic-
21 tion of the Department of Agriculture, the Sec-
22 retary of Agriculture; and

23 (B) with respect to land under the jurisdic-
24 tion of the Department of the Interior, the Sec-
25 retary of the Interior.

1 **SEC. 1119. LANDOWNER AND RANCHER SECURITY EN-**
2 **HANCEMENT.**

3 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
4 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
5 lish a National Border Security Advisory Committee,
6 which—

7 (1) may advise, consult with, report to, and
8 make recommendations to the Secretary on matters
9 relating to border security matters, including—

10 (A) verifying security claims and the bor-
11 der security metrics established by the Depart-
12 ment of Homeland Security under section 1092
13 of the National Defense Authorization Act for
14 Fiscal Year 2017 (Public Law 114–328; 6
15 U.S.C. 223); and

16 (B) discussing ways to improve the secu-
17 rity of high traffic areas along the northern
18 border and the southern border; and

19 (2) may provide, through the Secretary, rec-
20 ommendations to Congress.

21 (b) CONSIDERATION OF VIEWS.—The Secretary shall
22 consider the information, advice, and recommendations of
23 the National Border Security Advisory Committee in for-
24 mulating policy regarding matters affecting border secu-
25 rity.

1 (c) MEMBERSHIP.—The National Border Security
2 Advisory Committee shall consist of at least 1 member
3 from each State who—

4 (1) has at least 5 years practical experience in
5 border security operations; or

6 (2) lives and works in the United States within
7 80 miles of the southern border or within 80 miles
8 of the northern border.

9 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
10 COMMITTEE ACT.—The Federal Advisory Committee Act
11 (5 U.S.C. App.) shall not apply to the National Border
12 Security Advisory Committee.

13 **SEC. 1120. LIMITATION ON LAND OWNER'S LIABILITY.**

14 Section 287 of the Immigration and Nationality Act
15 (8 U.S.C. 1357) is amended by adding at the end the fol-
16 lowing:

17 “(i) INDEMNITY FOR ACTIONS OF LAW ENFORCE-
18 MENT OFFICERS.—

19 “(1) DEFINITIONS.—In this subsection—

20 “(A) the term ‘land’ includes roads, water,
21 watercourses, and private ways, and buildings,
22 structures, machinery, and equipment that is
23 attached to real property; and

24 “(B) the term ‘owner’ includes the pos-
25 sessor of a fee interest, a tenant, a lessee, an

1 occupant, the possessor of any other interest in
2 land, and any person having a right to grant
3 permission to use the land.

4 “(2) REIMBURSEMENT AUTHORIZED.—Notwith-
5 standing any other provision of law, and subject to
6 the availability of appropriations, any owner of land
7 located in the United States within 150 miles of the
8 southern border of the United States may seek reim-
9 bursement from the Department and the Secretary
10 shall pay for any adverse final tort judgment for
11 negligence (excluding attorneys’ fees and costs) au-
12 thorized under Federal or State tort law, arising di-
13 rectly from any border patrol action, such as appre-
14 hensions, tracking, and detention of aliens, that is
15 conducted on privately-owned land if—

16 “(A) such land owner has been found neg-
17 ligent by a Federal or State court in any tort
18 litigation;

19 “(B) such land owner has not already been
20 reimbursed for the final tort judgment, includ-
21 ing outstanding attorneys’ fees and costs;

22 “(C) such land owner did not have or does
23 not have sufficient property insurance to cover
24 the judgment and has had an insurance claim
25 for such coverage denied; and

1 “(D) such tort action was brought against
2 such land owner as a direct result of activity of
3 law enforcement officers of the Department of
4 Homeland Security, acting in their official ca-
5 pacity, on the owner’s land.

6 “(3) EXCEPTIONS.—Nothing in this subsection
7 may be construed to require the Secretary to reim-
8 burse a land owner under paragraph (2) for any ad-
9 verse final tort judgment for negligence or to limit
10 land owner liability which would otherwise exist
11 for—

12 “(A) willful or malicious failure to guard
13 or warn against a known dangerous condition,
14 use, structure, or activity likely to cause harm;

15 “(B) maintaining an attractive nuisance;

16 “(C) gross negligence; or

17 “(D) direct interference with, or hindrance
18 of, any agent or officer of the Federal Govern-
19 ment who is authorized to enforce the immigra-
20 tion laws during—

21 “(i) a patrol of such landowner’s land;

22 or

23 “(ii) any action taken to apprehend or
24 detain any alien attempting to enter the
25 United States illegally or to evade execu-

1 tion of an arrest warrant for a violation of
2 any immigration law.

3 “(4) SAVINGS PROVISION.—Nothing in this sub-
4 section may be construed to affect any right or rem-
5 edy available pursuant to chapter 171 of title 28,
6 United States Code (commonly known as the ‘Fed-
7 eral Tort Claims Act’).”.

8 **SEC. 1121. ERADICATION OF CARRIZO CANE AND SALT**
9 **CEDAR.**

10 Not later than September 30, 2022, the Secretary,
11 after coordinating with the heads of the relevant Federal,
12 State, and local agencies, shall begin eradicating the
13 carrizo cane plant and any salt cedar along the Rio
14 Grande River.

15 **SEC. 1122. PREVENTION, DETECTION, CONTROL, AND**
16 **ERADICATION OF DISEASES AND PESTS.**

17 (a) DEFINITIONS.—In this section:

18 (1) ANIMAL.—The term “animal” means any
19 member of the animal kingdom (except a human).

20 (2) ARTICLE.—The term “article” means any
21 pest or disease or any material or tangible object
22 that could harbor a pest or disease.

23 (3) DISEASE.—The term “disease” has the
24 meaning given such term by the Secretary of Agri-
25 culture.

1 (4) LIVESTOCK.—The term “livestock” means
2 all farm-raised animals.

3 (5) MEANS OF CONVEYANCE.—The term
4 “means of conveyance” means any personal property
5 used for, or intended for use for, the movement of
6 any other personal property.

7 (6) PEST.—The term “pest” means any of the
8 following that can directly or indirectly injure, cause
9 damage to, or cause disease in human livestock, a
10 plant, or a plant part:

11 (A) A protozoan.

12 (B) A plant or plant part.

13 (C) An animal.

14 (D) A bacterium.

15 (E) A fungus.

16 (F) A virus or viroid.

17 (G) An infectious agent or other pathogen.

18 (H) An arthropod.

19 (I) A parasite or parasitic plant.

20 (J) A prion.

21 (K) A vector.

22 (L) Any organism similar to or allied with
23 any of the organisms described in this para-
24 graph.

1 (7) PLANT.—The term “plant” means any
2 plant (including any plant part) capable of propaga-
3 tion, including a tree, a tissue culture, a plantlet cul-
4 ture, pollen, a shrub, a vine, a cutting, a graft, a
5 scion, a bud, a bulb, a root, and a seed.

6 (8) STATE.—The term “State” means any of
7 the several States, the District of Columbia, the
8 Commonwealth of Puerto Rico, Guam, the Common-
9 wealth of the Northern Mariana Islands, the Virgin
10 Islands of the United States, and any territory or
11 possession of the United States.

12 (b) DETECTION, CONTROL, AND ERADICATION OF
13 THE SPREAD OF DISEASES AND PESTS.—

14 (1) IN GENERAL.—The Secretary of Agriculture
15 may carry out operations and measures to prevent,
16 detect, control, or eradicate the spread of any pest
17 or disease of livestock or plant that threatens any
18 segment of agriculture.

19 (2) COMPENSATION.—

20 (A) IN GENERAL.—The Secretary of Agri-
21 culture may pay a claim arising out of—

22 (i) the destruction of any animal,
23 plant, plant part, article, or means of con-
24 veyance consistent with the purposes of
25 this section; and

1 (ii) implementing measures to pre-
2 vent, detect, control, or eradicate the
3 spread of any pest disease of livestock or
4 plant that threatens any segment of agri-
5 culture.

6 (B) SPECIFIC COOPERATIVE PROGRAMS.—
7 The Secretary of Agriculture shall compensate
8 industry participants and State agencies that
9 cooperate with the Secretary of Agriculture in
10 carrying out operations and measures under
11 this subsection for up to 100 percent of eligible
12 costs relating to—

13 (i) cooperative programs involving
14 Federal, State, or industry participants to
15 control diseases of low or high pathoge-
16 nicity and pests in accordance with regula-
17 tions issued by the Secretary of Agri-
18 culture; and

19 (ii) the construction and operation of
20 research laboratories, quarantine stations,
21 and other buildings and facilities for spe-
22 cial purposes.

23 (C) REVIEWABILITY.—The action of any
24 officer, employee, or agent of the Secretary of
25 Agriculture under paragraph (1) shall not be

1 subject to review by any officer or employee of
2 the Federal Government other than the Sec-
3 retary of Agriculture or a designee of the Sec-
4 retary of Agriculture.

5 (c) COOPERATION.—

6 (1) IN GENERAL.—In carrying out this section,
7 the Secretary of Agriculture may cooperate with
8 other Federal agencies, States, State agencies, polit-
9 ical subdivisions of States, national and local govern-
10 ments of foreign countries, domestic and inter-
11 national organizations and associations, domestic
12 nonprofit corporations, Indian tribes, and other per-
13 sons.

14 (2) RESPONSIBILITY.—The person or other en-
15 tity cooperating with the Secretary of Agriculture
16 shall be responsible for the authority necessary to
17 carry out operations or measures—

18 (A) on all land and property within a for-
19 eign country or State, or under the jurisdiction
20 of an Indian tribe, other than on land and
21 property owned or controlled by the United
22 States; and

23 (B) using other facilities and means, as de-
24 termined by the Secretary of Agriculture.

1 (d) FUNDING.—For fiscal year 2018, and for each
2 subsequent fiscal year, the Secretary of Agriculture shall
3 use such amounts from the Commodity Credit Cooperation
4 as may be necessary to carry out operations and measures
5 to prevent, detect, control, or eradicate the spread of any
6 pest or disease of livestock or plant that threatens any
7 segment of agriculture.

8 (e) REIMBURSEMENT.—The Secretary of Agriculture
9 shall reimburse any Federal agency, State, State agency,
10 political subdivision of a State, national or local govern-
11 ment of a foreign country, domestic or international orga-
12 nization or association, domestic nonprofit corporation,
13 Indian tribe, or other person for specified costs, as pre-
14 scribed by the Secretary of Agriculture, in the discretion
15 of the Secretary of Agriculture, that result from coopera-
16 tion with the Secretary of Agriculture in carrying out op-
17 erations and measures under this section.

18 **SEC. 1123. TRANSNATIONAL CRIMINAL ORGANIZATION IL-**
19 **LICIT SPOTTER PREVENTION AND DETEC-**
20 **TION.**

21 (a) BRINGING IN AND HARBORING CERTAIN
22 ALIENS.—Section 274(a) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1324(a)) is amended—

24 (1) in subsection (a)(2), in the matter pre-
25 ceding subparagraph (A), by striking “brings to or

1 attempts to” and inserting “brings to or attempts or
2 conspires to”; and

3 (2) by adding at the end the following:

4 “(5) The sentence otherwise provided for a person
5 who has brought aliens into the United States in violation
6 of this subsection may be increased by up to 10 years if
7 that person—

8 “(A) at the time of the offense, used or carried
9 a firearm; or

10 “(B) in furtherance of any such crime, pos-
11 sessed a firearm.”.

12 (b) AIDING OR ASSISTING CERTAIN ALIENS TO
13 ENTER THE UNITED STATES.—Section 277 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1327) is amend-
15 ed—

16 (1) by inserting “or attempts to aid or assist”
17 after “knowingly aids or assists”; and

18 (2) by adding at the end the following: “The
19 sentence otherwise provided for a person convicted of
20 an offense under this section may be increased by up
21 to 10 years if that person, at the time of the offense,
22 used or carried a firearm or who, in furtherance of
23 any such crime, possessed a firearm.”.

1 (c) DESTRUCTION OF UNITED STATES BORDER CON-
2 TROLS.—Section 1361 of title 18, United States Code, is
3 amended—

4 (1) by striking “If the damage” and inserting
5 the following:

6 “(1) Except as otherwise provided in this sec-
7 tion, if the damage”; and

8 (2) by striking the semicolon and inserting a
9 period;

10 (3) by striking “if the damage” after “both.”
11 and inserting the following:

12 “(2) Except as otherwise provided in this sec-
13 tion, if the damage”; and

14 (4) by adding at the end the following:

15 “(3) If the injury or depredation was made or
16 attempted against any fence, barrier, sensor, cam-
17 era, or other physical or electronic device deployed
18 by the Federal Government to control the border or
19 a port of entry or otherwise was intended to con-
20 struct, excavate, or make any structure intended to
21 defeat, circumvent, or evade any such fence, barrier,
22 sensor camera, or other physical or electronic device
23 deployed by the Federal Government to control the
24 border or a port of entry, by a fine under this title,
25 imprisonment for not more than 15 years, or both.

1 “(4) If the injury or depredation was described
2 under paragraph (2) and, in the commission of the
3 offense, the offender used or carried a firearm or, in
4 furtherance of any such offense, possessed a firearm,
5 by a fine under this title, imprisonment for not more
6 than 20 years, or both.”.

7 (d) **UNLAWFULLY HINDERING IMMIGRATION, BOR-**
8 **DER, AND CUSTOMS CONTROLS.—**

9 (1) **ENHANCED PENALTIES.—**Chapter 9 of title
10 II of the Immigration and Nationality Act (8 U.S.C.
11 1351 et seq.) is amended by adding at the end the
12 following:

13 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
14 **DER, AND CUSTOMS CONTROLS.**

15 “(a) **ILLICIT SPOTTING.—**Any person who knowingly
16 transmits, by any means, to another person the location,
17 movement, or activities of any Federal, State, local, or
18 tribal law enforcement agency or officer with the intent
19 to further a Federal crime relating to United States immi-
20 gration, customs, controlled substances, agriculture, mon-
21 etary instruments, or other border controls shall be fined
22 under title 18, imprisoned not more than 10 years, or
23 both.

24 “(b) **DESTRUCTION OF UNITED STATES BORDER**
25 **CONTROLS.—**Any person who knowingly and without law-

1 ful authorization destroys, alters, or damages any fence,
2 barrier, sensor, camera, or other physical or electronic de-
3 vice deployed by the Federal Government to control the
4 border or a port of entry or otherwise seeks to construct,
5 excavate, or make any structure intended to defeat, cir-
6 cumvent, or evade any such fence, barrier, sensor camera,
7 or other physical or electronic device deployed by the Fed-
8 eral Government to control the border or a port of entry—

9 “(1) shall be fined under title 18, imprisoned
10 not more than 10 years, or both; and

11 “(2) if, at the time of the offense, the person
12 uses or carries a firearm or who, in furtherance of
13 any such crime, possesses a firearm, shall be fined
14 under title 18, imprisoned not more than 20 years,
15 or both.

16 “(c) CONSPIRACY AND ATTEMPT.—Any person who
17 attempts or conspires to violate subsection (a) or (b) shall
18 be punished in the same manner as a person who com-
19 pletes a violation of such subsection.”.

20 (2) CLERICAL AMENDMENT.—The table of con-
21 tents in the first section of the Immigration and Na-
22 tionality Act is amended by inserting after the item
23 relating to section 294 the following:

“Sec. 295. Unlawfully hindering immigration, border, and customs controls.”.

1 (e) CARRYING OR USING A FIREARM DURING AND
2 IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section
3 924(c) of title 18, United States Code, is amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (A), by inserting “,
6 alien smuggling crime,” after “crime of vio-
7 lence” each place that term appears; and

8 (B) in subparagraph (D)(ii), by inserting
9 “, alien smuggling crime,” after “crime of vio-
10 lence”;

11 (2) by striking paragraphs (2) through (4);

12 (3) by redesignating paragraph (5) as para-
13 graph (2); and

14 (4) by adding at the end the following:

15 “(3) For purposes of this subsection—

16 “(A) the term ‘alien smuggling crime’ means
17 any felony punishable under section 274(a), 277, or
18 278 of the Immigration and Nationality Act (8
19 U.S.C. 1324(a), 1327, and 1328);

20 “(B) the term ‘brandish’ means, with respect to
21 a firearm, to display all or part of the firearm, or
22 otherwise make the presence of the firearm known
23 to another person, in order to intimidate that per-
24 son, regardless of whether the firearm is directly
25 visible to that person;

1 “(C) the term ‘crime of violence’ means a felony
2 offense that—

3 “(i) has as an element the use, attempted
4 use, or threatened use of physical force against
5 the person or property of another; or

6 “(ii) by its nature, involves a substantial
7 risk that physical force against the person or
8 property of another may be used in the course
9 of committing the offense; and

10 “(D) the term ‘drug trafficking crime’ means
11 any felony punishable under the Controlled Sub-
12 stances Act (21 U.S.C. 801 et seq.), the Controlled
13 Substances Import and Export Act (21 U.S.C. 951
14 et seq.), or chapter 705 of title 46.”.

15 (f) STATUTE OF LIMITATIONS.—Section 3298 of title
16 18, United States Code, is amended by inserting “, or
17 295” after “274(a)”.

18 **SEC. 1124. SOUTHERN BORDER THREAT ANALYSIS.**

19 (a) THREAT ANALYSIS.—

20 (1) REQUIREMENT.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary shall submit to the Committee on Homeland
23 Security and Governmental Affairs of the Senate
24 and the Committee on Homeland Security of the

1 House of Representatives a southern border threat
2 analysis.

3 (2) CONTENTS.—The analysis submitted under
4 paragraph (1) shall include an assessment of—

5 (A) current and potential terrorism and
6 criminal threats posed by individuals and orga-
7 nized groups seeking—

8 (i) to unlawfully enter the United
9 States through the southern border; or

10 (ii) to exploit security vulnerabilities
11 along the southern border;

12 (B) improvements needed at and between
13 ports of entry along the southern border to pre-
14 vent terrorists and instruments of terror from
15 entering the United States;

16 (C) gaps in law, policy, and coordination
17 between State, local, or tribal law enforcement,
18 international agreements, or tribal agreements
19 that hinder effective and efficient border secu-
20 rity, counterterrorism, and anti-human smug-
21 gling and trafficking efforts;

22 (D) the current percentage of situational
23 awareness achieved by the Department of
24 Homeland Security along the southern border;

1 (E) the current percentage of operational
2 control achieved by the Department of Home-
3 land Security along the southern border; and

4 (F) traveler crossing times and any poten-
5 tial security vulnerability associated with pro-
6 longed wait times.

7 (3) ANALYSIS REQUIREMENTS.—In compiling
8 the southern border threat analysis under this sub-
9 section, the Secretary shall consider and examine—

10 (A) the technology needs and challenges,
11 including such needs and challenges identified
12 as a result of previous investments that have
13 not fully realized the security and operational
14 benefits that were sought;

15 (B) the personnel needs and challenges, in-
16 cluding such needs and challenges associated
17 with recruitment and hiring;

18 (C) the infrastructure needs and chal-
19 lenges;

20 (D) the roles and authorities of State,
21 local, and tribal law enforcement in general bor-
22 der security activities;

23 (E) the status of coordination among Fed-
24 eral, State, local, tribal, and Mexican law en-
25 forcement entities relating to border security;

1 (F) the terrain, population density, and cli-
2 mate along the southern border; and

3 (G) the international agreements between
4 the United States and Mexico related to border
5 security.

6 (4) CLASSIFIED FORM.—To the extent possible,
7 the Secretary shall submit the southern border
8 threat analysis required under this subsection in un-
9 classified form, but may submit a portion of the
10 threat analysis in classified form if the Secretary de-
11 termines such action is appropriate.

12 (b) U.S. BORDER PATROL STRATEGIC PLAN.—

13 (1) IN GENERAL.—Not later than the later of
14 180 days after the submission of the threat analysis
15 under subsection (a) or June 30, 2018, and every 5
16 years thereafter, the Secretary, acting through the
17 Chief of the U.S. Border Patrol, shall issue a Border
18 Patrol Strategic Plan.

19 (2) CONTENTS.—The Border Patrol Strategic
20 Plan required under this subsection shall include a
21 consideration of—

22 (A) the southern border threat analysis re-
23 quired under subsection (a), with an emphasis
24 on efforts to mitigate threats identified in such
25 threat analysis;

1 (B) efforts to analyze and disseminate bor-
2 der security and border threat information be-
3 tween border security components of the De-
4 partment of Homeland Security and other ap-
5 propriate Federal departments and agencies
6 with missions associated with the southern bor-
7 der;

8 (C) efforts to increase situational aware-
9 ness, including—

10 (i) surveillance capabilities, including
11 capabilities developed or utilized by the
12 Department of Defense, and any appro-
13 priate technology determined to be excess
14 by the Department of Defense; and

15 (ii) the use of manned aircraft and
16 unmanned aerial systems, including cam-
17 era and sensor technology deployed on
18 such assets;

19 (D) efforts to detect and prevent terrorists
20 and instruments of terrorism from entering the
21 United States;

22 (E) efforts to detect, interdict, and disrupt
23 aliens and illicit drugs at the earliest possible
24 point;

1 (F) efforts to focus intelligence collection
2 to disrupt transnational criminal organizations
3 outside of the international and maritime bor-
4 ders of the United States;

5 (G) efforts to ensure that any new border
6 security technology can be operationally inte-
7 grated with existing technologies in use by the
8 Department of Homeland Security;

9 (H) any technology required to maintain,
10 support, and enhance security and facilitate
11 trade at ports of entry, including nonintrusive
12 detection equipment, radiation detection equip-
13 ment, biometric technology, surveillance sys-
14 tems, and other sensors and technology that the
15 Secretary determines to be necessary;

16 (I) operational coordination unity of effort
17 initiatives of the border security components of
18 the Department of Homeland Security, includ-
19 ing any relevant task forces of the Department
20 of Homeland Security;

21 (J) lessons learned from Operation
22 Jumpstart and Operation Phalanx;

23 (K) cooperative agreements and informa-
24 tion sharing with State, local, tribal, territorial,
25 and other Federal law enforcement agencies

1 that have jurisdiction on the northern border or
2 the southern border;

3 (L) border security information received
4 from consultation with State, local, tribal, terri-
5 torial, and Federal law enforcement agencies
6 that have jurisdiction on the northern border or
7 the southern border, or in the maritime envi-
8 ronment, and from border community stake-
9 holders (including through public meetings with
10 such stakeholders), including representatives
11 from border agricultural and ranching organiza-
12 tions and representatives from business and
13 civic organizations along the northern border or
14 the southern border;

15 (M) staffing requirements for all depart-
16 mental border security functions;

17 (N) a prioritized list of departmental re-
18 search and development objectives to enhance
19 the security of the southern border;

20 (O) an assessment of training programs,
21 including training programs for—

22 (i) identifying and detecting fraudu-
23 lent documents;

1 (ii) understanding the scope of en-
2 forcement authorities and the use of force
3 policies; and

4 (iii) screening, identifying, and ad-
5 dressing vulnerable populations, such as
6 children and victims of human trafficking;
7 and

8 (P) an assessment of how border security
9 operations affect border crossing times.

10 **SEC. 1125. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
11 **PROTECTION.**

12 (a) DUTIES.—Section 411(c) of the Homeland Secu-
13 rity Act of 2002 (6 U.S.C. 211(c)) is amended—

14 (1) in paragraph (18), by striking “and” at the
15 end;

16 (2) by redesignating paragraph (19) as para-
17 graph (21); and

18 (3) by inserting after paragraph (18) the fol-
19 lowing:

20 “(19) administer the U.S. Customs and Border
21 Protection public private partnerships under subtitle
22 G;

23 “(20) administer preclearance operations under
24 the Preclearance Authorization Act of 2015 (19
25 U.S.C. 4431 et seq.); enacted as subtitle B of title

1 VIII of the Trade Facilitation and Trade Enforce-
2 ment Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

3 (b) OFFICE OF FIELD OPERATIONS STAFFING.—Sec-
4 tion 411(g)(5)(A) of the Homeland Security Act of 2002
5 (6 U.S.C. 211(g)(5)(A)) is amended by inserting before
6 the period at the end the following: “compared to the num-
7 ber indicated by the current fiscal year work flow staffing
8 model”.

9 (c) IMPLEMENTATION PLAN.—Subparagraph (B) of
10 section 814(e)(1) of the Preclearance Authorization Act
11 of 2015 (19 U.S.C. 4433(e)(1)), as enacted in subtitle B
12 of title VIII of the Trade Facilitation and Trade Enforce-
13 ment Act of 2015 (19 U.S.C. 4301 et seq.) is amended
14 to read as follows:

15 “(B) a port of entry vacancy rate which
16 compares the number of officers identified in
17 subparagraph (A) with the number of officers
18 at the port at which such officer is currently as-
19 signed.”.

20 (d) DEFINITIONS.—Section 411(r) of the Homeland
21 Security Act of 2002 (6 U.S.C. 211) is amended—

22 (1) by striking “this section, the terms” and in-
23 serting the following: “this section:”

24 “(1) the terms”;

1 (2) in paragraph (1), as added by subparagraph
2 (A), by striking the period at the end and inserting
3 “; and”; and

4 (3) by adding at the end the following:

5 “(2) the term ‘unmanned aerial systems’ has
6 the meaning given the term ‘unmanned aircraft sys-
7 tem’ in section 331 of the FAA Modernization and
8 Reform Act of 2012 (Public Law 112–95; 49 U.S.C.
9 40101 note).”.

10 **SEC. 1126. AGENT AND OFFICER TECHNOLOGY USE.**

11 In carrying out section 102 of the Illegal Immigration
12 Reform and Immigrant Responsibility Act of 1996, as
13 amended by section 1111, and in carrying out section
14 1112, the Secretary, to the greatest extent practicable,
15 shall ensure that technology deployed to gain situational
16 awareness and operational control of the border be pro-
17 vided to front-line officers and agents of the Department
18 of Homeland Security.

19 **SEC. 1127. INTEGRATED BORDER ENFORCEMENT TEAMS.**

20 (a) IN GENERAL.—Subtitle C of title IV of the
21 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
22 is amended by adding at the end the following:

23 **“SEC. 434. INTEGRATED BORDER ENFORCEMENT TEAMS.**

24 “(a) ESTABLISHMENT.—The Secretary shall estab-
25 lish within the Department a program, which shall be

1 known as the Integrated Border Enforcement Team pro-
2 gram (referred to in this section as the ‘IBET Program’).

3 “(b) PURPOSE.—The Secretary shall administer the
4 IBET Program in a manner that results in a cooperative
5 approach between the United States and Canada to—

6 “(1) strengthen security between designated
7 ports of entry;

8 “(2) detect, prevent, investigate, and respond to
9 terrorism and violations of law related to border se-
10 curity;

11 “(3) facilitate collaboration among components
12 and offices within the Department and international
13 partners;

14 “(4) execute coordinated activities in further-
15 ance of border security and homeland security; and

16 “(5) enhance information-sharing, including the
17 dissemination of homeland security information
18 among such components and offices.

19 “(c) COMPOSITION AND LOCATION OF IBETs.—

20 “(1) COMPOSITION.—IBETs shall be led by the
21 U.S. Border Patrol and may be comprised of per-
22 sonnel from—

23 “(A) other subcomponents of U.S. Cus-
24 toms and Border Protection;

1 “(B) U.S. Immigration and Customs En-
2 forcement, led by Homeland Security Investiga-
3 tions;

4 “(C) the Coast Guard, for the purpose of
5 securing the maritime borders of the United
6 States;

7 “(D) other Department personnel, as ap-
8 propriate;

9 “(E) other Federal departments and agen-
10 cies, as appropriate;

11 “(F) appropriate State law enforcement
12 agencies;

13 “(G) foreign law enforcement partners;

14 “(H) local law enforcement agencies from
15 affected border cities and communities; and

16 “(I) appropriate tribal law enforcement
17 agencies.

18 “(2) LOCATION.—The Secretary is authorized
19 to establish IBETs in regions in which such teams
20 can contribute to IBET missions, as appropriate.
21 When establishing an IBET, the Secretary shall con-
22 sider—

23 “(A) whether the region in which the
24 IBET would be established is significantly im-
25 pacted by cross-border threats;

1 “(B) the availability of Federal, State,
2 local, tribal, and foreign law enforcement re-
3 sources to participate in an IBET; and

4 “(C) whether, in accordance with para-
5 graph (3), other joint cross-border initiatives al-
6 ready take place within the region in which the
7 IBET would be established, including other De-
8 partment cross-border programs such as the In-
9 tegrated Cross-Border Maritime Law Enforce-
10 ment Operation Program established under sec-
11 tion 711 of the Coast Guard and Maritime
12 Transportation Act of 2012 (46 U.S.C. 70101
13 note) or the Border Enforcement Security Task
14 Force established under section 432.

15 “(3) DUPLICATION OF EFFORTS.—In deter-
16 mining whether to establish a new IBET or to ex-
17 pand an existing IBET in a given region, the Sec-
18 retary shall ensure that the IBET under consider-
19 ation does not duplicate the efforts of other existing
20 interagency task forces or centers within such re-
21 gion, including the Integrated Cross-Border Mari-
22 time Law Enforcement Operation Program estab-
23 lished under section 711 of the Coast Guard and
24 Maritime Transportation Act of 2012 (46 U.S.C.

1 70101 note) or the Border Enforcement Security
2 Task Force established under section 432.

3 “(d) OPERATION.—

4 “(1) IN GENERAL.—After determining the re-
5 gions in which to establish IBETs, the Secretary
6 may—

7 “(A) direct the assignment of Federal per-
8 sonnel to such IBETs; and

9 “(B) take other actions to assist Federal,
10 State, local, and tribal entities to participate in
11 such IBETs, including providing financial as-
12 sistance, as appropriate, for operational, admin-
13 istrative, and technological costs associated with
14 such participation.

15 “(2) LIMITATION.—Coast Guard personnel as-
16 signed under paragraph (1) may be assigned only
17 for the purposes of securing the maritime borders of
18 the United States, in accordance with subsection
19 (c)(1)(C).

20 “(e) COORDINATION.—The Secretary shall coordinate
21 the IBET Program with other similar border security and
22 antiterrorism programs within the Department in accord-
23 ance with the strategic objectives of the Cross-Border Law
24 Enforcement Advisory Committee.

1 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
2 retary may enter into memoranda of understanding with
3 appropriate representatives of the entities specified in sub-
4 section (c)(1) necessary to carry out the IBET Program.
5 Such memoranda with entities specified in subsection
6 (c)(1)(G) shall be entered into with the concurrence of the
7 Secretary of State.

8 “(g) REPORT.—Not later than 180 days after the
9 date on which an IBET is established, and biannually
10 thereafter for the following 6 years, the Secretary shall
11 submit a report to the appropriate congressional commit-
12 tees, including the Committee on Homeland Security and
13 Governmental Affairs of the Senate and the Committee
14 on Homeland Security of the House of Representatives,
15 and in the case of Coast Guard personnel used to secure
16 the maritime borders of the United States, to the Com-
17 mittee on Transportation and Infrastructure of the House
18 of Representatives, that—

19 “(1) describes the effectiveness of IBETs in ful-
20 filling the purposes specified in subsection (b);

21 “(2) assesses the impact of certain challenges
22 on the sustainment of cross-border IBET operations,
23 including challenges faced by international partners;

24 “(3) addresses ways to support joint training
25 for IBET stakeholder agencies and radio interoper-

1 ability to allow for secure cross-border radio commu-
2 nications; and

3 “(4) assesses how IBETs, Border Enforcement
4 Security Task Forces, and the Integrated Cross-Bor-
5 der Maritime Law Enforcement Operation Program
6 can better align operations, including interdiction
7 and investigation activities.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 in section 1(b) of the Homeland Security Act of 2002 is
10 amended by adding after the item relating to section 433
11 the following:

“Sec. 434. Integrated Border Enforcement Teams.”.

12 **SEC. 1128. LAND USE OR ACQUISITION.**

13 Section 103(b) of the Immigration and Nationality
14 Act (8 U.S.C. 1103) is amended to read as follows:

15 “(b)(1) The Secretary may lease, contract for, or buy
16 any interest in land, including temporary use rights, adja-
17 cent to or in the vicinity of an international land border
18 when the Secretary determines that such land is essential
19 to control and guard the boundaries and borders of the
20 United States against any violation of this Act.

21 “(2) The Secretary may lease, contract for, or buy
22 any interest in land described in paragraph (1) if—

23 “(A) the lawful owner of that interest fixes a
24 price for leasing, contracting, or buying such inter-
25 est; and

1 “(B) the Secretary considers the price referred
2 to in subparagraph (A) to be reasonable.

3 “(3) If the Secretary and the lawful owner of an in-
4 terest in land described in paragraph (1) are unable to
5 agree to lease, contract for, or buy such interest at a rea-
6 sonable price for such lease, contract, or purchase, the
7 Secretary may commence condemnation proceedings pur-
8 suant to the Act of August 1, 1888 (Chapter 728; 25 Stat.
9 357).

10 “(4) The Secretary may accept, on behalf of the
11 United States, a gift of any interest in land described in
12 paragraph (1)”.

13 **SEC. 1129. TUNNEL TASK FORCES.**

14 The Secretary is authorized to establish Tunnel Task
15 Forces for the purposes of detecting and remediating tun-
16 nels that breach the international borders of the United
17 States.

18 **SEC. 1130. PILOT PROGRAM ON USE OF ELECTRO-**
19 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
20 **DER SECURITY OPERATIONS.**

21 (a) IN GENERAL.—The Commissioner of U.S. Cus-
22 toms and Border Protection, in consultation with the As-
23 sistant Secretary of Commerce for Communications and
24 Information, shall conduct a pilot program to test and
25 evaluate the use of electromagnetic spectrum by U.S. Cus-

1 toms and Border Protection in support of border security
2 operations through—

3 (1) ongoing management and monitoring of
4 spectrum to identify threats such as unauthorized
5 spectrum use, and the jamming and hacking of
6 United States communications assets, by persons en-
7 gaged in criminal enterprises;

8 (2) automated spectrum management to enable
9 greater efficiency and speed for U.S. Customs and
10 Border Protection in addressing emerging challenges
11 in overall spectrum use on the United States border;
12 and

13 (3) coordinated use of spectrum resources to
14 better facilitate interoperability and interagency co-
15 operation and interdiction efforts at or near the
16 United States border.

17 (b) REPORT TO CONGRESS.—Not later than 180 days
18 after the conclusion of the pilot program under subsection
19 (a), the Commissioner of U.S. Customs and Border Pro-
20 tection shall submit a report to the Committee on Home-
21 land Security of the House of Representatives, the Com-
22 mittee on Energy and Commerce of the House of Rep-
23 resentatives, the Committee on Homeland Security and
24 Governmental Affairs of the Senate, and the Committee
25 on Commerce, Science, and Transportation of the Senate

1 that contains the findings and data derived from such pilot
2 program.

3 **SEC. 1131. FOREIGN MIGRATION ASSISTANCE.**

4 (a) IN GENERAL.—Subtitle C of title IV of the
5 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
6 as amended by section 1127, is further amended by adding
7 at the end the following:

8 **“SEC. 435. FOREIGN MIGRATION ASSISTANCE.**

9 “(a) IN GENERAL.—The Secretary, with the concur-
10 rence of the Secretary of State, may provide, to a foreign
11 government, financial assistance for foreign country oper-
12 ations to address migration flows that may affect the
13 United States.

14 “(b) DETERMINATION.—Assistance provided under
15 subsection (a) may be provided only if such assistance
16 would enhance the recipient government’s capacity to ad-
17 dress irregular migration flows that may affect the United
18 States, including any detention or removal operations of
19 the recipient government, including procedures to screen
20 and provide protection for certain individuals.

21 “(c) REIMBURSEMENT OF EXPENSES.—The Sec-
22 retary may, if appropriate, seek reimbursement from the
23 receiving foreign government for the provision of financial
24 assistance under this section.

1 “(d) RECEIPTS CREDITED AS OFFSETTING COLLEC-
2 TIONS.—Notwithstanding section 3302 of title 31, United
3 States Code, any reimbursement collected pursuant to
4 subsection (c) shall—

5 “(1) be credited as offsetting collections to the
6 account that finances the security assistance under
7 this section for which such reimbursement is re-
8 ceived; and

9 “(2) shall remain available until expended for
10 the purpose of carrying out this section.

11 “(e) EFFECTIVE PERIOD.—The authority provided
12 under this section shall remain in effect until September
13 30, 2022.

14 “(f) DEVELOPMENT AND PROGRAM EXECUTIVE.—
15 The Secretary and the Secretary of State shall jointly de-
16 velop and implement any financial assistance under this
17 section.

18 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed as affecting, augmenting, or dimin-
20 ishing the authority of the Secretary of State.

21 “(h) AUTHORIZATION OF APPROPRIATIONS.—In ad-
22 dition to amounts otherwise authorized to be appropriated
23 for such purpose, there is authorized to be appropriated
24 \$50,000,000,000 for the 5-year period ending on Sep-
25 tember 30, 2022, to carry out this section.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended by inserting after the item relating to section
4 434, as added by section 1127, the following:

“Sec. 435. Security assistance.”.

5 **CHAPTER 2—PERSONNEL**

6 **SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
7 **TECTION AGENTS AND OFFICERS.**

8 (a) BORDER PATROL AGENTS.—Not later than Sep-
9 tember 30, 2022, the Commissioner of U.S. Customs and
10 Border Protection shall hire, train, and assign sufficient
11 agents to maintain an active duty presence of not fewer
12 than 26,370 full-time equivalent agents.

13 (b) CBP OFFICERS.—In addition to positions author-
14 ized before the date of the enactment of this Act and any
15 existing officer vacancies within U.S. Customs and Border
16 Protection as of such date, the Commissioner shall hire,
17 train, and assign to duty, not later than September 30,
18 2022—

19 (1) sufficient U.S. Customs and Border Protec-
20 tion officers to maintain an active duty presence of
21 not fewer than 27,725 full-time equivalent officers;
22 and

23 (2) 350 full-time support staff distributed
24 among all United States ports of entry.

1 (c) AIR AND MARINE OPERATIONS.—Not later than
2 September 30, 2022, the Commissioner of U.S. Customs
3 and Border Protection shall hire, train, and assign suffi-
4 cient agents for Air and Marine Operations of U.S. Cus-
5 toms and Border Protection to maintain not fewer than
6 1,675 full-time equivalent agents and not fewer than 264
7 Marine and Air Interdiction Agents for southern border
8 air and maritime operations.

9 (d) U.S. CUSTOMS AND BORDER PROTECTION K-9
10 UNITS AND HANDLERS.—

11 (1) K-9 UNITS.—Not later than September 30,
12 2022, the Commissioner shall deploy not fewer than
13 300 new K-9 units, with supporting officers of U.S.
14 Customs and Border Protection and other required
15 staff, at land ports of entry and checkpoints, on the
16 southern border and the northern border.

17 (2) USE OF CANINES.—The Commissioner shall
18 prioritize the use of canines at the primary inspec-
19 tion lanes at land ports of entry and checkpoints.

20 (e) U.S. CUSTOMS AND BORDER PROTECTION
21 HORSEBACK UNITS.—

22 (1) INCREASE.—Not later than September 30,
23 2022, the Commissioner shall increase the number
24 of horseback units, with supporting officers of U.S.
25 Customs and Border Protection and other required

1 staff, by not fewer than 100 officers and 50 horses
2 for security patrol along the Southern border.

3 (2) HORSE UNIT SUPPORT.—The Commissioner
4 of U.S. Customs and Border Protection shall con-
5 struct new stables, maintain and improve existing
6 stables, and provide other resources needed to main-
7 tain the health and well-being of the horses that
8 serve in the horseback units.

9 (f) U.S. CUSTOMS AND BORDER PROTECTION
10 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
11 September 30, 2022, the Commissioner shall increase by
12 not fewer than 50 the number of officers engaged in
13 search and rescue activities along the southern border.

14 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
15 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
16 later than September 30, 2022, the Commissioner shall
17 increase by not fewer than 50 the number of officers as-
18 sisting task forces and activities related to deployment and
19 operation of border tunnel detection technology and appre-
20 hensions of individuals using such tunnels for crossing
21 into the United States, drug trafficking, or human smug-
22 gling.

23 (h) AGRICULTURAL SPECIALISTS.—Not later than
24 September 30, 2022, the Secretary shall hire, train, and
25 assign to duty, in addition to the officers and agents au-

1 thORIZED under subsections (a) through (g), 631 U.S. Cus-
2 TOMS and Border Protection agricultural specialists to
3 PORTS of entry along the southern border and the northern
4 border.

5 (i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
6 Not later than September 30, 2022, the Commissioner
7 shall hire, train, and assign sufficient Office of Profes-
8 sional Responsibility special agents to maintain an active
9 duty presence of not fewer than 550 full-time equivalent
10 special agents.

11 (j) OFFICE OF INTELLIGENCE.—Not later than Sep-
12 tember 30, 2022, the Commissioner shall hire, train, and
13 assign sufficient Office of Intelligence personnel to main-
14 tain not fewer than 700 full-time equivalent employees.

15 (k) GAO REPORT.—If the staffing levels required
16 under this section are not achieved by September 30,
17 2022, the Comptroller General of the United States shall
18 conduct a review of the reasons why such levels were not
19 achieved.

20 **SEC. 1142. FAIR LABOR STANDARDS FOR BORDER PATROL**
21 **AGENTS.**

22 (a) IN GENERAL.—Section 7 of the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 207) is amended by
24 adding at the end the following:

1 “(s) EMPLOYMENT AS A BORDER PATROL AGENT.—
2 No public agency shall be deemed to have violated sub-
3 section (a) with respect to the employment of any border
4 patrol agent (as defined in section 5550(1) of title 5,
5 United States Code) if, during a work period of 14 con-
6 secutive days, the border patrol agent receives compensa-
7 tion at a rate that is not less than 150 percent of the
8 regular rate at which the agent is employed for all hours
9 of work from 80 hours to 100 hours. Payments required
10 under this section shall be in addition to any payments
11 made under section 5550 of title 5, United States Code,
12 and shall be made notwithstanding any pay limitations set
13 forth in that title.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
15 Section 13(a) of the Fair Labor Standards Act of 1938
16 (29 U.S.C. 213(a)) is amended—

17 (1) in paragraph (16), by adding “or” at the
18 end;

19 (2) in paragraph (17), in the undesignated mat-
20 ter following subparagraph (D), by striking “; or”
21 and inserting a period; and

22 (3) by striking paragraph (18).

1 **SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION RE-**
2 **TENTION INCENTIVES.**

3 (a) IN GENERAL.—Chapter 97 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION TEM-**
7 **PORARY EMPLOYMENT AUTHORITIES.**

8 “(a) DEFINITIONS.—For purposes of this section—

9 “(1) the term ‘CBP employee’ means an em-
10 ployee of U.S. Customs and Border Protection de-
11 scribed under any of subsections (a) through (h) of
12 section 1141 of the Building America’s Trust Act;

13 “(2) the term ‘Commissioner’ means the Com-
14 missioner of U.S. Customs and Border Protection;

15 “(3) the term ‘Director’ means the Director of
16 the Office of Personnel Management;

17 “(4) the term ‘Secretary’ means the Secretary
18 of Homeland Security; and

19 “(5) the term ‘appropriate congressional com-
20 mittees’ means—

21 “(A) the Committee on Oversight and Gov-
22 ernment Reform of the House of Representa-
23 tives;

24 “(B) the Committee on Homeland Security
25 of the House of Representatives;

1 “(C) the Committee on Ways and Means
2 of the House of Representatives;

3 “(D) the Committee on Homeland Security
4 and Governmental Affairs of the Senate; and

5 “(E) the Committee on Finance of the
6 Senate.

7 “(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND
8 RELOCATION BONUSES; RETENTION BONUSES.—

9 “(1) STATEMENT OF PURPOSE AND LIMITA-
10 TION.—The purpose of this subsection is to allow
11 U.S. Customs and Border Protection to expedi-
12 tiously meet the hiring goals and staffing levels re-
13 quired under section 1141 of the Building America’s
14 Trust Act. The Secretary may not use such author-
15 ity beyond meeting the requirements under such sec-
16 tion.

17 “(2) DIRECT HIRE AUTHORITY.—The Secretary
18 may appoint, without regard to any provision of sec-
19 tions 3309 through 3319, candidates to positions in
20 the competitive service as CBP employees if the Sec-
21 retary has given public notice for the positions.

22 “(3) RECRUITMENT AND RELOCATION BO-
23 NUSES.—The Secretary may pay a recruitment or
24 relocation bonus of up to 50 percent of the annual
25 rate of basic pay to an individual CBP employee at

1 the beginning of the service period multiplied by the
2 number of years (including a fractional part of a
3 year) in the required service period to an individual
4 (other than an individual described in subsection
5 (a)(2) of section 5753) if—

6 “(A) the Secretary determines that condi-
7 tions consistent with the conditions described in
8 paragraphs (1) and (2) of subsection (b) of sec-
9 tion 5753 are satisfied with respect to the indi-
10 vidual (without regard to the regulations ref-
11 erenced in section 5753(b)(2)(B(ii)(I) or to any
12 other provision of section 5753); and

13 “(B) the individual enters into a written
14 service agreement with the Secretary—

15 “(i) under which the individual is re-
16 quired to complete a period of employment
17 as a CBP employee of not less than 2
18 years; and

19 “(ii) that includes—

20 “(I) the commencement and ter-
21 mination dates of the required service
22 period (or provisions for the deter-
23 mination thereof);

24 “(II) the amount of the bonus;
25 and

1 “(III) other terms and conditions
2 under which the bonus is payable,
3 subject to the requirements of this
4 subsection, including—

5 “(aa) the conditions under
6 which the agreement may be ter-
7 minated before the agreed-upon
8 service period has been com-
9 pleted; and

10 “(bb) the effect of a termi-
11 nation described in item (aa).

12 “(4) RETENTION BONUSES.—The Secretary
13 may pay a retention bonus of up to 50 percent of
14 basic pay to an individual CBP employee (other than
15 an individual described in subsection (a)(2) of sec-
16 tion 5754) if—

17 “(A) the Secretary determines that—

18 “(i) a condition consistent with the
19 condition described in subsection (b)(1) of
20 section 5754 is satisfied with respect to the
21 CBP employee (without regard to any
22 other provision of that section);

23 “(ii) in the absence of a retention
24 bonus, the CBP employee would be likely
25 to leave—

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1 “(I) the Federal service; or

2 “(II) for a different position in
3 the Federal service, including a posi-
4 tion in another agency or component
5 of the Department of Homeland Secu-
6 rity; and

7 “(B) the individual enters into a written
8 service agreement with the Secretary—

9 “(i) under which the individual is re-
10 quired to complete a period of employment
11 as a CBP employee of not less than 2
12 years; and

13 “(ii) that includes—

14 “(I) the commencement and ter-
15 mination dates of the required service
16 period (or provisions for the deter-
17 mination thereof);

18 “(II) the amount of the bonus;
19 and

20 “(III) other terms and conditions
21 under which the bonus is payable,
22 subject to the requirements under this
23 subsection, including—

24 “(aa) the conditions under
25 which the agreement may be ter-

1 minated before the agreed-upon
2 service period has been com-
3 pleted; and

4 “(bb) the effect of a termi-
5 nation described in item (aa).

6 “(5) RULES FOR BONUSSES.—

7 “(A) MAXIMUM BONUS.—A bonus paid to
8 an employee—

9 “(i) under paragraph (3) may not ex-
10 ceed 100 percent of the annual rate of
11 basic pay of the employee as of the com-
12 mencement date of the applicable service
13 period; and

14 “(ii) under paragraph (4) may not ex-
15 ceed 50 percent of the annual rate of basic
16 pay of the employee.

17 “(B) RELATIONSHIP TO BASIC PAY.—A
18 bonus paid to an employee under paragraph (3)
19 or (4) shall not be considered part of the basic
20 pay of the employee for any purpose, including
21 for retirement or in computing a lump-sum pay-
22 ment to the covered employee for accumulated
23 and accrued annual leave under section 5551 or
24 section 5552.

1 “(C) PERIOD OF SERVICE FOR RECRUIT-
2 MENT, RELOCATION, AND RETENTION BO-
3 NUSES.—

4 “(i) IN GENERAL.—A bonus paid to
5 an employee under paragraph (4) may not
6 be based on any period of such service
7 which is the basis for a recruitment or re-
8 location bonus under paragraph (3).

9 “(ii) FURTHER LIMITATION.—A
10 bonus paid to an employee under para-
11 graph (3) or (4) may not be based on any
12 period of service which is the basis for a
13 recruitment or relocation bonus under sec-
14 tion 5753 or a retention bonus under sec-
15 tion 5754.

16 “(c) SPECIAL RATES OF PAY.—In addition to the cir-
17 cumstances described in subsection (b) of section 5305,
18 the Director may establish special rates of pay in accord-
19 ance with that section to assist the Secretary in meeting
20 the requirements of section 1141 of the Building Amer-
21 ica’s Trust Act. The Director shall prioritize the consider-
22 ation of requests from the Secretary for such special rates
23 of pay and issue a decision as soon as practicable. The
24 Secretary shall provide such information to the Director

1 as the Director deems necessary to evaluate special rates
2 of pay under this subsection.

3 “(d) OPM OVERSIGHT.—

4 “(1) REPORT.—Not later than September 30 of
5 each year, the Secretary shall submit a report to the
6 Director on U.S. Customs and Border Protection’s
7 use of authorities provided under subsections (b)
8 and (c). In each report, the Secretary shall provide
9 such information as the Director determines is ap-
10 propriate to ensure appropriate use of authorities
11 under such subsections. Each report shall also in-
12 clude an assessment of—

13 “(A) the impact of the use of authorities
14 under subsections (b) and (c) on implementa-
15 tion of section 1141 of the Building America’s
16 Trust Act;

17 “(B) solving hiring and retention chal-
18 lenges at the agency, including at specific loca-
19 tions;

20 “(C) whether hiring and retention chal-
21 lenges still exist at the agency or specific loca-
22 tions; and

23 “(D) whether the Secretary needs to con-
24 tinue to use authorities provided under this sec-
25 tion at the agency or at specific locations.

1 “(2) CONSIDERATION.—In compiling each re-
2 port under paragraph (1), the Secretary shall con-
3 sider—

4 “(A) whether any CBP employee accepted
5 an employment incentive under subsection (b)
6 and (c) and then transferred to a new location
7 or left U.S. Customs and Border Protection;
8 and

9 “(B) the length of time that each employee
10 identified under subparagraph (A) stayed at the
11 original location before transferring to a new lo-
12 cation or leaving U.S. Customs and Border
13 Protection.

14 “(3) DISTRIBUTION.—In addition to the Direc-
15 tor, the Secretary shall submit each report required
16 under this subsection to the appropriate congres-
17 sional committees.

18 “(e) OPM ACTION.—If the Director determines that
19 the Secretary has inappropriately used the authority
20 under subsection (b) or a special rate of pay authorized
21 under subsection (c), the Director shall submit written no-
22 tification to the appropriate congressional committees.
23 Upon receipt of such notification, the Secretary may not
24 make any new appointments or issue any new bonuses
25 under subsection (b), or provide CBP employees with fur-

1 ther special rates of pay, until the Director has submitted
2 written notice to the Secretary and the appropriate con-
3 gressional committees stating that the Director is satisfied
4 that safeguards are in place to prevent further inappro-
5 priate use.

6 “(f) IMPROVING CBP HIRING AND RETENTION.—

7 “(1) EDUCATION OF CBP HIRING OFFICIALS.—

8 Not later than 180 days after the date of the enact-
9 ment of this section, and in conjunction with the
10 Chief Human Capital Officer of the Department of
11 Homeland Security, the Secretary shall develop and
12 implement a strategy to improve the education re-
13 garding hiring and human resources flexibilities (in-
14 cluding hiring and human resources flexibilities for
15 locations in rural or remote areas) for all employees,
16 serving in agency headquarters or field offices, who
17 are involved in the recruitment, hiring, assessment,
18 or selection of candidates for locations in a rural or
19 remote area, as well as the retention of current em-
20 ployees.

21 “(2) ELEMENTS.—Elements of the strategy de-
22 veloped under paragraph (1) shall include—

23 “(A) developing or updating training and
24 educational materials on hiring and human re-
25 sources flexibilities for employees who are in-

1 involved in the recruitment, hiring, assessment, or
2 selection of candidates, as well as the retention
3 of current employees;

4 “(B) regular training sessions for per-
5 sonnel who are critical to filling open positions
6 in rural or remote areas;

7 “(C) the development of pilot programs or
8 other programs, as appropriate, consistent with
9 authorities provided to the Secretary to address
10 identified hiring challenges, including in rural
11 or remote areas;

12 “(D) developing and enhancing strategic
13 recruiting efforts through the relationships with
14 institutions of higher education (as defined in
15 section 102 of the Higher Education Act of
16 1965 (20 U.S.C. 1002)), veterans transition
17 and employment centers, and job placement
18 program in regions that could assist in filling
19 positions in rural or remote areas;

20 “(E) examination of existing agency pro-
21 grams to determine how to most effectively aid
22 spouses and families of individuals who are can-
23 didates or new hires in a rural or remote area;

24 “(F) feedback from individuals who are
25 candidates or new hires at locations in a rural

1 or remote area, including feedback on the qual-
2 ity of life in rural or remote areas for new hires
3 and their families;

4 “(G) feedback from CBP employees, other
5 than new hires, who are stationed at locations
6 in a rural or remote area, including feedback on
7 the quality of life in rural or remote areas for
8 those CBP employees and their families; and

9 “(H) evaluation of Department of Home-
10 land Security internship programs and the use-
11 fulness of such programs in improving hiring by
12 the Secretary in rural or remote areas.

13 “(3) EVALUATION.—

14 “(A) IN GENERAL.—Each year the Sec-
15 retary shall—

16 “(i) evaluate the extent to which the
17 strategy developed and implemented under
18 paragraph (1) has improved the hiring and
19 retention ability of the Secretary; and

20 “(ii) make any appropriate updates to
21 the strategy developed under paragraph
22 (1).

23 “(B) INFORMATION.—The evaluation
24 under subparagraph (A) shall include—

1 “(i) any reduction in the time taken
2 by the Secretary to fill mission-critical po-
3 sitions, including in rural or remote areas;

4 “(ii) a general assessment of the im-
5 pact of the strategy implemented under
6 paragraph (1) on hiring challenges, includ-
7 ing in rural or remote areas; and

8 “(iii) other information the Secretary
9 determines relevant.

10 “(g) INSPECTOR GENERAL REVIEW.—Not later than
11 2 years after the date of the enactment of this section,
12 the Inspector General of the Department of Homeland Se-
13 curity shall review the use of hiring and pay flexibilities
14 under subsections (b) and (c) to determine whether the
15 use of such flexibilities is helping the Secretary meet hir-
16 ing and retention needs, including in rural and remote
17 areas.

18 “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-
19 retary shall submit a report to the appropriate congres-
20 sional committees that identifies the number of requests
21 the Secretary has received from any other Federal agency
22 for the file of an applicant for a position in U.S. Customs
23 and Border Protection that includes the results of a poly-
24 graph examination.

25 “(i) EXERCISE OF AUTHORITY.—

1 “(1) SOLE DISCRETION.—The exercise of au-
2 thority under subsection (b) shall be subject to the
3 sole and exclusive discretion of the Secretary (or the
4 Commissioner, as applicable under paragraph (2) of
5 this subsection), notwithstanding chapter 71 and
6 any collective bargaining agreement.

7 “(2) DELEGATION.—The Secretary may dele-
8 gate any authority under this section to the Com-
9 missioner.

10 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to exempt the Secretary or the Di-
12 rector from applicability of the merit system principles
13 under section 2301.

14 “(k) SUNSET.—The authorities under subsections (b)
15 and (c) shall terminate on September 30, 2022. Any bonus
16 to be paid pursuant to subsection (b) that is approved be-
17 fore such date may continue until such bonus has been
18 paid, subject to the conditions specified in this section.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of sections for chapter 97 of title 5, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

 “9702. U.S. Customs and Border Protection temporary employment authori-
 ties.”.

1 (c) OVERTIME LIMITATION.—Section 5(c)(1) of the
2 Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amend-
3 ed by striking “\$25,000” and inserting “\$45,000”.

4 **SEC. 1144. RATE OF PAY FOR U.S. IMMIGRATION AND CUS-**
5 **TOMS ENFORCEMENT OFFICERS AND**
6 **AGENTS.**

7 (a) IN GENERAL.—Section 5545a of title 5, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 “(1)(1) The provisions of subsections (a) through (h),
11 providing for availability pay, shall apply to a law enforce-
12 ment officer employed by U.S. Immigration and Customs
13 Enforcement who is authorized to carry out the powers
14 or authorities under section 287 of the Immigration and
15 Nationality Act (8 U.S.C. 1357) or section 589 of the Tar-
16 iff Act of 1930 (19 U.S.C. 1589a) and who would not oth-
17 erwise be covered by such subsections.

18 “(2) For the purposes of this section, section 5542(d)
19 of this title, and subsections (a)(16) and (b)(30) of section
20 13 of the Fair Labor Standards Act of 1938 (29 U.S.C.
21 213), an officer described in paragraph (1) shall be
22 deemed to be a criminal investigator.”.

23 (b) RULEMAKING.—The Director of the Office of
24 Personnel Management may prescribe regulations to carry

1 out section 5545a(l) of title 5, United States Code, as
2 added by subsection (a).

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on the first day of the first
5 applicable pay period beginning on or after the date that
6 is 90 days after the date of the enactment of this Act.

7 **SEC. 1145. ANTI-BORDER CORRUPTION REAUTHORIZATION**
8 **ACT.**

9 (a) SHORT TITLE.—This section may be cited as the
10 “Anti-Border Corruption Reauthorization Act of 2018”.

11 (b) HIRING FLEXIBILITY.—Section 3 of the Anti-
12 Border Corruption Act of 2010 (6 U.S.C. 221) is amended
13 by striking subsection (b) and inserting the following:

14 “(b) WAIVER AUTHORITY.—The Commissioner of
15 U.S. Customs and Border Protection may waive the appli-
16 cation of subsection (a)(1)—

17 “(1) to a current, full-time law enforcement of-
18 ficer employed by a State or local law enforcement
19 agency who—

20 “(A) has continuously served as a law en-
21 forcement officer for not fewer than 3 years;

22 “(B) is authorized by law to engage in or
23 supervise the prevention, detection, investiga-
24 tion, or prosecution of, or the incarceration of

1 any person for, any violation of law, and has
2 statutory powers for arrest or apprehension;

3 “(C) is not currently under investigation,
4 has not been found to have engaged in criminal
5 activity or serious misconduct, has not resigned
6 from a law enforcement officer position under
7 investigation or in lieu of termination, and has
8 not been dismissed from a law enforcement offi-
9 cer position; and

10 “(D) has, during the past 10 years, suc-
11 cessfully completed a polygraph examination as
12 a condition of employment with such officer’s
13 current law enforcement agency;

14 “(2) to a current, full-time Federal law enforce-
15 ment officer who—

16 “(A) has continuously served as a law en-
17 forcement officer for not fewer than 3 years;

18 “(B) is authorized to make arrests, con-
19 duct investigations, conduct searches, make sei-
20 zures, carry firearms, and serve orders, war-
21 rants, and other processes;

22 “(C) is not currently under investigation,
23 has not been found to have engaged in criminal
24 activity or serious misconduct, has not resigned
25 from a law enforcement officer position under

1 investigation or in lieu of termination, and has
2 not been dismissed from a law enforcement offi-
3 cer position; and

4 “(D) holds a current Tier 4 background
5 investigation or current Tier 5 background in-
6 vestigation; and

7 “(3) to a member of the Armed Forces (or a re-
8 serve component thereof) or a veteran, if such indi-
9 vidual—

10 “(A) has served in the Armed Forces for
11 not fewer than 3 years;

12 “(B) holds, or has held within the past 5
13 years, a Secret, Top Secret, or Top Secret/Sen-
14 sitive Compartmented Information clearance;

15 “(C) holds, or has undergone within the
16 past 5 years, a current Tier 4 background in-
17 vestigation or current Tier 5 background inves-
18 tigation;

19 “(D) received, or is eligible to receive, an
20 honorable discharge from service in the Armed
21 Forces and has not engaged in criminal activity
22 or committed a serious military or civil offense
23 under the Uniform Code of Military Justice;
24 and

1 “(E) was not granted any waivers to ob-
2 tain the clearance referred to subparagraph
3 (B).

4 “(c) TERMINATION OF WAIVER AUTHORITY.—The
5 authority to issue a waiver under subsection (b) shall ter-
6 minate on the date that is 4 years after the date of the
7 enactment of the SECURE and SUCCEED Act.”.

8 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
9 DEFINITIONS.—

10 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
11 ITY.—Section 4 of the Anti-Border Corruption Act
12 of 2010 (Public Law 111–376) is amended to read
13 as follows:

14 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

15 “(a) NONEXEMPTION.—An individual who receives a
16 waiver under section 3(b) is not exempt from other hiring
17 requirements relating to suitability for employment and
18 eligibility to hold a national security designated position,
19 as determined by the Commissioner of U.S. Customs and
20 Border Protection.

21 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
22 vidual who receives a waiver under section 3(b) and holds
23 a current Tier 4 background investigation shall be subject
24 to a Tier 5 background investigation.

1 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
2 TION.—The Commissioner of U.S. Customs and Border
3 Protection is authorized to administer a polygraph exam-
4 ination to an applicant or employee who is eligible for, or
5 receives a waiver under, section 3(b) if information is dis-
6 covered before the completion of a background investiga-
7 tion that results in a determination that a polygraph ex-
8 amination is necessary to make a final determination re-
9 garding suitability for employment or continued employ-
10 ment, as the case may be.”.

11 (2) REPORT.—The Anti-Border Corruption Act
12 of 2010, as amended by paragraph (1), is further
13 amended by adding at the end the following:

14 **“SEC. 5. REPORTING.**

15 “(a) ANNUAL REPORT.—Not later than 1 year after
16 the date of the enactment of this section, and annually
17 thereafter while the waiver authority under section 3(b)
18 is in effect, the Commissioner of U.S. Customs and Border
19 Protection shall submit a report to Congress that includes,
20 with respect to each such reporting period—

21 “(1) the number of waivers requested, granted,
22 and denied under section 3(b);

23 “(2) the reasons for any denials of such waiver;

24 “(3) the percentage of applicants who were
25 hired after receiving a waiver;

1 “(4) the number of instances that a polygraph
2 was administered to an applicant who initially re-
3 ceived a waiver and the results of such polygraph;

4 “(5) an assessment of the current impact of the
5 polygraph waiver program on filling law enforcement
6 positions at U.S. Customs and Border Protection;
7 and

8 “(6) additional authorities needed by U.S. Cus-
9 toms and Border Protection to better utilize the
10 polygraph waiver program for its intended goals.

11 “(b) ADDITIONAL INFORMATION.—The first report
12 submitted under subsection (a) shall include—

13 “(1) an analysis of other methods of employ-
14 ment suitability tests that detect deception and could
15 be used in conjunction with traditional background
16 investigations to evaluate potential employees for
17 suitability; and

18 “(2) a recommendation regarding whether a
19 test referred to in paragraph (1) should be adopted
20 by U.S. Customs and Border Protection when the
21 polygraph examination requirement is waived pursu-
22 ant to section 3(b).”.

23 “(3) DEFINITIONS.—The Anti-Border Corrup-
24 tion Act of 2010, as amended by paragraphs (1) and

1 (2), is further amended by adding at the end the fol-
2 lowing:

3 **“SEC. 6. DEFINITIONS.**

4 “In this Act:

5 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—

6 The term ‘Federal law enforcement officer’ has the
7 meaning given the term ‘law enforcement officer’ in
8 sections 8331(20) and 8401(17) of title 5, United
9 States Code.

10 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—

11 The term ‘serious military or civil offense’ means an
12 offense for which—

13 “(A) a member of the Armed Forces may
14 be discharged or separated from service in the
15 Armed Forces; and

16 “(B) a punitive discharge is, or would be,
17 authorized for the same or a closely related of-
18 fense under the Manual for Court-Martial, as
19 pursuant to Army Regulation 635-200 chapter
20 14–12.

21 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
22 ‘Tier 5’ with respect to background investigations
23 have the meaning given such terms under the 2012
24 Federal Investigative Standards.

1 “(4) VETERAN.—The term ‘veteran’ has the
2 meaning given such term in section 101(2) of title
3 38, United States Code.”.

4 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
5 tember 30, 2022, the Secretary shall increase to not fewer
6 than 150 the number of trained full-time equivalent poly-
7 graph examiners for administering polygraphs under the
8 Anti-Border Corruption Act of 2010, as amended by this
9 section.

10 **SEC. 1146. TRAINING FOR OFFICERS AND AGENTS OF U.S.**

11 **CUSTOMS AND BORDER PROTECTION.**

12 (a) IN GENERAL.—Section 411(l) of the Homeland
13 Security Act of 2002 (6 U.S.C. 211(l)) is amended to read
14 as follows:

15 “(l) TRAINING AND CONTINUING EDUCATION.—

16 “(1) MANDATORY TRAINING AND CONTINUING
17 EDUCATION.—The Commissioner shall ensure that
18 every agent and officer of U.S. Customs and Border
19 Protection receives at least 21 weeks of training that
20 is directly related to the mission of the U.S. Border
21 Patrol, Air and Marine, and the Office of Field Op-
22 erations before the initial assignment of such agents
23 and officers.

24 “(2) FLETC.—The Commissioner shall work
25 in consultation with the Director of the Federal Law

1 Enforcement Training Centers to establish guide-
2 lines and curriculum for the training of agents and
3 officers of U.S. Customs and Border Protection
4 under subsection (a).

5 “(3) CONTINUING EDUCATION.—The Commis-
6 sioner shall require all agents and officers of U.S.
7 Customs and Border Protection who are required to
8 undergo training under subsection (a) to participate
9 in not fewer than 8 hours of continuing education
10 annually to maintain and update understanding of
11 Federal legal rulings, court decisions, and Depart-
12 ment policies, procedures, and guidelines related to
13 relevant subject matters.

14 “(4) LEADERSHIP TRAINING.—Not later than 1
15 year after the date of the enactment of the Ensuring
16 Family Reunification Act of 2018, the Commissioner
17 shall develop and require training courses geared to-
18 wards the development of leadership skills for mid-
19 and senior-level career employees not later than 1
20 year after such employees assume duties in super-
21 visory roles.”.

22 (b) REPORT.—Not later than 180 days after the date
23 of the enactment of this Act, the Commissioner shall sub-
24 mit a report to the Committee on Finance of the Senate,
25 the Committee on Homeland Security and Governmental

1 Affairs of the Senate, the Committee on Homeland Secu-
2 rity of the House of Representatives, and the Committee
3 on Ways and Means of the House of Representatives that
4 identifies the guidelines and curriculum established to
5 carry out subsection (l) of section 411 of the Homeland
6 Security Act of 2002, as amended by subsection (a).

7 (c) ASSESSMENT.—Not later than 4 years after the
8 date of the enactment of this Act, the Comptroller General
9 of the United States shall submit a report to the Com-
10 mittee on Homeland Security of the House of Representa-
11 tives, the Committee on Ways and Means of the House
12 of Representatives, the Committee on Homeland Security
13 and Governmental Affairs of the Senate, and the Com-
14 mittee on Finance of the Senate that assesses the training
15 and education, including continuing education, required
16 under subsection (l) of section 411 of the Homeland Secu-
17 rity Act of 2002, as amended by subsection (a).

18 **SEC. 1147. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS**
19 **ENFORCEMENT PERSONNEL.**

20 (a) ENFORCEMENT AND REMOVAL OFFICERS.—By
21 not later than September 30, 2022, the Director of U.S.
22 Immigration and Customs Enforcement shall increase the
23 number of trained, full-time, active duty U.S. Immigration
24 and Customs Enforcement Enforcement and Removal Op-

1 erations law enforcement officers performing interior im-
2 migration enforcement functions by not fewer than 8,500.

3 (b) HOMELAND SECURITY INVESTIGATIONS SPECIAL
4 AGENTS.—By not later than September 30, 2022, the Di-
5 rector of U.S. Immigration and Customs Enforcement
6 shall increase the number of trained, full-time, active duty
7 Homeland Security Investigations special agents by not
8 fewer than 1,500.

9 (c) BORDER ENFORCEMENT SECURITY TASK
10 FORCE.—By not later than September 30, 2022, the Di-
11 rector of U.S. Immigration and Customs Enforcement
12 shall assign not fewer than 100 Homeland Security Inves-
13 tigation special agents to the Border Enforcement Secu-
14 rity Task Force Program established under section 432
15 of the Homeland Security Act of 2002 (6 U.S.C. 240).

16 **SEC. 1148. OTHER IMMIGRATION AND LAW ENFORCEMENT**
17 **PERSONNEL.**

18 (a) DEPARTMENT OF JUSTICE.—

19 (1) UNITED STATES ATTORNEYS.—By not later
20 than September 30, 2022, in addition to positions
21 authorized before the date of the enactment of this
22 Act and any existing attorney vacancies within the
23 Department of Justice on such date of enactment,
24 the Attorney General shall—

1 (A) increase by not fewer than 100 the
2 number of Assistant United States Attorneys;
3 and

4 (B) increase by not fewer than 50 the
5 number of Special Assistant United States At-
6 torneys in the United States Attorneys' office to
7 litigate denaturalization and other immigration
8 cases in the Federal courts.

9 (2) IMMIGRATION JUDGES.—

10 (A) ADDITIONAL IMMIGRATION JUDGES.—
11 By not later than September 30, 2022, in addi-
12 tion to positions authorized before the date of
13 the enactment of this Act and any existing va-
14 cancies within the Department of Justice on
15 such date of enactment, the Attorney General
16 shall increase by 200 the number of trained
17 full-time immigration judges.

18 (B) FACILITIES, SUPPORT PERSONNEL,
19 AND FULL-TIME INTERPRETERS.—The Attorney
20 General is authorized to procure space, tem-
21 porary facilities, support staff, and full-time in-
22 terpreters on an expedited basis, to accommo-
23 date the additional immigration judges author-
24 ized under subparagraph (A).

25 (3) BOARD OF IMMIGRATION APPEALS.—

1 (A) BOARD MEMBERS.—By not later than
2 September 30, 2022, the Attorney General shall
3 increase the number of Board Members author-
4 ized to serve on the Board of Immigration Ap-
5 peals to 25.

6 (B) STAFF ATTORNEYS.—By not later
7 than September 30, 2022, in addition to posi-
8 tions authorized before the date of the enact-
9 ment of this Act and any existing staff attorney
10 vacancies within the Department of Justice on
11 such date of enactment, the Attorney General
12 shall increase the number of staff attorneys as-
13 signed to support the Board of Immigration
14 Appeals by not fewer than 50.

15 (C) FACILITIES AND SUPPORT PER-
16 SONNEL.—The Attorney General is authorized
17 to procure space, temporary facilities, and re-
18 quired administrative support staff, on an expe-
19 dited basis, to accommodate the additional
20 Board Members authorized under subparagraph
21 (A).

22 (4) OFFICE OF IMMIGRATION LITIGATION.—By
23 not later than September 30, 2022, in addition to
24 positions authorized before the date of the enact-
25 ment of this Act and any existing vacancies within

1 the Department of Justice on such date of enact-
2 ment, the Attorney General shall increase by not
3 fewer than 100 the number of attorneys for the Of-
4 fice of Immigration Litigation.

5 (b) DEPARTMENT OF HOMELAND SECURITY.—

6 (1) FRAUD DETECTION AND NATIONAL SECUR-
7 ITY OFFICERS.—By not later than September 30,
8 2022, in addition to positions authorized before the
9 date of the enactment of this Act and any existing
10 officer vacancies within the Department of Home-
11 land Security on such date of enactment, the Direc-
12 tor of U.S. Citizenship and Immigration Services
13 shall increase by not fewer than 100 the number of
14 trained full-time active duty Fraud Detection and
15 National Security (FDNS) officers.

16 (2) ICE HOMELAND SECURITY INVESTIGATIONS
17 FORENSIC DOCUMENT LABORATORY PERSONNEL.—
18 By not later than September 30, 2022, in addition
19 to positions authorized before the date of the enact-
20 ment of this Act and any existing officer vacancies
21 within the Department of Homeland Security on
22 such date of enactment, the Director of U.S. Immi-
23 gration and Customs Enforcement shall increase—

24 (A) the number of trained, full-time Foren-
25 sic Document Laboratory Examiners by 15;

1 (B) the number of trained, full-time Fin-
2 gerprint Specialists by 15;

3 (C) the number of trained, full-time Intel-
4 ligence Officers by 10; and

5 (D) the number of trained, full-time ad-
6 ministrative staff by 3.

7 (3) IMMIGRATION ATTORNEYS.—

8 (A) OFFICE OF THE PRINCIPAL LEGAL AD-
9 VISOR ATTORNEYS.—By not later than Sep-
10 tember 30, 2022, in addition to positions au-
11 thORIZED before the date of the enactment of
12 this Act and any existing attorney vacancies
13 within the Department of Homeland Security
14 on such date of enactment, the Director of U.S.
15 Immigration and Customs Enforcement shall
16 increase the number of trained, full-time, active
17 duty Office of Principal Legal Advisor attorneys
18 by not fewer than 1,200. The majority of such
19 attorneys shall perform duties related to litiga-
20 tion of removal proceedings and representing
21 the Department of Homeland Security in immi-
22 gration matters before the immigration courts
23 within the Department of Justice, the Executive
24 Office for Immigration Review, and enforce-
25 ment of U.S. customs and trade laws. At least

1 50 of these additional attorney positions shall
2 be used by the Attorney General to increase the
3 number of U.S. Immigration and Customs En-
4 forcement attorneys serving as Special Assist-
5 ant U.S. Attorneys, on detail to the Depart-
6 ment of Justice, Offices of the U.S. Attorneys,
7 to assist with immigration-related litigation.

8 (B) USCIS IMMIGRATION ATTORNEYS.—
9 By not later than September 30, 2022, in addi-
10 tion to positions authorized before the date of
11 the enactment of this Act and any existing at-
12 torney vacancies within the Department of
13 Homeland Security on such date of enactment,
14 the Director of U.S. Citizenship and Immigra-
15 tion Services shall increase the number of
16 trained, full-time, active duty Office of Chief
17 Counsel attorneys by not fewer than 250. Such
18 attorneys shall primarily handle national secu-
19 rity and public safety cases, denaturalization
20 cases, and legal sufficiency reviews of immigra-
21 tion benefit decisions. At least 50 of these addi-
22 tional attorney positions shall be used by the
23 Attorney General to increase the number of
24 U.S. Citizenship and Immigration Service attor-
25 neys serving as Special Assistant U.S. Attor-

1 neys, on detail to the Department of Justice,
2 Offices of the U.S. Attorneys, to assist with im-
3 migration-related litigation.

4 (C) FACILITIES AND SUPPORT PER-
5 SONNEL.—The Attorney General and Secretary
6 are authorized to procure space, temporary fa-
7 cilities, and to hire the required administrative
8 and legal support staff, on an expedited basis,
9 to accommodate the additional positions author-
10 ized under this paragraph.

11 (D) AUTHORITY TO ACQUIRE LEASE-
12 HOLD.—Notwithstanding any other provision of
13 law, the Secretary may acquire a leasehold in-
14 terest in real property, and may provide in a
15 lease entered into under this subparagraph for
16 the construction or modification of any facility
17 on the leased property, if Secretary determines
18 that the acquisition of such interest, and such
19 construction or modification, are necessary in
20 order to facilitate the implementation of this
21 Act.

22 (E) USE OF USCIS FEE FUNDS.—Adjudica-
23 tion fees described in section 286(m) of the Im-
24 migration and Nationality Act (8 U.S.C.
25 1356(m)) may not be used to pay for the cost

1 of employing or contracting for the services of
2 any person who is not an employee or con-
3 tractor of U.S. Citizenship and Immigration
4 Services or the Department of Homeland Secu-
5 rity's Administrative Appeals Office.

6 (c) DEPARTMENT OF STATE.—

7 (1) VISA SPECIALISTS.—By not later than Sep-
8 tember 30, 2022, in addition to positions authorized
9 before the date of the enactment of this Act and any
10 existing attorney vacancies within the Department
11 on such date of enactment, the Assistant Secretary
12 of State for Consular Affairs shall increase the num-
13 ber of trained, full-time analysts within the Bureau
14 of Consular Affairs by not fewer than 50. Such ana-
15 lysts primarily should handle and advise on cases
16 and matters involving the potential for visa denial on
17 the basis of national security and public safety con-
18 cerns.

19 (2) IMMIGRATION ATTORNEYS.—By not later
20 than September 30, 2022, in addition to positions
21 authorized before the date of the enactment of this
22 Act and any existing attorney vacancies within the
23 Department on such date of enactment, the Assist-
24 ant Secretary of State for Consular Affairs shall in-
25 crease the number of trained, full-time, active attor-

1 neys adviser within the Bureau of Consular Affairs
2 by not fewer than 25. Such attorneys primarily
3 should handle and advise on cases and matters in-
4 volving the potential for visa denial on the basis of
5 national security and public safety concerns.

6 (3) FOREIGN SERVICE CONSULAR FELLOWS
7 PROGRAM.—By not later than September 30, 2020,
8 the Secretary of State shall—

9 (A) increase the number of Consular Fel-
10 lows to double the number of Consular Fellows
11 employed as of the date of the enactment of
12 this Act;

13 (B) offer Consular Fellows permanent ca-
14 reer appointments; and

15 (C) make language training available to
16 Consular Fellows for assignment to posts out-
17 side of their area of core linguistic ability.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated, for each of the fiscal
20 years 2018 through 2022, such sums as may be necessary
21 to carry out this section.

22 **SEC. 1149. JUDICIAL RESOURCES FOR BORDER SECURITY.**

23 (a) BORDER CROSSING PROSECUTIONS; CRIMINAL
24 CONSEQUENCE INITIATIVE.—

1 (1) IN GENERAL.—Amounts appropriated pur-
2 suant to paragraph (3) shall be used—

3 (A) to increase the number of criminal
4 prosecutions for unlawful border crossing in
5 each and every sector of the southern border by
6 not less than 80 percent per day, as compared
7 to the average number of such prosecutions per
8 day during the 12-month period preceding the
9 date of the enactment of this Act, by increasing
10 funding for—

11 (i) attorneys and administrative sup-
12 port staff in offices of United States attor-
13 neys;

14 (ii) support staff and interpreters in
15 court clerks' offices;

16 (iii) pre-trial services;

17 (iv) activities of the Office of the Fed-
18 eral Public Defender, including payments
19 to retain appointed counsel under section
20 3006A of title 18, United States Code; and

21 (v) additional personnel, including
22 deputy United States marshals in the
23 United States Marshals Service, to perform
24 intake, coordination, transportation, and
25 court security; and

1 (B) to reimburse Federal, State, local, and
2 tribal law enforcement agencies for any deten-
3 tion costs related to the increased border cross-
4 ing prosecutions carried out pursuant to sub-
5 paragraph (A).

6 (2) ADDITIONAL MAGISTRATE JUDGES TO AS-
7 SIST WITH INCREASED CASELOAD.—The chief judge
8 of each judicial district located within a sector of the
9 southern border is authorized to appoint additional
10 full-time magistrate judges, who, consistent with the
11 Constitution and laws of the United States, shall
12 have the authority to hear cases and controversies in
13 the judicial district in which the magistrate judges
14 are appointed.

15 (3) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated, for each of
17 the fiscal years 2018 through 2022, such sums as
18 may be necessary to carry out this subsection.

19 (b) ADDITIONAL PERMANENT DISTRICT COURT
20 JUDGESHIPS IN SOUTHERN BORDER STATES.—

21 (1) IN GENERAL.—The President shall appoint,
22 by and with the advice and consent of the Senate—

23 (A) 4 additional district judges for the Dis-
24 trict of Arizona;

1 (B) 2 additional district judges for the
2 Southern District of California;

3 (C) 4 additional district judges for the
4 Western District of Texas; and

5 (D) 2 additional district judges for the
6 Southern District of Texas.

7 (2) CONVERSIONS OF TEMPORARY DISTRICT
8 COURT JUDGESHIPS.—The judgeships for the Dis-
9 trict of Arizona and the Central District of Cali-
10 fornia authorized under section 312(c) of the 21st
11 Century Department of Justice Appropriations Au-
12 thorization Act (28 U.S.C. 133 note), in existence on
13 the day before the date of the enactment of this Act,
14 shall be authorized under section 133 of title 28,
15 United States Code, and the individuals holding
16 such judgeships on such day shall hold office under
17 section 133 of title 28, United States Code, as
18 amended by paragraph (3).

19 (3) TECHNICAL AND CONFORMING AMEND-
20 MENTS.—The table contained in section 133(a) of
21 title 28, United States Code, is amended—

22 (A) by striking the item relating to the dis-
23 trict of Arizona and inserting the following:

“Arizona 17”;

1 (B) by striking the items relating to Cali-
2 formia and inserting the following :

“California:	
Northern	19
Eastern	12
Central	28
Southern	15”;

3 (C) by striking the items relating to Texas
4 and inserting the following :

“Texas:	
Northern	12
Southern	21
Eastern	7
Western	17”.

5 (c) INCREASE IN FILING FEES.—

6 (1) IN GENERAL.—Section 1914(a) of title 28,
7 United States Code, is amended—

8 (A) by striking “\$350” and inserting
9 “\$375”; and

10 (B) by striking “\$5” and inserting “\$7”.

11 (2) EXPENDITURE LIMITATION.—Incremental
12 amounts collected pursuant to the amendments
13 made by paragraph (1)—

14 (A) shall be deposited as offsetting receipts
15 in the special fund of the Treasury established
16 under section 1931 of title 28, United States
17 Code; and

18 (B) shall be available solely for the purpose
19 of facilitating the processing of civil cases, but
20 only to the extent specifically appropriated by

1 an Act of Congress enacted after the date of
2 the enactment of this Act.

3 **SEC. 1150. REIMBURSEMENT TO STATE AND LOCAL PROS-**
4 **ECUTORS FOR FEDERALLY INITIATED, IMMI-**
5 **GRATION-RELATED CRIMINAL CASES.**

6 (a) IN GENERAL.—The Attorney General shall reim-
7 burse State, county, tribal, and municipal governments for
8 costs associated with the prosecution of federally initiated
9 criminal cases declined to be prosecuted by local offices
10 of the United States attorneys, including costs relating to
11 pre-trial services, detention, clerical support, and public
12 defenders' services associated to such prosecution.

13 (b) EXCEPTION.—Reimbursement under subsection
14 (a) shall not be available, at the discretion of the Attorney
15 General, if the Attorney General determines that there is
16 reason to believe that the jurisdiction seeking reimburse-
17 ment has engaged in unlawful conduct in connection with
18 immigration-related apprehensions.

19 **CHAPTER 3—GRANTS**

20 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

21 Section 241(i) of the Immigration and Nationality
22 Act (8 U.S.C. 1231(i)) is amended—

23 (1) in paragraph (1)—

24 (A) by inserting “AUTHORIZATION.—” be-
25 fore “If the chief”; and

1 (B) by inserting “or an alien with an un-
2 known status” after “undocumented criminal
3 alien” each place that term appears;

4 (2) by striking paragraphs (2) and (3) and in-
5 serting the following:

6 “(2) COMPENSATION.—

7 “(A) CALCULATION OF COMPENSATION.—
8 Compensation under paragraph (1)(A) shall be
9 the average cost of incarceration of a prisoner
10 in the relevant State, as determined by the At-
11 torney General.

12 “(B) COMPENSATION OF STATE FOR IN-
13 CARCERATION.—The Attorney General shall
14 compensate the State or political subdivision of
15 the State, in accordance with subparagraph
16 (A), for the incarceration of an alien—

17 “(i) whose immigration status cannot
18 be verified by the Secretary; and

19 “(ii) who would otherwise be an un-
20 documented criminal alien if the alien is
21 unlawfully present in the United States.

22 “(3) DEFINITIONS.—In this subsection:

23 “(A) ALIEN WITH AN UNKNOWN STA-
24 TUS.—The term ‘alien with an unknown status’
25 means an individual—

1 “(i) who has been incarcerated by a
2 Federal, State, or local law enforcement
3 entity; and

4 “(ii) whose immigration status cannot
5 be definitively identified.

6 “(B) UNDOCUMENTED CRIMINAL ALIEN.—
7 The term ‘undocumented criminal alien’ means
8 an alien who—

9 “(i) has been charged with or con-
10 victed of a felony or any misdemeanors;
11 and

12 “(ii)(I) entered the United States
13 without inspection or at any time or place
14 other than as designated by the Secretary;

15 “(II) was the subject of exclusion or
16 deportation or removal proceedings at the
17 time he or she was taken into custody by
18 the State or a political subdivision of the
19 State; or

20 “(III) was admitted as a non-
21 immigrant and, at the time he or she was
22 taken into custody by the State or a polit-
23 ical subdivision of the State, has failed to
24 maintain the nonimmigrant status in which
25 the alien was admitted or to which it was

1 changed under section 248, or to comply
2 with the conditions of any such status.”;

3 (3) in paragraph (4), by inserting “and aliens
4 with an unknown status” after “undocumented
5 criminal aliens” each place that term appears;

6 (4) in paragraph (5)(C), by striking “to carry
7 out this subsection” and all that follows and insert-
8 ing “\$950,000,000, for each of the fiscal years 2018
9 through 2022, to carry out this subsection.”; and

10 (5) by adding at the end the following:

11 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any
12 amounts provided to a State or to a political subdivi-
13 sion of a State as compensation under paragraph
14 (1)(A) for a fiscal year shall be distributed to such
15 State or political subdivision not later than 120 days
16 after the last day of the period specified by the At-
17 torney General for the submission of requests under
18 that paragraph for that fiscal year.”.

19 **SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE**
20 **GRANTS.**

21 (a) **AUTHORITY.—**

22 (1) **IN GENERAL.—**The Secretary, in consulta-
23 tion with State and local law enforcement agencies,
24 may award border security assistance grants to law
25 enforcement agencies located in the Southwest bor-

1 der region for the purposes described in subsection
2 (b).

3 (2) PRIORITY.—In awarding grants under this
4 section, the Secretary shall give priority to law en-
5 forcement agencies located in a county that is lo-
6 cated within 25 miles of the Southern border.

7 (b) PURPOSES.—Each grant awarded under sub-
8 section (a) shall be used to address drug trafficking,
9 smuggling, and border violence—

10 (1) by obtaining law enforcement equipment
11 and tools, including secure 2-way communication de-
12 vices, portable laptops and office computers, license
13 plate readers, unmanned aerial vehicles, unmanned
14 aircraft systems, manned aircraft, cameras with
15 night viewing capabilities, and any other appropriate
16 law enforcement equipment;

17 (2) by hiring additional personnel, including ad-
18 ministrative support personnel, dispatchers, and
19 jailers, and to provide overtime pay for such per-
20 sonnel;

21 (3) by purchasing law enforcement vehicles;

22 (4) by providing high performance aircraft and
23 helicopters for border surveillance and other critical
24 mission applications and paying for the operational
25 and maintenance costs associated with such craft;

1 (5) by providing critical power generation sys-
2 tems, infrastructure, and technological upgrades to
3 support State and local data management systems
4 and fusion centers; or

5 (6) by providing specialized training and paying
6 for the direct operating expenses associated with de-
7 tecting and prosecuting drug trafficking, human
8 smuggling, and other illegal activity or violence that
9 occurs at or near the Southern border.

10 (c) APPLICATION.—

11 (1) REQUIREMENT.—A law enforcement agency
12 seeking a grant under subsection (a), or a nonprofit
13 organization or coalition acting as an agent for 1 or
14 more such law enforcement entities, shall submit an
15 application to the Secretary that includes the infor-
16 mation described in paragraph (2) at such time and
17 in such manner as the Secretary may require.

18 (2) CONTENT.—Each application submitted
19 under paragraph (1) shall include—

20 (A) a description of the activities to be car-
21 ried out with a grant awarded under subsection
22 (a);

23 (B) if equipment will be purchased with
24 the grant, a detailed description of—

1 (i) the type and quantity of such
2 equipment; and

3 (ii) the personnel who will be using
4 such equipment;

5 (C) a description of the need of the law en-
6 forcement agency or agencies for the grant, in-
7 cluding a description of the inability of the
8 agency or agencies to carry out the proposed
9 activities without the grant; and

10 (D) an assurance that the agency or agen-
11 cies will, to the extent practicable, seek, recruit,
12 and hire women and members of racial and eth-
13 nic minority groups in law enforcement posi-
14 tions of the agency or agencies.

15 (d) REVIEW AND AWARD.—

16 (1) REVIEW.—Not later than 90 days after re-
17 ceiving an application submitted under subsection
18 (c), the Secretary shall review and approve or reject
19 the application.

20 (2) AWARD OF FUNDS.—Subject to the avail-
21 ability of appropriations, not later than 45 days
22 after the date an application is approved under
23 paragraph (1), the Secretary shall transmit the
24 grant funds to the applicant.

1 (3) PRIORITY.—In distributing grant funds
2 under this subsection, priority shall be given to high-
3 intensity areas for drug trafficking, smuggling, and
4 border violence.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated, for each of the fiscal years
7 2018 through 2022, \$300,000,000 for grants authorized
8 under this section.

9 **SEC. 1153. OPERATION STONEGARDEN.**

10 (a) IN GENERAL.—Subtitle A of title XX of the
11 Homeland Security Act of 2002 (6 U.S.C. 601 et seq.)
12 is amended by adding at the end the following:

13 **“SEC. 2009. OPERATION STONEGARDEN.**

14 “(a) ESTABLISHMENT.—There is established in the
15 Department a program to be known as ‘Operation
16 Stonegarden’, under which the Secretary, acting through
17 the Administrator, shall make grants to eligible law en-
18 forcement agencies, through the State administrative
19 agency, to enhance border security in accordance with this
20 section.

21 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
22 ceive a grant under this section, a law enforcement agen-
23 cy—

24 “(1) shall be located in—

1 “(A) a State bordering Canada or Mexico;

2 or

3 “(B) a State or territory with a maritime
4 border; and

5 “(2) shall be involved in an active, ongoing,
6 U.S. Customs and Border Protection operation co-
7 ordinated through a U.S. Border Patrol sector of-
8 fice.

9 “(c) PERMITTED USES.—The recipient of a grant
10 under this section may use such grant for—

11 “(1) equipment, including maintenance and
12 sustainment costs;

13 “(2) personnel, including overtime and backfill,
14 in support of enhanced border law enforcement ac-
15 tivities;

16 “(3) any activity permitted for Operation
17 Stonegarden under the Department of Homeland
18 Security’s most recent Homeland Security Grant
19 Program Notice of Funding Opportunity; and

20 “(4) any other appropriate activity, as deter-
21 mined by the Administrator, in consultation with the
22 Commissioner of U.S. Customs and Border Protec-
23 tion.

1 “(d) PERIOD OF PERFORMANCE.—The Secretary
2 shall award grants under this section to grant recipients
3 for a period of not less than 36 months.

4 “(e) REPORT.—For each of the fiscal years 2018
5 through 2022, the Administrator shall submit a report to
6 the Committee on Homeland Security and Governmental
7 Affairs of the Senate and the Committee on Homeland
8 Security of the House of Representatives containing infor-
9 mation on the expenditure of grants made under this sec-
10 tion by each grant recipient.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated \$110,000,000, for each
13 of the fiscal years 2018 through 2022, for grants under
14 this section.”.

15 (b) CONFORMING AMENDMENT.—Section 2002(a) of
16 the Homeland Security Act of 2002 (6 U.S.C. 603(a)) is
17 amended to read as follows:

18 “(a) GRANTS AUTHORIZED.—The Secretary, through
19 the Administrator, may award grants under sections 2003,
20 2004, and 2009 to State, local, and tribal governments,
21 as appropriate.”.

22 (c) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002 is
24 amended by inserting after the item relating to section
25 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

1 **SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS OF**
2 **CROSS-BORDER HUMAN SMUGGLING.**

3 In addition to any funding for grants made available
4 to the Attorney General for State and local law enforce-
5 ment assistance, the Attorney General shall award grants
6 to county, municipal, or tribal governments in States
7 along the southern border for costs, or reimbursement of
8 costs, associated with the transportation and processing
9 of unidentified alien remains that have been transferred
10 to an official medical examiner's office or an institution
11 of higher education in the area with the capacity to ana-
12 lyze human remains using forensic best practices, includ-
13 ing DNA testing, where such expenses may contribute to
14 the collection and analysis of information pertaining to
15 missing and unidentified persons.

16 **SEC. 1155. GRANT ACCOUNTABILITY.**

17 (a) DEFINITIONS.—In this section:

18 (1) AWARDING ENTITY.—The term “awarding
19 entity” means the Secretary, the Administrator of
20 the Federal Emergency Management Agency, the
21 Director of the National Science Foundation, or the
22 Chief of the Office of Citizenship and New Ameri-
23 cans.

24 (2) NONPROFIT ORGANIZATION.—The term
25 “nonprofit organization” means an organization that
26 is described in section 501(c)(3) of the Internal Rev-

1 enue Code of 1986 and is exempt from taxation
2 under section 501(a) of such Code.

3 (3) UNRESOLVED AUDIT FINDING.—The term
4 “unresolved audit finding” means a finding in a
5 final audit report conducted by the Inspector Gen-
6 eral of the Department of Homeland Security, or the
7 Inspector General for the National Science Founda-
8 tion for grants awarded by the Director of the Na-
9 tional Science Foundation, that the audited grantee
10 has utilized grant funds for an unauthorized expend-
11 iture or otherwise unallowable cost that is not closed
12 or resolved within 1 year after the date when the
13 final audit report is issued.

14 (b) ACCOUNTABILITY.—All grants awarded by an
15 awarding entity pursuant to this subtitle shall be subject
16 to the following accountability provisions:

17 (1) AUDIT REQUIREMENT.—

18 (A) AUDITS.—Beginning in the first fiscal
19 year beginning after the date of the enactment
20 of this Act, and in each fiscal year thereafter,
21 the Inspector General of the Department of
22 Homeland Security, or the Inspector General
23 for the National Science Foundation for grants
24 awarded by the Director of the National
25 Science Foundation, shall conduct audits of re-

1 recipients of grants under this subtitle or any
2 amendments made by this subtitle to prevent
3 waste, fraud, and abuse of funds by grantees.
4 Such Inspectors General shall determine the ap-
5 propriate number of grantees to be audited
6 each year.

7 (B) MANDATORY EXCLUSION.—A recipient
8 of grant funds under this subtitle that is found
9 to have an unresolved audit finding shall not be
10 eligible to receive grant funds under this sub-
11 title or any amendment made by this subtitle
12 during the first 2 fiscal years beginning after
13 the end of the fiscal year in which a finding de-
14 scribed in subsection (A) was discovered.

15 (C) PRIORITY.—In awarding a grant under
16 this subtitle or any amendment made by this
17 subtitle, the awarding entity shall give priority
18 to eligible applicants that did not have an unre-
19 solved audit finding during the 3 fiscal years
20 immediately preceding the date on which the
21 entity submitted the application for such grant.

22 (D) REIMBURSEMENT.—If an entity is
23 awarded grant funds under this subtitle or any
24 amendment made by this subtitle during the 2-
25 year period when the entity is barred from re-

1 ceiving grants under subparagraph (B), the
2 awarding entity shall—

3 (i) deposit an amount equal to the
4 amount of the grant funds that were im-
5 properly awarded to such entity into the
6 general fund of the Treasury; and

7 (ii) seek to recover the costs of the re-
8 payment under clause (i) from such entity.

9 (2) NONPROFIT ORGANIZATION REQUIRE-
10 MENTS.—

11 (A) PROHIBITION.—An awarding entity
12 may not award a grant under this subtitle or
13 any amendment made by this subtitle to a non-
14 profit organization that holds money in offshore
15 accounts for the purpose of avoiding the tax im-
16 posed under section 511(a) of the Internal Rev-
17 enue Code of 1986.

18 (B) DISCLOSURE.—Each nonprofit organi-
19 zation that is awarded a grant under this sub-
20 title or any amendment made by this subtitle
21 and uses the procedures prescribed by Internal
22 Revenue regulations to create a rebuttable pre-
23 sumption of reasonableness for the compensa-
24 tion of its officers, directors, trustees, and key
25 employees, shall disclose to the awarding entity,

1 in the application for the grant, the process for
2 determining such compensation, including the
3 independent persons involved in reviewing and
4 approving such compensation, the comparability
5 data used, and contemporaneous substantiation
6 of the deliberation and decision. Upon request,
7 the awarding entity shall make the information
8 disclosed under this subparagraph available for
9 public inspection.

10 (3) CONFERENCE EXPENDITURES.—

11 (A) LIMITATION.—Amounts authorized to
12 be appropriated to the Department of Home-
13 land Security or the National Science Founda-
14 tion for grant programs under this subtitle or
15 any amendment made by this subtitle may not
16 be used by an awarding entity to host or sup-
17 port any expenditure for conferences that uses
18 more than \$20,000 in funds made available by
19 the Department of Homeland Security or the
20 National Science Foundation unless the Deputy
21 Secretary for Homeland Security, or the Dep-
22 uty Director of the National Science Founda-
23 tion, or their designee, provides prior written
24 authorization that the funds may be expended
25 to host the conference.

1 (B) WRITTEN APPROVAL.—Written ap-
2 proval under subparagraph (A) shall include a
3 written estimate of all costs associated with the
4 conference, including the cost of all food, bev-
5 erages, audio-visual equipment, honoraria for
6 speakers, and entertainment.

7 (C) REPORT.—The Deputy Secretary of
8 Homeland Security and the Deputy Director of
9 the National Science Foundation shall submit
10 an annual report to Congress that identifies all
11 conference expenditures approved under this
12 paragraph.

13 (4) ANNUAL CERTIFICATION.—Beginning in the
14 first fiscal year beginning after the date of the en-
15 actment of this Act, and annually thereafter, each
16 awarding entity shall submit a report to Congress
17 that—

18 (A) indicates whether—

19 (i) all audits issued by the Offices of
20 the Inspector General under paragraph (1)
21 have been completed and reviewed by the
22 appropriate individuals;

23 (ii) all mandatory exclusions required
24 under paragraph (1)(B) have been issued;
25 and

1 (iii) all reimbursements required
2 under paragraph (1)(D) have been made;
3 and
4 (B) includes a list of any grant recipients
5 excluded under paragraph (1) during the pre-
6 vious year.

7 **Subtitle B—Emergency Port of**
8 **Entry Personnel and Infrastruc-**
9 **ture Funding**

10 **SEC. 1201. DEFINITIONS.**

11 In this subtitle:

12 (1) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means—

15 (A) the Committee on Homeland Security
16 and Governmental Affairs of the Senate;

17 (B) the Committee on Finance of the Sen-
18 ate;

19 (C) the Committee on the Judiciary of the
20 Senate;

21 (D) the Committee on Homeland Security
22 of the House of Representatives;

23 (E) the Committee on Ways and Means of
24 the House of Representatives; and

1 (F) the Committee on the Judiciary of the
2 House of Representatives.

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

5 **SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.**

6 (a) ADDITIONAL PORTS OF ENTRY.—

7 (1) AUTHORITY.—Subject to section 3307 of
8 title 40, United States Code, the Administrator of
9 General Services may construct new ports of entry
10 along the northern border and along the southern
11 border at locations determined by the Secretary.

12 (2) CONSULTATION.—

13 (A) REQUIREMENT TO CONSULT.—The
14 Secretary shall consult with the Secretary of
15 State, the Secretary of the Interior, the Sec-
16 retary of Agriculture, the Secretary of Trans-
17 portation, the Administrator of General Serv-
18 ices, and appropriate representatives of State
19 and local governments, Indian tribes, and prop-
20 erty owners in the United States prior to deter-
21 mining a location for any new port constructed
22 pursuant to paragraph (1).

23 (B) CONSIDERATIONS.—The purpose of
24 the consultations required under subparagraph
25 (A) shall be to minimize any negative impacts

1 of such a new port on the environment, culture,
2 commerce, and quality of life of the commu-
3 nities and residents located near such new port.

4 (b) EXPANSION AND MODERNIZATION OF HIGH-VOL-
5 UME SOUTHERN BORDER PORTS OF ENTRY.—Not later
6 than September 30, 2022, the Administrator of General
7 Services, subject to section 3307 of title 40, United States
8 Code, and in coordination with the Secretary, shall expand
9 or modernize high-priority ports of entry on the southern
10 border, as determined by the Secretary, for the purposes
11 of reducing wait times and enhancing security.

12 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
13 structing any new ports of entry pursuant to subsection
14 (a), the Administrator of General Services shall complete
15 the expansion and modernization of ports of entry pursu-
16 ant to subsection (b), to the extent practicable.

17 (d) NOTIFICATIONS.—

18 (1) RELATING TO NEW PORTS OF ENTRY.—Not
19 later than 15 days after determining the location of
20 any new port of entry for construction pursuant to
21 subsection (a), the Secretary and the Administrator
22 of General Services shall jointly notify the Members
23 of Congress who represent the State or congressional
24 district in which such new port of entry will be lo-
25 cated, the Committee on Homeland Security and

1 Governmental Affairs of the Senate, the Committee
2 on Finance of the Senate, the Committee on Com-
3 merce, Science, and Transportation of the Senate,
4 the Committee on the Judiciary of the Senate, the
5 Committee on Homeland Security of the House of
6 Representatives, the Committee on Ways and Means
7 of the House of Representatives, the Committee on
8 Transportation and Infrastructure of the House of
9 Representatives, and the Committee on the Judici-
10 ary of the House of Representatives. Such notifica-
11 tion shall include—

12 (A) information relating to the location of
13 such new port of entry;

14 (B) a description of the need for such new
15 port of entry and associated anticipated bene-
16 fits;

17 (C) a description of the consultations un-
18 dertaken by the Secretary and the Adminis-
19 trator pursuant to subsection (a)(2)(A);

20 (D) any actions that will be taken to mini-
21 mize negative impacts of such new port of
22 entry; and

23 (E) the anticipated time line for the con-
24 struction and completion of such new port of
25 entry.

1 (2) EXPANSION AND MODERNIZATION OF PORTS
2 OF ENTRY.—Not later than 180 days after the date
3 of the enactment of this Act, the Secretary and the
4 Administrator of General Services shall jointly notify
5 the congressional committees listed in paragraph (1)
6 of—

7 (A) the ports of entry on the southern bor-
8 der selected for expansion or modernization
9 pursuant to subsection (b); and

10 (B) the plan of the Secretary and the Ad-
11 ministrator for expanding or modernizing each
12 such port of entry.

13 (e) SAVINGS PROVISION.—Nothing in this section
14 may be construed—

15 (1) to create or negate any right of action for
16 a State, local government, or other person or entity
17 affected by this section;

18 (2) to delay the transfer of the possession of
19 property to the United States;

20 (3) to affect the validity of any property acqui-
21 sitions by purchase or eminent domain or to other-
22 wise affect the eminent domain laws of the United
23 States or of any State; or

24 (4) to create any right or liability for any party.

1 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed as providing the Secretary new au-
3 thority related to the construction, acquisition, or renova-
4 tion of real property.

5 **SEC. 1203. SECURE COMMUNICATIONS.**

6 (a) IN GENERAL.—The Secretary shall ensure that
7 each U.S. Customs and Border Protection and U.S. Immi-
8 gration and Customs Enforcement officer or agent, if ap-
9 propriate, is equipped with a secure radio or other 2-way
10 communication device, supported by system interoper-
11 ability, that allows each such officer to communicate—

12 (1) between ports of entry and inspection sta-
13 tions; and

14 (2) with other Federal, State, tribal, and local
15 law enforcement entities.

16 (b) U.S. BORDER PATROL AGENTS.—The Secretary
17 shall ensure that each U.S. Customs and Border Protec-
18 tion agent or officer assigned or required to patrol on foot,
19 by horseback, or with a canine unit, in remote mission
20 critical locations, and at border checkpoints, has a multi-
21 or dual-band encrypted portable radio.

22 **SEC. 1204. BORDER SECURITY DEPLOYMENT PROGRAM.**

23 (a) EXPANSION.—Not later than September 30,
24 2022, the Secretary shall fully implement U.S. Customs
25 and Border Protection’s Border Security Deployment Pro-

1 gram and expand the integrated surveillance and intrusion
2 detection system at land ports of entry along the southern
3 border and the northern border.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
5 tion to amounts otherwise authorized to be appropriated
6 for such purpose, there is authorized to be appropriated
7 \$33,000,000, for each of the fiscal year 2018 through
8 2022, to carry out subsection (a).

9 **SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READ-**
10 **ERS AT PORTS OF ENTRY.**

11 (a) UPGRADE.—Not later than 2 years after the date
12 of the enactment of this Act, the Commissioner of U.S.
13 Customs and Border Protection shall upgrade all existing
14 license plate readers on the northern border and on the
15 southern border on incoming and outgoing vehicle lanes.

16 (b) PILOT PROGRAM.—Not later than 90 days after
17 the date of the enactment of this Act, the Commissioner
18 of U.S. Customs and Border Protection shall conduct a
19 1-month pilot program on the southern border using li-
20 cense plate readers for 1 to 2 cargo lanes at the top 2
21 high-volume southern border land ports of entry or check-
22 points and at the top 2 high-volume northern border land
23 ports of entry or checkpoints to determine their effective-
24 ness in reducing cross-border wait times for commercial
25 traffic and tractor-trailers.

1 (c) REPORT.—Not later than 180 days after the date
2 of the enactment of this Act, the Secretary shall submit
3 a report to the Committee on Homeland Security and Gov-
4 ernmental Affairs of the Senate, the Committee on Fi-
5 nance of the Senate, the Committee on the Judiciary of
6 the Senate, the Committee on Homeland Security of the
7 House of Representatives, the Committee on Ways and
8 Means of the House of Representatives, and the Com-
9 mittee on the Judiciary of the House of Representatives
10 that contains the results of the pilot program under sub-
11 section (b) and makes recommendations for using the
12 technology described in such subsection on the southern
13 border.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
15 tion to amounts otherwise authorized to be appropriated
16 for such purpose, there is authorized to be appropriated
17 \$125,000,000 for the 2-year period ending on September
18 30, 2019, to carry out subsection (a).

19 **SEC. 1206. BIOMETRIC TECHNOLOGY.**

20 (a) BIOMETRIC STORAGE.—

21 (1) CREATION OR EXPANSION OF SYSTEM.—

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Secretary shall create a system
24 (or upgrade and expand the capability and capacity
25 of an existing system, if a Department of Homeland

1 Security system already has capability and capacity
2 for storage) to allow for the storage of fingerprints,
3 photographs, iris scans, voice prints, and any other
4 biometric data of aliens that can be used by the De-
5 partment of Homeland Security, other Federal agen-
6 cies, and State and local law enforcement agencies
7 for identity verification, authentication, background
8 checks, and document production.

9 (2) COMPATIBILITY.—The Secretary shall en-
10 sure, to the extent possible, that the system created
11 or expanded under paragraph (1) is compatible with
12 existing State and local law enforcement systems
13 that are used for the collection and storage of bio-
14 metric data for criminal aliens.

15 (b) PILOT PROGRAM.—When the system created
16 under subsection (a) is operational, U.S. Immigration and
17 Customs Enforcement and U.S. Citizenship and Immigra-
18 tion Services shall conduct a 6-month pilot program on
19 the collection and use of iris scans and voice prints for
20 identity verification, authentication, background checks,
21 and document production.

22 (c) REPORT.—Not later than 6 months after the con-
23 clusion of the pilot program under subsection (b), the Sec-
24 retary shall submit a report containing the results of the

1 pilot program and recommendations for using such tech-
2 nology to—

3 (1) the Committee on Homeland Security and
4 Governmental Affairs of the Senate;

5 (2) the Committee on the Judiciary of the Sen-
6 ate;

7 (3) the Committee on Homeland Security of the
8 House of Representatives; and

9 (4) the Committee on the Judiciary of the
10 House of Representatives.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
12 tion to amounts otherwise authorized to be appropriated,
13 there are authorized to be appropriated, for each of the
14 fiscal years 2018 through 2022, \$10,000,000 carry out
15 this section.

16 **SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL**
17 **DEMONSTRATION PROJECT.**

18 (a) IN GENERAL.—

19 (1) ESTABLISHMENT.—Not later than 6
20 months after the date of the enactment of this Act,
21 the Commissioner shall establish a 6-month oper-
22 ational demonstration project to deploy a high-
23 throughput nonintrusive passenger vehicle inspection
24 system at not fewer than 3 land ports of entry along

1 the United States-Mexico border with significant
2 cross-border traffic.

3 (2) LOCATION.—The demonstration project es-
4 tablished under paragraph (1)—

5 (A) shall be located within the pre-primary
6 traffic flow; and

7 (B) should be scalable to span up to 26
8 contiguous in-bound traffic lanes without recon-
9 figuration of existing lanes.

10 (b) REPORT.—Not later than 90 days after the con-
11 clusion of the operational demonstration project under
12 subsection (a), the Commissioner shall submit a report to
13 the Committee on Homeland Security and Governmental
14 Affairs of the Senate, the Committee on Finance of the
15 Senate, the Committee on Homeland Security of the
16 House of Representatives, and the Committee on Ways
17 and Means of the House of Representatives that de-
18 scribes—

19 (1) the effects of the demonstration project on
20 legitimate travel and trade;

21 (2) the effects of the demonstration project on
22 wait times, including processing times, for non-pe-
23 destrian traffic; and

24 (3) the effectiveness of the demonstration
25 project in combating terrorism and smuggling.

1 **SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.**

2 (a) IN GENERAL.—Subtitle B of title IV of the
3 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
4 is amended by inserting after section 415 the following:

5 **“SEC. 416. BIOMETRIC ENTRY-EXIT.**

6 “(a) ESTABLISHMENT.—The Secretary—

7 “(1) not later than 180 days after the date of
8 the enactment of this section, shall submit an imple-
9 mentation plan to the Committee on Homeland Se-
10 curity and Governmental Affairs of the Senate, the
11 Committee on the Judiciary of the Senate, the Com-
12 mittee on Homeland Security of the House of Rep-
13 resentatives, and the Committee on the Judiciary of
14 the House of Representatives for establishing a bio-
15 metric exit data system to complete the integrated
16 biometric entry and exit data system required under
17 section 7208 of the Intelligence Reform and Ter-
18 rorism Prevention Act of 2004 (8 U.S.C. 1365b), in-
19 cluding—

20 “(A) an integrated master schedule and
21 cost estimate, including requirements and de-
22 sign, development, operational, and mainte-
23 nance costs of such a system, that takes into
24 account prior reports on such matters issued by
25 the Government Accountability Office and the
26 Department;

1 “(B) cost-effective staffing and personnel
2 requirements of such a system that leverages
3 existing resources of the Department that takes
4 into account prior reports on such matters
5 issued by the Government Accountability Office
6 and the Department;

7 “(C) a consideration of training programs
8 necessary to establish such a system that takes
9 into account prior reports on such matters
10 issued by the Government Accountability Office
11 and the Department;

12 “(D) a consideration of how such a system
13 will affect arrival and departure wait times that
14 takes into account prior reports on such matter
15 issued by the Government Accountability Office
16 and the Department;

17 “(E) information received after consulta-
18 tion with private sector stakeholders, including
19 the—

20 “(i) trucking industry;

21 “(ii) airport industry;

22 “(iii) airline industry;

23 “(iv) seaport industry;

24 “(v) travel industry; and

25 “(vi) biometric technology industry;

1 “(F) a consideration of how trusted trav-
2 eler programs in existence as of the date of the
3 enactment of this section may be impacted by,
4 or incorporated into, such a system;

5 “(G) defined metrics of success and mile-
6 stones;

7 “(H) identified risks and mitigation strate-
8 gies to address such risks;

9 “(I) a consideration of how other countries
10 have implemented a biometric exit data system;
11 and

12 “(J) a list of statutory, regulatory, or ad-
13 ministrative authorities needed to integrate
14 such a system into the operations of the Trans-
15 portation Security Administration; and

16 “(2) not later than 2 years after the date of the
17 enactment of this section, shall establish a biometric
18 exit data system at—

19 “(A) the 15 United States airports that
20 support the highest volume of international air
21 travel, as determined by available Federal flight
22 data;

23 “(B) the 10 United States seaports that
24 support the highest volume of international sea

1 travel, as determined by available Federal travel
2 data; and

3 “(C) the 15 United States land ports of
4 entry that support the highest volume of vehi-
5 cle, pedestrian, and cargo crossings, as deter-
6 mined by available Federal border crossing
7 data.

8 “(b) IMPLEMENTATION.—

9 “(1) PILOT PROGRAM AT LAND PORTS OF
10 ENTRY.—Not later than 6 months after the date of
11 the enactment of this section, the Secretary, in col-
12 laboration with industry stakeholders, shall establish
13 a 6-month pilot program to test the biometric exit
14 data system referred to in subsection (a)(2) on non-
15 pedestrian outbound traffic at not fewer than 3 land
16 ports of entry with significant cross-border traffic,
17 including at not fewer than 2 land ports of entry on
18 the southern land border and at least 1 land port of
19 entry on the northern land border. Such pilot pro-
20 gram may include a consideration of more than 1 bi-
21 ometric mode, and shall be implemented to deter-
22 mine—

23 “(A) how a nationwide implementation of
24 such biometric exit data system at land ports of
25 entry shall be carried out;

1 “(B) the infrastructure required to carry
2 out subparagraph (A);

3 “(C) the effects of such pilot program on
4 legitimate travel and trade;

5 “(D) the effects of such pilot program on
6 wait times, including processing times, for such
7 nonpedestrian traffic;

8 “(E) the effects of such pilot program on
9 combating terrorism; and

10 “(F) the effects of such pilot program on
11 identifying visa holders who violate the terms of
12 their visas.

13 “(2) EXPANSION TO LAND PORTS OF ENTRY.—

14 “(A) IN GENERAL.—Not later than 5 years
15 after the date of the enactment of this section,
16 the Secretary shall expand the biometric exit
17 data system referred to in subsection (a)(2) to
18 all land ports of entry.

19 “(B) EXTENSION.—The Secretary may ex-
20 tend, for a single 2-year period, the date speci-
21 fied in subparagraph (A) if the Secretary cer-
22 tifies to the Committee on Homeland Security
23 and Governmental Affairs of the Senate, the
24 Committee on the Judiciary of the Senate, the
25 Committee on Homeland Security of the House

1 of Representatives, and the Committee on the
2 Judiciary of the House of Representatives that
3 the 15 land ports of entry that support the
4 highest volume of passenger vehicles, as deter-
5 mined by available Federal data, do not have
6 the physical infrastructure or characteristics to
7 install the systems necessary to implement a bi-
8 ometric exit data system. Such extension shall
9 only apply to nonpedestrian outbound traffic.

10 “(3) EXPANSION TO AIR AND SEA PORTS OF
11 ENTRY.—Not later than 5 years after the date of
12 the enactment of this section, the Secretary shall ex-
13 pand the biometric exit data system referred to in
14 subsection (a)(2) to all air and sea ports of entry.

15 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
16 TATION.—The Secretary, in consultation with appropriate
17 private sector stakeholders, shall ensure that the collection
18 of biometric data under this section causes the least pos-
19 sible disruption to the movement of people or cargo in air,
20 sea, or land transportation, while fulfilling the goals of im-
21 proving counterterrorism efforts and identifying visa hold-
22 ers who violate the terms of their visas.

23 “(d) TERMINATION OF PROCEEDING.—Notwith-
24 standing any other provision of law, the Secretary shall,
25 on the date of the enactment of this section, terminate

1 the proceeding entitled ‘Collection of Alien Biometric Data
2 Upon Exit From the United States at Air and Sea Ports
3 of Departure; United States Visitor and Immigrant Status
4 Indicator Technology Program (“US-VISIT”)', issued on
5 April 24, 2008 (73 Fed. Reg. 22065).

6 “(e) DATA-MATCHING.—The biometric exit data sys-
7 tem established under this section shall—

8 “(1) match biometric information for an indi-
9 vidual who is departing the United States against bi-
10 ometric data previously provided to the United
11 States Government by such individual for the pur-
12 poses of international travel;

13 “(2) leverage the infrastructure and databases
14 of the current biometric entry and exit system estab-
15 lished pursuant to section 7208 of the Intelligence
16 Reform and Terrorism Prevention Act of 2004 (8
17 U.S.C. 1365b) for the purpose described in para-
18 graph (1); and

19 “(3) be interoperable with, and allow matching
20 against, other Federal databases that—

21 “(A) store biometrics of known or sus-
22 pected terrorists; and

23 “(B) identify visa holders who violate the
24 terms of their visas.

25 “(f) SCOPE.—

1 “(1) IN GENERAL.—The biometric exit data
2 system established under this section shall include a
3 requirement for the collection of biometric exit data
4 at the time of departure for all categories of individ-
5 uals who are required by the Secretary to provide bi-
6 ometric entry data.

7 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
8 UALS.—This section shall not apply in the case of an
9 individual who exits and then enters the United
10 States on a passenger vessel (as such term is defined
11 in section 2101 of title 46, United States Code) the
12 itinerary of which originates and terminates in the
13 United States.

14 “(3) EXCEPTION FOR LAND PORTS OF
15 ENTRY.—This section shall not apply in the case of
16 a United States or Canadian citizen who exits the
17 United States through a land port of entry.

18 “(g) COLLECTION OF DATA.—The Secretary may not
19 require any entity that is not part of the Federal Govern-
20 ment to collect biometric data, or to contribute to the costs
21 of collecting or administering the biometric exit data sys-
22 tem established under this section, except through a mu-
23 tual agreement.

24 “(h) MULTI-MODAL COLLECTION.—In carrying out
25 subsections (a)(1) and (b), the Secretary shall make every

1 effort to collect biometric data using multiple modes of
2 biometrics.

3 “(i) FACILITIES.—All facilities at which the biometric
4 exit data system established under this section is imple-
5 mented shall provide and maintain space for Federal use
6 that is adequate to support biometric data collection and
7 other inspection-related activity. For non-federally owned
8 facilities, such space shall be provided and maintained at
9 no cost to the Government.

10 “(j) NORTHERN LAND BORDER.—The requirements
11 under subsections (a)(2)(C) and (b)(2)(A) may be
12 achieved on the northern land border through the sharing
13 of biometric data provided to the Department by the Ca-
14 nadian Border Services Agency pursuant to the 2011 Be-
15 yond the Border agreement.

16 “(k) FULL AND OPEN COMPETITION.—The Sec-
17 retary shall procure goods and services to implement this
18 section through full and open competition in accordance
19 with the Federal Acquisition Regulation.

20 “(l) OTHER BIOMETRIC INITIATIVES.—The Sec-
21 retary may pursue biometric initiatives at air, land, and
22 sea ports of entry for the purposes of border security and
23 trade facilitation distinct from the biometric exit data sys-
24 tem described in this section.

1 “(m) CONGRESSIONAL REVIEW.—Not later than 90
2 days after the date of the enactment of this section, the
3 Secretary shall submit reports and recommendations to
4 the Committee on Homeland Security and Governmental
5 Affairs of the Senate, the Committee on the Judiciary of
6 the Senate, the Committee on Homeland Security of the
7 House of Representatives, and the Committee on the Judi-
8 ciary of the House of Representatives regarding the
9 Science and Technology Directorate’s Air Entry and Exit
10 Re-Engineering Program of the Department and the U.S.
11 Customs and Border Protection entry and exit mobility
12 program demonstrations.

13 “(n) SAVINGS CLAUSE.—Nothing in this section may
14 be construed to prohibit the collection of user fees per-
15 mitted by section 13031 of the Consolidated Omnibus
16 Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by inserting after the item relating to section
20 415 the following:

“Sec. 416. Biometric entry-exit.”.

21 **SEC. 1209. SENSE OF CONGRESS ON COOPERATION BE-**
22 **TWEEN AGENCIES.**

23 (a) FINDING.—Congress finds that personnel con-
24 straints exist at land ports of entry with regard to sanitary
25 and phytosanitary inspections for exported goods.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that, in the best interest of cross-border trade and
3 the agricultural community—

4 (1) any lack of certified personnel for inspection
5 purposes at ports of entry should be addressed by
6 seeking cooperation between agencies and depart-
7 ments of the United States, whether in the form of
8 a memorandum of understanding or through a cer-
9 tification process, whereby additional existing agents
10 are authorized for additional hours to facilitate the
11 crossing and trade of perishable goods in a manner
12 consistent with rules of the Department of Agri-
13 culture; and

14 (2) cross designation should be available for
15 personnel who will assist more than 1 agency or de-
16 partment at land ports of entry to facilitate in-
17 creased trade and commerce.

18 **Subtitle C—Border Security**
19 **Enforcement Fund**

20 **SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.**

21 (a) PURPOSE.—There shall be established in the
22 Treasury of the United States a Border Security Enforce-
23 ment Fund (referred to in this section as the “Fund”),
24 to be administered through the Department of Homeland
25 Security and, in fiscal year 2018 only, through the De-

1 partment of State only with respect to section 1120, which
2 shall be available to carry out activities necessary to imple-
3 ment this Act and other Acts related to border security,
4 including—

5 (1) the design, planning, construction, installa-
6 tion, deployment, operation, and maintenance of tac-
7 tical infrastructure, technology, including physical
8 barriers, and necessary mobility access and per-
9 sonnel support infrastructure in the vicinity of the
10 United States border—

11 (A) to achieve situational awareness and
12 operational control of such border;

13 (B) to deter, impede, and detect illegal ac-
14 tivity; or

15 (C) to implement other border security
16 provisions under titles I and II;

17 (2) the implementation of port of entry provi-
18 sions under titles I and II;

19 (3) the purchase of new aircraft, vessels, spare
20 parts, and equipment to maintain such craft; and

21 (4) hiring and recruitment.

22 (b) FUNDING.—There are appropriated to the Fund,
23 out of any amounts in the Treasury not otherwise appro-
24 priated, \$25,000,000,000, of which—

1 (1) \$2,947,000,000 is appropriated for fiscal
2 year 2018, and shall remain available through Sep-
3 tember 30, 2022;

4 (2) \$2,225,000,000 is appropriated for fiscal
5 year 2019, and shall remain available through Sep-
6 tember 30, 2023;

7 (3) \$2,467,000,000 is appropriated for fiscal
8 year 2020, and shall remain available through Sep-
9 tember 30, 2024;

10 (4) \$2,644,000,000 is appropriated for fiscal
11 year 2021, and shall remain available through Sep-
12 tember 30, 2025;

13 (5) \$2,862,000,000 is appropriated for fiscal
14 year 2022, and shall remain available through Sep-
15 tember 30, 2026;

16 (6) \$2,370,000,000 is appropriated for fiscal
17 year 2023, and shall remain available through Sep-
18 tember 30, 2027;

19 (7) \$2,371,000,000 is appropriated for fiscal
20 year 2024, and shall remain available through Sep-
21 tember 30, 2028;

22 (8) \$2,401,000,000 is appropriated for fiscal
23 year 2025, and shall remain available through Sep-
24 tember 30, 2029;

1 (9) \$2,371,000,000 is appropriated for fiscal
2 year 2026, and shall remain available through Sep-
3 tember 30, 2030; and

4 (10) \$2,342,000,000 is appropriated for fiscal
5 year 2027, and shall remain available through Sep-
6 tember 30, 2031.

7 (c) TACTICAL INFRASTRUCTURE.—

8 (1) TRANSFERS.—The Secretary shall transfer,
9 from the Fund to the “U.S. Customs and Border
10 Protection—Procurement, Construction and Im-
11 provements” account, for the purpose described in
12 subsection (a)(1), \$18,000,000,000, of which—

13 (A) \$1,571,000,000 shall be transferred in
14 fiscal year 2018;

15 (B) \$1,600,000,000 shall be transferred in
16 fiscal year 2019;

17 (C) \$1,842,000,000 shall be transferred in
18 fiscal year 2020;

19 (D) \$2,019,000,000 shall be transferred in
20 fiscal year 2021;

21 (E) \$2,237,000,000 shall be transferred in
22 fiscal year 2022;

23 (F) \$1,745,000,000 shall be transferred in
24 fiscal year 2023;

1 (G) \$1,746,000,000 shall be transferred in
2 fiscal year 2024;

3 (H) \$1,776,000,000 shall be transferred in
4 fiscal year 2025;

5 (I) \$1,746,000,000 shall be transferred in
6 fiscal year 2026; and

7 (J) \$1,718,000,000 shall be transferred in
8 fiscal year 2027.

9 (2) AVAILABILITY OF FUNDS.—Notwith-
10 standing section 1532 of title 31, United States
11 Code, any amounts transferred pursuant to para-
12 graph (1) shall merge with the “U.S. Customs and
13 Border Protection—Procurement, Construction and
14 Improvements” account and remain available until
15 expended.

16 (d) TRANSFER TO DEPARTMENT OF STATE.—During
17 fiscal year 2018, the Secretary shall transfer
18 \$200,000,000 to the Secretary of State to implement sec-
19 tion 1120.

20 (e) TRANSFER AUTHORITY.—In addition to the
21 amounts transferred by the Secretary pursuant to sub-
22 section (c) and to the Secretary of State pursuant to sub-
23 section (d), the Committee on Appropriations of the Sen-
24 ate and the Committee on Appropriations of the House
25 of Representatives may provide, in a subsequent appro-

1 priation, for the transfer of amounts in the Fund to the
2 Department of Homeland Security to eligible activities
3 under this section.

4 (f) USE OF FUND.—If the Committee on Appropria-
5 tions of the Senate and the Committee on Appropriations
6 of the House of Representatives do not provide for the
7 full transfer of funds pursuant to subsection (e) in an ap-
8 propriation enacted in the fiscal year in which such funds
9 are made available from the Fund pursuant to subsection
10 (b), the Secretary of Homeland Security may transfer any
11 remaining amounts in the Fund to accounts within the
12 Department of Homeland Security for eligible activities
13 under this section.

14 **Subtitle D—Stop the Importation**
15 **and Trafficking of Synthetic**
16 **Analogues Act**

17 **SEC. 1401. SHORT TITLES.**

18 This subtitle may be cited as the “Stop the Importa-
19 tion and Trafficking of Synthetic Analogues Act of 2018”
20 or the “SITSA Act”.

21 **SEC. 1402. ESTABLISHMENT OF SCHEDULE A.**

22 Section 202 of the Controlled Substances Act (21
23 U.S.C. 812) is amended—

24 (1) in subsection (a), by striking “five schedules
25 of controlled substances, to be known as schedules I,

1 II, III, IV, and V” and inserting “six schedules of
2 controlled substances, to be known as schedules I,
3 II, III, IV, V, and A”;

4 (2) in subsection (b), by adding at the end the
5 following:

6 “(6) SCHEDULE A.—

7 “(A) IN GENERAL.—The drug or substance—

8 “(i) has—

9 “(I) a chemical structure that is sub-
10 stantially similar to the chemical structure
11 of a controlled substance in schedule I, II,
12 III, IV, or V; and

13 “(II) an actual or predicted stimulant,
14 depressant, or hallucinogenic effect on the
15 central nervous system that is substantially
16 similar to or greater than the stimulant,
17 depressant, or hallucinogenic effect on the
18 central nervous system of a controlled sub-
19 stance in schedule I, II, III, IV, or V; and

20 “(ii) is not—

21 “(I) listed or otherwise included in
22 any other schedule in this section or by
23 regulation of the Attorney General; and

24 “(II) with respect to a particular per-
25 son, subject to an exemption that is in ef-

1 fect for investigational use, for that person,
2 under section 505 of the Federal Food,
3 Drug, and Cosmetic Act (21 U.S.C. 355)
4 to the extent conduct with respect to such
5 substance is pursuant to such exemption.

6 “(B) PREDICTED STIMULANT, DEPRESSANT, OR
7 HALLUCINOGENIC EFFECT.—For purpose of this
8 paragraph, a predicted stimulant, depressant, or hal-
9 lucinogenic effect on the central nervous system may
10 be based on—

11 “(i) the chemical structure, structure activ-
12 ity relationships, binding receptor assays, or
13 other relevant scientific information about the
14 substance;

15 “(ii)(I) the current or relative potential for
16 abuse of the substance; and

17 “(II) the clandestine importation, manu-
18 facture, or distribution, or diversion from legiti-
19 mate channels, of the substance; or

20 “(iii) the capacity of the substance to
21 cause a state of dependence, including physical
22 or psychological dependence that is similar to or
23 greater than that of a controlled substance in
24 schedule I, II, III, IV, or V.”; and

25 (3) in subsection (c)—

1 (A) in the matter preceding schedule I, by
2 striking “IV, and V” and inserting “IV, V, and
3 A”; and

4 (B) by adding at the end the following:

5 “SCHEDULE A

6 “(a) Unless specifically excepted or unless listed in
7 another schedule, any of the following substances, as
8 scheduled in accordance with section 201(k)(5):

9 “(1) 4-fluoroisobutyryl fentanyl.

10 “(2) Valeryl fentanyl.

11 “(3) 4-methoxybutyryl fentanyl.

12 “(4) 4-methylphenethyl acetyl fentanyl.

13 “(5) 3-furanyl fentanyl.

14 “(6) Ortho-fluorofentanyl.

15 “(7) Tetrahydrofuranyl fentanyl.

16 “(8) Ocfentanil.

17 “(9) 4-fluorobutyryl fentanyl.

18 “(10) Methoxyacetyl fentanyl.

19 “(11) Meta-fluorofentanyl.

20 “(12) Isobutyryl fentanyl.

21 “(13) Acryl fentanyl.”.

22 **SEC. 1403. TEMPORARY AND PERMANENT SCHEDULING OF**
23 **SCHEDULE A SUBSTANCES.**

24 Section 201 of the Controlled Substances Act (21
25 U.S.C. 811) is amended by adding at the end the fol-
26 lowing:

1 “(k) TEMPORARY AND PERMANENT SCHEDULING OF
2 SCHEDULE A SUBSTANCES.—

3 “(1) The Attorney General may issue a tem-
4 porary order adding a drug or substance to schedule
5 A if the Attorney General finds that—

6 “(A) the drug or other substance satisfies
7 the criteria for being considered a schedule A
8 substance; and

9 “(B) adding such drug or substance to
10 schedule A will assist in preventing abuse or
11 misuse of the drug or other substance.

12 “(2)(A) A temporary scheduling order issued
13 under paragraph (1) shall not take effect until 30
14 days after the date on which the Attorney General
15 publishes a notice in the Federal Register of the in-
16 tention to issue such order and the grounds upon
17 which such order is to be issued.

18 “(B) The Attorney General may amend, with-
19 draw, or rescind a temporary scheduling order at
20 any time by publication of a notice in the Federal
21 Register.

22 “(C) Subject to paragraph (B), the temporary
23 scheduling order shall expire not later than 5 years
24 after the date on which it becomes effective, except
25 that the Attorney General may, during the pendency

1 of proceedings under paragraph (5), extend the tem-
2 porary scheduling order for up to 180 days.

3 “(3) A temporary scheduling order issued under
4 paragraph (1) shall be vacated upon the issuance of
5 a permanent order issued under paragraph (5) with
6 regard to the same substance, or upon the subse-
7 quent issuance of any scheduling order under this
8 section.

9 “(4) A temporary scheduling order issued under
10 paragraph (1) shall not be subject to judicial review.

11 “(5) The Attorney General may, by rule, issue
12 a permanent order adding a drug or other substance
13 to schedule A if such drug or substance satisfies the
14 criteria for being considered a schedule A substance.
15 Such rulemaking may be commenced simultaneously
16 with the issuance of the temporary scheduling order
17 issued under paragraph (1) with regard to the same
18 substance.

19 “(6) Before initiating proceedings under para-
20 graph (1) or (5), the Attorney General shall trans-
21 mit notice of an order proposed to be issued to the
22 Secretary of Health and Human Services. In issuing
23 an order under paragraph (1) or (5), the Attorney
24 General shall take into consideration any comments
25 submitted by the Secretary of Health and Human

1 Services in response to a notice transmitted pursu-
2 ant to this paragraph.”.

3 **SEC. 1404. PENALTIES.**

4 (a) CONTROLLED SUBSTANCES ACT.—The Con-
5 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
6 ed—

7 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)),
8 by adding at the end the following:

9 “(F)(i) In the case of any controlled sub-
10 stance in schedule A, such person shall be sen-
11 tenced to a term of imprisonment of not more
12 than 10 years and if death or serious bodily in-
13 jury results from the use of such substance
14 shall be sentenced to a term of imprisonment of
15 not more than 15 years, a fine not to exceed
16 the greater of that authorized in accordance
17 with the provisions of title 18, United States
18 Code, or \$500,000 if the defendant is an indi-
19 vidual or \$2,500,000 if the defendant is other
20 than an individual, or both.

21 “(ii) If any person commits such a viola-
22 tion after a prior conviction for a felony drug
23 offense has become final, such person shall be
24 sentenced to a term of imprisonment of not
25 more than 20 years and if death or serious bod-

1 ily injury results from the use of such substance
2 shall be sentenced to a term of imprisonment of
3 not more than 30 years, a fine not to exceed
4 the greater of twice that authorized in accord-
5 ance with the provisions of title 18, United
6 States Code, or \$1,000,000 if the defendant is
7 an individual or \$5,000,000 if the defendant is
8 other than an individual, or both.

9 “(iii) Any sentence imposing a term of im-
10 prisonment under this subparagraph shall, in
11 the absence of such a prior conviction, impose
12 a term of supervised release of not less than 2
13 years in addition to such term of imprisonment
14 and shall, if there was such a prior conviction,
15 impose a term of supervised release of not less
16 than 4 years in addition to such term of impris-
17 onment.”;

18 (2) in section 403(a) (21 U.S.C. 843(a))—

19 (A) in paragraph (8), by striking “or” at
20 the end;

21 (B) in paragraph (9), by striking the pe-
22 riod at the end and inserting “; or”; and

23 (C) by inserting after paragraph (9) the
24 following:

1 “(10) to export a substance in violation of the
2 controlled substance laws of the country to which
3 the substance is exported.”; and

4 (3) in section 404 (21 U.S.C. 844), by inserting
5 after subsection (a) the following:

6 “(b) A person shall not be subject to a criminal or
7 civil penalty under this title or under any other Federal
8 law solely for possession of a schedule A controlled sub-
9 stance.”.

10 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
11 ACT.—Section 1010(b) of the Controlled Substances Im-
12 port and Export Act (21 U.S.C. 960(b)) is amended by
13 adding at the end the following:

14 “(8) In the case of a violation under subsection
15 (a) involving a controlled substance in schedule A,
16 the person committing such violation shall be sen-
17 tenced to a term of imprisonment of not more than
18 20 years and if death or serious bodily injury results
19 from the use of such substance shall be sentenced to
20 a term of imprisonment for any term of years or for
21 life, a fine not to exceed the greater of that author-
22 ized in accordance with the provisions of title 18,
23 United States Code, or \$1,000,000 if the defendant
24 is an individual or \$5,000,000 if the defendant is
25 other than an individual, or both. If any person com-

1 mits such a violation after a prior conviction for a
2 felony drug offense has become final, such person
3 shall be sentenced to a term of imprisonment of not
4 more than 30 years and if death or serious bodily
5 injury results from the use of such substance shall
6 be sentenced to a term of imprisonment for any
7 term of years or for life, a fine not to exceed the
8 greater of twice that authorized in accordance with
9 the provisions of title 18, United States Code, or
10 \$2,000,000 if the defendant is an individual or
11 \$10,000,000 if the defendant is other than an indi-
12 vidual, or both. Notwithstanding section 3583 of
13 title 18, United States Code, any sentence imposing
14 a term of imprisonment under this paragraph shall,
15 in the absence of such a prior conviction, impose a
16 term of supervised release of not less than 3 years
17 in addition to such term of imprisonment and shall,
18 if there was such a prior conviction, impose a term
19 of supervised release of not less than 6 years in ad-
20 dition to such term of imprisonment. Notwith-
21 standing the prior sentence, and notwithstanding
22 any other provision of law, the court shall not place
23 on probation or suspend the sentence of any person
24 sentenced under the provisions of this paragraph

1 which provide for a mandatory term of imprison-
2 ment if death or serious bodily injury results.”.

3 **SEC. 1405. FALSE LABELING OF SCHEDULE A CONTROLLED**
4 **SUBSTANCES.**

5 (a) IN GENERAL.—Section 305 of the Controlled
6 Substances Act (21 U.S.C. 825) is amended by adding at
7 the end the following:

8 “(f) FALSE LABELING OF SCHEDULE A CON-
9 TROLLED SUBSTANCES.—

10 “(1) It shall be unlawful to import, export,
11 manufacture, distribute, dispense, or possess with
12 intent to manufacture, distribute, or dispense, a
13 schedule A substance or product containing a sched-
14 ule A substance, unless the substance or product
15 bears a label clearly identifying a schedule A sub-
16 stance or product containing a schedule A substance
17 by the nomenclature used by the International
18 Union of Pure and Applied Chemistry.

19 “(2)(A) A product described in subparagraph
20 (B) is exempt from the International Union of Pure
21 and Applied Chemistry nomenclature requirement of
22 this subsection if such product is labeled in the man-
23 ner required under the Federal Food, Drug, and
24 Cosmetic Act.

1 “(B) A product is described in this subpara-
2 graph if the product—

3 “(i) is the subject of an approved applica-
4 tion as described in section 505(b) or (j) of the
5 Federal Food, Drug, and Cosmetic Act; or

6 “(ii) is exempt from the provisions of sec-
7 tion 505 of such Act relating to new drugs be-
8 cause—

9 “(I) it is intended solely for investiga-
10 tional use as described in section 505(i) of
11 such Act; and

12 “(II) such product is being used ex-
13 clusively for purposes of a clinical trial
14 that is the subject of an effective investiga-
15 tional new drug application.”.

16 (b) PENALTIES.—Section 402 of the Controlled Sub-
17 stances Act (21 U.S.C. 842) is amended—

18 (1) in subsection (a)(16), by inserting “or sub-
19 section (f)” after “subsection (e)”; and

20 (2) in subsection (c)(1)(D), by inserting “or a
21 schedule A substance” after “anabolic steroid”.

1 **SEC. 1406. REGISTRATION REQUIREMENTS FOR HANDLERS**
2 **OF SCHEDULE A SUBSTANCES.**

3 (a) CONTROLLED SUBSTANCES ACT.—Section 303 of
4 the Controlled Substances Act (21 U.S.C. 823) is amend-
5 ed—

6 (1) in subsection (f), in the undesignated mat-
7 ter following paragraph (5)—

8 (A) by inserting “or A” after “schedule I”
9 each place it appears; and

10 (B) by adding at the end the following: “A
11 separate registration for engaging in research
12 with a controlled substance in schedule A for
13 practitioners already registered under this part
14 to engage in research with controlled substances
15 in schedule I shall not be required. The Sec-
16 retary shall determine the merits of the re-
17 search protocol submitted by the practitioner
18 registering to engage in research with a con-
19 trolled substance in schedule A, and the Attor-
20 ney General may deny or revoke the registra-
21 tion only on a ground specified in section 304.”;
22 and

23 (2) by adding at the end the following:

24 “(k)(1) The Attorney General shall register an appli-
25 cant to manufacture schedule A substances if—

1 “(A) the applicant demonstrates that the sched-
2 ule A substances will be used for research, analyt-
3 ical, or industrial purposes approved by the Attorney
4 General; and

5 “(B) the Attorney General determines that such
6 registration is consistent with the public interest and
7 with the United States obligations under inter-
8 national treaties, conventions, or protocols in effect
9 on the date of enactment of this subsection.

10 “(2) In determining the public interest under para-
11 graph (1)(B), the Attorney General shall consider—

12 “(A) maintenance of effective controls against
13 diversion of particular controlled substances and any
14 controlled substance in schedule A compounded
15 therefrom into other than legitimate medical, sci-
16 entific, research, or industrial channels, by limiting
17 the importation and bulk manufacture of such con-
18 trolled substances to a number of establishments
19 which can produce an adequate and uninterrupted
20 supply of these substances under adequately com-
21 petitive conditions for legitimate medical, scientific,
22 research, and industrial purposes;

23 “(B) compliance with applicable State and local
24 law;

1 “(C) promotion of technical advances in the art
2 of manufacturing substances described in subpara-
3 graph (A) and the development of new substances;

4 “(D) prior conviction record of applicant under
5 Federal and State laws relating to the manufacture,
6 distribution, or dispensing of substances described in
7 paragraph (A);

8 “(E) past experience in the manufacture of con-
9 trolled substances, and the existence in the establish-
10 ment of effective control against diversion; and

11 “(F) such other factors as may be relevant to
12 and consistent with the public health and safety.

13 “(3) If an applicant is registered to manufacture con-
14 trolled substances in schedule I or II under subsection (a),
15 the applicant shall not be required to apply for a separate
16 registration under this subsection.

17 “(l)(1) The Attorney General shall register an appli-
18 cant to distribute schedule A substances—

19 “(A) if the applicant demonstrates that the
20 schedule A substances will be used for research, ana-
21 lytical, or industrial purposes approved by the Attor-
22 ney General; and

23 “(B) unless the Attorney General determines
24 that the issuance of such registration is inconsistent
25 with the public interest.

1 “(2) In determining the public interest under para-
2 graph (1)(B), the Attorney General shall consider—

3 “(A) maintenance of effective control against
4 diversion of particular controlled substances into
5 other than legitimate medical, scientific, and indus-
6 trial channels;

7 “(B) compliance with applicable State and local
8 law;

9 “(C) prior conviction record of applicant under
10 Federal or State laws relating to the manufacture,
11 distribution, or dispensing of substances described in
12 subparagraph (A);

13 “(D) past experience in the distribution of con-
14 trolled substances; and

15 “(E) such other factors as may be relevant to
16 and consistent with the public health and safety.

17 “(3) If an applicant is registered to distribute a con-
18 trolled substance in schedule I or II under subsection (b),
19 the applicant shall not be required to apply for a separate
20 registration under this subsection.

21 “(m)(1) Not later than 90 days after the date on
22 which a substance is placed in schedule A, any practitioner
23 who was engaged in research on the substance before the
24 placement of the substance in schedule A and any manu-
25 facturer or distributor who was handling the substance be-

1 fore the placement of the substance in schedule A shall
2 register with the Attorney General.

3 “(2)(A) Not later than 60 days after the date on
4 which the Attorney General receives an application for
5 registration to conduct research on a schedule A sub-
6 stance, the Attorney General shall—

7 “(i) grant, or initiate proceedings under section
8 304(c) to deny, the application; or

9 “(ii) request supplemental information from the
10 applicant.

11 “(B) Not later than 30 days after the date on which
12 the Attorney General receives supplemental information
13 requested under subparagraph (A)(ii) in connection with
14 an application described in subparagraph (A), the Attor-
15 ney General shall grant or deny the application.”.

16 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
17 ACT.—Section 1008 of the Controlled Substances Import
18 and Export Act (21 U.S.C. 958) is amended by adding
19 at the end the following:

20 “(j)(1) The Attorney General shall register an appli-
21 cant to import or export a schedule A substance if—

22 “(A) the applicant demonstrates that the sched-
23 ule A substances will be used for research, analyt-
24 ical, or industrial purposes approved by the Attorney
25 General; and

1 “(B) the Attorney General determines that such
2 registration is consistent with the public interest and
3 with the United States obligations under inter-
4 national treaties, conventions, or protocols in effect
5 on the date of enactment of this subsection.

6 “(2) In determining the public interest under para-
7 graph (1)(B), the Attorney General shall consider the fac-
8 tors described in subparagraphs (A) through (F) of sec-
9 tion 303(k)(2).

10 “(3) If an applicant is registered to import or export
11 a controlled substance in schedule I or II under subsection
12 (a), the applicant shall not be required to apply for a sepa-
13 rate registration under this subsection.”.

14 **SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.**

15 (a) CONTROLLED SUBSTANCES ACT.—The Con-
16 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
17 ed—

18 (1) in section 303(e) (21 U.S.C. 823(e))—

19 (A) by striking “subsections (a) and (b)”
20 and inserting “subsection (a), (b), (k), or (l)”;
21 and

22 (B) by striking “schedule I or II” and in-
23 serting “schedule I, II, or A”;

24 (2) in section 306 (21 U.S.C. 826)—

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1 (A) in subsection (a), in the first sentence,
2 by striking “schedules I and II” and inserting
3 “schedules I, II, and A”;

4 (B) in subsection (b), in the second sen-
5 tence, by striking “schedule I or II” and insert-
6 ing “schedule I, II, or A”;

7 (C) in subsection (c), in the first sentence,
8 by striking “schedules I and II” and inserting
9 “schedules I, II, and A”;

10 (D) in subsection (d), in the first sentence,
11 by striking “schedule I or II” and inserting
12 “schedule I, II, or A”;

13 (E) in subsection (e), in the first sentence,
14 by striking “schedule I or II” and inserting
15 “schedule I, II, or A”; and

16 (F) in subsection (f), in the first sentence,
17 by striking “schedules I and II” and inserting
18 “schedules I, II, and A”;

19 (3) in section 308(a) (21 U.S.C. 828(a)), by
20 striking “schedule I or II” and inserting “schedule
21 I, II, or A”;

22 (4) in section 402(b) (21 U.S.C. 842(b)), in the
23 matter preceding paragraph (1), by striking “sched-
24 ule I or II” and inserting “schedule I, II, or A”;

1 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)),
2 by striking “schedule I or II” and inserting “sched-
3 ule I, II, or A”; and

4 (6) in section 511(f) (21 U.S.C. 881(f)), by
5 striking “schedule I or II” each place it appears and
6 inserting “schedule I, II, or A”.

7 (b) CONTROLLED SUBSTANCES IMPORT EXPORT
8 ACT.—The Controlled Substances Import and Export Act
9 (21 U.S.C. 951 et seq.) is amended—

10 (1) in section 1002(a) (21 U.S.C. 952(a))—

11 (A) in the matter preceding paragraph (1),
12 by striking “schedule I or II” and inserting
13 “schedule I, II, or A”; and

14 (B) in paragraph (2), by striking “sched-
15 ule I or II” and inserting “schedule I, II, or
16 A”;

17 (2) in section 1003 (21 U.S.C. 953)—

18 (A) in subsection (c), in the matter pre-
19 ceding paragraph (1), by striking “schedule I or
20 II” and inserting “schedule I, II, or A”; and

21 (B) in subsection (d), by striking “schedule
22 I or II” and inserting “schedule I, II, or A”;

23 (3) in section 1004(1) (21 U.S.C. 954(1)), by
24 striking “schedule I” and inserting “schedule I or
25 A”;

1 (4) in section 1005 (21 U.S.C. 955), by striking
2 “schedule I or II” and inserting “schedule I, II, or
3 A”; and

4 (5) in section 1009(a) (21 U.S.C. 959(a)), by
5 striking “schedule I or II” and inserting “schedule
6 I, II, or A”.

7 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF CON-**
8 **TROLLED SUBSTANCE ANALOGUE UNDER**
9 **THE ANALOGUE ENFORCEMENT ACT.**

10 Section 102 of the Controlled Substances Act (21
11 U.S.C. 802) is amended—

12 (1) in paragraph (6), by striking “or V” and in-
13 serting “V, or A”;

14 (2) in paragraph (14)—

15 (A) by striking “schedule I(c) and” and in-
16 serting “schedule I(c), schedule A, and”; and

17 (B) by striking “schedule I(c),” and insert-
18 ing “schedule I(c) and schedule A,”; and

19 (3) in paragraph (32)(A), by striking “(32)(A)”
20 and all that follows through clause (iii) and inserting
21 the following:

22 “(32)(A) Except as provided in subparagraph
23 (C), the term ‘controlled substance analogue’ means
24 a substance whose chemical structure is substan-

1 tially similar to the chemical structure of a con-
2 trolled substance in schedule I or II—

3 “(i) which has a stimulant, depressant, or
4 hallucinogenic effect on the central nervous sys-
5 tem that is substantially similar to or greater
6 than the stimulant, depressant, or hallucino-
7 genic effect on the central nervous system of a
8 controlled substance in schedule I or II; or

9 “(ii) with respect to a particular person,
10 which such person represents or intends to have
11 a stimulant, depressant, or hallucinogenic effect
12 on the central nervous system that is substan-
13 tially similar to or greater than the stimulant,
14 depressant, or hallucinogenic effect on the cen-
15 tral nervous system of a controlled substance in
16 schedule I or II.”.

17 **SEC. 1409. RULES OF CONSTRUCTION.**

18 Nothing in this subtitle, or the amendments made by
19 this subtitle, may be construed to limit—

20 (1) the prosecution of offenses involving con-
21 trolled substance analogues under the Controlled
22 Substances Act (21 U.S.C. 801 et seq.); or

23 (2) the authority of the Attorney General to
24 temporarily or permanently schedule, reschedule, or
25 decontrol controlled substances under provisions of

1 section 201 of the Controlled Substances Act (21
2 U.S.C. 811) that are in effect on the day before the
3 date of enactment of this Act.

4 **Subtitle E—Domestic Security**

5 **CHAPTER 1—GENERAL MATTERS**

6 **SEC. 1501. KEEP OUR COMMUNITIES SAFE ACT.**

7 (a) IN GENERAL.—Section 236 of the Immigration
8 and Nationality Act (8 U.S.C. 1226) is amended by strik-
9 ing the section designation and heading and all that fol-
10 lows through the period at the end of subsection (c) and
11 inserting the following:

12 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

13 “(a) ARREST, DETENTION, AND RELEASE.—

14 “(1) IN GENERAL.—The Secretary, on a war-
15 rant issued by the Secretary, may arrest an alien
16 and detain the alien pending a decision on whether
17 the alien is to be removed from the United States
18 until the date on which the alien has an administra-
19 tively final order of removal. Except as provided in
20 subsection (c) and pending such decision, the Sec-
21 retary—

22 “(A) may—

23 “(i) continue to detain the arrested
24 alien if the Secretary or the Attorney Gen-

1 eral determines that continued detention is
2 warranted;

3 “(ii) release the alien on bond of at
4 least \$5,000, with security approved by,
5 and containing conditions prescribed by,
6 the Secretary or the Attorney General; or

7 “(iii) release the alien on his or her
8 own recognizance, subject to appropriate
9 conditions set forth by the Secretary or the
10 Attorney General, if the Secretary or the
11 Attorney General determines that the alien
12 will not pose a danger to the safety of
13 other persons or of property and is likely
14 to appear for any scheduled proceeding;
15 and

16 “(B) may not provide the alien with work
17 authorization (including an ‘employment au-
18 thorized’ endorsement or other appropriate
19 work permit) or advance parole to travel outside
20 of the United States, unless the alien is lawfully
21 admitted for permanent residence or otherwise
22 would (without regard to removal proceedings)
23 be provided such authorization.

24 “(b) REVOCATION OF BOND OR PAROLE.—The Sec-
25 retary, at any time, may revoke bond or parole authorized

1 under subsection (a), rearrest the alien under the original
2 warrant, and detain the alien.

3 “(c) MANDATORY DETENTION OF CRIMINAL
4 ALIENS.—

5 “(1) CRIMINAL ALIENS.—The Secretary shall
6 take into custody and continue to detain any alien
7 at any time if the alien—

8 “(A)(i) has not been admitted or paroled
9 into the United States; and

10 “(ii) was apprehended anywhere within
11 100 miles of the international border of the
12 United States;

13 “(B) is inadmissible by reason of having
14 committed any offense covered in section
15 212(a)(2);

16 “(C) is deportable by reason of having
17 committed any offense covered in section
18 237(a)(2);

19 “(D) is convicted for an offense under sec-
20 tion 275(a);

21 “(E) is convicted for an offense under sec-
22 tion 276;

23 “(F) is convicted for any felony; or

24 “(G) is inadmissible under subparagraph
25 (A) or (B) of section 212(a)(3) or deportable

1 under subparagraph (A) or (B) of section
2 237(a)(4).

3 “(2) RELEASE.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Secretary may release an
6 alien described in paragraph (1) only if the Sec-
7 retary decides pursuant to section 3521 of title
8 18, United States Code, and in accordance with
9 a procedure that considers the severity of the
10 offense committed by the alien, that—

11 “(i) release of the alien from custody
12 is necessary to provide protection to—

13 “(I) a witness;

14 “(II) a potential witness;

15 “(III) a person cooperating with
16 an investigation into major criminal
17 activity; or

18 “(IV) an immediate family mem-
19 ber or close associate of a witness, po-
20 tential witness, or person cooperating
21 with such an investigation; and

22 “(ii) the alien demonstrates to the
23 satisfaction of the Secretary that the
24 alien—

25 “(I) is not a flight risk;

204

1 “(II) poses no danger to the safe-
2 ty of other persons or of property;

3 “(III) is not a threat to national
4 security or public safety; and

5 “(IV) is likely to appear at any
6 scheduled proceeding.

7 “(B) ARRESTED, BUT NOT CONVICTED,
8 ALIENS.—

9 “(i) RELEASE FOR PROCEEDINGS.—
10 The Secretary may release any alien held
11 pursuant to paragraph (1) to the appro-
12 priate authority for any proceedings subse-
13 quent to the arrest.

14 “(ii) RESUMPTION OF CUSTODY.—If
15 an alien is released pursuant to clause (i),
16 the Secretary shall—

17 “(I) resume custody of the alien
18 during any period pending the final
19 disposition of any proceedings subse-
20 quent to arrest for which the alien is
21 not in the custody of the appropriate
22 authority referred to in clause (i); and

23 “(II) if the alien is not convicted
24 of the offense for which the alien was
25 arrested, the Secretary shall continue

1 to detain the alien until the date on
2 which removal proceedings are com-
3 pleted.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in the first section of the Immigration and Nationality Act
6 is amended by striking the item relating to section 236
7 and inserting the following:

“Sec. 236. Apprehension and detention of aliens.”.

8 **SEC. 1502. DETERRING VISA OVERSTAYS.**

9 (a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
10 the Immigration and Nationality Act (8 U.S.C. 1184) is
11 amended by striking the section designation and heading
12 and all that follows through the end of subsection (a)(1)
13 and inserting the following:

14 **“SEC. 214. ADMISSION OF NONIMMIGRANTS.**

15 “(a) IN GENERAL.—

16 “(1) TERMS AND CONDITIONS OF ADMISSION.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graphs (B) and (C), the admission to the
19 United States of any alien as a nonimmigrant
20 may be for such time and under such conditions
21 as the Secretary may prescribe, in his or her
22 sole and unreviewable discretion, including
23 when the Secretary deems necessary the giving
24 of a bond with sufficient surety in such sum
25 and containing such conditions as the Secretary

1 shall prescribe, to ensure that at the expiration
2 of such time or upon failure to maintain the
3 status under which the alien was admitted, or
4 to maintain any status subsequently acquired
5 under section 248, such alien will depart from
6 the United States.

7 “(B) GUAM OR CNMI VISA WAIVER NON-
8 IMMIGRANTS.—No alien admitted to Guam or
9 the Commonwealth of the Northern Mariana Is-
10 lands without a visa pursuant to section 212(l)
11 may be authorized to enter or stay in the
12 United States, other than in Guam or the Com-
13 monwealth of the Northern Mariana Islands, or
14 to remain in Guam or the Commonwealth of
15 the Northern Mariana Islands for a period ex-
16 ceeding 45 days after the date on which the
17 alien was admitted to Guam or the Common-
18 wealth of the Northern Mariana Islands.

19 “(C) VISA WAIVER PROGRAM NON-
20 IMMIGRANTS.—An alien admitted to the United
21 States without a visa pursuant to section 217
22 shall not be authorized to remain in the United
23 States as a nonimmigrant visitor for a period
24 exceeding 90 days from the date on which the
25 alien was admitted.

1 “(D) BAR TO IMMIGRATION BENEFITS AND
2 TO CONTESTING REMOVAL.—

3 “(i) DEFINITION OF GOOD CAUSE.—

4 In this subparagraph, the term ‘good
5 cause’ means extreme exigent humani-
6 tarian circumstances, determined on a
7 case-by-case basis only, such as a medical
8 emergency or force majeure.

9 “(ii) CONSEQUENCE OF OVERSTAY.—

10 Subject to clause (iii), except for an alien
11 admitted as a nonimmigrant under of sub-
12 paragraph (A)(i), (A)(ii), (G)(i), (G)(ii), or
13 (G)(iii) of section 101(a)(15) or as a
14 NATO–1, 2, 3, 4, 5, or 6 nonimmigrant,
15 any alien who remains in the United
16 States for a period of more than 30 days
17 after the date on which the period of stay
18 or parole authorized by the Secretary for
19 the alien ends, without good cause, is inad-
20 missible and ineligible for all immigration
21 benefits or relief available under the immi-
22 gration laws, including relief under sec-
23 tions 240A(b)(1), 240B(b), 245, 248, and
24 249, other than—

25 “(I) asylum;

1 “(II) relief as a victim of traf-
2 ficking under section 101(a)(15)(T);

3 “(III) relief as a victim of crimi-
4 nal activity under section
5 101(a)(15)(U);

6 “(IV) relief under the Violence
7 Against Women Act of 1994 (42
8 U.S.C. 13701 et seq.) as a spouse or
9 child who has been battered or sub-
10 jected to extreme cruelty;

11 “(V) relief as a battered spouse
12 or child under section 240A(b)(2);

13 “(VI) withholding of removal
14 under section 241(b)(3); or

15 “(VII) protection from removal
16 based on a claim under the Conven-
17 tion Against Torture and Other Cruel,
18 Inhuman or Degrading Treatment or
19 Punishment, done at New York, De-
20 cember 10, 1984.

21 “(iii) EXCEPTION.—The Secretary
22 may, in the Secretary’s sole and
23 unreviewable discretion, determine that a
24 nonimmigrant is not subject to clause (ii)
25 if—

1 “(I) the alien was lawfully in-
2 spected and admitted to the United
3 States as a nonimmigrant;

4 “(II) the alien filed a nonfrivo-
5 lous application for change of status
6 to another nonimmigrant category or
7 for an extension of stay before the
8 date on which the alien’s authorized
9 period of stay as a nonimmigrant ex-
10 pired;

11 “(III) the alien has not been em-
12 ployed without authorization in the
13 United States, before or during pend-
14 ency of the application referred to in
15 subclause (II);

16 “(IV) the alien has not otherwise
17 violated the terms of the alien’s non-
18 immigrant status; and

19 “(V) the Secretary, in the Sec-
20 retary’s sole and unreviewable discre-
21 tion, determines that the alien is not
22 a threat to national security or public
23 safety.

24 “(iv) DETENTION AND EXPEDITED
25 REMOVAL.—An alien described in clause

1 (ii) who remains in the United States more
2 than 30 days after the date on which the
3 period of stay authorized by the Secretary
4 ends, without good cause, shall be detained
5 and the Secretary shall expeditiously re-
6 move the alien from the United States not
7 later than 90 days after the date on which
8 the alien is detained.

9 “(v) LIMITATION ON JUDICIAL RE-
10 VIEW.—Notwithstanding any other provi-
11 sion of law (statutory or nonstatutory), in-
12 cluding section 2241 of title 28, United
13 States Code, any other habeas corpus pro-
14 vision, or sections 1361 and 1651 of such
15 title, no court shall have jurisdiction to re-
16 view any cause or claim, arising from, or
17 relating to, the detention and expedited re-
18 moval of an alien pursuant to clause (iv).”.

19 (b) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—
20 Section 217(b) of the Immigration and Nationality Act (8
21 U.S.C. 1187(b)) is amended to read as follows:

22 “(b) WAIVER OF RIGHTS.—An alien may not be pro-
23 vided a waiver under the program unless the alien has—

1 “(1) signed, under penalty of perjury, an ac-
2 knowledge confirming that the alien was noti-
3 fied and understands that he or she will be—

4 “(A) ineligible for any form of relief or im-
5 migration benefit under the Act or any other
6 immigration laws, including sections
7 240A(b)(1), 240B(b), 245, 248, and 249 (other
8 than a request for asylum), relief as a victim of
9 trafficking under section 101(a)(15)(T), relief
10 as a victim of criminal activity under
11 101(A)(15)(U), relief under the Violence
12 Against Women Act of 1994 (42 U.S.C. 13701
13 et seq.) as a spouse or child who has been bat-
14 tered or subjected to extreme cruelty, relief as
15 a battered spouse or child under section
16 240A(b)(2), withholding of removal under sec-
17 tion 241(b)(3), or protection from removal
18 based on a claim under the Convention Against
19 Torture and Other Cruel, Inhuman or Degrad-
20 ing Treatment or Punishment, done at New
21 York, December 10, 1984; and

22 “(B) subject to detention and expedited re-
23 moval from the United States, if the alien fails
24 to depart from the United States at the end of
25 the 90-day period for admission;

1 “(2) waived any right to review or appeal under
2 this Act of an immigration officer’s determination as
3 to the admissibility of the alien at the port of entry
4 into the United States; and

5 “(3) waived any right to contest any action for
6 removal of the alien.”.

7 (c) DETENTION AND REPATRIATION OF VISA WAIV-
8 ER VIOLATORS.—Section 217(c)(2)(E) of the Immigration
9 and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended
10 to read as follows:

11 “(E) DETENTION AND REPATRIATION OF
12 ALIENS.—Any alien who fails to depart from
13 the United States at the end of the 90-day pe-
14 riod for admission shall be detained pending re-
15 moval.”.

16 (d) ISSUANCE OF NONIMMIGRANT VISAS.—Section
17 221(a) of the Immigration and Nationality Act (8 U.S.C.
18 1201(a)) is amended by adding at the end the following:

19 “(3) The Secretary of State shall ensure that every
20 application for a nonimmigrant visa includes an acknowl-
21 edgment, executed by the alien under penalty of perjury,
22 confirming that the alien—

23 “(A) has been notified of the terms and condi-
24 tions of the nonimmigrant visa, including the waiver
25 of rights under subsection (j); and

1 “(B) understands that he or she will be ineli-
2 gible for all immigration benefits and any form of
3 relief or protection from removal, including relief
4 under sections 240A(b)(1), 240B(b), 245, 248, and
5 249, other than a request for asylum, relief as a vic-
6 tim of trafficking under section 101(a)(15)(T), relief
7 as a victim of criminal activity under
8 101(A)(15)(U), relief under the Violence Against
9 Women Act of 1994 (42 U.S.C. 13701 et seq.) as
10 a spouse or child who has been battered or subjected
11 to extreme cruelty, relief as a battered spouse or
12 child under section 240A(b)(2), withholding of re-
13 moval under section 241(b)(3), or protection from
14 removal based on a claim under the Convention
15 Against Torture and Other Cruel, Inhuman or De-
16 grading Treatment or Punishment, done at New
17 York, December 10, 1984, and from contesting re-
18 moval if the alien violates any term or condition of
19 his or her nonimmigrant visa or fails to depart the
20 United States not later than 30 days after the end
21 of the alien’s authorized period of stay.”.

22 (e) REQUIREMENT THAT ALL NONIMMIGRANTS
23 HAVE A SPECIFIED AUTHORIZED PERIOD OF STAY END
24 DATE.—Section 235(a) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1225(a)) is amended by adding at the
2 end the following:

3 “(6) PERIOD OF STAY.—Any alien who an ex-
4 amining immigration officer has determined to be
5 admissible as a nonimmigrant, except for aliens who
6 are admissible under subparagraph (A)(i), (A)(ii),
7 (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or
8 who such officer has determined to be eligible for
9 parole—

10 “(A) shall be admitted or paroled, as ap-
11 propriate, into the United States for a specific
12 period; and

13 “(B) shall be issued documentation stating
14 the end date of the alien’s period of stay in the
15 United States.”.

16 (f) BARS TO IMMIGRATION RELIEF.—Section 221 of
17 the Immigration and Nationality Act is amended by add-
18 ing at the end the following:

19 “(j) WAIVER OF RIGHTS.—The Secretary of State
20 may not issue a nonimmigrant visa under section 214 to
21 an alien (other than an alien who qualifies for a visa under
22 subparagraph (A) or (G) of section 101(a)(15), who is eli-
23 gible for relief under the Violence Against Women Act of
24 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who
25 has been battered or subjected to extreme cruelty, or

1 qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 non-
2 immigrant) until the alien has waived any right to relief
3 under sections 240A(b)(1), 240B(b), 245, 248, and 249
4 (other than relief from removal under section 241(b)(3)
5 or protection from removal based on a claim under the
6 Convention Against Torture and Other Cruel, Inhuman or
7 Degrading Treatment or Punishment, done at New York,
8 December 10, 1984), any form of relief established after
9 the date on which the nonimmigrant visa is issued, and
10 from contesting removal if the alien—

11 “(1) violates a term or condition of his or her
12 nonimmigrant status; or

13 “(2) fails to depart the United States not later
14 than the date that is 30 days after last day of the
15 alien’s authorized period of stay (as described in sec-
16 tion 214(a)(1)).”.

17 (g) EFFECTIVE DATE; APPLICABILITY.—

18 (1) IN GENERAL.—This section and the amend-
19 ments made by this section shall—

20 (A) take effect on the date of enactment of
21 this Act; and

22 (B) apply only to new visas, initial admis-
23 sions of nonimmigrants, and initial requests for
24 change of status from a nonimmigrant category
25 to another nonimmigrant category under sec-

1 tion 248 of the Immigration and Nationality
2 Act (8 U.S.C. 1258).

3 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An
4 individual previously admitted to the United States
5 on a nonimmigrant visa who is present in the United
6 States before the date of the enactment of this Act
7 shall not be subject to this section or to the amend-
8 ments made by this section until the alien departs
9 from the United States or requests a change of non-
10 immigrant classification under section 248 of the
11 Immigration and Nationality Act (8 U.S.C. 1258).

12 **SEC. 1503. INCREASE IN IMMIGRATION DETENTION CAPAC-**
13 **ITY.**

14 Not later than September 30, 2022, and subject to
15 the availability of appropriations, the Secretary of Home-
16 land Security shall increase the immigration detention ca-
17 pacity to a daily immigration detention capacity of not
18 fewer than 48,879 detention beds.

19 **SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND DE-**
20 **TAINED ALIENS.**

21 Section 3 of the DNA Analysis Backlog Elimination
22 Act of 2000 (34 U.S.C. 40702) is amended—

23 (1) in subsection (a)(1), by adding at the end
24 the following:

1 “(C) The Secretary of Homeland Security
2 shall collect DNA samples from any alien (as
3 defined under section 101(a)(3) of the Immi-
4 gration and Nationality Act (8 U.S.C.
5 1101(a)(3))) who—

6 “(i) has been detained pursuant to
7 section 235(b)(1)(B)(iii)(IV), 236, 236A,
8 or 238 of such Act (8 U.S.C.
9 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and
10 1228); or

11 “(ii) is the subject of a final order of
12 removal under section 240 of such Act (8
13 U.S.C. 1229a) based on inadmissibility
14 under section 212(a)(2) of such Act (8
15 U.S.C. 1182(a)(2)) or being subject to re-
16 moval under section 237(a)(2) of such Act
17 (8 U.S.C. 1227(a)(2)).”; and

18 (2) in subsection (b), by striking “or the proba-
19 tion office responsible (as applicable)” and inserting
20 “the probation office responsible, or the Secretary of
21 Homeland Security”.

22 **SEC. 1505. COLLECTION, USE, AND STORAGE OF BIOMETRIC**
23 **DATA.**

24 (a) **COLLECTION AND USE OF BIOMETRIC INFORMA-**
25 **TION FOR IMMIGRATION PURPOSES.—**

1 (1) COLLECTION.—The Secretary of Homeland
2 Security and the Secretary of State may require any
3 individual filing with the Department of Homeland
4 Security or the Department of State an application,
5 petition, or other request for an immigration benefit
6 or immigration status or seeking an immigration
7 benefit or other authorization, employment author-
8 ization, identity, or travel document, or requesting
9 relief or protection under any provision of the immi-
10 gration laws to submit to either Secretary biometric
11 information, including fingerprints, photograph, sig-
12 nature, voice print, iris scan, or DNA.

13 (2) USE.—The Secretary of Homeland Security
14 and the Secretary of State may use any biometric
15 information submitted under paragraph (1) to con-
16 duct background and security checks, verify an indi-
17 vidual’s identity, adjudicate, revoke, or terminate an
18 immigration benefit or immigration status, and per-
19 form other functions related to administering and
20 enforcing the immigration laws.

21 (b) BIOMETRIC AND BIOGRAPHIC INFORMATION
22 SHARING.—

23 (1) SHARING WITH DEPARTMENT OF DEFENSE
24 AND FEDERAL BUREAU OF INVESTIGATION.—The
25 Secretary of Homeland Security, the Secretary of

1 Defense, the Secretary of State, and the Director of
2 the Federal Bureau of Investigation—

3 (A) shall exchange appropriate biometric
4 and biographic information to determine or con-
5 firm the identity of an individual and to assess
6 whether the individual is a threat to national
7 security or public safety; and

8 (B) may use information exchanged pursu-
9 ant to subparagraph (A)—

10 (i) to compare biometric and bio-
11 graphic information contained in applicable
12 systems of the Department of Homeland
13 Security, the Department of Defense, the
14 Department of State, or the Federal Bu-
15 reau of Investigation to determine if there
16 is a match between such information; and
17 (ii) if there is a match between such
18 information, to relay such information to
19 the requesting agency.

20 (2) USE OF BIOMETRIC DATA BY THE DEPART-
21 MENT OF STATE.—The Secretary of State shall use
22 biometric information from applicable systems of the
23 Department of Homeland Security, the Department
24 of Defense, and the Federal Bureau of Investigation

1 to screen and track visa applicants and other indi-
2 viduals who are—

3 (A)(i) known or suspected terrorists; or

4 (ii) identified as a potential threat to na-
5 tional security; and

6 (B) using an alias while traveling.

7 (3) REPORT ON BIOMETRIC INFORMATION
8 SHARING WITH MEXICO AND OTHER COUNTRIES FOR
9 IDENTITY VERIFICATION.—Not later than 180 days
10 after the date of enactment of this Act, the Sec-
11 retary of Homeland Security and the Secretary of
12 State shall submit a joint report on the status of ef-
13 forts to engage with the Government of Mexico and
14 the governments of other appropriate foreign coun-
15 tries located in Central America or South America—

16 (A) to discuss coordination on biometric
17 information sharing between the United States
18 and such countries; and

19 (B) to enter into bilateral agreements that
20 provide for the sharing of such biometric infor-
21 mation with the Department of State, the De-
22 partment of Defense, the Department of Jus-
23 tice, the Federal Bureau of Investigation, and
24 the Department of Homeland Security to use
25 in—

1 (i) identifying individuals who are
2 known or suspected terrorists or potential
3 threats to national security; and

4 (ii) verifying the entry and exit of in-
5 dividuals to and from the United States.

6 (4) **RULE OF CONSTRUCTION.**—The collection
7 of biometric information under paragraph (1) shall
8 not limit the authority of the Secretary of Homeland
9 Security to collect biometric information from any
10 individual arriving to or departing from the United
11 States.

12 **SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
13 **ESSING.**

14 (a) **IN GENERAL.**—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of Homeland
16 Security shall establish a pilot program in at least 5 of
17 the 10 U.S. Immigration and Customs Enforcement field
18 offices or regions with the largest removal caseloads to
19 allow U.S. Immigration and Customs Enforcement offi-
20 cers to use handheld or vehicle-mounted computers to elec-
21 tronically—

22 (1) process and serve charging documents, in-
23 cluding notices to appear, while in the field;

24 (2) process and place detainees while in the
25 field;

1 (3) collect biometric data for the purpose of
2 identifying an alien and establishing both immigra-
3 tion status and criminal history while in the field;

4 (4) enter any required data, including personal
5 information about an alien subject and the reason
6 for issuing a document;

7 (5) apply the electronic signature of the issuing
8 U.S. Immigration and Customs Enforcement officer
9 or agent;

10 (6) apply or capture the electronic signature of
11 the alien on any charging document or notice, in-
12 cluding any electronic signature captured to ac-
13 knowledge service of such documents or notices;

14 (7) set the date on which the alien is required
15 to appear before an immigration judge, in the case
16 of a notice to appear;

17 (8) print any documents the alien may be re-
18 quired to sign, along with additional copies of docu-
19 ments to be served on the alien; and

20 (9) interface with the ENFORCE database so
21 that all data is collected, stored, and retrievable in
22 real-time.

23 (b) CONTRACT SUPPORT.—The Secretary of Home-
24 land Security may contract with commercial vendors to
25 test prototypes for electronic handheld or vehicle-mounted

1 computers capable of meeting the requirements under sub-
2 section (a).

3 (c) **RULE OF CONSTRUCTION.**—The pilot program
4 described in subsection (a) shall be designed to replace,
5 to the extent possible, the current paperwork and data
6 entry process used for issuing charging documents and de-
7 tainers referred to in that subsection.

8 (d) **REPORT.**—Not later than 1 year after the date
9 on which the pilot program described in subsection (a)
10 commences, the Comptroller General of the United States
11 shall submit to the Committee on Homeland Security and
12 Governmental Affairs of the Senate, the Committee on the
13 Judiciary of the Senate, the Committee on Homeland Se-
14 curity of the House of Representatives, the Committee on
15 the Judiciary of the House of Representatives a report
16 that includes—

- 17 (1) the results of the pilot program; and
18 (2) recommendations for using the technology
19 described in subsection (a) on a nationwide basis.

20 **SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.**

21 (a) **IN GENERAL.**—Section 212(d)(5) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1182(d)(5)) is
23 amended to read as follows:

24 “(5) **PAROLE AUTHORITY.**—

25 “(A) **DEFINITIONS.**—In this paragraph:

1 “(i) PUBLIC INTEREST.—With respect
2 to a reason for parole, the term ‘public in-
3 terest’ means the alien has assisted the
4 United States Government in a significant
5 matter, such as an important criminal in-
6 vestigation, espionage, or other similar law
7 enforcement or national security activity,
8 or that involves law enforcement functions
9 related to international extradition or mu-
10 tual legal assistance activities, and either
11 the alien’s presence in the United States is
12 required by the Government or the alien’s
13 life would be threatened if the alien were
14 not permitted to come to the United
15 States.

16 “(ii) URGENT HUMANITARIAN REASON
17 DEFINED.—With respect to an alien, the
18 term ‘urgent humanitarian reason’
19 means—

20 “(I) the alien has a medical
21 emergency and the alien cannot obtain
22 necessary treatment in the foreign
23 state in which the alien is residing or
24 the medical emergency is life-threat-
25 ening and there is insufficient time

1 for the alien to be admitted through
2 the normal visa process;

3 “(II) the alien is needed in the
4 United States in order to donate an
5 organ or other tissue for transplant
6 into a close family member;

7 “(III) the alien has a close family
8 member in the United States whose
9 death is imminent and the alien could
10 not arrive in the United States in
11 time to see such family member alive
12 if the alien were to be admitted
13 through the normal visa process;

14 “(IV) the alien is a lawful appli-
15 cant for adjustment of status under
16 section 245; or

17 “(V) the alien was lawfully grant-
18 ed status under section 208 or law-
19 fully admitted under section 207.

20 “(B) PAROLE AUTHORIZED.—Except as
21 provided in subparagraph (C) or section 214(f),
22 the Secretary may, in his or her sole and
23 unreviewable discretion, temporarily parole into
24 the United States any alien applying for admis-
25 sion to the United States, under such condi-

1 tions as the Secretary may prescribe, including
2 requiring the posting of a bond, but only on a
3 case-by-case basis and not according to eligi-
4 bility criteria describing an entire class of po-
5 tential parole recipients, for an urgent humani-
6 tarian reason or a reason deemed strictly in the
7 public interest.

8 “(C) PAROLE NOT AN ADMISSION.—In ac-
9 cordance with section 101(a)(13)(B), parole of
10 an alien under subparagraph (B) shall not be
11 regarded as an admission of the alien to the
12 United States. When the purposes of the parole
13 of an alien have been served, as determined by
14 the Secretary, the alien shall immediately re-
15 turn to his or her country of citizenship, nation-
16 ality, or origin. If the alien was paroled from
17 custody, the alien shall be returned to the cus-
18 tody from which the alien was paroled and the
19 alien shall be considered for admission to the
20 United States on the same basis as other simi-
21 larly situated applicants for admission.

22 “(D) PROHIBITED USES OF PAROLE AU-
23 THORITY.—

24 “(i) IN GENERAL.—The Secretary
25 may not use the authority under subpara-

1 graph (B) to parole into the United States
2 generalized categories of aliens or classes
3 of aliens based solely on nationality, pres-
4 ence, or residence in the United States,
5 family relationships, or any other criteria
6 that would cover a broad group of foreign
7 nationals either inside or outside of the
8 United States.

9 “(ii) ALIENS WHO ARE NATIONAL SE-
10 CURITY OR PUBLIC SAFETY THREATS.—

11 “(I) DEFINITION OF EXTREME
12 EXIGENT CIRCUMSTANCES.—In this
13 clause, the term ‘extreme exigent cir-
14 cumstances’ means circumstances
15 under which—

16 “(aa) the failure to parole
17 the alien would result in the im-
18 mediate significant risk of loss of
19 life or bodily function due to a
20 medical emergency;

21 “(bb) the failure to parole
22 the alien would conflict with
23 medical advice as to the health or
24 safety of the individual, detention

1 facility staff, or other detainees;
2 or

3 “(cc) there is an urgent
4 need for the alien’s presence for
5 a law enforcement purpose, in-
6 cluding for a prosecution or to
7 serve a sentence or securing the
8 alien’s presence to appear as a
9 material witness, or a national
10 security purpose.

11 “(II) PROHIBITION ON PA-
12 ROLE.—The Secretary shall not parole
13 in any alien whom the Secretary, in
14 the Secretary’s sole and unreviewable
15 discretion, determines to be a threat
16 to national security or public safety,
17 except in extreme exigent cir-
18 cumstances.

19 “(E) LIMITATION ON THE USE OF PAROLE
20 AUTHORITY.—The Secretary may not use the
21 parole authority under this paragraph to permit
22 to come to the United States aliens who have
23 applied for and have been found to be ineligible
24 for refugee status or any alien to whom the pro-
25 visions of this paragraph do not apply.

1 “(F) TERMINATION OF PAROLE.—The Sec-
2 retary shall determine when the purpose of pa-
3 role of an alien has been served and, upon such
4 determination—

5 “(i) the alien’s case shall continue to
6 be dealt with in the same manner as that
7 of any other applicant for admission to the
8 United States; and

9 “(ii) if the alien was previously de-
10 tained, the alien shall be returned to the
11 custody from which the alien was paroled.

12 “(G) LIMITATIONS ON USE OF ADVANCE
13 PAROLE.—

14 “(i) DEFINITION OF ADVANCE PA-
15 ROLE.—In this subparagraph, the term
16 ‘advance parole’ means advance approval
17 for an alien who is lawfully present in the
18 United States and is applying for admis-
19 sion to the United States to request at a
20 port of entry in the United States, a pre-
21 inspection station, or a designated field of-
22 fice of the Department of Homeland Secu-
23 rity, to be paroled into the United States
24 under subparagraph (B).

1 “(ii) APPROVAL OF ADVANCE PA-
2 ROLE.—The Secretary, in the Secretary’s
3 discretion, may grant an application for
4 advance parole. Approval of an application
5 for advance parole shall not constitute a
6 grant of parole under subparagraph (B). A
7 grant of parole into the United States
8 based on an approved application for ad-
9 vance parole shall not be considered a pa-
10 role for purposes of qualifying for adjust-
11 ment of status to lawful permanent resi-
12 dent status in the United States under sec-
13 tion 245 or 245A.

14 “(iii) REVOCATION OF ADVANCE PA-
15 ROLE.—The Secretary may revoke a grant
16 of advance parole to an alien at any time.
17 Such revocation shall not be subject to ad-
18 ministrative appeal or judicial review.

19 “(iv) TEMPORARY DEPARTURE.—An
20 alien who leaves the United States tempo-
21 rarily pursuant to a grant of advance pa-
22 role makes a departure from the United
23 States pursuant to the immigration laws.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the first day of the first

1 month beginning more than 60 days after the date of en-
2 actment of this Act.

3 **SEC. 1508. REPORTS TO CONGRESS ON PAROLE.**

4 (a) REPORT ON NUMBER AND CATEGORY OF ALIENS
5 PAROLED INTO THE UNITED STATES.—Not later than 90
6 days after the end of each fiscal year, the Secretary of
7 Homeland Security shall submit to the Committee on the
8 Judiciary of the Senate and the Committee on the Judici-
9 ary of the House of Representatives a report that, with
10 respect to the most recently completed fiscal year—

11 (1) describes the number and categories of
12 aliens paroled into the United States under section
13 212(d)(5) of the Immigration and Nationality Act;
14 and

15 (2) contains information and data concerning—

16 (A) the number and categories of aliens
17 paroled;

18 (B) the duration of parole granted to
19 aliens referred to in subparagraph (A); and

20 (C) the current immigration status of the
21 aliens referred to in subparagraph (A).

22 (b) REPORT ON PAROLE PROCEDURES.—Not later
23 than 180 days after the date of enactment of this Act,
24 and annually thereafter, the Attorney General and the
25 Secretary of Homeland Security shall jointly—

1 (1) conduct a review regarding the effectiveness
2 of parole and custody determination procedures ap-
3 plicable to aliens who have established a credible
4 fear of persecution and are awaiting a final deter-
5 mination regarding their asylum claim by the immi-
6 gration courts; and

7 (2) submit to the Committee on the Judiciary
8 of the Senate and the Committee on the Judiciary
9 of the House of Representatives a report based on
10 the results of such review, that includes—

11 (A) an analysis of—

12 (i) the rate at which release from de-
13 tention (including release on parole) is
14 granted to aliens who have established a
15 credible fear of persecution and are await-
16 ing a final determination regarding their
17 asylum claim by the immigration courts
18 throughout the United States; and

19 (ii) any disparity that exists between
20 locations or geographical areas, including
21 an explanation of the reasons for this dis-
22 parity and what actions are being taken to
23 have consistent and uniform application of
24 the standards for granting parole;

1 (B) an analysis of the effect of the proce-
2 dures and policies applied with respect to parole
3 and custody determinations by the Attorney
4 General and by the Secretary of Homeland Se-
5 curity on the alien’s pursuit of an asylum claim
6 before an immigration court;

7 (C) an analysis of the effectiveness of the
8 procedures and policies applied with respect to
9 parole and custody determinations by the Attor-
10 ney General and by the Secretary of Homeland
11 Security in securing the alien’s presence at the
12 immigration court proceedings;

13 (D) recommendations with respect to
14 whether the existing parole and custody deter-
15 mination procedures applicable to aliens who
16 have established a credible fear of persecution
17 and are awaiting a final determination by the
18 immigration courts with respect to asylum
19 claims—

20 (i) respect the interests of the aliens;

21 and

22 (ii) ensure the presence of the aliens
23 at the immigration court proceedings; and

1 (E) an assessment on corresponding failure
2 to appear rates, in absentia orders, and ab-
3 sconders.

4 **SEC. 1509. REINSTATEMENT OF THE SECURE COMMUNITIES**
5 **PROGRAM.**

6 (a) REINSTATEMENT.—The Secretary shall reinstate
7 and operate the Secure Communities immigration enforce-
8 ment program administered by U.S. Immigration and
9 Customs Enforcement between 2008 and 2014.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated \$150,000,000 to carry out
12 this section.

13 **SEC. 1510. ENSURING THAT LOCAL AND FEDERAL LAW EN-**
14 **FORCEMENT OFFICERS MAY COOPERATE TO**
15 **SAFEGUARD OUR COMMUNITIES.**

16 (a) AUTHORITY TO COOPERATE WITH FEDERAL OF-
17 FICIALS.—A State, a political subdivision of a State, or
18 an officer, employee, or agent of such State or political
19 subdivision that complies with a detainer issued by the De-
20 partment of Homeland Security under section 236 or 287
21 of the Immigration and Nationality Act (8 U.S.C. 1226
22 and 1357)—

23 (1) shall be deemed to be acting as an agent of
24 the Department of Homeland Security; and

1 (2) with regard to actions taken to comply with
2 the detainer, shall have all authority available to of-
3 ficers and employees of the Department of Home-
4 land Security.

5 (b) LEGAL PROCEEDINGS.—In any legal proceeding
6 brought against a State, a political subdivision of State,
7 or an officer, employee, or agent of such State or political
8 subdivision which challenges the legality of the seizure or
9 detention of an individual pursuant to a detainer issued
10 by the Department of Homeland Security under section
11 236 or 287 of the Immigration and Nationality Act (8
12 U.S.C. 1226 and 1357)—

13 (1) no liability shall lie against the State or po-
14 litical subdivision of a State for actions taken in
15 compliance with the detainer; and

16 (2) if the actions of the officer, employee, or
17 agent of the State or political subdivision were taken
18 in compliance with the detainer—

19 (A) the officer, employee, or agent shall be
20 deemed—

21 (i) to be an employee of the Federal
22 Government and an investigative or law
23 enforcement officer; and

24 (ii) to have been acting within the
25 scope of his or her employment under sec-

1 tion 1346(b) and chapter 171 of title 28,
2 United States Code;

3 (B) section 1346(b) of title 28, United
4 States Code, shall provide the exclusive remedy
5 for the plaintiff; and

6 (C) the United States shall be substituted
7 as defendant in the proceeding.

8 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
9 tion may be construed to provide immunity to any person
10 who knowingly violates the civil or constitutional rights of
11 an individual.

12 **CHAPTER 2—PROTECTION AND DUE**
13 **PROCESS FOR UNACCOMPANIED**
14 **ALIEN CHILDREN**

15 **SEC. 1520. SHORT TITLE.**

16 This chapter may be cited as the “Protecting Chil-
17 dren and America’s Homeland Act of 2018”.

18 **SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN**
19 **CHILDREN.**

20 Section 235(a) of the William Wilberforce Trafficking
21 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
22 1232(a)) is amended—

23 (1) in paragraph (2)—

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

4 (B) in subparagraph (A), in the matter
5 preceding clause (i), by striking “who is a na-
6 tional or habitual resident of a country that is
7 contiguous with the United States shall be
8 treated in accordance with subparagraph (B)”
9 and inserting “shall be treated in accordance
10 with subparagraph (B) or subsection (b), as ap-
11 propriate”; and

12 (C) in subparagraph (C)—

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

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

22 (2) by redesignating paragraphs (3), (4), and
23 (5) as paragraphs (4), (5), and (6), respectively; and

24 (3) inserting after paragraph (2) the following:

1 “(3) MANDATORY EXPEDITED REMOVAL OF
2 CRIMINALS AND GANG MEMBERS.—Notwithstanding
3 any other provision of law, the Secretary of Home-
4 land Security shall place an unaccompanied alien
5 child in a proceeding in accordance with section 235
6 of the Immigration and Nationality Act (8 U.S.C.
7 1225) if, the Secretary determines or has reason to
8 believe that the alien—

9 “(A) has been convicted of any offense car-
10 rying a maximum term of imprisonment of
11 more than 180 days;

12 “(B) has been convicted of, or found to be
13 a juvenile offender based on, an offense that in-
14 volved—

15 “(i) the use or attempted use of phys-
16 ical force, or threatened use of a deadly
17 weapon;

18 “(ii) the purchase, sale, offering for
19 sale, exchange, use, ownership, possession,
20 or carrying, or, of attempting or conspiring
21 to purchase, sell, offer for sale, exchange,
22 use, own, possess, or carry, any weapon,
23 part, or accessory which is a firearm or de-
24 structive device (as defined in section

1 921(a) of title 18, United States Code) in
2 violation of any law;

3 “(iii) child abuse and neglect (as de-
4 fined in section 40002(a)(3) of the Vio-
5 lence Against Women Act of 1994 (34
6 U.S.C. 12291(a)(3)));

7 “(iv) assault resulting in bodily injury
8 (as defined in section 2266 of title 18,
9 United States Code);

10 “(v) the violation of a protection order
11 (as defined in section 2266 of title 18,
12 United States Code);

13 “(vi) driving while intoxicated or driv-
14 ing under the influence (as such terms are
15 defined in section 164 of title 23, United
16 States Code); or

17 “(vii) any offense under foreign law
18 (except a purely political offense) that, if
19 the offense had been committed in the
20 United States, would render the alien inad-
21 missible under section 212(a) of the Immi-
22 gration and Nationality Act (8 U.S.C.
23 1182(a));

1 “(C) has been convicted of, or found to be
2 a juvenile offender based on, more than 1 criminal
3 offense (other than minor traffic offenses);

4 “(D) has been convicted of, or found to be
5 a juvenile offender based on a crime of violence
6 or an offense under Federal, State, or Tribal
7 law, that has, as an element, the use or attempted
8 use of physical force or the threatened
9 use of physical force or a deadly weapon;

10 “(E) has engaged in, is engaged in, or is
11 likely to engage after entry in any terrorist activity
12 (as defined in section 212(a)(3)(B)(iii) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1182(a)(3)(B)(iii))), or intends to participate or
15 has participated in the activities of a foreign
16 terrorist organization (as designated under section
17 219 of the Immigration and Nationality
18 Act (8 U.S.C. 1189));

19 “(F) has engaged in, is engaged in, or any
20 time after a prior admission engages in activity
21 described in section 237(a)(4) of the Immigration
22 and Nationality Act (8 U.S.C. 1227(a)(4));

23 “(G) is or was a member of a criminal
24 gang (as defined in section 101(a)(53) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(53));

3 “(H) provided materially false, fictitious,
4 or fraudulent information regarding age or
5 identity to the United States Government with
6 the intent to inaccurately classified as an unac-
7 companied alien child; or

8 “(I) has entered the United States more
9 than once in violation of section 275(a) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1325(a)), knowing that the entry was unlaw-
12 ful.”.

13 **SEC. 1522. CHILD WELFARE AND LAW ENFORCEMENT IN-**
14 **FORMATION SHARING.**

15 Section 235(b) of the William Wilberforce Trafficking
16 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
17 1232(b)) is amended by adding at the end the following:

18 “(5) INFORMATION SHARING.—

19 “(A) IMMIGRATION STATUS.—If the Sec-
20 retary of Health and Human Services considers
21 placement of an unaccompanied alien child with
22 a potential sponsor, the Secretary of Homeland
23 Security shall provide to the Secretary of
24 Health and Human Services the immigration

1 status of such potential sponsor before the
2 placement of the unaccompanied alien child.

3 “(B) OTHER INFORMATION.—The Sec-
4 retary of Health and Human Services shall pro-
5 vide to the Secretary of Homeland Security and
6 the Attorney General, upon request, any rel-
7 evant information related to an unaccompanied
8 alien child who is or has been in the custody of
9 the Secretary of Health and Human Services,
10 including the location of the child and any per-
11 son to whom custody of the child has been
12 transferred, for any legitimate law enforcement
13 objective, including the enforcement of the im-
14 migration laws.”.

15 **SEC. 1523. ACCOUNTABILITY FOR CHILDREN AND TAX-**
16 **PAYERS.**

17 Section 235(b) of the William Wilberforce Trafficking
18 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
19 1232(b)) (as amended by section 1522 of this Act) is
20 amended by adding at the end the following:

21 “(6) INSPECTION OF FACILITIES.—The Inspec-
22 tor General of the Department of Health and
23 Human Services shall conduct regular inspections of
24 facilities utilized by the Secretary of Health and
25 Human Services to provide care and custody of un-

1 accompanied alien children who are in the immediate
2 custody of the Secretary to ensure that such facili-
3 ties are operated in the most efficient manner prac-
4 ticable.

5 “(7) FACILITY OPERATIONS COSTS.—The Sec-
6 retary of Health and Human Services shall ensure
7 that facilities utilized to provide care and custody of
8 unaccompanied alien children are operated efficiently
9 and at a rate of cost that is not greater than \$500
10 per day for each child housed or detained at such fa-
11 cility, unless the Secretary certifies that compliance
12 with this requirement is temporarily impossible due
13 to emergency circumstances.”.

14 **SEC. 1524. CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
15 **DREN IN FORMAL REMOVAL PROCEEDING.**

16 (a) IN GENERAL.—Section 235(c)(2) of the William
17 Wilberforce Trafficking Victims Protection Reauthoriza-
18 tion Act of 2008 (8 U.S.C. 1232(c)(2)) is amended by
19 adding at the end the following:

20 “(C) CHILDREN IN FORMAL REMOVAL
21 PROCEEDINGS.—

22 “(i) LIMITATION ON PLACEMENT.—
23 Notwithstanding any settlement or consent
24 decree previously issued before the date of
25 the enactment of this subparagraph, and

1 section 236.3 of title 8, Code of Federal
2 Regulations, or a similar successor regula-
3 tion, an unaccompanied alien child who has
4 been placed in a proceeding under section
5 240 of the Immigration and Nationality
6 Act (8 U.S.C. 1229a) may not be placed in
7 the custody of a nongovernmental sponsor
8 or otherwise released from the immediate
9 custody of the United States Government
10 unless—

11 “(I) the nongovernmental spon-
12 sor is a biological or adoptive parent
13 or legal guardian of the unaccom-
14 panied alien child;

15 “(II) the parent or legal guardian
16 is legally present in the United States
17 at the time of the placement;

18 “(III) the parent or legal guard-
19 ian has undergone a mandatory bio-
20 metric criminal history check;

21 “(IV) if the nongovernmental
22 sponsor is the biological parent, the
23 parent’s relationship to the alien child
24 has been verified through DNA test-

1 ing conducted by the Secretary of
2 Health and Human Services;

3 “(V) if the nongovernmental
4 sponsor is the adoptive parent, the
5 parent’s relationship to the alien child
6 has been verified with the judicial
7 court that issued the final legal adop-
8 tion decree by the Secretary of Health
9 and Human Services; and

10 “(VI) the Secretary of Health
11 and Human Services has determined
12 that the alien child is not a danger to
13 self, a danger to the community, or at
14 risk of flight.

15 “(ii) EXCEPTIONS.—If the Secretary
16 of Health and Human Services determines
17 that an unaccompanied alien child is a vic-
18 tim of severe forms of trafficking in per-
19 sons (as defined in section 103 of the
20 Trafficking Victims Protection Act of 2000
21 (22 U.S.C. 7102)), a special needs child
22 with a disability (as defined in section 3 of
23 the Americans with Disabilities Act of
24 1990 (42 U.S.C. 12102)), a child who has
25 been a victim of physical or sexual abuse

1 under circumstances that indicate that the
2 child's health or welfare has been signifi-
3 cantly harmed or threatened, or a child
4 with mental health needs that require on-
5 going assistance from a social welfare
6 agency, the alien child may be placed with
7 a grandparent or adult sibling if the
8 grandparent or adult sibling meets the re-
9 quirements under subclauses (II), (III),
10 and (IV) of clause (i).

11 “(iii) FAILURE TO APPEAR.—

12 “(I) CIVIL PENALTY.—If an un-
13 accompanied alien child is placed with
14 a sponsor and fails to appear in a
15 mandatory court appearance, the
16 sponsor shall be subject to a civil pen-
17 alty of \$250 for each day until the
18 alien appears in court, up to a max-
19 imum of \$5,000.

20 “(II) BURDEN OF PROOF.—The
21 sponsor is not subject to the penalty
22 imposed under subclause (I) if the
23 sponsor—

24 “(aa) appears in person and
25 proves to the immigration court

1 that the failure to appear by the
2 unaccompanied alien child was
3 not the fault of the sponsor; and

4 “(bb) supplies the immigra-
5 tion court with documentary evi-
6 dence that supports the assertion
7 described in item (aa).

8 “(iv) PROHIBITION ON PLACEMENT
9 WITH SEX OFFENDERS AND HUMAN TRAF-
10 FICKERS.—The Secretary of Health and
11 Human Services may not place an unac-
12 companied alien child under this subpara-
13 graph in the custody of an individual who
14 has been convicted of, or the Secretary has
15 reason to believe was otherwise involved in
16 the commission of—

17 “(I) a sex offense (as defined in
18 section 111 of the Sex Offender Reg-
19 istration and Notification Act (34
20 U.S.C. 20911));

21 “(II) a crime involving severe
22 forms of trafficking in persons (as de-
23 fined in section 103 of the Trafficking
24 Victims Protection Act of 2000 (22
25 U.S.C. 7102)); or

1 “(III) an offense under Federal,
2 State, or Tribal law that has, as an
3 element of the offense, the use or at-
4 tempted use of physical force or the
5 threatened use of physical force or a
6 deadly weapon.

7 “(v) REQUIREMENTS OF CRIMINAL
8 BACKGROUND CHECK.—A biometric crimi-
9 nal history check required under clause
10 (i)(III) shall be conducted using a set of
11 fingerprints or other biometric identifier
12 through—

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

15 “(II) criminal history repositories
16 of all States that the individual lists
17 as current or former residences; and

18 “(III) any other State or Federal
19 database or repository that the Sec-
20 retary of Health and Human Services
21 determines to be appropriate.”.

22 (b) DEFINITION OF SPECIAL IMMIGRANT JUVE-
23 NILE.—Section 101(a)(27)(J)(i) of the Immigration and
24 Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)), is amended

1 by striking “1 or both of the immigrant’s parents” and
2 inserting “either of the immigrant’s parents”.

3 (c) HOME STUDIES AND FOLLOW-UP SERVICES FOR
4 UNACCOMPANIED ALIEN CHILDREN.—Section 235(c)(3)
5 of the William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)) is
7 amended—

8 (1) by redesignating subparagraph (C) as sub-
9 paragraph (D); and

10 (2) by striking subparagraph (B) and inserting
11 the following new subparagraphs:

12 “(B) HOME STUDIES.—

13 “(i) IN GENERAL.—Except as re-
14 quired under clause (ii), before placing a
15 child with an individual, the Secretary of
16 Health and Human Services shall deter-
17 mine whether a home study is necessary.

18 “(ii) REQUIRED HOME STUDIES.—A
19 home study shall be conducted for a
20 child—

21 “(I) who is a victim of a severe
22 form of trafficking in persons or is a
23 special needs child with a disability
24 (as defined in section 3 of the Ameri-

1 cans with Disabilities Act of 1990 (42
2 U.S.C. 12102);

3 “(II) who has been a victim of
4 physical or sexual abuse under cir-
5 cumstances that indicate that the
6 child’s health or welfare has been sig-
7 nificantly harmed or threatened;

8 “(III) whose proposed sponsor
9 presents a risk of abuse, maltreat-
10 ment, exploitation, or trafficking to
11 the child based on all available objec-
12 tive evidence) if more than 2 other
13 children are residing with the pro-
14 posed sponsor, or if such sponsor has
15 custody of at least 1 other unaccom-
16 panied alien child; or

17 “(IV) if more than 2 other chil-
18 dren are residing with the proposed
19 sponsor, or if such sponsor has cus-
20 tody of at least 1 other unaccom-
21 panied alien child.

22 “(C) FOLLOW-UP SERVICES AND ADDI-
23 TIONAL HOME STUDIES.—

24 “(i) PENDENCY OF REMOVAL PRO-
25 CEEDINGS.—Not less frequently than every

1 180 days until the date on which initial re-
2 moval proceedings are completed and the
3 immigration judge issues an order of re-
4 moval, grants voluntary departure under
5 section 240B, or grants the alien relief
6 from removal, the Secretary of Health and
7 Human Services shall conduct follow-up
8 services for any child for whom a home
9 study was conducted and who was placed
10 with a nongovernmental sponsor.

11 “(ii) CHILDREN WITH MENTAL
12 HEALTH OR OTHER NEEDS.—Not less fre-
13 quently than every 180 days, until the date
14 that is 2 years after the date on which a
15 child is placed with a nongovernmental
16 sponsor, the Secretary of Health and
17 Human Services shall conduct follow-up
18 services for any child with mental health
19 needs or other needs who could benefit
20 from ongoing assistance from a social wel-
21 fare agency.

22 “(iii) CHILDREN AT RISK.—Not less
23 frequently than every 90 days until the
24 date that is 2 years after the date on
25 which a child is placed with a nongovern-

1 mental sponsor, the Secretary of Health
2 and Human Services shall conduct home
3 studies and follow-up services, including
4 partnering with local community programs
5 that focus on early morning and after
6 school programs for at-risk children who—

7 “(I) need a secure environment
8 to engage in studying, training, and
9 skills-building programs; and

10 “(II) are at risk for recruitment
11 by criminal gangs or other
12 transnational criminal organizations
13 in the United States.”.

14 (d) DETENTION OF ACCOMPANIED MINORS.—

15 (1) IN GENERAL.—Section 235 of the William
16 Wilberforce Trafficking Victims Protection Reau-
17 thorization Act of 2008 (8 U.S.C. 1232) is further
18 amended—

19 (A) by redesignating subsections (d)
20 through (i) as subsections (e) through (j), re-
21 spectively; and

22 (B) by inserting after subsection (c) the
23 following:

1 “(d) DETENTION OF ACCOMPANIED MINORS.—Not-
2 withstanding any other provision of law, judicial deter-
3 mination, consent decree, or settlement agreement—

4 “(1) the detention of any alien minor who is not
5 described in section 462(g)(2) of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 279(g)(2)) shall be
7 governed by sections 217, 235, 236, and 241 of the
8 Immigration and Nationality Act (8 U.S.C. 1187,
9 1225, 1226, and 1231);

10 “(2) the decision whether to detain or release
11 the alien minor shall be in the sole and unreviewable
12 discretion of the Secretary of Homeland Security;

13 “(3) the release of an alien minor who is not
14 described in section 462(g)(2) of the Homeland Se-
15 curity Act of 2002 (6 U.S.C. 279(g)(2)) may not be
16 presumed and an alien minor not described in such
17 section may not be released by the Secretary to any-
18 one other than a parent or legal guardian; and

19 “(4) the conditions of confinement applicable to
20 alien minors who are not described in section 462(g)
21 of the Homeland Security Act of 2002 (6 U.S.C.
22 279(g)(2)) shall be determined in the sole and
23 unreviewable discretion of the Secretary of Home-
24 land Security, and specific licensing requirements

1 may not be imposed other than requirements deter-
2 mined appropriate by the Secretary.”.

3 (2) FUNDING LIMITATION.—No appropriated
4 funds may be used to implement the terms of the
5 settlement agreement in Flores v. Reno, CV 85–
6 4544–RJK, nor shall any appropriated funds be
7 used for purposes of complying with any judicial
8 order, decree, or judgment interpreting the terms of
9 such settlement agreement.

10 (3) EFFECTIVE DATE; APPLICABILITY.—The
11 amendments made by this subsection shall—

12 (A) take effect on the date of enactment of
13 this Act; and

14 (B) apply regardless of the date on which
15 the actions giving rise to removability or deten-
16 tion take place.

17 **SEC. 1525. FRAUD IN CONNECTION WITH THE TRANSFER OF**
18 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
19 **DREN.**

20 (a) IN GENERAL.—Chapter 47 of title 18, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

1 **“§ 1041. Fraud in connection with the transfer of cus-**
2 **tody of unaccompanied alien children**

3 “(a) IN GENERAL.—It shall be unlawful for a person
4 to obtain custody of an unaccompanied alien child (as de-
5 fined in section 462(g) of the Homeland Security Act of
6 2002 (6 U.S.C. 279(g))) by—

7 “(1) making any materially false, fictitious, or
8 fraudulent statement or representation; or

9 “(2) making or using any false writing or docu-
10 ment knowing the same to contain any materially
11 false, fictitious, or fraudulent statement or entry.

12 “(b) PENALTIES.—

13 “(1) IN GENERAL.—Any person who violates, or
14 attempts or conspires to violate, this section shall be
15 fined under this title and imprisoned for not less
16 than 1 year.

17 “(2) ENHANCED PENALTY FOR TRAF-
18 FICKING.—If the primary purpose of the violation,
19 attempted violation, or conspiracy to violate this sec-
20 tion was to subject the child to sexually explicit ac-
21 tivity or any other form of exploitation, the offender
22 shall be fined under this title and imprisoned for not
23 less than 15 years.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for chapter 47 of title 18, United States Code, is amended

1 by inserting after the item relating to section 1040 the
2 following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

3 **SEC. 1526. NOTIFICATION OF STATES AND FOREIGN GOV-**
4 **ERNMENTS, REPORTING, AND MONITORING.**

5 (a) NOTIFICATION.—Section 235 of the William Wil-
6 berforce Trafficking Victims Protection Reauthorization
7 Act of 2008 (8 U.S.C. 1232) (as amended by section
8 1524(d)(1) of this Act) is further amended by adding at
9 the end the following:

10 “(k) NOTIFICATION TO STATES.—

11 “(1) BEFORE PLACEMENT.—The Secretary of
12 Homeland Security or the Secretary of Health and
13 Human Services shall notify the Governor of a State
14 not later than 48 hours before the placement of an
15 unaccompanied alien child in the custody of such
16 Secretary into the care of a facility or sponsor in
17 such State.

18 “(2) INITIAL REPORTS.—Not later than 60
19 days after the date of the enactment of this sub-
20 section, the Secretary of Health and Human Serv-
21 ices shall submit a report to the Governor of each
22 State in which an unaccompanied alien child was
23 discharged to a sponsor or placed in a facility while
24 remaining in the legal custody of the Secretary dur-

1 ing the period beginning October 1, 2013 and end-
2 ing on the date of enactment of this subsection.

3 “(3) MONTHLY REPORTS.—The Secretary of
4 Health and Human Services shall submit a monthly
5 report to the Governor of each State in which, dur-
6 ing the reporting period, an unaccompanied alien
7 child was discharged to a sponsor or placed in a fa-
8 cility while remaining in the legal custody of the
9 Secretary of Health and Human Services.

10 “(4) CONTENTS.—Each report required to be
11 submitted to the Governor of a State under para-
12 graph (2) or (3) shall identify the number of unac-
13 companied alien children placed in the State during
14 the reporting period, disaggregated by—

15 “(A) the locality in which the aliens were
16 placed; and

17 “(B) the age of such aliens.

18 “(I) NOTIFICATION OF FOREIGN COUNTRY.—The
19 Secretary of Homeland Security shall provide information
20 regarding each unaccompanied alien child to the govern-
21 ment of the country of which the child is a national to
22 assist such government with the identification and reunifi-
23 cation of such child with their parent or other qualifying
24 relative.

1 “(m) MONITORING REQUIREMENT.—The Secretary
2 of Health and Human Services shall—

3 “(1) require all sponsors to agree—

4 “(A) to receive approval from the Sec-
5 retary of Health and Human Services before
6 changing the location in which the sponsor is
7 housing an unaccompanied alien child placed in
8 the sponsor’s custody; and

9 “(B) to provide a current address for the
10 child and the reason for the change of address;

11 “(2) provide regular and frequent monitoring of
12 the physical and emotional well-being of each unac-
13 companied alien child who has been discharged to a
14 sponsor or remained in the legal custody of the Sec-
15 retary until the child’s immigration case is resolved;
16 and

17 “(3) not later than 60 days after the date of
18 enactment of this subsection, submit a plan to Con-
19 gress for implementing the requirements under para-
20 graphs (1) and (2).”.

21 **SEC. 1527. REPORTS TO CONGRESS.**

22 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
23 CHILDREN.—Not later than September 30, 2019, the Sec-
24 retary of Health and Human Services shall submit to Con-
25 gress and make publicly available a report that includes—

1 (1) a detailed summary of the contracts in ef-
2 fect to care for and house unaccompanied alien chil-
3 dren, including the names and locations of contrac-
4 tors and the facilities being used;

5 (2) the cost per day to care for and house an
6 unaccompanied alien child, including an explanation
7 of such cost;

8 (3) the number of unaccompanied alien children
9 who have been released to a sponsor, if any;

10 (4) a list of the States to which unaccompanied
11 alien children have been released from the custody of
12 the Secretary of Health and Human Services to the
13 care of a sponsor or placement in a facility;

14 (5) the number of unaccompanied alien children
15 who have been released to a sponsor who is not law-
16 fully present in the United States, including the
17 country of nationality or last habitual residence and
18 age of such children;

19 (6) a determination of whether more than 1 un-
20 accompanied alien child has been released to the
21 same sponsor, including the number of children who
22 were released to such sponsor;

23 (7) an assessment of the extent to which the
24 Secretary of Health and Human Services is moni-
25 toring the release of unaccompanied alien children,

1 including home studies done and electronic moni-
2 toring devices used;

3 (8) an assessment of the extent to which the
4 Secretary of Health and Human Services is making
5 efforts—

6 (A) to educate unaccompanied alien chil-
7 dren about their legal rights; and

8 (B) to provide unaccompanied alien chil-
9 dren with access to pro bono counsel; and

10 (9) the extent of the public health issues of un-
11 accompanied alien children, including contagious dis-
12 eases, the benefits or medical services provided, and
13 the outreach to States and localities about public
14 health issues, that could affect the public.

15 (b) REPORTS ON REPATRIATION AGREEMENTS.—

16 Not later than September 30, 2019, the Secretary of State
17 shall submit to Congress and make publicly available a
18 report that—

19 (1) includes a copy of any repatriation agree-
20 ment in effect for unaccompanied alien children;

21 (2) describes any such repatriation agreement
22 that is being considered or negotiated; and

23 (3) describes the funding provided to the 20
24 countries that have the highest number of nationals

1 entering the United States as unaccompanied alien
2 children, including amounts provided—

3 (A) to deter the nationals of each country
4 from illegally entering the United States; and

5 (B) to care for or reintegrate repatriated
6 unaccompanied alien children in the country of
7 nationality or last habitual residence.

8 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
9 ALITY.—Not later than September 30, 2019, the Sec-
10 retary of Homeland Security shall submit to Congress and
11 make publicly available a report that describes—

12 (1) the number of unaccompanied alien children
13 who have voluntarily returned to their country of na-
14 tionality or habitual residence, disaggregated by—

15 (A) country of nationality or habitual resi-
16 dence; and

17 (B) age of the unaccompanied alien chil-
18 dren;

19 (2) the number of unaccompanied alien children
20 who have been returned to their country of nation-
21 ality or habitual residence, including the length of
22 time such children were present in the United
23 States;

24 (3) the number of unaccompanied alien children
25 who have not been returned to their country of na-

1 tionality or habitual residence pending travel docu-
2 ments or other requirements from such country, in-
3 cluding how long they have been waiting to return;
4 and

5 (4) the number of unaccompanied alien children
6 who were granted relief in the United States, wheth-
7 er through asylum, any other immigration benefit or
8 status, or deferred action.

9 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
10 later than September 30, 2019, and not less frequently
11 than every 90 days thereafter, the Secretary of Homeland
12 Security, in coordination with the Director of the Execu-
13 tive Office for Immigration Review, shall submit to Con-
14 gress and make publicly available a report that de-
15 scribes—

16 (1) the number of unaccompanied alien children
17 who, after proceedings under section 235B of the
18 Immigration and Nationality Act were returned to
19 their country of nationality or habitual residence,
20 disaggregated by—

21 (A) country of nationality or residence; and

22 (B) age and gender of such aliens;

23 (2) the number of unaccompanied alien children
24 who, after proceedings under section 235B of the
25 Immigration and Nationality Act, prove a claim of

1 admissibility and are placed in proceedings under
2 section 240 of that Act (8 U.S.C. 1229a);

3 (3) the number of unaccompanied alien children
4 who fail to appear at a removal hearing that such
5 alien was required to attend;

6 (4) the number of sponsors who were levied a
7 penalty, including the amount and whether the pen-
8 alty was collected, for the failure of an unaccom-
9 panied alien child to appear at a removal hearing;
10 and

11 (5) the number of aliens that are classified as
12 unaccompanied alien children, the ages and coun-
13 tries of nationality of such children, and the orders
14 issued by the immigration judge at the conclusion of
15 proceedings under section 235B of the Immigration
16 and Nationality Act for such children.

17 **CHAPTER 3—COOPERATION WITH MEXICO**
18 **AND OTHER COUNTRIES ON ASYLUM**
19 **AND REFUGEE ISSUES**

20 **SEC. 1541. STRENGTHENING INTERNAL ASYLUM SYSTEMS**
21 **IN MEXICO AND OTHER COUNTRIES.**

22 (a) IN GENERAL.—The Secretary of State, in con-
23 sultation with the Secretary of Homeland Security, shall
24 work with international partners, including the United
25 Nations High Commissioner for Refugees, to support and

1 provide technical assistance to strengthen the domestic ca-
2 pacity of Mexico and other countries in the region to pro-
3 vide asylum to eligible children and families—

4 (1) by establishing and expanding temporary
5 and long-term in country reception centers and shel-
6 ter capacity to meet the humanitarian needs of those
7 seeking asylum or other forms of international pro-
8 tection;

9 (2) by improving the asylum registration system
10 to ensure that all individuals seeking asylum or
11 other humanitarian protection—

12 (A) are properly screened for security, in-
13 cluding biographic and biometric capture;

14 (B) receive due process and meaningful ac-
15 cess to existing legal protections; and

16 (C) receive proper documents in order to
17 prevent fraud and ensure freedom of movement
18 and access to basic social services;

19 (3) by creating or expanding a corps of trained
20 asylum officers capable of evaluating and deciding
21 individual asylum claims consistent with inter-
22 national law and obligations; and

23 (4) by developing the capacity to conduct best
24 interest determinations for unaccompanied alien chil-
25 dren to ensure that their needs are properly met,

1 which may include family reunification or resettle-
2 ment based on international protection needs.

3 (b) REPORT.—Not later than 60 days after the date
4 of the enactment of this Act, the Secretary of State, in
5 consultation with the Secretary of Homeland Security,
6 shall submit a report that describes the plans of the Sec-
7 retary of State to assist in developing the asylum proc-
8 essing capabilities described in subsection (a) to—

9 (1) the Committee on Foreign Relations of the
10 Senate;

11 (2) the Committee on Homeland Security and
12 Governmental Affairs of the Senate;

13 (3) the Committee on the Judiciary of the Sen-
14 ate;

15 (4) the Committee on Foreign Affairs of the
16 House of Representatives;

17 (5) the Committee on Homeland Security of the
18 House of Representatives; and

19 (6) the Committee on the Judiciary of the
20 House of Representatives.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out subsection (a).

1 **SEC. 1542. EXPANDING REFUGEE PROCESSING IN MEXICO**
2 **AND CENTRAL AMERICA FOR THIRD COUN-**
3 **TRY RESETTLEMENT.**

4 (a) IN GENERAL.—The Secretary of State, in con-
5 sultation with the Secretary of Homeland Security, shall
6 coordinate with the United Nations High Commissioner
7 for Refugees to support and provide technical assistance
8 to the Government of Mexico and the governments of
9 other countries in the region to increase access to global
10 resettlement for eligible children and families with protec-
11 tion needs—

12 (1) by establishing and expanding in country
13 refugee reception centers to meet the humanitarian
14 needs of those seeking international protection;

15 (2) by improving the refugee registration sys-
16 tem to ensure that all refugees—

17 (A) are properly screened for security, in-
18 cluding biographic and biometric capture;

19 (B) receive due process and meaningful ac-
20 cess to existing legal protections; and

21 (C) receive proper documents in order to
22 prevent fraud and ensure freedom of movement
23 and access to basic social services;

24 (3) by creating or expanding a corps of trained
25 refugee officers capable of evaluating and deciding

1 individual claims for protection, consistent with
2 international law and obligations; and

3 (4) by developing the capacity to conduct best
4 interest determinations for unaccompanied alien chil-
5 dren to ensure that—

6 (A) such children with international pro-
7 tection needs are properly registered; and

8 (B) the needs of such children are properly
9 met, which may include family reunification or
10 resettlement based on international protection
11 needs.

12 (b) REPORT.—Not later than 60 days after the date
13 of the enactment of this Act, the Secretary of State, in
14 consultation with the Secretary of Homeland Security,
15 shall submit a report to the committees listed in section
16 1541(b) that describes the plans of the Secretary of State
17 to assist in developing the refugee processing capabilities
18 described in subsection (a).

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary to carry out subsection (a).

1 **Subtitle F—Penalties for Smug-**
2 **gling, Drug Trafficking, Human**
3 **Trafficking, Terrorism, and Ille-**
4 **gal Entry and Reentry; Bars to**
5 **Readmission of Removed Aliens**

6 **SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN TRAF-**
7 **FICKING, AND HUMAN RIGHTS VIOLATIONS.**

8 (a) **CRIMINAL PENALTIES FOR HUMAN SMUGGLING**
9 **AND TRAFFICKING.**—Section 274(a) of the Immigration
10 and Nationality Act (8 U.S.C. 1324(a)) is amended—

11 (1) in paragraph (1)—

12 (A) in subparagraph (A), by amending
13 clause (ii) to read as follows:

14 “(ii) knowing, or in reckless disregard
15 of the fact, that an alien has come to, en-
16 tered into, or remains in the United States
17 in violation of law—

18 “(I) transports, moves, or at-
19 tempts to transport or move such
20 alien within the United States by
21 means of transportation or otherwise,
22 in furtherance of such violation of
23 law; or

24 “(II) transports or moves the
25 alien with the purpose of facilitating

1 the illegal entry of the alien into Can-
2 ada or Mexico;” and

3 (B) in subparagraph (B)—

4 (i) by redesignating clauses (iii) and
5 (iv) as clauses (vi) and (vii), respectively;

6 (ii) in clause (vi), as redesignated, by
7 inserting “for not less than 10 years and”
8 before “not more than 20 years;” and

9 (iii) by inserting after clause (ii) the
10 following:

11 “(iii) in the case of a violation of
12 clause (i), (ii), (iii), (iv), or (v) of subpara-
13 graph (A) that is the third or subsequent
14 violation committed by such person under
15 this section, shall be fined under title 18,
16 United States Code, imprisoned for not
17 less than 5 years and not more than 25
18 years, or both;

19 “(iv) in the case of a violation of
20 clause (i), (ii), (iii), (iv), or (v) of subpara-
21 graph (A) that recklessly, knowingly, or in-
22 tentiously results in a victim being invol-
23 untarily forced into labor or prostitution,
24 shall be fined under title 18, United States

1 Code, imprisoned for not less than 5 years
2 and not more than 25 years, or both;

3 “(v) in the case of a violation of
4 clause (i), (ii), (iii), (iv), or (v) of subpara-
5 graph (A) during and in relation to which
6 any person is subjected to any illegal sex-
7 ual act or sexual contact (as those terms
8 are defined in section 2246 of title 18,
9 United States Code), be fined under title
10 18, United States Code, imprisoned for not
11 less than 5 years and not more than 25
12 years, or both;” and

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

14 “(5) Any person who, knowing that a person is an
15 alien in unlawful transit from 1 country to another or on
16 the high seas, transports, moves, harbors, conceals, or
17 shields from detection such alien outside of the United
18 States for profit or gain when the alien is seeking to enter
19 the United States without official permission or legal au-
20 thority, shall for, each alien in respect to whom a violation
21 of this paragraph occurs, be fined under title 18, United
22 States Code, imprisoned not more than 10 years, or
23 both.”.

1 (b) SEIZURE AND FORFEITURE.—Section 274(b)(1)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1324(b)(1)) is amended to read as follows:

4 “(1) IN GENERAL.—Any real or personal prop-
5 erty involved in or used to facilitate the commission
6 of a violation or attempted violation of subsection
7 (a), the gross proceeds of such violation or at-
8 tempted violation, and any property traceable to
9 such property or proceeds, shall be seized and sub-
10 ject to forfeiture.”.

11 **SEC. 1602. PUTTING THE BRAKES ON HUMAN SMUGGLING**
12 **ACT.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Putting the Brakes on Human Smuggling Act”.

15 (b) FIRST VIOLATION.—Section 31310(b)(1) of title
16 49, United States Code, is amended—

17 (1) in subparagraph (D), by striking the “or”
18 at the end;

19 (2) in subparagraph (E), by striking the period
20 at the end and inserting a semicolon; and

21 (3) by adding at the end the following:

22 “(F) using a commercial motor vehicle in will-
23 fully aiding or abetting an alien’s illegal entry into
24 the United States by transporting, guiding, direct-
25 ing, or attempting to assist the alien with the alien’s

1 entry in violation of section 275 of the Immigration
2 and Nationality Act (8 U.S.C. 1325), regardless of
3 whether the alien is ultimately fined or imprisoned
4 for an act in violation of such section; or

5 “(G) using a commercial motor vehicle in will-
6 fully aiding or abetting the transport of controlled
7 substances, monetary instruments, bulk cash, or
8 weapons by any individual departing the United
9 States.”.

10 (c) SECOND OR MULTIPLE VIOLATIONS.—Section
11 31310(c)(1) of title 49, United States Code, is amended—

12 (1) in subparagraph (E), by striking the “or”
13 at the end;

14 (2) by redesignating subparagraph (F) as sub-
15 paragraph (H);

16 (3) in subparagraph (H), as redesignated, by
17 striking “(E)” and inserting “(G)”; and

18 (4) by inserting after subparagraph (E) the fol-
19 lowing:

20 “(F) using a commercial motor vehicle more
21 than once in willfully aiding or abetting an alien’s il-
22 legal entry into the United States by transporting,
23 guiding, directing and attempting to assist the alien
24 with the alien’s entry in violation of section 275 of
25 the Immigration and Nationality Act (8 U.S.C.

1 1325), regardless of whether the alien is ultimately
2 fined or imprisoned for an act in violation of such
3 section;

4 “(G) using a commercial motor vehicle more
5 than once in willfully aiding or abetting the trans-
6 port of controlled substances, monetary instruments,
7 bulk cash, or weapons by any individual departing
8 the United States; or”.

9 (d) LIFETIME DISQUALIFICATION.—Section
10 31310(d) of title 49, United States Code, is amended to
11 read as follows:

12 “(d) LIFETIME DISQUALIFICATION.—The Secretary
13 shall permanently disqualify an individual from operating
14 a commercial motor if the individual uses a commercial
15 motor vehicle—

16 “(1) in committing a felony involving manufac-
17 turing, distributing, or dispensing a controlled sub-
18 stance, or possession with intent to manufacture,
19 distribute, or dispense a controlled substance;

20 “(2) in committing an act for which the indi-
21 vidual is convicted under—

22 “(A) section 274 of the Immigration and
23 Nationality Act (8 U.S.C. 1324); or

24 “(B) section 277 of such Act (8 U.S.C.
25 1327); or

1 “(3) in willfully aiding or abetting the transport
2 of controlled substances, monetary instruments, bulk
3 cash, and weapons by any individual departing the
4 United States.”.

5 (e) REPORTING REQUIREMENTS.—

6 (1) COMMERCIAL DRIVER’S LICENSE INFORMA-
7 TION SYSTEM.—Section 31309(b)(1) of title 49,
8 United States Code, is amended—

9 (A) in subparagraph (E), by striking
10 “and” at the end;

11 (B) in subparagraph (F), by striking the
12 period at the end and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(G) whether the operator was disquali-
15 fied, either temporarily or permanently, from
16 operating a commercial motor vehicle under sec-
17 tion 31310, including under subsection
18 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

19 (2) NOTIFICATION BY THE STATE.—Section
20 31311(a)(8) of title 49, United States Code, is
21 amended by inserting “including such a disqualifica-
22 tion, revocation, suspension, or cancellation made
23 pursuant to a disqualification under subsection
24 (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after
25 “60 days.”.

1 **SEC. 1603. DRUG TRAFFICKING AND CRIMES OF VIOLENCE**
2 **COMMITTED BY ILLEGAL ALIENS.**

3 (a) IN GENERAL.—Title 18, United States Code, is
4 amended by inserting after chapter 27 the following:

5 **“CHAPTER 28—DRUG TRAFFICKING AND**
6 **CRIMES OF VIOLENCE COMMITTED BY**
7 **ILLEGAL ALIENS**

“581. Enhanced penalties for drug trafficking and crimes committed by illegal
aliens.

8 **“§ 581. Enhanced penalties for drug trafficking and**
9 **crimes committed by illegal aliens**

10 “(a) OFFENSE.—Any alien unlawfully present in the
11 United States, who commits, conspires to commit, or at-
12 tempts to commit an offense under Federal, State, or
13 Tribal law, an element of which involves the use or at-
14 tempted use of physical force or the threatened use of
15 physical force or a deadly weapon or a drug trafficking
16 crime (as defined in section 924), shall be fined under this
17 title, imprisoned for not less than 5 years, or both.

18 “(b) ENHANCED PENALTIES FOR ALIENS ORDERED
19 REMOVED.—Any alien unlawfully present in the United
20 States who violates subsection (a) and was ordered re-
21 moved under the Immigration and Nationality Act (8
22 U.S.C. 1101 et seq.) on the grounds of having committed
23 a crime before the violation of subsection (a), shall be

1 fined under this title, imprisoned for not less than 15
2 years, or both.

3 “(c) REQUIREMENT FOR CONSECUTIVE SEN-
4 TENCES.—Any term of imprisonment imposed under this
5 section shall be consecutive to any term imposed for any
6 other offense.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters
8 at the beginning of part I of title 18, United States Code,
9 is amended by inserting after the item relating to chapter
10 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal
aliens 581”.

11 **SEC. 1604. ESTABLISHING INADMISSIBILITY AND DEPORT-**
12 **ABILITY.**

13 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)(A)) is amended by adding at the end the fol-
16 lowing:

17 “(iii) CONSIDERATION OF OTHER EVI-
18 DENCE.—If the statute of conviction or
19 conviction records do not conclusively es-
20 tablish whether a crime does or does not
21 constitute a crime involving moral turpi-
22 tude, the Secretary, the Attorney General,
23 or the consular officer, as applicable, may
24 consider other documentary evidence re-

1 lated to the conviction, including, but not
2 limited to, charging documents, plea agree-
3 ments, plea colloquies, jury instructions,
4 and police reports, to determine whether
5 the other evidence clearly establishes that
6 the conduct in which the alien was engaged
7 constitutes a crime involving moral turpi-
8 tude.”.

9 (b) DEPORTABLE ALIENS.—

10 (1) GENERAL CRIMES.—Section 237(a)(2)(A)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1227(a)(2)(A)) is amended by—

13 (A) redesignating clause (vi) and clause
14 (vii); and

15 (B) inserting after clause (v) the following:

16 “(vi) CRIMES INVOLVING MORAL TUR-
17 PITUDE.—If the conviction records do not
18 conclusively establish whether a crime con-
19 stitutes a crime involving moral turpitude,
20 the Secretary or the Attorney General may
21 consider other documentary evidence re-
22 lated to the conviction, including, but not
23 limited to, charging documents, plea agree-
24 ments, plea colloquies, jury instructions,
25 and police reports, to determine whether

1 the other evidence clearly establishes that
2 the conduct in which the alien was engaged
3 constitutes a crime involving moral turpi-
4 tude.”.

5 (2) DOMESTIC VIOLENCE.—Section
6 237(a)(2)(E) of Immigration and Nationality Act (8
7 U.S.C. 1227(a)(2)(E)) is amended—

8 (A) in clause (i), by striking “For purposes
9 of this clause” and inserting “For purposes of
10 this subparagraph”; and

11 (B) by adding at the end the following:

12 “(iii) CRIME OF VIOLENCE.—If the
13 conviction records do not conclusively es-
14 tablish whether a conviction constitutes a
15 crime of domestic violence, the Secretary
16 or the Attorney General may consider
17 other documentary evidence related to the
18 conviction, including, but not limited to,
19 charging documents, plea agreements, plea
20 colloquies, jury instructions, and police re-
21 ports, that clearly establishes that the con-
22 duct in which the alien was engaged con-
23 stitutes a crime of domestic violence.”.

24 (c) EFFECTIVE DATE; APPLICABILITY.—The amend-
25 ments made by this section shall—

1 (1) take effect on the date of enactment of this
2 Act; and

3 (2) shall apply to an act that occurs before, on,
4 or after the date of enactment of this Act.

5 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY; ENHANCED**
6 **PENALTIES FOR ENTERING WITH INTENT TO**
7 **AID, ABET, OR COMMIT TERRORISM.**

8 (a) IN GENERAL.—Section 275 of the Immigration
9 and Nationality Act (8 U.S.C. 1325) is amended by strik-
10 ing the section designation and heading and all that fol-
11 lows through “may be imposed.” in the undesignated mat-
12 ter following subsection (b)(2) and inserting the following:

13 **“SEC. 275. ILLEGAL ENTRY.**

14 **“(a) IN GENERAL.—**

15 **“(1) BARS TO IMMIGRATION RELIEF AND BENE-**
16 **FITS.—Any alien shall be ineligible for all immigra-**
17 **tion benefits or relief available under the immigra-**
18 **tion laws, including relief under sections 240A(b)(1),**
19 **240B(b), 245, 248, and 249, other than asylum, re-**
20 **lief as a victim of trafficking under section**
21 **101(a)(15)(T), relief as a victim of criminal activity**
22 **under section 101(a)(15)(U), relief under the Vio-**
23 **lence Against Women Act of 1994 (42 U.S.C. 13701**
24 **et seq.) as a spouse or child who has been battered**
25 **or subjected to extreme cruelty, relief as a battered**

1 spouse or child under section 240A(b)(2), with-
2 holding of removal under section 241(b)(3), or pro-
3 tection from removal based on a claim under the
4 Convention Against Torture and Other Cruel, Inhu-
5 man or Degrading Treatment or Punishment, done
6 at New York, December 10, 1984, if the alien—

7 “(A) enters, crosses, or attempts to enter
8 or cross the border into, the United States at
9 any time or place other than as designated by
10 immigration officers;

11 “(B) eludes, at any time or place, examina-
12 tion or inspection by an authorized immigra-
13 tion, customs, or agriculture officer (including
14 failing to stop at the command of such officer);
15 or

16 “(C) enters or crosses the border to the
17 United States and, upon examination or inspec-
18 tion, makes a false or misleading representation
19 or conceals a material fact, including such rep-
20 resentation or willful concealment in the context
21 of arrival, reporting, entry, or clearance, re-
22 quirements of the customs laws, immigration
23 laws, agriculture laws, or shipping laws.

1 “(2) CRIMINAL OFFENSES.—An alien shall be
2 subject to the penalties under paragraph (3) if the
3 alien—

4 “(A) enters, crosses, or attempts to enter
5 or cross the border into, the United States at
6 any time or place other than as designated by
7 immigration officers;

8 “(B) eludes, at any time or place, examina-
9 tion or inspection by an authorized immigra-
10 tion, customs, or agriculture officer (including
11 failing to stop at the command of such officer);
12 or

13 “(C) enters or crosses the border to the
14 United States and, upon examination or inspec-
15 tion, makes a false or misleading representation
16 or conceals a material fact, including such rep-
17 resentation or concealment in the context of ar-
18 rival, reporting, entry, or clearance, require-
19 ments of the customs laws, immigration laws,
20 agriculture laws, or shipping laws.

21 “(3) CRIMINAL PENALTIES.—Any alien who
22 violates any provision under paragraph (1) by en-
23 gaging in conduct described in subparagraph (A),
24 (B), or (C) of that paragraph—

1 “(A) shall, for the first violation, be fined
2 under title 18, United States Code, imprisoned
3 not more than 6 months, or both;

4 “(B) shall, for a second or subsequent vio-
5 lation, or following an order of voluntary depar-
6 ture, be fined under such title, imprisoned not
7 more than 2 years, or both;

8 “(C) if the violation occurs after the alien
9 has been convicted of 3 or more misdemeanors
10 (at least 1 of which involves controlled sub-
11 stances, abuse of a minor, trafficking or smug-
12 gling, or any offense that may result in serious
13 bodily harm or injury to another person), a sig-
14 nificant misdemeanor, or a felony, shall be fined
15 under such title, imprisoned not more than 10
16 years, or both;

17 “(D) if the violation occurs after the alien
18 has been convicted of a felony for which the
19 alien received a term of imprisonment of not
20 less than 30 months, shall be fined under such
21 title, imprisoned not more than 15 years, or
22 both; and

23 “(E) if the violation occurs after the alien
24 has been convicted of a felony for which the
25 alien received a term of imprisonment of not

1 less than 60 months, such alien shall be fined
2 under such title, imprisoned not more than 20
3 years, or both.

4 “(4) PRIOR CONVICTIONS.—The prior convic-
5 tions described in subparagraphs (C) through (E) of
6 paragraph (3) are elements of the offenses described
7 in that paragraph and the penalties described in
8 such subparagraphs shall apply only in cases in
9 which the 1 or more convictions that form the basis
10 for the additional penalty are—

11 “(A) alleged in the indictment or informa-
12 tion; and

13 “(B) proven beyond a reasonable doubt at
14 trial; or

15 “(C) admitted by the defendant.

16 “(5) DURATION OF OFFENSES.—An offense
17 under this subsection continues until the alien is dis-
18 covered within the United States by an immigration,
19 customs, or agriculture officer.

20 “(6) ATTEMPT.—Any person who attempts to
21 commit any offense under this section shall be pun-
22 ished in the same manner as for a completion of
23 such offense.

24 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
25 ALTIES.—

1 “(1) IN GENERAL.—Any alien who is appre-
2 hended while entering, attempting to enter, or cross-
3 ing or attempting to cross the border to the United
4 States at a time or place other than as designated
5 by an immigration officer shall be subject to a civil
6 penalty, in addition to any criminal or other civil
7 penalties that may be imposed under any other pro-
8 vision of law, in an amount equal to—

9 “(A) not less than \$50 but not more than
10 \$250 for each such entry, crossing, attempted
11 entry, or attempted crossing; or

12 “(B) twice the amount described in sub-
13 paragraph (A) if the alien had previously been
14 subject to a civil penalty under this subsection.

15 “(2) CIVIL PENALTIES.—Civil penalties under
16 paragraph (1) are in addition to, and not in place
17 of, any criminal or other civil penalties that may be
18 imposed.”.

19 (b) ENHANCED PENALTIES.—Section 275 of the Im-
20 migration and Nationality Act (8 U.S.C. 1325) is amend-
21 ed by adding at the end the following:

22 “(e) ENHANCED PENALTY FOR TERRORIST
23 ALIENS.—Any alien who commits an offense described in
24 subsection (a) for the purpose of engaging in, or with the
25 intent to engage in, any Federal crime of terrorism (as

1 defined in section 2332b(g) of title 18, United States
2 Code) shall be imprisoned for not less than 10 years and
3 not more than 30 years.”.

4 (c) CLERICAL AMENDMENT.—The table of contents
5 in the first section of the Immigration and Nationality Act
6 is amended by striking the item relating to section 275
7 and inserting the following:

“Sec. 275. Illegal entry.”.

8 (d) APPLICATION.—

9 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of
10 the Immigration and Nationality Act shall apply
11 only to violations of section 275(a)(2) of that Act (8
12 U.S.C. 1325(a)(2)) committed on or after the date
13 of enactment of this Act.

14 (2) BARS TO IMMIGRATION RELIEF AND BENE-
15 FITS.—Section 275(a)(1) of the Immigration and
16 Nationality Act (8 U.S.C. 1325(a)(2)) shall take ef-
17 fect on the date of enactment of this Act and apply
18 to any alien who, on or after that date of enact-
19 ment—

20 (A) enters or crosses, or attempts to enter
21 or cross, the border into the United States at
22 any time or place other than as designated by
23 immigration officers;

24 (B) eludes, at any time or place, examina-
25 tion or inspection by an authorized immigra-

1 tion, customs, or agriculture officer (including
2 failing to stop at the command of such officer);
3 or

4 (C) enters or crosses the border to the
5 United States and, upon examination or inspec-
6 tion, makes a false or misleading representation
7 or conceals a material fact, including such rep-
8 resentation or concealment in the context of ar-
9 rival, reporting, entry, or clearance, require-
10 ments of the customs laws, immigration laws,
11 agriculture laws, or shipping laws.

12 **SEC. 1606. PENALTIES FOR REENTRY OF REMOVED ALIENS.**

13 (a) **SHORT TITLES.**—This section may be cited as the
14 “Stop Illegal Reentry Act” or “Kate’s Law”.

15 (b) **INCREASED PENALTIES FOR REENTRY OF RE-**
16 **MOVED ALIEN.**—

17 (1) **IN GENERAL.**—Section 276 of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1326) is amend-
19 ed to read as follows:

20 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

21 “(a) **IN GENERAL.**—

22 “(1) **BARS TO IMMIGRATION RELIEF AND BENE-**
23 **FITS.**—Any alien who has been denied admission, ex-
24 cluded, deported, or removed or has departed the
25 United States while an order of exclusion, deporta-

1 tion, or removal is outstanding shall be ineligible for
2 all immigration benefits or relief available under the
3 immigration laws, including relief under sections
4 240A(b)(1), 240B(b), 245, 248, and 249, other than
5 asylum, relief as a victim of trafficking under section
6 101(a)(15)(T), relief as a victim of criminal activity
7 under section 101(a)(15)(U), relief under the Vio-
8 lence Against Women Act of 1994 (42 U.S.C. 13701
9 et seq.) as a spouse or child who has been battered
10 or subjected to extreme cruelty, relief as a battered
11 spouse or child under section 240A(b)(2), with-
12 holding of removal under section 241(b)(3), or pro-
13 tection from removal based on a claim under the
14 Convention Against Torture and Other Cruel, Inhu-
15 man or Degrading Treatment or Punishment, done
16 at New York, December 10, 1984, if, after such de-
17 nial, exclusion, deportation, removal, or departure,
18 the alien enters, attempts to enter, crosses the bor-
19 der into, attempts to cross the border into, or is at
20 any time found in, the United States, unless—

21 “(A) if the alien is seeking admission more
22 than 10 years after the date of the alien’s last
23 departure from the United States, the Sec-
24 retary, before the alien’s reembarkation at a
25 place outside of the United States or the alien’s

1 application for admission from a foreign contig-
2 uous territory, has expressly consented to such
3 alien's reapplying for admission; or

4 “(B) with respect to an alien previously de-
5 nied admission and removed, such alien estab-
6 lishes that the alien was not required to obtain
7 such advance consent under this Act or any
8 other Act.

9 “(2) CRIMINAL OFFENSES.—Any alien who—

10 “(A) has been denied admission, deported,
11 or removed or has departed the United States
12 while an order of deportation, or removal is out-
13 standing; and

14 “(B) after such denial, removal or depar-
15 ture, enters, attempts to enter, crosses the bor-
16 der into, attempts to cross the border into, or
17 is at any time found in, the United States, un-
18 less—

19 “(i) if the alien is seeking admission
20 more than 10 years after the date of the
21 alien's last departure from the United
22 States, the Secretary, before the alien's re-
23 embarkation at a place outside the United
24 States or the alien's application for admis-
25 sion from a foreign contiguous territory,

1 has expressly consented to such alien’s re-
2 applying for admission; or

3 “(ii) with respect to an alien pre-
4 viously denied admission and removed,
5 such alien establishes that the alien was
6 not required to obtain such advance con-
7 sent under this Act or any other Act,

8 “shall be fined under title 18, United States
9 Code, imprisoned not more than 5 years, or both.

10 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
11 TAIN REMOVED ALIENS.—

12 “(1) REENTRY AFTER REMOVAL.—Notwith-
13 standing the penalties under subsection (a)(2), and
14 except as provided in subsection (c)—

15 “(A) an alien described in subsection (a)
16 who has been excluded from the United States
17 pursuant to section 235(c) because the alien
18 was excludable under section 212(a)(3)(B) or
19 who has been removed from the United States
20 pursuant to the provisions of title V, and there-
21 after, without the permission of the Secretary,
22 enters the United States, or attempts to enter
23 the United States, shall be fined under title 18,
24 United States Code, and imprisoned for a pe-

1 riod of 15 years, which sentence shall not run
2 concurrently with any other sentence;

3 “(B) an alien described in subsection (a)
4 who was removed from the United States pur-
5 suant to section 237(a)(4)(B) and thereafter,
6 without the permission of the Secretary, enters,
7 attempts to enter, or is at any time found in,
8 the United States (unless the Secretary has ex-
9 pressly consented to such alien’s reentry) shall
10 be fined under title 18, United States Code, im-
11 prisoned for not more than 15 years, or both;
12 and

13 “(C) an alien described in subsection (a)
14 who has been denied admission, excluded, de-
15 ported, or removed 2 or more times for any rea-
16 son and thereafter enters, attempts to enter,
17 crosses the border into, attempts to cross the
18 border into, or is at any time found in, the
19 United States, shall be fined under title 18,
20 United States Code, imprisoned not more than
21 15 years, or both.

22 “(2) REENTRY OF CRIMINAL ALIENS AFTER RE-
23 MOVAL.—Notwithstanding the penalties under sub-
24 section (a)(2), and except as provided in subsection
25 (c)—

1 “(A) an alien described in subsection (a)
2 who was convicted, on a date that is before the
3 date on which the alien was subject to removal
4 or departure, of a significant misdemeanor shall
5 be fined under title 18, United States Code, im-
6 prisoned not more than 10 years, or both;

7 “(B) an alien described in subsection (a)
8 who was convicted, on a date that is before the
9 date on which the alien was subject to removal
10 or departure, of 2 or more misdemeanors in-
11 volving drugs, crimes against the person, or
12 both, shall be fined under title 18, United
13 States Code, imprisoned not more than 10
14 years, or both;

15 “(C) an alien described in subsection (a)
16 who was convicted, on a date that is before the
17 date on which the alien was subject to removal
18 or departure, of 3 or more misdemeanors for
19 which the alien was sentenced to a term of im-
20 prisonment of not less than 90 days for each of-
21 fense, or 12 months in the aggregate, shall be
22 fined under title 18, United States Code, im-
23 prisoned not more than 10 years, or both;

24 “(D) an alien described in subsection (a)
25 who was convicted, on a date that is before the

1 date on which the alien was subject to removal
2 or departure, of a felony for which the alien
3 was sentenced to a term of imprisonment of not
4 less than 30 months shall be fined under such
5 title, imprisoned not more than 15 years, or
6 both;

7 “(E) an alien described in subsection (a)
8 who was convicted, on a date that is before the
9 date on which the alien was subject to removal
10 or departure, of a felony for which the alien
11 was sentenced to a term of imprisonment of not
12 less than 5 years shall be fined under such title,
13 imprisoned not more than 20 years, or both;

14 “(F) an alien described in subsection (a)
15 who was convicted of 3 or more felonies of any
16 kind shall be fined under such title, imprisoned
17 not more than 25 years, or both; and

18 “(G) an alien described in subsection (a)
19 who was convicted, on a date that is before the
20 date on which the alien was subject to removal
21 or departure or after such removal or depar-
22 ture, for murder, rape, kidnapping, or a felony
23 offense described in chapter 77 (relating to pe-
24 onage and slavery) or 113B (relating to ter-
25 rorism) of such title shall be fined under such

1 title, imprisoned not more than 25 years, or
2 both.

3 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
4 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
5 standing the penalties under subsections (a) and (b), an
6 alien described in subsection (a) shall be imprisoned not
7 less than 5 years and not more than 20 years, and may,
8 in addition, be fined under title 18, United States Code,
9 if the alien—

10 “(1) was convicted, on a date that is before the
11 date on which the alien was subject to removal or
12 departure, of an aggravated felony; or

13 “(2) was convicted at least twice of illegal re-
14 entry under this section on 1 or more dates that are
15 before the date on which such removal or departure.

16 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
17 convictions described in subsection (b)(2) are elements of
18 the crimes described in that subsection, and the penalties
19 in that subsection shall apply only in cases in which the
20 1 or more convictions that form the basis for the addi-
21 tional penalty are—

22 “(1) alleged in the indictment or information;
23 and

24 “(2)(A) proven beyond a reasonable doubt at
25 trial; or

1 “(B) admitted by the defendant.

2 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
3 firmative defense to a violation of this section that—

4 “(1) on a date that is before the date of the al-
5 leged violation, the alien sought and received the ex-
6 press consent of the Secretary to reapply for admis-
7 sion into the United States; or

8 “(2) with respect to an alien previously denied
9 admission and removed, the alien—

10 “(A) was not required to obtain such ad-
11 vance consent under this Act or any other Act;
12 and

13 “(B) complied with all other laws and reg-
14 ulations governing the alien’s admission into
15 the United States.

16 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
17 DERLYING REMOVAL ORDER.—In a criminal proceeding
18 under this section, an alien may not challenge the validity
19 of a removal order described in subsection (a), (b), or (c)
20 concerning the alien unless the alien demonstrates that—

21 “(1) the alien exhausted any administrative
22 remedies that may have been available to seek relief
23 against the order;

1 “(2) the removal or deportation proceedings at
2 which the order was issued improperly deprived the
3 alien of the opportunity for judicial review; and

4 “(3) the entry of the order was fundamentally
5 unfair.

6 “(g) REENTRY OF ALIEN REMOVED BEFORE THE
7 COMPLETION OF THE TERM OF IMPRISONMENT.—Any
8 alien removed pursuant to section 241(a)(4) who enters,
9 attempts to enter, crosses the border into, attempts to
10 cross the border into, or is at any time found in, the
11 United States—

12 “(1) shall be incarcerated for the remainder of
13 the sentence of imprisonment that was pending at
14 the time of deportation or removal without any re-
15 duction for parole or supervised release unless the
16 alien affirmatively demonstrates that the Secretary
17 has expressly consented to the alien’s reentry (if a
18 request for consent to reapply is authorized under
19 this section); and

20 “(2) shall be subject to such other penalties re-
21 lating to the reentry of removed aliens as may be
22 available under this section or any other provision of
23 law.

24 “(h) DEFINITIONS.—In this section:

1 “(1) CROSS THE BORDER.—The term ‘cross the
2 border’ refers to the physical act of crossing the bor-
3 der, regardless of whether the alien is free from offi-
4 cial restraint.

5 “(2) FELONY.—The term ‘felony’ means any
6 criminal offense punishable by a term of imprison-
7 ment of more than 1 year under the laws of the
8 United States, any State, or a foreign government.

9 “(3) MISDEMEANOR.—The term ‘misdemeanor’
10 means any criminal offense punishable by a term of
11 imprisonment of not more than 1 year under the ap-
12 plicable laws of the United States, any State, or a
13 foreign government.

14 “(4) REMOVAL.—The term ‘removal’ includes
15 any denial of admission, deportation, or removal, or
16 any agreement by which an alien stipulates or agrees
17 to deportation, or removal.

18 “(5) SIGNIFICANT MISDEMEANOR.—The term
19 ‘significant misdemeanor’ means a misdemeanor
20 crime that—

21 “(A) involves the use or attempted use of
22 physical force, or threatened use of a deadly
23 weapon, committed by a current or former
24 spouse, parent, or guardian of the victim, by a
25 person with whom the victim shares a child in

1 common, by a person who is cohabiting with or
2 has cohabited with the victim as a spouse, par-
3 ent, or guardian, or by a person similarly situ-
4 ated to a spouse, parent, or guardian of the vic-
5 tim;

6 “(B) is a sexual assault (as defined in sec-
7 tion 40002(a) of the Violent Crime Control and
8 Law Enforcement Act of 1994 (34 U.S.C.
9 12291(a));

10 “(C) involved the unlawful possession of a
11 firearm (as defined in section 921 of title 18,
12 United States Code);

13 “(D) is a crime of violence (as defined in
14 section 16 of title 18, United States Code); or

15 “(E) is an offense under Federal, State, or
16 Tribal law, that has, as an element, the use or
17 attempted use of physical force or the threat-
18 ened use of physical force or a deadly weapon.

19 “(6) STATE.—The term ‘State’ means a State
20 of the United States, the District of Columbia, and
21 any commonwealth, territory, or possession of the
22 United States.”.

23 (c) EFFECTIVE DATE; APPLICABILITY.—Section
24 276(a)(1) of the Immigration and Nationality Act (8
25 U.S.C. 1326(a)(1)) shall take effect on the date of enact-

1 ment of this Act and shall apply to any alien who, on or
2 after that date of enactment—

3 (1) has been denied admission, excluded, de-
4 ported, or removed or has departed the United
5 States while an order of exclusion, deportation, or
6 removal is outstanding; and

7 (2) after such denial, exclusion, deportation or
8 removal, enters, attempts to enter, crosses the bor-
9 der into, attempts to cross the border into, or is at
10 any time found in, the United States, unless—

11 (A) if the alien is seeking admission more
12 than 10 years after the date of the alien's last
13 departure from the United States, the Secretary
14 of Homeland Security, before the alien's re-
15 embarkation at a place outside the United
16 States or the alien's application for admission
17 from a foreign contiguous territory, has ex-
18 pressly consented to such alien's reapplying for
19 admission; or

20 (B) with respect to an alien previously de-
21 nied admission and removed, such alien estab-
22 lishes that the alien was not required to obtain
23 such advance consent under the Immigration
24 and Nationality Act (8 U.S.C. 1101 et seq.) or
25 any other Act.

1 **SEC. 1607. LAUNDERING OF MONETARY INSTRUMENTS.**

2 Section 1956(c)(7)(D) of title 18, United States
3 Code, is amended by inserting “section 1590 (relating to
4 trafficking with respect to peonage, slavery, involuntary
5 servitude, or forced labor),” after “section 1363 (relating
6 to destruction of property within the special maritime and
7 territorial jurisdiction),”.

8 **SEC. 1608. FREEZING BANK ACCOUNTS OF INTERNATIONAL**
9 **CRIMINAL ORGANIZATIONS AND MONEY**
10 **LAUNDERERS.**

11 Section 981(b) of title 18, United States Code, is
12 amended by adding at the end the following:

13 “(5)(A) If a person is arrested or charged in connec-
14 tion with an offense described in subparagraph (C) involv-
15 ing the movement of funds into or out of the United
16 States, the Attorney General may apply to any Federal
17 judge or magistrate judge in the district in which the ar-
18 rest is made or where the charges are filed for an ex parte
19 order restraining any account held by the person arrested
20 or charged for not more than 30 days. Such 30-day period
21 may be extended for good cause shown at a hearing con-
22 ducted in the manner provided in Rule 43 of the Federal
23 Rules of Civil Procedure. The court may receive and con-
24 sider evidence and information submitted by the Govern-
25 ment that would be inadmissible under the Federal Rules
26 of Evidence.

1 “(B) The application for a restraining order under
2 subparagraph (A) shall—

3 “(i) identify the offense for which the person
4 has been arrested or charged;

5 “(ii) identify the location and description of the
6 accounts to be restrained; and

7 “(iii) state that the restraining order is needed
8 to prevent the removal of the funds in the account
9 by the person arrested or charged, or by others asso-
10 ciated with such person, during the time needed by
11 the Government to conduct such investigation as
12 may be necessary to establish whether there is prob-
13 able cause to believe that the funds in the accounts
14 are subject to forfeiture in connection with the com-
15 mission of any criminal offense.

16 “(C) An offense described in this subparagraph is any
17 offense for which forfeiture is authorized under this title,
18 title 31, or the Controlled Substances Act (21 U.S.C. 801
19 et seq.).

20 “(D) For purposes of this section—

21 “(i) the term ‘account’ includes any safe deposit
22 box and any account (as defined in paragraphs (1)
23 and (2) of section 5318A(e) of title 31, United
24 States Code) at any financial institution; and

1 “(ii) the term ‘account held by the person ar-
2 rested or charged’ includes an account held in the
3 name of such person, and any account over which
4 such person has effective control as a signatory or
5 otherwise.

6 “(E) A restraining order issued under this paragraph
7 shall not be considered a ‘seizure’ for purposes of section
8 983(a).

9 “(F) A restraining order issued under this paragraph
10 may be executed in any district in which the subject ac-
11 count is found, or transmitted to the central authority of
12 any foreign State for service in accordance with any treaty
13 or other international agreement.”.

14 **SEC. 1609. CRIMINAL PROCEEDS LAUNDERED THROUGH**
15 **PREPAID ACCESS DEVICES, DIGITAL CUR-**
16 **RENCIES, OR OTHER SIMILAR INSTRUMENTS.**

17 (a) IN GENERAL.—

18 (1) DEFINITIONS.—

19 (A) ADDITION OF ISSUERS, REDEEMERS,
20 AND CASHIERS OF PREPAID ACCESS DEVICES
21 AND DIGITAL CURRENCIES TO THE DEFINITION
22 OF FINANCIAL INSTITUTIONS.—Section
23 5312(a)(2)(K) of title 31, United States Code,
24 is amended to read as follows:

1 “(K) an issuer, redeemer, or cashier of
2 travelers’ checks, checks, money orders, prepaid
3 access devices, digital currencies, or any digital
4 exchanger or tumbler of digital currency;”.

5 (B) ADDITION OF PREPAID ACCESS DE-
6 VICES TO THE DEFINITION OF MONETARY IN-
7 STRUMENTS.—Section 5312(a)(3)(B) of title
8 31, United States Code, is amended by insert-
9 ing “prepaid access devices,” after “delivery,”.

10 (C) PREPAID ACCESS DEVICE.—Section
11 5312 of such title is amended—

12 (i) by redesignating paragraph (6) as
13 paragraph (7); and

14 (ii) by inserting after paragraph (5)
15 the following:

16 “(6) ‘prepaid access device’ means an electronic
17 device or vehicle, such as a card, plate, code, num-
18 ber, electronic serial number, mobile identification
19 number, personal identification number, or other in-
20 strument that provides a portal to funds or the value
21 of funds that have been paid in advance and can be
22 retrievable and transferable at some point in the fu-
23 ture.”.

24 (2) GAO REPORT.—Not later than 18 months
25 after the date of enactment of this Act, the Comp-

1 troller General of the United States shall submit a
2 report to Congress that describes—

3 (A) the impact of amendments made by
4 paragraph (1) on law enforcement, the prepaid
5 access device industry, and consumers; and

6 (B) the implementation and enforcement
7 by the Department of the Treasury of the final
8 rule relating to “Bank Secrecy Act Regula-
9 tions—Definitions and Other Regulations Re-
10 lating to Prepaid Access” (76 Fed. Reg. 45403
11 (July 29, 2011)).

12 (b) U.S. CUSTOMS AND BORDER PROTECTION
13 STRATEGY FOR PREPAID ACCESS DEVICES.—Not later
14 than 18 months after the date of enactment of this Act,
15 the Secretary of Homeland Security, in consultation with
16 the Commissioner of U.S. Customs and Border Protection,
17 shall submit to Congress a report that—

18 (1) details a strategy to interdict and detect
19 prepaid access devices, digital currencies, or other
20 similar instruments, at border crossings and other
21 ports of entry for the United States; and

22 (2) includes an assessment of the infrastructure
23 needed to carry out the strategy detailed pursuant
24 to paragraph (1).

1 (c) MONEY SMUGGLING THROUGH BLANK CHECKS
2 IN BEARER FORM.—Section 5316 of title 31, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
6 BLANK.—For purposes of this section, a monetary instru-
7 ment in bearer form that has the amount left blank, such
8 that the amount could be filled in by the bearer, shall be
9 considered to have a value of more than \$10,000 if the
10 monetary instrument was drawn on an account that con-
11 tained or was intended to contain more than \$10,000 at
12 the time the monetary instrument was—

13 “(1) transported; or

14 “(2) negotiated.”.

15 **SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL AS-**
16 **SOCIATES ENGAGED IN MONEY LAUNDERING.**

17 (a) INTENT TO CONCEAL OR DISGUISE.—Section
18 1956(a) of title 18, United States Code, is amended—

19 (1) in paragraph (1)(B), by striking “(B) know-
20 ing that” and all that follows through “Federal
21 law,” in clause (ii) and inserting the following:

22 “(B) knowing that the transaction—

23 “(i) conceals or disguises, or is intended to
24 conceal or disguise, the nature, source, location,

1 ownership, or control of the proceeds of some
2 form of unlawful activity; or

3 “(ii) avoids, or is intended to avoid, a
4 transaction reporting requirement under State
5 or Federal law,”; and

6 (2) in paragraph (2)(B), by striking “(B) know-
7 ing that” and all that follows through “Federal
8 law,” in clause (ii) and inserting the following:

9 “(B) knowing that the monetary instrument or
10 funds involved in the transportation, transmission,
11 or transfer represent the proceeds of some form of
12 unlawful activity, and knowing that such transpor-
13 tation, transmission, or transfer—

14 “(i) conceals or disguises, or is intended to
15 conceal or disguise, the nature, source, location,
16 ownership, or control of the proceeds of some
17 form of unlawful activity; or

18 “(ii) avoids, or is intended to avoid, a
19 transaction reporting requirement under State
20 or Federal law,”.

21 (b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
22 title 18, United States Code, is amended by inserting “,
23 and regardless of whether the person knew that the activ-
24 ity constituted a felony” before the semicolon at the end.

1 **Subtitle G—Protecting National**
2 **Security and Public Safety**

3 **CHAPTER 1—GENERAL MATTERS**

4 **SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, ENGAGE**
5 **IN TERRORIST ACTIVITY, AND TERRORIST**
6 **ORGANIZATION.**

7 (a) DEFINITION OF ENGAGE IN TERRORIST ACTIV-
8 ITY.—Section 212(a)(3)(B)(iv)(I) of the Immigration and
9 Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amend-
10 ed to read as follows:

11 “(I) to commit a terrorist activity
12 or, under circumstances indicating an
13 intention to cause death, serious bod-
14 ily harm, or substantial damage to
15 property, to incite another person to
16 commit a terrorist activity;”.

17 (b) DEFINITION OF TERRORIST ORGANIZATION.—
18 Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
19 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

20 “(III) that is a group of 2 or
21 more individuals, whether organized
22 or not, which engages in, or has a
23 subgroup that engages in, the activi-
24 ties described in subclauses (I)
25 through (VI) of clause (iv), if the

1 group or subgroup presents a threat
2 to the national security of the United
3 States.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall take effect on the date of the en-
7 actment of this Act.

8 (2) APPLICABILITY.—Section 212(a)(3) of the
9 Immigration and Nationality Act, as amended by
10 this section, shall apply to—

11 (A) removal proceedings instituted before,
12 on, or after the date of the enactment of this
13 Act; and

14 (B) acts and conditions constituting a
15 ground for inadmissibility, excludability, depor-
16 tation, or removal occurring or existing before,
17 on, or after such date.

18 **SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS**
19 **OF INADMISSIBILITY.**

20 (a) SECURITY AND RELATED GROUNDS.—Section
21 212(a)(3)(A) of the Immigration and Nationality Act (8
22 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

23 “(A) IN GENERAL.—Any alien who a con-
24 sular officer, the Attorney General, or the Sec-
25 retary knows, or has reasonable ground to be-

1 lieve, seeks to enter the United States to en-
2 gage solely, principally, or incidentally, in, or
3 who is engaged in—

4 “(i) any activity—

5 “(I) to violate any law of the
6 United States relating to espionage or
7 sabotage; or

8 “(II) to violate or evade any law
9 prohibiting the export from the
10 United States of goods, technology, or
11 sensitive information;

12 “(ii) any other activity which would be
13 unlawful if committed in the United
14 States; or

15 “(iii) any activity a purpose of which
16 is the opposition to, or the control or over-
17 throw of, the Government of the United
18 States by force, violence, or other unlawful
19 means,

20 is inadmissible.”.

21 (b) TERRORIST ACTIVITIES.—Section
22 212(a)(3)(B)(i) of the Immigration and Nationality Act
23 (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

1 (1) in subclause (III), by inserting “or substan-
2 tial damage to property” before “, incited terrorist
3 activity”;

4 (2) in subclause (IV), by inserting “or has
5 been” before “a representative”;

6 (3) in subclause (V), by inserting “or has been”
7 before “a member”;

8 (4) in subclause (VI), by inserting “or has
9 been” before “a member”;

10 (5) by amending subclause (VII) to read as fol-
11 lows:

12 “(VII) endorses or espouses, or
13 has endorsed or espoused, terrorist
14 activity or persuades or has persuaded
15 others to endorse or espouse terrorist
16 activity or support a terrorist organi-
17 zation;”;

18 (6) by amending subclause (IX) to read as fol-
19 lows:

20 “(IX) is the spouse or child of an
21 alien who is inadmissible under this
22 subparagraph if—

23 “(aa) the activity causing
24 the alien to be found inadmissible

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1 occurred within the last 10 years;
2 and

3 “(bb)(AA) the spouse or
4 child knew, or should reasonably
5 have known, of the activity caus-
6 ing the alien to be found inad-
7 missible under this section; and

8 “(BB) the consular officer
9 or Attorney General does not
10 have reasonable grounds to be-
11 lieve that the spouse or child has
12 renounced the activity causing
13 the alien to be found inadmissible
14 under this section.”; and

15 (7) by striking the undesignated matter fol-
16 lowing subclause (IX).

17 (c) PALESTINE LIBERATION ORGANIZATION.—Sec-
18 tion 212(a)(3)(B) of the Immigration and Nationality Act
19 (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end
20 the following:

21 “(vii) PALESTINE LIBERATION ORGA-
22 NIZATION.—An alien who is an officer, of-
23 ficial, representative, or spokesman of the
24 Palestine Liberation Organization is con-

1 sidered, for purposes of this Act, to be en-
2 gaged in terrorist activity.”.

3 (d) BARS TO IMMIGRATION RELIEF.—Any alien de-
4 scribed in section 212(a)(3)(B) or 237(a)(4)(B) is not eli-
5 gible and may not apply for any immigration benefits or
6 relief available under this Act. Such aliens are only eligible
7 to seek deferral of removal pursuant to the Convention
8 Against Torture and Other Cruel, Inhuman or Degrading
9 Treatment or Punishment, done at New York, December
10 10, 1984.

11 **SEC. 1703. EXPEDITED REMOVAL FOR ALIENS INADMIS-**
12 **SIBLE ON CRIMINAL OR SECURITY GROUNDS.**

13 (a) IN GENERAL.—Section 238 of the Immigration
14 and Nationality Act (8 U.S.C. 1228) is amended—

15 (1) in the section heading, by adding at the end
16 the following: “or who are subject to terrorism-re-
17 lated grounds for removal”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) by striking “Attorney General”
21 and inserting “Secretary, in the Sec-
22 retary’s sole and unreviewable discretion,”;
23 and

24 (ii) by striking “set forth in this sub-
25 section or” and inserting “set forth in this

1 subsection, in lieu of removal proceedings
2 under”;

3 (B) in paragraphs (3) and (4), by striking
4 “Attorney General” each place that term ap-
5 pears and inserting “Secretary”;

6 (C) in paragraph (5)—

7 (i) by striking “described in this sec-
8 tion” and inserting “described in para-
9 graph (1) or (2)”;

10 (ii) by striking “the Attorney General
11 may grant in the Attorney General’s dis-
12 cretion.” and inserting “the Secretary or
13 the Attorney General may grant, in the
14 sole and unreviewable discretion of the
15 Secretary or the Attorney General, in any
16 proceeding.”;

17 (D) by redesignating paragraphs (3), (4),
18 and (5) as paragraphs (4), (5), and (6), respec-
19 tively; and

20 (E) by inserting after paragraph (2) the
21 following:

22 “(3) The Secretary, in the exercise of discre-
23 tion, may determine inadmissibility under section
24 212(a)(2) and issue an order of removal pursuant to
25 the procedures set forth in this subsection, in lieu of

1 removal proceedings under section 240, with respect
2 to an alien who—

3 “(A) has not been admitted or paroled;

4 “(B) has not been found to have a credible
5 fear of persecution pursuant to the procedures
6 set forth in 235(b)(1)(B); and

7 “(C) is not eligible for a waiver of inadmis-
8 sibility or relief from removal.”;

9 (3) by redesignating the first subsection (c) as
10 subsection (d);

11 (4) by redesignating the second subsection (c),
12 as so designated by section 617(b)(13) of the Illegal
13 Immigration Reform and Immigrant Responsibility
14 Act of 1996 (division C of Public Law 104–208; 110
15 Stat. 3009–720)), as subsection (e); and

16 (5) by inserting after subsection (b) the fol-
17 lowing:

18 “(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO
19 TERRORISM-RELATED GROUNDS FOR REMOVAL.—

20 “(1) IN GENERAL.—The Secretary—

21 “(A) notwithstanding section 240, shall—

22 “(i) determine the inadmissibility of
23 every alien under subclause (I), (II), or
24 (III) of section 212(a)(3)(B)(i), or the de-
25 portability of the alien under section

1 237(a)(4)(B) as a consequence of being de-
2 scribed in 1 of such subclauses; and

3 “(ii) issue an order of removal pursu-
4 ant to the procedures set forth in this sub-
5 section to every alien determined to be in-
6 admissible or deportable on a ground de-
7 scribed in clause (i); and

8 “(B) may—

9 “(i) determine the inadmissibility of
10 any alien under subparagraph (A) or (B)
11 of section 212(a)(3) (other than subclauses
12 (I), (II), and (III) of section
13 212(a)(3)(B)(i)), or the deportability of
14 the alien under subparagraph (A) or (B) of
15 section 237(a)(4) (as a consequence of
16 being described in subclause (I), (II), or
17 (III) of section 212(a)(3)(B)(i)); and

18 “(ii) issue an order of removal pursu-
19 ant to the procedures set forth in this sub-
20 section to every alien determined to be in-
21 admissible or deportable on a ground de-
22 scribed in clause (i).

23 “(2) LIMITATION.—The Secretary may not exe-
24 cute any order described in paragraph (1) until 30
25 days after the date on which such order was issued,

1 unless waived by the alien, to give the alien an op-
2 portunity to petition for judicial review under section
3 242.

4 “(3) PROCEEDINGS.—The Secretary shall pre-
5 scribe regulations to govern proceedings under this
6 subsection, which shall require that—

7 “(A) the alien is given reasonable notice of
8 the charges and of the opportunity described in
9 subparagraph (C);

10 “(B) the alien has the privilege of being
11 represented (at no expense to the Government)
12 by such counsel, authorized to practice in such
13 proceedings, as the alien shall choose;

14 “(C) the alien has a reasonable oppor-
15 tunity to inspect the evidence and rebut the
16 charges;

17 “(D) a determination is made on the
18 record that the individual upon whom the notice
19 for the proceeding under this section is served
20 (either in person or by mail) is, in fact, the
21 alien named in such notice;

22 “(E) a record is maintained for judicial re-
23 view; and

1 “(F) the final order of removal is not adju-
2 dicated by the same person who issues the
3 charges.

4 “(4) LIMITATION ON RELIEF FROM RE-
5 MOVAL.—No alien described in this subsection shall
6 be eligible for any relief from removal that the Sec-
7 retary may grant in the Secretary’s discretion.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 of the Immigration and Nationality Act (8 U.S.C. 1101
10 et seq.) is amended by striking the item relating to section
11 238 and inserting the following:

 “Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who
 are subject to terrorism-related grounds for removal.”.

12 (c) EFFECTIVE DATE AND APPLICATION.—The
13 amendments made by this section shall take effect on the
14 date of the enactment of this Act, but shall not apply to
15 aliens who are in removal proceedings under section 240
16 of the Immigration and Nationality Act (8 U.S.C. 1229a)
17 on such date of enactment.

18 **SEC. 1704. DETENTION OF REMOVABLE ALIENS.**

19 (a) CRIMINAL ALIEN ENFORCEMENT PARTNER-
20 SHIPS.—Section 287 of the Immigration and Nationality
21 Act (8 U.S.C. 1357), as amended by section 1123, is
22 amended by adding at the end the following:

23 “(j) CRIMINAL ALIEN ENFORCEMENT PARTNER-
24 SHIPS.—

1 “(1) IN GENERAL.—The Secretary may enter
2 into a written agreement with a State, or with any
3 political subdivision of a State, to authorize the tem-
4 porary placement of 1 or more U.S. Customs and
5 Border Protection agents or officers or U.S. Immi-
6 gration and Customs Enforcement agents or inves-
7 tigators at a local police department or precinct—

8 “(A) to determine the immigration status
9 of any individual arrested by a State, county, or
10 local police, enforcement, or peace officer for
11 any criminal offense;

12 “(B) to issue charging documents and no-
13 tices related to the initiation of removal pro-
14 ceedings or reinstatement of prior removal or-
15 ders under section 241(a)(5);

16 “(C) to enter information directly into the
17 National Crime Information Center (NCIC)
18 database, Immigration Violator File, includ-
19 ing—

20 “(i) the alien’s address;

21 “(ii) the reason for the arrest;

22 “(iii) the legal cite of the State law
23 violated or for which the alien is charged;

1 “(iv) the alien’s driver’s license num-
2 ber and State of issuance, if the alien has
3 a driver’s license;

4 “(v) any other identification document
5 held by the alien and issuing entity for
6 such identification documents; and

7 “(vi) any identifying marks, such as
8 tattoos, birthmarks, and scars;

9 “(D) to collect biometrics, including iris,
10 fingerprint, photographs, and signature, of the
11 alien and to enter such information into the
12 Automated Biometric Identification System
13 (IDENT) and any other Department of Home-
14 land Security or law enforcement database au-
15 thorized for storage of biometric information for
16 aliens; and

17 “(E) to make advance arrangements for
18 the immediate transfer from State to Federal
19 custody of any criminal alien when the alien is
20 released, without regard to whether the alien is
21 released on parole, supervised release, or proba-
22 tion, and without regard to whether the alien
23 may be arrested and imprisoned again for the
24 same offense.

1 “(2) LENGTH OF TEMPORARY DUTY ASSIGN-
2 MENTS.—The initial period for a temporary duty as-
3 signment authorized under this subsection shall be 1
4 year. The temporary duty assignment may be ex-
5 tended for additional periods of time as agreed to by
6 the Secretary and the State or political subdivision
7 of the State to ensure continuity of operations, co-
8 operation, and coverage.

9 “(3) TECHNOLOGY USAGE.—The Secretary
10 shall provide U.S. Customs and Border Protection
11 and U.S. Immigration and Customs Enforcement
12 agents, officers, and investigators on a temporary
13 duty assignment under this subsection mobile access
14 to Federal databases containing alien information,
15 live scan technology for collection of biometrics, and
16 video-conferencing capability for use at local police
17 departments or precincts in remote locations.

18 “(4) REPORT.—Not later than 1 year after the
19 date of the enactment of the SECURE and SUC-
20 CEED Act, the Secretary shall submit a report to
21 the Committee on the Judiciary of the Senate, the
22 Committee on Homeland Security and Governmental
23 Affairs of the Senate, the Committee on the Judici-
24 ary of the House of Representatives, and the Com-

1 mittee on Homeland Security of the House of Rep-
2 resentatives that identifies—

3 “(A) the number of States that have en-
4 tered into an agreement under this subsection;

5 “(B) the number of criminal aliens proc-
6 essed by the U.S. Customs and Border Protec-
7 tion agent or officer or U.S. Immigration and
8 Customs Enforcement agent or investigator
9 during the temporary duty assignment; and

10 “(C) the number of criminal aliens trans-
11 ferred from State to Federal custody during the
12 agreement period.”.

13 (b) DETENTION, RELEASE, AND REMOVAL OF
14 ALIENS ORDERED REMOVED.—

15 (1) REMOVAL PERIOD.—

16 (A) IN GENERAL.—Section 241(a)(1)(A) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1231(a)(1)(A)) is amended by striking “Attor-
19 ney General” and inserting “Secretary”.

20 (B) BEGINNING OF PERIOD.—Section
21 241(a)(1)(B) of such Act (8 U.S.C.
22 1231(a)(1)(B)) is amended to read as follows:

23 “(B) BEGINNING OF PERIOD.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), the removal period begins on the date
3 that is the latest of the following:

4 “(I) If the alien is ordered re-
5 moved, the date pursuant to an ad-
6 ministratively final removal order and
7 the Secretary takes the alien into cus-
8 tody for removal.

9 “(II) If the alien is detained or
10 confined (except under an immigra-
11 tion process), the date on which the
12 alien is released from detention or
13 confinement.

14 “(ii) BEGINNING OF REMOVAL PERIOD
15 FOLLOWING A TRANSFER OF CUSTODY.—If
16 the Secretary transfers custody of the alien
17 pursuant to law to another Federal agency
18 or to an agency of a State or local govern-
19 ment in connection with the official duties
20 of such agency, the removal period for the
21 alien—

22 “(I) shall be tolled; and

23 “(II) shall resume on the date on
24 which the alien is returned to the cus-
25 tody of the Secretary.”.

1 (C) SUSPENSION OF PERIOD.—Section
2 241(a)(1)(C) of such Act (8 U.S.C.
3 1231(a)(1)(C)) is amended to read as follows:

4 “(C) SUSPENSION OF PERIOD.—The re-
5 moval period shall be extended beyond a period
6 of 90 days and the alien may remain in deten-
7 tion during such extended period if—

8 “(i) the alien fails or refuses to make
9 all reasonable efforts to comply with the
10 order of removal or to fully cooperate with
11 the efforts of the Secretary to establish the
12 alien’s identity and carry out the order of
13 removal, including making timely applica-
14 tion in good faith for travel or other docu-
15 ments necessary to the alien’s departure;

16 “(ii) the alien conspires or acts to pre-
17 vent the alien’s removal subject to an order
18 of removal; or

19 “(iii) the court, the Board of Immi-
20 gration Appeals, or an immigration judge
21 orders a stay of the removal of the alien.”.

22 (2) DETENTION.—Section 241(a)(2) of the Im-
23 migration and Nationality Act (8 U.S.C. 1231(a)(2))
24 is amended—

1 (A) by inserting “(A) IN GENERAL.—” be-
2 fore “During”;

3 (B) by striking “Attorney General” and in-
4 serting “Secretary”; and

5 (C) by adding at the end the following:

6 “(B) DURING A PENDENCY OF A STAY.—
7 If a court, the Board of Immigration Appeals,
8 or an immigration judge orders a stay of re-
9 moval of an alien who is subject to an order of
10 removal, the Secretary, in the Secretary’s sole
11 and unreviewable exercise of discretion, and
12 notwithstanding any provision of law, including
13 section 2241 of title 28, United States Code,
14 may detain the alien during the pendency of
15 such stay of removal.”.

16 (3) SUSPENSION AFTER 90-DAY PERIOD.—Sec-
17 tion 241(a)(3) of the Immigration and Nationality
18 Act (8 U.S.C. 1231(a)(3)) is amended—

19 (A) in the matter preceding subparagraph
20 (A), by striking “Attorney General” and insert-
21 ing “Secretary”;

22 (B) in subparagraph (C), by striking “At-
23 torney General” and inserting “Secretary”; and

24 (C) by amending subparagraph (D) to read
25 as follows:

1 “(D) to obey reasonable restrictions on the
2 alien’s conduct or activities, or to perform af-
3 firmative acts, that the Secretary prescribes for
4 the alien, in order to prevent the alien from ab-
5 sconding, for the protection of the community,
6 or for other purposes related to the enforcement
7 of the immigration laws.”.

8 (4) ALIENS IMPRISONED, ARRESTED, OR ON PA-
9 ROLE, SUPERVISED RELEASE, OR PROBATION.—Sec-
10 tion 241(a)(4) of the Immigration and Nationality
11 Act (8 U.S.C. 1231(a)(4)) is amended—

12 (A) in subparagraph (A), by striking “At-
13 torney General” and inserting “Secretary”; and

14 (B) in subparagraph (B)—

15 (i) in the matter preceding clause (i),
16 by striking “Attorney General” and insert-
17 ing “Secretary”;

18 (ii) in clause (i), by striking “if the
19 Attorney General” and inserting “if the
20 Secretary”; and

21 (iii) in clause (ii)(III), by striking
22 “Attorney General” and inserting “Sec-
23 retary”.

24 (5) REINSTATEMENT OF REMOVAL ORDERS
25 AGAINST ALIENS ILLEGALLY REENTERING.—

1 (A) IN GENERAL.—Section 241(a)(5) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1231(a)(5)) is amended to read as follows:

4 “(5) REINSTATEMENT OF REMOVAL ORDERS
5 AGAINST ALIENS ILLEGALLY REENTERING.—If the
6 Secretary determines that an alien has entered the
7 United States illegally after having been removed,
8 deported, or excluded, or having departed volun-
9 tarily, under an order of removal, deportation, or ex-
10 clusion, regardless of the date of the original order
11 or the date of the illegal entry—

12 “(A) the order of removal, deportation, or
13 exclusion is reinstated from its original date
14 and is not subject to being reopened or reviewed
15 notwithstanding section 242(a)(2)(D);

16 “(B) the alien is not eligible and may not
17 apply for any relief under this Act, regardless
18 of the date on which an application or request
19 for such relief may have been filed or made;

20 “(C) the alien shall be removed under the
21 order of removal, deportation, or exclusion at
22 any time after the illegal entry; and

23 “(D) reinstatement under subparagraph
24 (A) shall not require proceedings under section

1 240 or other proceedings before an immigration
2 judge.”.

3 (B) JUDICIAL REVIEW.—Section 242 of
4 such Act (8 U.S.C. 1252) is amended by—

5 (i) in subsection (g), by inserting
6 “grant, rescind, or deny any form of dis-
7 cretionary relief under this title, or to” be-
8 fore “commence”; and

9 (ii) by adding at the end the fol-
10 lowing:

11 “(h) JUDICIAL REVIEW OF DECISION TO REIN-
12 STATE REMOVAL ORDER UNDER SECTION
13 241(A)(5).—

14 “(1) REVIEW OF DECISION TO REINSTATE
15 REMOVAL ORDER.—Judicial review of deter-
16 minations under section 241(a)(5) is available
17 in an action under subsection (a).

18 “(2) NO REVIEW OF ORIGINAL ORDER.—
19 Notwithstanding any other provision of law
20 (statutory or nonstatutory), including section
21 2241 of title 28, United States Code, any other
22 habeas corpus provision, or sections 1361 and
23 1651 of such title, no court shall have jurisdic-
24 tion to review any cause or claim, arising from,

1 or relating to, any challenge to the original
2 order.”.

3 (C) EFFECTIVE DATE AND APPLICA-
4 TION.—The amendments made by subpara-
5 graphs (A) and (B) shall take effect as if en-
6 acted on April 1, 1997, and shall apply to all
7 orders reinstated or after that date by the Sec-
8 retary of Homeland Security (or by the Attor-
9 ney General before March 1, 2003), regardless
10 of the date of the original order.

11 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Sec-
12 tion 241(a)(6) of the Immigration and Nationality
13 Act (8 U.S.C. 1231(a)(6)) is amended—

14 (A) by striking “Attorney General” and in-
15 serting “Secretary”; and

16 (B) by striking “removal period and, if re-
17 leased,” and inserting “removal period, in the
18 discretion of the Secretary, without any limita-
19 tions other than those specified in this section,
20 until the alien is removed,”.

21 (7) PAROLE; ADDITIONAL RULES; JUDICIAL RE-
22 VIEW.—Section 241(a) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1231(a)) is amended—

24 (A) in paragraph (7), by striking “Attor-
25 ney General” and inserting “Secretary”;

1 (B) by redesignating paragraph (7) as
2 paragraph (15); and

3 (C) by inserting after paragraph (6) the
4 following:

5 “(7) PAROLE.—Except for aliens subject to de-
6 tention under paragraph (6) and aliens subject to
7 detention under section 236(c), 236A, or 238, if an
8 alien who is detained is an applicant for admission,
9 the Secretary, in the Secretary’s sole and
10 unreviewable discretion, may parole the alien under
11 section 212(d)(5) and may provide, notwithstanding
12 section 212(d)(5), that the alien shall not be re-
13 turned to custody unless the alien violates the condi-
14 tions of such parole or the alien’s removal becomes
15 reasonably foreseeable, provided that in no cir-
16 cumstance shall such alien be considered admitted.

17 “(8) ADDITIONAL RULES FOR DETENTION OR
18 RELEASE OF CERTAIN ALIENS WHO WERE PRE-
19 VIOUSLY ADMITTED TO THE UNITED STATES.—

20 “(A) APPLICATION.—The procedures set
21 out under this paragraph—

22 “(i) apply only to an alien who was
23 previously admitted to the United States;
24 and

1 “(ii) do not apply to any other alien,
2 including an alien detained pursuant to
3 paragraph (6).

4 “(B) ESTABLISHMENT OF DETENTION RE-
5 VIEW PROCESS FOR ALIENS WHO FULLY CO-
6 OPERATE WITH REMOVAL.—

7 “(i) REQUIREMENT TO ESTABLISH.—

8 If an alien has made all reasonable efforts
9 to comply with a removal order and to co-
10 operate fully with the efforts of the Sec-
11 retary to establish the alien’s identity and
12 carry out the removal order, including
13 making timely application in good faith for
14 travel or other documents necessary to the
15 alien’s departure, and has not conspired or
16 acted to prevent removal, the Secretary
17 shall establish an administrative review
18 process to determine whether the alien
19 should be detained or released on condi-
20 tions.

21 “(ii) DETERMINATIONS.—The Sec-
22 retary shall—

23 “(I) make a determination
24 whether to release an alien described

1 in clause (i) after the end of the
2 alien's removal period; and

3 “(II) in making a determination
4 under subclause (I), consider any evi-
5 dence submitted by the alien, and may
6 consider any other evidence, including
7 any information or assistance pro-
8 vided by the Department of State or
9 other Federal agency and any other
10 information available to the Secretary
11 pertaining to the ability to remove the
12 alien.

13 “(9) AUTHORITY TO DETAIN BEYOND THE RE-
14 MOVAL PERIOD.—The Secretary, in the exercise of
15 discretion, without any limitations other than those
16 specified in this section, may continue to detain an
17 alien for 90 days beyond the removal period (includ-
18 ing any extension of the removal period as provided
19 in paragraph (1)(C))—

20 “(A) until the alien is removed, if the Sec-
21 retary determines that—

22 “(i) there is a significant likelihood
23 that the alien will be removed in the rea-
24 sonably foreseeable future;

1 “(ii) the alien would be removed in
2 the reasonably foreseeable future, or would
3 have been removed, but for the alien’s fail-
4 ure or refusal to make all reasonable ef-
5 forts to comply with the removal order, or
6 to cooperate fully with the Secretary’s ef-
7 forts to establish the alien’s identity and
8 carry out the removal order, including
9 making timely application in good faith for
10 travel or other documents necessary to the
11 alien’s departure, or conspiracies or acts to
12 prevent removal;

13 “(iii) the government of the foreign
14 country of which the alien is a citizen, sub-
15 ject, national, or resident is denying or un-
16 reasonably delaying accepting the return of
17 the alien after the Secretary asks whether
18 the government will accept an alien under
19 section 243(d); or

20 “(iv) the government of the foreign
21 country of which the alien is a citizen, sub-
22 ject, national, or resident is refusing to
23 issue any required travel or identity docu-
24 ments to allow the alien to return to that
25 country;

1 “(B) until the alien is removed, if the Sec-
2 retary certifies in writing—

3 “(i) in consultation with the Secretary
4 of Health and Human Services, that the
5 alien has a highly contagious disease that
6 poses a threat to public safety;

7 “(ii) after receipt of a written rec-
8 ommendation from the Secretary of State,
9 that release of the alien is likely to have
10 serious adverse foreign policy consequences
11 for the United States;

12 “(iii) based on information available
13 to the Secretary (including classified, sen-
14 sitive, or other information, and without
15 regard to the grounds upon which the alien
16 was ordered removed), that there is reason
17 to believe that the release of the alien
18 would threaten the national security of the
19 United States;

20 “(iv) that the release of the alien will
21 threaten the safety of the community or
22 any person, conditions of release cannot
23 reasonably be expected to ensure the safety
24 of the community or any person, and ei-
25 ther—

1 “(I) the alien has been convicted
2 of 1 or more aggravated felonies (as
3 defined in section 101(a)(43)), 1 or
4 more crimes identified by the Sec-
5 retary by regulation, or 1 or more at-
6 tempts or conspiracies to commit any
7 such aggravated felonies or such iden-
8 tified crimes, provided that the aggre-
9 gate term of imprisonment for such
10 attempts or conspiracies is at least 5
11 years; or

12 “(II) the alien has committed 1
13 or more violent offenses (but not in-
14 cluding a purely political offense) and,
15 because of a mental condition or per-
16 sonality disorder and behavior associ-
17 ated with that condition or disorder,
18 the alien is likely to engage in acts of
19 violence in the future; or

20 “(v) that the release of the alien will
21 threaten the safety of the community or
22 any person, conditions of release cannot
23 reasonably be expected to ensure the safety
24 of the community or any person, and the
25 alien has been convicted of at least one ag-

1 gravated felony (as defined in section
2 101(a)(43)); and

3 “(C) pending a determination under sub-
4 paragraph (B), if the Secretary has initiated
5 the administrative review process not later than
6 30 days after the expiration of the removal pe-
7 riod (including any extension of the removal pe-
8 riod as provided in paragraph (1)(C)).

9 “(10) RENEWAL AND DELEGATION OF CERTIFI-
10 CATION.—

11 “(A) RENEWAL.—The Secretary may
12 renew a certification under paragraph (9)(B)(ii)
13 every 6 months without limitation, after pro-
14 viding an opportunity for the alien to request
15 reconsideration of the certification and to sub-
16 mit documents or other evidence in support of
17 that request. If the Secretary does not renew a
18 certification, the Secretary may not continue to
19 detain the alien under paragraph (9)(B).

20 “(B) DELEGATION.—Notwithstanding sec-
21 tion 103, the Secretary may not delegate the
22 authority to make or renew a certification de-
23 scribed in clause (ii), (iii), or (iv) of paragraph
24 (9)(B) to an official below the level of the Di-

1 rector of U.S. Immigration and Customs En-
2 forcement.

3 “(11) RELEASE ON CONDITIONS.—If the Sec-
4 retary determines that an alien should be released
5 from detention, the Secretary, in the exercise of dis-
6 cretion, may impose conditions on release as pro-
7 vided in paragraph (3).

8 “(12) REDETENTION.—The Secretary, in the
9 exercise of discretion, without any limitations other
10 than those specified in this section, may again de-
11 tain any alien subject to a final removal order who
12 is released from custody if the alien fails to comply
13 with the conditions of release or to continue to sat-
14 isfy the conditions described in paragraph (8), or if,
15 upon reconsideration, the Secretary determines that
16 the alien can be detained under paragraph (9).
17 Paragraphs (6) through (14) shall apply to any alien
18 returned to custody pursuant to this paragraph, as
19 if the removal period terminated on the day of the
20 redetention.

21 “(13) CERTAIN ALIENS WHO EFFECTED
22 ENTRY.—If an alien has entered the United States,
23 but has not been lawfully admitted nor physically
24 present in the United States continuously for the 2-
25 year period immediately preceding the commence-

1 ment of removal proceedings under this Act against
2 the alien, the Secretary, in the exercise of discretion,
3 may decide not to apply paragraph (8) and detain
4 the alien without any limitations except those which
5 the Secretary shall adopt by regulation.

6 “(14) JUDICIAL REVIEW.—Without regard to
7 the place of confinement, judicial review of any ac-
8 tion or decision pursuant to paragraph (6) through
9 (14) shall be available exclusively in habeas corpus
10 proceedings instituted in the United States District
11 Court for the District of Columbia, and only if the
12 alien has exhausted all administrative remedies
13 (statutory and regulatory) available to the alien as
14 of right.”.

15 (c) DETENTION OF ALIENS DURING REMOVAL PRO-
16 CEEDINGS.—

17 (1) IN GENERAL.—Section 235 of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1225) is amend-
19 ed by adding at the end the following:

20 “(e) LENGTH OF DETENTION.—

21 “(1) IN GENERAL.—An alien may be detained
22 under this section while proceedings are pending,
23 without limitation, until the alien is subject to an
24 administratively final order of removal or final grant
25 of relief.

1 “(2) EFFECT ON DETENTION UNDER SECTION
2 241.—The length of detention under this section
3 shall not affect the validity of any detention under
4 section 241.

5 “(f) JUDICIAL REVIEW.—Without regard to the place
6 of confinement, judicial review of any action or decision
7 made pursuant to subsection (e) shall be available exclu-
8 sively in a habeas corpus proceeding instituted in the
9 United States District Court for the District of Columbia
10 and only if the alien has exhausted all administrative rem-
11 edies (statutory and nonstatutory) available to the alien
12 as of right.”.

13 (2) CONFORMING AMENDMENTS.—Section 236
14 of the Immigration and Nationality Act (8 U.S.C.
15 1226) is amended—

16 (A) by redesignating subsection (e) as sub-
17 section (f);

18 (B) by inserting after subsection (d) the
19 following new subsection (e):

20 “(e) LENGTH OF DETENTION.—

21 “(1) IN GENERAL.—An alien may be detained
22 under this section, without limitation, until the alien
23 is subject to an administratively final order of re-
24 moval or final grant of relief.

1 “(2) EFFECT ON DETENTION UNDER SECTION
2 241.—The length of detention under this section
3 shall not affect the validity of any detention under
4 section 241.”; and

5 (C) in subsection (f), as so redesignated,
6 by adding at the end the following: “Without
7 regard to the place of confinement, judicial re-
8 view of any action or decision made pursuant to
9 subsection (e) shall be available exclusively in a
10 habeas corpus proceeding instituted in the
11 United States District Court for the District of
12 Columbia, and only if the alien has exhausted
13 all administrative remedies (statutory and non-
14 statutory) available to the alien as of right.”.

15 (d) ATTORNEY GENERAL’S DISCRETION IN DETER-
16 MINING COUNTRIES OF REMOVAL.—Section 241(b) of the
17 Immigration and Nationality Act (8 U.S.C. 1231(b)) is
18 amended—

19 (1) in paragraph (1)(C)(iv), by striking the pe-
20 riod at the end and inserting “, or the Attorney
21 General decides that removing the alien to such
22 country is prejudicial to the interests of the United
23 States.”; and

24 (2) in paragraph (2)(E)(vii), by inserting “or
25 the Attorney General decides that removing the alien

1 to 1 or more of such countries is prejudicial to the
2 interests of the United States,” after “this subpara-
3 graph,”.

4 (e) EFFECTIVE DATES AND APPLICATION.—

5 (1) AMENDMENTS MADE BY SUBSECTION (B).—

6 The amendments made by subsection (b) shall take
7 effect on the date of the enactment of this Act. Sec-
8 tion 241 of the Immigration and Nationality Act, as
9 amended by subsection (b), shall apply to—

10 (A) all aliens subject to a final administra-
11 tive removal, deportation, or exclusion order
12 that was issued before, on, or after the date of
13 the enactment of this Act; and

14 (B) acts and conditions occurring or exist-
15 ing before, on, or after the date of the enact-
16 ment of this Act.

17 (2) AMENDMENTS MADE BY SUBSECTION (C).—

18 The amendments made by subsection (c) shall take
19 effect upon the date of the enactment of this Act.
20 Sections 235 and 236 of the Immigration and Na-
21 tionality Act, as amended by subsection (c), shall
22 apply to any alien in detention under provisions of
23 such sections on or after the date of the enactment
24 of this Act.

1 **SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.**

2 Not later than 1 year after the date of the enactment
3 of this Act, the Comptroller General of the United States
4 shall submit a report to Congress on the deaths in custody
5 of detainees held by the Department of Homeland Security,
6 rity, which shall include, with respect to any such
7 deaths—

8 (1) whether such death could have been pre-
9 vented by the delivery of medical treatment adminis-
10 tered while the detainee was in the custody of the
11 Department of Homeland Security;

12 (2) whether Department practices and proce-
13 dures were properly followed and obeyed;

14 (3) whether such practices and procedures are
15 sufficient to protect the health and safety of such
16 detainees; and

17 (4) whether reports of such deaths were made
18 to the Deaths in Custody Reporting Program.

19 **SEC. 1706. GAO STUDY ON MIGRANT DEATHS.**

20 Not later than 1 year after the date of the enactment
21 of this Act, the Comptroller General of the United States
22 shall submit to the Committee on the Judiciary of the Sen-
23 ate, the Committee on Homeland Security and Govern-
24 mental Affairs of the Senate, the Committee on the Judici-
25 ary of the House of Representatives, and the Committee

1 on Homeland Security of the House of Representatives a
2 report that describes—

3 (1) the total number of migrant deaths along
4 the southern border during the previous 7 years;

5 (2) the total number of unidentified deceased
6 migrants found along the southern border in the
7 previous 7 years;

8 (3) the level of cooperation between U.S. Cus-
9 toms and Border Protection, State and local law en-
10 forcement agencies, foreign diplomatic and consular
11 posts, nongovernmental organizations, and family
12 members to accurately identify deceased individuals;

13 (4) the use of DNA testing and sharing of such
14 data between U.S. Customs and Border Protection,
15 State and local law enforcement agencies, foreign
16 diplomatic and consular posts, and nongovernmental
17 organizations to accurately identify deceased individ-
18 uals;

19 (5) the comparison of DNA data with informa-
20 tion on Federal, State, and local missing person reg-
21 istries; and

22 (6) the procedures and processes U.S. Customs
23 and Border Protection has in place for notification
24 of relevant authorities or family members after miss-
25 ing persons are identified through DNA testing.

1 **SEC. 1707. STATUTE OF LIMITATIONS FOR VISA, NATU-**
2 **RALIZATION, AND OTHER FRAUD OFFENSES**
3 **INVOLVING WAR CRIMES, CRIMES AGAINST**
4 **HUMANITY, OR HUMAN RIGHTS VIOLATIONS.**

5 (a) STATUTE OF LIMITATIONS FOR VISA FRAUD AND
6 OTHER OFFENSES.—Chapter 213 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 3302. Fraud in connection with certain human**
10 **rights violations, crimes against human-**
11 **ity, or war crimes**

12 “(a) IN GENERAL.—No person shall be prosecuted,
13 tried, or punished for violation of any provision of section
14 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt
15 or conspiracy to violate any provision of such sections, if
16 the fraudulent conduct, misrepresentation, concealment,
17 or fraudulent, fictitious, or false statement concerns the
18 alleged offender’s—

19 “(1) participation, at any time, at any place,
20 and irrespective of the nationality of the alleged of-
21 fender or any victim, in a human rights violation,
22 crime against humanity, or war crime; or

23 “(2) membership in, service in, or authority
24 over a military, paramilitary, or law enforcement or-
25 ganization that participated in such conduct during
26 any part of any period in which the alleged offender

1 was a member of, served in, or had authority over
2 the organization, unless the indictment is found or
3 the information is instituted within 20 years after
4 the commission of the offense.

5 “(b) DEFINITIONS.—In this section—

6 “(1) the term ‘extrajudicial killing under color
7 of law’ means conduct described in section
8 212(a)(3)(E)(iii) of the Immigration and Nationality
9 Act (8 U.S.C. 1182(a)(3)(E)(iii));

10 “(2) the term ‘female genital mutilation’ means
11 conduct described in section 116;

12 “(3) the term ‘genocide’ means conduct de-
13 scribed in section 1091(a);

14 “(4) the term ‘human rights violation or war
15 crime’ means genocide, incitement to genocide, war
16 crimes, torture, female genital mutilation,
17 extrajudicial killing under color of law, persecution,
18 particularly severe violations of religious freedom,
19 the use or recruitment of child soldiers, or other se-
20 rious violation of human rights;

21 “(5) the term ‘incitement to genocide’ means
22 conduct described in section 1091(e);

23 “(6) the term ‘particularly severe violation of
24 religious freedom’ means conduct described in sec-

1 tion 3(3) of the International Religious Freedom Act
2 of 1998 (22 U.S.C. 6402(13));

3 “(7) the term ‘persecution’ means conduct that
4 is a bar to relief under section 208(b)(2)(A)(i) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1158(b)(2)(A)(i));

7 “(8) the term ‘torture’ means conduct described
8 in paragraphs (1) and (2) of section 2340;

9 “(9) the term ‘use or recruitment of child sol-
10 diers’ means conduct described in subsections (a)
11 and (d) of section 2442;

12 “(10) the term ‘war crimes’ means conduct de-
13 scribed in subsections (c) and (d) of section 2441;
14 and

15 “(11) the term ‘crimes against humanity’
16 means conduct described in section 212(a)(3)(E)(iii)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1182(a)(3)(iii)).”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 213 of title 18, United States Code, is amend-
21 ed by adding at the end the following:

“3302. Fraud in connection with certain human rights violations, crimes against
humanity, or war crimes.”.

22 (c) APPLICATION.—The amendments made by this
23 section shall apply to fraudulent conduct, misrepresenta-
24 tions, concealments, and fraudulent, fictitious, or false

1 statements made or committed before, on, or after the
2 date of enactment of this Act.

3 **SEC. 1708. CRIMINAL DETENTION OF ALIENS TO PROTECT**
4 **PUBLIC SAFETY.**

5 (a) IN GENERAL.—Section 3142(e) of title 18,
6 United States Code, is amended to read as follows:

7 “(e) DETENTION.—

8 “(1) IN GENERAL.—If, after a hearing pursu-
9 ant to the provisions of subsection (f), the judicial
10 officer finds that no condition or combination of con-
11 ditions will reasonably assure the appearance of the
12 person as required and the safety of any other per-
13 son and the community, such judicial officer shall
14 order the detention of the person before trial.

15 “(2) PRESUMPTION ARISING FROM OFFENSES
16 DESCRIBED IN SUBSECTION (F)(1).—In a case de-
17 scribed in subsection (f)(1), a rebuttable presump-
18 tion arises that no condition or combination of con-
19 ditions will reasonably assure the safety of any other
20 person and the community if the judicial officer
21 finds that—

22 “(A) the person has been convicted of a
23 Federal offense that is described in subsection
24 (f)(1), or of a State or local offense that would
25 have been an offense described in subsection

1 (f)(1) if a circumstance giving rise to Federal
2 jurisdiction had existed;

3 “(B) the offense described in subparagraph
4 (A) was committed while the person was on re-
5 lease pending trial for a Federal, State, or local
6 offense; and

7 “(C) not more than 5 years has elapsed
8 since the later of the date of conviction or the
9 date of the release of the person from imprison-
10 ment for the offense described in subparagraph
11 (A).

12 “(3) PRESUMPTION ARISING FROM OTHER OF-
13 FENSES INVOLVING ILLEGAL SUBSTANCES, FIRE-
14 ARMS, VIOLENCE, OR MINORS.—Subject to rebuttal
15 by the person, it shall be presumed that no condition
16 or combination of conditions will reasonably assure
17 the appearance of the person as required and the
18 safety of the community if the judicial officer finds
19 that there is probable cause to believe that the per-
20 son committed—

21 “(A) an offense for which a maximum
22 term of imprisonment of 10 years or more is
23 prescribed in the Controlled Substances Act (21
24 U.S.C. 801 et seq.), the Controlled Substances

1 Import and Export Act (21 U.S.C. 951 et seq.),
2 or chapter 705 of title 46;

3 “(B) an offense under section 924(c),
4 956(a), or 2332b;

5 “(C) an offense listed in section
6 2332b(g)(5)(B) for which a maximum term of
7 imprisonment of 10 years or more is prescribed;
8 or

9 “(D) an offense involving a minor victim
10 under section 1201, 1591, 2241, 2242,
11 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1),
12 2252(a)(2), 2252(a)(3), 2252A(a)(1),
13 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
14 2421, 2422, 2423, or 2425.

15 “(4) PRESUMPTION ARISING FROM OFFENSES
16 RELATING TO IMMIGRATION LAW.—Subject to rebut-
17 tal by the person, it shall be presumed that no con-
18 dition or combination of conditions will reasonably
19 assure the appearance of the person as required if
20 the judicial officer finds that there is probable cause
21 to believe that the person is an alien and that the
22 person—

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

1 “(B) is the subject of a final order of re-
2 moval; or

3 “(C) has committed a felony offense under
4 section 842(i)(5), 911, 922(g)(5), 1015, 1028,
5 1028A, 1425, or 1426, or chapter 75 or 77, or
6 section 243, 274, 275, 276, 277, or 278 of the
7 Immigration and Nationality Act (8 U.S.C.
8 1253, 1324, 1325, 1326, 1327, 1328).”.

9 (b) IMMIGRATION STATUS AS FACTOR IN DETER-
10 MINING CONDITIONS OF RELEASE.—Section 3142(g)(3)
11 of title 18, United States Code, is amended—

12 (1) in subparagraph (A), by striking “and” at
13 the end; and

14 (2) by adding at the end the following:

15 “(C) whether the person is in a lawful im-
16 migration status, has previously entered the
17 United States illegally, has previously been re-
18 moved from the United States, or has otherwise
19 violated the conditions of his or her lawful im-
20 migration status; and”.

21 **SEC. 1709. RECRUITMENT OF PERSONS TO PARTICIPATE IN**
22 **TERRORISM.**

23 (a) IN GENERAL.—Chapter 113B of title 18, United
24 States Code, is amended by inserting after section 2332b
25 the following:

1 **“§ 2332c. Recruitment of persons to participate in ter-**
2 **rorism**

3 “(a) OFFENSES.—

4 “(1) IN GENERAL.—It shall be unlawful for any
5 person to employ, solicit, induce, command, or cause
6 another person to commit an act of domestic ter-
7 rorism or international terrorism or a Federal crime
8 of terrorism, with the intent that the other person
9 commit such act or crime of terrorism.

10 “(2) ATTEMPT AND CONSPIRACY.—It shall be
11 unlawful for any person to attempt or conspire to
12 commit an offense under paragraph (1).

13 “(b) PENALTIES.—Any person who violates sub-
14 section (a)—

15 “(1) in the case of an attempt or conspiracy,
16 shall be fined under this title, imprisoned not more
17 than 10 years, or both;

18 “(2) if death of an individual results, shall be
19 fined under this title, punished by death or impris-
20 oned for any term of years or for life, or both;

21 “(3) if serious bodily injury to any individual
22 results, shall be fined under this title, imprisoned
23 not less than 10 years nor more than 25 years, or
24 both; and

25 “(4) in any other case, shall be fined under this
26 title, imprisoned not more than 10 years, or both.

1 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed or applied to abridge the exercise
3 of rights guaranteed under the First Amendment to the
4 Constitution of the United States.

5 “(d) LACK OF CONSUMMATED TERRORIST ACT NOT
6 A DEFENSE.—It is not a defense under this section that
7 the act of domestic terrorism or international terrorism
8 or Federal crime of terrorism that is the object of the em-
9 ployment, solicitation, inducement, commanding, or caus-
10 ing has not been carried out.

11 “(e) DEFINITIONS.—In this section—

12 “(1) the term ‘Federal crime of terrorism’ has
13 the meaning given that term in section 2332b; and

14 “(2) the term ‘serious bodily injury’ has the
15 meaning given that term in section 1365(h).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 113B of title 18, United States Code, is
18 amended by inserting after the item relating to section
19 2332b the following:

“2332c. Recruitment of persons to participate in terrorism.”.

20 **SEC. 1710. BARRING AND REMOVING PERSECUTORS, WAR**
21 **CRIMINALS, AND PARTICIPANTS IN CRIMES**
22 **AGAINST HUMANITY FROM THE UNITED**
23 **STATES.**

24 (a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMI-
25 NALS, AND PARTICIPANTS IN CRIMES AGAINST HUMAN-

1 ITY.—Section 212(a)(3)(E) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

3 (1) by striking the subparagraph heading and
4 inserting “PARTICIPANTS IN PERSECUTION (INCLUD-
5 ING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES,
6 CRIMES AGAINST HUMANITY, OR THE COMMISSION
7 OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILL-
8 ING.—”;

9 (2) in clause (iii)(II)—

10 (A) by striking “of any foreign nation”
11 and inserting “(including acts taken as part of
12 an armed group exercising de facto authority)”;
13 and

14 (3) by adding after clause (iii) the following:

15 “(iv) PERSECUTORS, WAR CRIMINALS,
16 AND PARTICIPANTS IN CRIMES AGAINST
17 HUMANITY.—Any alien, including an alien
18 who has or had superior responsibility, who
19 committed, ordered, incited, assisted, or
20 otherwise participated in a war crime (as
21 defined in section 2441(c) of title 18,
22 United States Code) or a crime against hu-
23 manity, or in the persecution of any person
24 on account of race, religion, nationality,

1 membership in a particular social group, or
2 political opinion, is inadmissible.

3 “(v) CRIME AGAINST HUMANITY DE-
4 FINED.—In this subparagraph, the term
5 ‘crime against humanity’ means conduct
6 that is part of a widespread or systematic
7 attack targeting any civilian population,
8 with knowledge that the conduct was part
9 of the attack or with the intent that the
10 conduct be part of the attack—

11 “(I) that, if such conduct oc-
12 curred in the United States or in the
13 special maritime and territorial juris-
14 diction of the United States, would
15 violate—

16 “(aa) section 1111 of title
17 18, United States Code (relating
18 to murder);

19 “(bb) section 1201(a) of
20 such title (relating to kidnap-
21 ping);

22 “(cc) section 1203(a) of
23 such title (relating to hostage
24 taking), notwithstanding any ex-

353

1 ception under subsection (b) of
2 such section 1203;

3 “(dd) section 1581(a) of
4 such title (relating to peonage);

5 “(ee) section 1583(a)(1) of
6 such title (relating to kidnapping
7 or carrying away individuals for
8 involuntary servitude or slavery);

9 “(ff) section 1584(a) of such
10 title (relating to sale into invol-
11 untary servitude);

12 “(gg) section 1589(a) of
13 such title (relating to forced
14 labor);

15 “(hh) section 1590(a) of
16 such title (relating to trafficking
17 with respect to peonage, slavery,
18 involuntary servitude, or forced
19 labor);

20 “(ii) section 1591(a) of such
21 title (relating to sex trafficking of
22 children or by force, fraud, or co-
23 ercion);

1 “(jj) section 2241(a) of such
2 title (relating to aggravated sex-
3 ual abuse by force or threat); or

4 “(kk) section 2242 of such
5 title (relating to sexual abuse);

6 “(II) that would constitute tor-
7 ture (as defined in section 2340(1) of
8 such title);

9 “(III) that would constitute cruel
10 or inhuman treatment, as described in
11 section 2441(d)(1)(B) of such title;

12 “(IV) that would constitute per-
13 forming biological experiments, as de-
14 scribed in section 2441(d)(1)(C) of
15 such title;

16 “(V) that would constitute muti-
17 lation or maiming, as described in sec-
18 tion 2441(d)(1)(E) of such title; or

19 “(VI) that would constitute in-
20 tentionally causing serious bodily in-
21 jury, as described in section
22 2441(d)(1)(F) of such title.

23 “(vi) DEFINITIONS.—In this subpara-
24 graph—

1 “(I) the term ‘superior responsi-
2 bility’ means—

3 “(aa) a leader, a member of
4 a military, or a person with effec-
5 tive control of military forces, or
6 a person with de facto or de jure
7 control of an armed group;

8 “(bb) who knew or should
9 have known that a subordinate or
10 someone under his or her de
11 facto or de jure control is com-
12 mitting acts described in sub-
13 section (a), is about to commit
14 such acts, or had committed such
15 acts; and

16 “(cc) who fails to take the
17 necessary and reasonable meas-
18 ures to prevent such acts or, for
19 acts that have been committed,
20 to punish the perpetrators of
21 such acts;

22 “(II) the term ‘systematic’ means
23 the commission of a series of acts fol-
24 lowing a regular pattern and occur-

1 ring in an organized, non-random
2 manner; and

3 “(III) the term ‘widespread’
4 means a single, large scale act or a se-
5 ries of acts directed against a sub-
6 stantial number of victims.”.

7 (b) REMOVAL OF PERSECUTORS.—Section
8 237(a)(4)(D) of the Immigration and Nationality Act (8
9 U.S.C. 1227(a)(4)(D)) is amended—

10 (1) in the subparagraph heading, by striking
11 “NAZI”; and

12 (2) by striking “or (iii)” and inserting “(iii), or
13 (iv)”.

14 (c) SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—
15 Section 212(a)(2)(G) of the Immigration and Nationality
16 Act (8 U.S.C. 1182(a)(2)(G)) is amended—

17 (1) in the subparagraph heading, by striking
18 “FOREIGN GOVERNMENT OFFICIALS” and inserting
19 “ANY PERSONS”; and

20 (2) by striking “, while serving as a foreign
21 government official,”.

22 (d) BARRING PERSECUTORS FROM ESTABLISHING
23 GOOD MORAL CHARACTER.—Section 101(f) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1101(f)) is amend-
25 ed—

1 (1) in paragraph (8), by striking “or” at the
2 end;

3 (2) in paragraph (9), by striking “killings) or
4 212(a)(2)(G) (relating to severe violations of reli-
5 gious freedom).” and inserting “killings),
6 212(a)(2)(G) (relating to severe violations of reli-
7 gious freedom), or 212(a)(3)(G) (relating to recruit-
8 ment and use of child soldiers); or”; and

9 (3) by inserting after paragraph (9) the fol-
10 lowing:

11 “(10) one who at any time committed, ordered,
12 incited, assisted, or otherwise participated in a war
13 crime (as defined in section 2441(c) of title 18,
14 United States Code), a crime against humanity, or
15 the persecution of any person on account of race, re-
16 ligion, nationality, membership in a particular social
17 group, or political opinion.”.

18 (e) INCREASING CRIMINAL PENALTIES FOR ANYONE
19 WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—
20 Section 277 of the Immigration and Nationality Act (8
21 U.S.C. 1327) is amended by striking “(other than sub-
22 paragraph (E) thereof)”.

23 (f) INCREASING CRIMINAL PENALTIES FOR FEMALE
24 GENITAL MUTILATION.—Section 116 of title 18, United
25 States Code, is amended—

1 (1) in subsection (a), by striking “shall be fined
2 under this title or imprisoned not more than 5 years,
3 or both” and inserting “has engaged in a violent
4 crime against children under section 3559(f)(3),
5 shall be imprisoned for life or for 10 years or
6 longer”; and

7 (2) in subsection (d), by striking “shall be fined
8 under this title or imprisoned not more than 5 years,
9 or both.” and inserting “shall be imprisoned for life
10 or for 10 years or longer.”.

11 (g) TECHNICAL AMENDMENTS.—The Immigration
12 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

13 (1) in section 101(a)(42) (8 U.S.C.
14 1101(a)(42)), by inserting “committed,” before “or-
15 dered”;

16 (2) in section 208(b)(2)(A)(i) (8 U.S.C.
17 1158(b)(2)(A)(i)), by inserting “committed,” before
18 “ordered”; and

19 (3) in section 241(b)(3)(B)(i) (8 U.S.C.
20 1231(b)(3)(B)(i)), by inserting “committed,” before
21 “ordered”.

22 (h) APPLICATION.—The amendments made by this
23 section shall apply to any offense committed before, on,
24 or after the date of the enactment of this Act.

1 **SEC. 1711. CHILD SOLDIER RECRUITMENT INELIGIBILITY**
2 **TECHNICAL CORRECTION.**

3 Section 212(a)(3)(G) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1182(a)(3)(G)) is amended by striking
5 “section 2442” and inserting “section 2442(a)”.

6 **SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND INCREASED**
7 **CRIMINAL PENALTIES RELATED TO GANG VI-**
8 **OLENCE.**

9 (a) **DEFINITION OF CRIMINAL GANG.**—Section
10 101(a) of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)) is amended by inserting after paragraph (52) the
12 following:

13 “(53)(A) The term ‘criminal gang’ means any ongo-
14 ing group, club, organization, or association, inside or out-
15 side the United States, of 2 or more persons that—

16 “(i) has, as 1 of its primary purposes, the com-
17 mission of 1 or more of the criminal offenses de-
18 scribed in subparagraph (B) and the members of
19 which engage, or have engaged within the past 5
20 years, in a continuing series of such offenses; or

21 “(ii) has been designated as a criminal gang by
22 the Secretary, in consultation with the Secretary of
23 State and the Attorney General, as meeting the cri-
24 teria set forth in clause (i).

25 “(B) The offenses described in this subparagraph,
26 whether in violation of Federal or State law or the law

1 of a foreign country and regardless of whether the offenses
2 occurred before, on, or after the date of the enactment
3 of the SECURE and SUCCEED Act, are the following:

4 “(i) Any aggravated felony.

5 “(ii) A felony drug offense (as defined in sec-
6 tion 102 of the Controlled Substances Act (21
7 U.S.C. 802)).

8 “(iii) Any criminal offense described in section
9 212 or 237.

10 “(iv) An offense involving illicit trafficking in a
11 controlled substance (as defined in section 102 of
12 the Controlled Substances Act (21 U.S.C. 802)), in-
13 cluding a drug trafficking crime (as defined in sec-
14 tion 924(c) of title 18, United States Code).

15 “(v) An offense under section 274 (relating to
16 bringing in and harboring certain aliens), section
17 277 (relating to aiding or assisting certain aliens to
18 enter the United States), or section 278 (relating to
19 importation of alien for immoral purpose).

20 “(vi) Any offense under Federal, State, or Trib-
21 al law, that has, as an element of the offense, the
22 use or attempted use of physical force or the threat-
23 ened use of physical force or a deadly weapon.

24 “(vii) Any offense that has, as an element of
25 the offense, the use, attempted use, or threatened

1 use of any physical object to inflict or cause (either
2 directly or indirectly) serious bodily injury, including
3 an injury that may ultimately result in the death of
4 a person.

5 “(viii) An offense involving obstruction of jus-
6 tice or tampering with or retaliating against a wit-
7 ness, victim, or informant.

8 “(ix) Any conduct punishable under section
9 1028 or 1029 of title 18, United States Code (relat-
10 ing to fraud and related activity in connection with
11 identification documents or access devices), sections
12 1581 through 1594 of such title (relating to peon-
13 age, slavery and trafficking in persons), section
14 1952 of such title (relating to interstate and foreign
15 travel or transportation in aid of racketeering enter-
16 prises), section 1956 of such title (relating to the
17 laundering of monetary instruments), section 1957
18 of such title (relating to engaging in monetary trans-
19 actions in property derived from specified unlawful
20 activity), or sections 2312 through 2315 of such title
21 (relating to interstate transportation of stolen motor
22 vehicles or stolen property).

23 “(x) A conspiracy or attempt to commit an of-
24 fense described in clauses (i) through (v).

1 “(C) Notwithstanding any other provision of law (in-
2 cluding any effective date), a group, club, organization,
3 or association shall be considered a criminal gang regard-
4 less of whether the conduct occurred before, on, or after
5 the date of the enactment of the SECURE and SUC-
6 CEED Act.”.

7 (b) INADMISSIBILITY.—Section 212(a)(2) of the Im-
8 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is
9 amended by adding at the end the following:

10 “(J) ALIENS ASSOCIATED WITH CRIMINAL
11 GANGS.—

12 “(i) IN GENERAL.—Any alien who a
13 consular officer, the Secretary, or the At-
14 torney General knows or has reasonable
15 ground to believe—

16 “(I) to be or to have been a
17 member of a criminal gang; or

18 “(II) to have participated in the
19 activities of a criminal gang, knowing
20 or having reason to know that such
21 activities promoted or will promote,
22 further, aid, or support the illegal ac-
23 tivity of the criminal gang,

24 is inadmissible.

1 “(ii) EXCEPTION.—Clause (i) shall
2 not apply to an alien who did not know, or
3 should not reasonably have known, of the
4 activity causing the alien to be found inad-
5 missible under this section.”.

6 (c) DESIGNATION OF CRIMINAL GANGS.—

7 (1) IN GENERAL.—Chapter 2 of title II of the
8 Immigration and Nationality Act (8 U.S.C. 1181 et
9 seq.) is amended by adding at the end the following:

10 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

11 “(a) IN GENERAL.—The Secretary, in consultation
12 with the Attorney General, and the Secretary of State,
13 may designate a group or association as a criminal gang
14 if their conduct is described in section 101(a)(53) or if
15 the group’s or association’s conduct poses a significant
16 risk that threatens the security and the public safety of
17 United States nationals or the national security, homeland
18 security, or economy of the United States.

19 “(b) EFFECTIVE DATE.—A designation under sub-
20 section (a) shall remain in effect until the designation is
21 revoked, after consultation between the Secretary, the At-
22 torney General, and the Secretary of State, or is termi-
23 nated in accordance with Federal law.”.

24 (2) CLERICAL AMENDMENT.—The table of con-
25 tents in the first section of the Immigration and Na-

1 tionality Act is amended by inserting after the item
2 relating to section 219 the following:

“220. Designation of criminal gangs.”

3 (d) DEPORTABILITY.—Section 237(a)(2) of the Im-
4 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
5 amended by adding at the end the following:

6 “(G) ALIENS ASSOCIATED WITH CRIMINAL
7 GANGS.—

8 “(i) IN GENERAL.—Any alien who the
9 Secretary or the Attorney General knows
10 or has reason to believe—

11 “(I) is or has been a member of
12 a criminal gang; or

13 “(II) has participated in the ac-
14 tivities of a criminal gang, knowing or
15 having reason to know that such ac-
16 tivities will promote, further, aid, or
17 support the illegal activity of the
18 criminal gang,
19 is deportable.

20 “(ii) EXCEPTION.—Clause (i) shall
21 not apply to an alien—

22 “(I) who did not know, or should
23 not reasonably have known, of the ac-
24 tivity causing the alien to be found
25 deportable under this section; or

1 “(II) whom the Secretary or the
2 Attorney General has reasonable
3 grounds to believe has renounced the
4 activity causing the alien to be found
5 deportable under this section.”.

6 (e) CANCELLATION OF REMOVAL.—Section 240A(c)
7 of the Immigration and Nationality Act (8 U.S.C.
8 1229b(c)) is amended by adding at the end the following:

9 “(7) An alien who is described in section
10 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating
11 to participation in criminal gangs).”.

12 (f) VOLUNTARY DEPARTURE.—Section 240B(c) of
13 the Immigration and Nationality Act (8 U.S.C. 1229c(e))
14 is amended to read as follows:

15 “(c) LIMITATION ON VOLUNTARY DEPARTURE.—The
16 Attorney General shall not permit an alien to depart vol-
17 untarily under this section if the alien—

18 “(1) was previously permitted to depart volun-
19 tarily after having been found inadmissible under
20 section 212(a)(6)(A); or

21 “(2) is described in section 212(a)(2)(J)(i) or
22 237(a)(2)(G)(i) (relating to participation in criminal
23 gangs).”.

24 (g) ASYLUM CLAIMS BASED ON GANG AFFILI-
25 ATION.—