

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

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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.
- Sec. 1114. U.S. Border Patrol activities.
- Sec. 1115. National Guard support to secure the southern border.
- Sec. 1116. Operation Phalanx.
- Sec. 1117. Merida Initiative.
- Sec. 1118. Prohibitions on actions that impede border security on certain Federal land.
- Sec. 1119. Landowner and rancher security enhancement.
- Sec. 1120. Limitation on land owner's liability.
- Sec. 1121. Eradication of carrizo cane and salt cedar.
- Sec. 1122. Prevention, detection, control, and eradication of diseases and pests.
- Sec. 1123. Transnational criminal organization illicit spotter prevention and detection.
- Sec. 1124. Southern border threat analysis.
- Sec. 1125. Amendments to U.S. Customs and Border Protection.
- Sec. 1126. Agent and officer technology use.
- Sec. 1127. Integrated Border Enforcement Teams.
- Sec. 1128. Land use or acquisition.
- Sec. 1129. Tunnel Task Forces.
- Sec. 1130. Pilot program on use of electromagnetic spectrum in support of border security operations.
- Sec. 1131. Foreign migration assistance.

CHAPTER 2—PERSONNEL

- Sec. 1141. Additional U.S. Customs and Border Protection agents and officers.
- Sec. 1142. Fair labor standards for border patrol agents.
- Sec. 1143. U.S. Customs and Border Protection retention incentives.
- Sec. 1144. Rate of pay for U.S. Immigration and Customs Enforcement officers and agents.
- Sec. 1145. Anti-Border Corruption Reauthorization Act.
- Sec. 1146. Training for officers and agents of U.S. Customs and Border Protection.
- Sec. 1147. Additional U.S. Immigration and Customs Enforcement personnel.
- Sec. 1148. Other immigration and law enforcement personnel.
- Sec. 1149. Judicial resources for border security.
- Sec. 1150. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

CHAPTER 3—GRANTS

- Sec. 1151. State Criminal Alien Assistance Program.
- Sec. 1152. Southern border security assistance grants.
- Sec. 1153. Operation Stonegarden.
- Sec. 1154. Grants for identification of victims of cross-border human smuggling.
- Sec. 1155. Grant accountability.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

- Sec. 1201. Definitions.
- Sec. 1202. Ports of entry infrastructure.
- Sec. 1203. Secure communications.
- Sec. 1204. Border security deployment program.
- Sec. 1205. Pilot and upgrade of license plate readers at ports of entry.
- Sec. 1206. Biometric technology.
- Sec. 1207. Nonintrusive inspection operational demonstration project.
- Sec. 1208. Biometric exit data system.
- Sec. 1209. Sense of Congress on cooperation between agencies.

Subtitle C—Border Security Enforcement Fund

- Sec. 1301. Border Security Enforcement Fund.

Subtitle D—Stop the Importation and Trafficking of Synthetic Analogues Act

- Sec. 1401. Short titles.
- Sec. 1402. Establishment of Schedule A.
- Sec. 1403. Temporary and permanent scheduling of schedule A substances.
- Sec. 1404. Penalties.
- Sec. 1405. False labeling of schedule A controlled substances.
- Sec. 1406. Registration requirements for handlers of schedule A substances.
- Sec. 1407. Additional conforming amendments.
- Sec. 1408. Clarification of the definition of controlled substance analogue under the Analogue Enforcement Act.
- Sec. 1409. Rules of construction.

Subtitle E—Domestic Security

CHAPTER 1—GENERAL MATTERS

- Sec. 1501. Keep Our Communities Safe Act.
- Sec. 1502. Deterring visa overstays.
- Sec. 1503. Increase in immigration detention capacity.
- Sec. 1504. Collection of DNA from criminal and detained aliens.
- Sec. 1505. Collection, use, and storage of biometric data.
- Sec. 1506. Pilot program for electronic field processing.
- Sec. 1507. Ending abuse of parole authority.
- Sec. 1508. Reports to Congress on parole.
- Sec. 1509. Reinstatement of the Secure Communities Program.
- Sec. 1510. Ensuring that local and Federal law enforcement officers may cooperate to safeguard our communities.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

- Sec. 1520. Short title.
- Sec. 1521. Repatriation of unaccompanied alien children.
- Sec. 1522. Child welfare and law enforcement information sharing.
- Sec. 1523. Accountability for children and taxpayers.
- Sec. 1524. Custody of unaccompanied alien children in formal removal proceeding.
- Sec. 1525. Fraud in connection with the transfer of custody of unaccompanied alien children.
- Sec. 1526. Notification of States and foreign governments, reporting, and monitoring.
- Sec. 1527. Reports to Congress.

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CHAPTER 3—COOPERATION WITH MEXICO AND OTHER COUNTRIES ON
ASYLUM AND REFUGEE ISSUES

- Sec. 1541. Strengthening internal asylum systems in Mexico and other countries.
- Sec. 1542. Expanding refugee processing in Mexico and Central America for third country resettlement.
- Subtitle F—Penalties for Smuggling, Drug Trafficking, Human Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to Readmission of Removed Aliens
- Sec. 1601. Dangerous human smuggling, human trafficking, and human rights violations.
- Sec. 1602. Putting the Brakes on Human Smuggling Act.
- Sec. 1603. Drug trafficking and crimes of violence committed by illegal aliens.
- Sec. 1604. Establishing inadmissibility and deportability.
- Sec. 1605. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.
- Sec. 1606. Penalties for reentry of removed aliens.
- Sec. 1607. Laundering of monetary instruments.
- Sec. 1608. Freezing bank accounts of international criminal organizations and money launderers.
- Sec. 1609. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
- Sec. 1610. Closing the loophole on drug cartel associates engaged in money laundering.

Subtitle G—Protecting National Security and Public Safety

CHAPTER 1—GENERAL MATTERS

- Sec. 1701. Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
- Sec. 1702. Terrorist and security-related grounds of inadmissibility.
- Sec. 1703. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 1704. Detention of removable aliens.
- Sec. 1705. GAO study on deaths in custody.
- Sec. 1706. GAO study on migrant deaths.
- Sec. 1707. Statute of limitations for visa, naturalization, and other fraud offenses involving war crimes, crimes against humanity, or human rights violations.
- Sec. 1708. Criminal detention of aliens to protect public safety.
- Sec. 1709. Recruitment of persons to participate in terrorism.
- Sec. 1710. Barring and removing persecutors, war criminals, and participants in crimes against humanity from the United States.
- Sec. 1711. Child soldier recruitment ineligibility technical correction.
- Sec. 1712. Gang membership, removal, and increased criminal penalties related to gang violence.
- Sec. 1713. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
- Sec. 1714. Protecting immigrants from convicted sex offenders.
- Sec. 1715. Enhanced criminal penalties for high speed flight.
- Sec. 1716. Prohibition on asylum and cancellation of removal for terrorists.
- Sec. 1717. Aggravated felonies.

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- Sec. 1718. Failure to obey removal orders.
- 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.
- Sec. 1722. Expansion of criminal alien repatriation programs.
- Sec. 1723. Prohibition on flight training and nuclear studies for nationals of high-risk countries.

CHAPTER 2—STRONG VISA INTEGRITY SECURES AMERICA ACT

- 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.
- Sec. 1736. Social media review of visa applicants.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

- Sec. 1741. Cancellation of additional visas.
- Sec. 1742. Visa information sharing.
- Sec. 1743. Visa interviews.
- Sec. 1744. Visa revocation and limits on judicial review.

CHAPTER 4—SECURE VISAS ACT

- Sec. 1751. Short title.
- Sec. 1752. Authority of the Secretary of Homeland Security and the Secretary of State.

CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2018

- Sec. 1761. Short title.
- Sec. 1762. Expanded usage of fraud prevention and detection fees.
- Sec. 1763. Inadmissibility of spouses and sons and daughters of traffickers.
- Sec. 1764. DNA testing and criminal history.
- Sec. 1765. Access to NCIC criminal history database for diplomatic visas.
- Sec. 1766. Elimination of signed photograph requirement for visa applications.

CHAPTER 6—OTHER MATTERS

- Sec. 1771. Requirement for completion of background checks.
- Sec. 1772. Withholding of adjudication.
- Sec. 1773. Access to the National Crime Information Center Interstate Identification Index.
- Sec. 1774. Appropriate remedies for immigration litigation.
- Sec. 1775. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 1776. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 1777. Conforming amendment to the definition of racketeering activity.
- Sec. 1778. Validity of electronic signatures.

Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States

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CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT
RESIDENT STATUS

- Sec. 1801. Lawful permanent residents as applicants for admission.
- Sec. 1802. Date of admission for purposes of adjustment of status.
- Sec. 1803. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.
- Sec. 1804. Revocation of lawful permanent resident status for human rights violators.
- Sec. 1805. Removal of condition on lawful permanent resident status prior to naturalization.
- 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.
- Sec. 1808. Extension of time limit to permit rescission of permanent resident status.
- Sec. 1809. Barring persecutors and terrorists from registry.

CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES
CITIZENSHIP

- Sec. 1821. Barring terrorists from becoming naturalized United States citizens.
- 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.
- Sec. 1828. Naturalization document retention.

CHAPTER 3—FORFEITURE OF PROCEEDS FROM PASSPORT AND VISA
OFFENSES, AND PASSPORT REVOCATION.

- Sec. 1831. Forfeiture of proceeds from passport and visa offenses.
- Sec. 1832. Passport Revocation Act.

TITLE II—PERMANENT REAUTHORIZATION OF VOLUNTARY E-
VERIFY

- Sec. 2001. Permanent reauthorization.
- Sec. 2002. Preemption; liability.
- Sec. 2003. Information sharing.
- Sec. 2004. Small Business Demonstration Program.
- Sec. 2005. Fraud prevention.
- Sec. 2006. Identity authentication employment eligibility verification pilot programs.

TITLE III—SUCCEED ACT

- Sec. 3001. Short titles.
- Sec. 3002. Definitions.

- 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.
- Sec. 3006. Benefits for relatives of aliens granted conditional temporary resident status.
- Sec. 3007. Exclusive jurisdiction.
- Sec. 3008. Confidentiality of information.
- Sec. 3009. Restriction on welfare benefits for conditional temporary residents.
- Sec. 3010. GAO report.
- Sec. 3011. Military enlistment.
- Sec. 3012. Eligibility for naturalization.
- Sec. 3013. Funding.

TITLE IV—ENSURING FAMILY REUNIFICATION

- Sec. 4001. Short title.
- Sec. 4002. Family-Sponsored immigration priorities.
- Sec. 4003. Elimination of Diversity Visa Program.

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.
- Sec. 5005. Ability to fill and retain Department of Homeland Security positions in United States territories.
- Sec. 5006. Severability.
- Sec. 5007. Funding.

TITLE VI—TECHNICAL AMENDMENTS

- Sec. 6001. References to the Immigration and Nationality Act.
- Sec. 6002. Technical amendments to title I of the Immigration and Nationality Act.
- Sec. 6003. Technical amendments to title II of the Immigration and Nationality Act.
- Sec. 6004. Technical amendments to title III of the Immigration and Nationality Act.
- 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 redesignig-
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 (c), 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 SECUR-
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(e) 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

101

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—

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 BONUSES.—

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 congress-
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(e)(1) of the
2 Act of February 13, 1911 (19 U.S.C. 267(e)(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(1) 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 RITY 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 fornia and inserting the following :

“California:

Northern	19
Eastern	12
Central	28
Southern	15”; and

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, IMMIGRATION-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 ministrators 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 “(1)(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 ceeding 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;

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 “(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 Immig-
4 ration 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 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 (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 (e) **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-

1 180 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 “(1) 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 resettlement based on international protection needs.

2
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 Secretary of State to assist in developing the asylum processing capabilities described in subsection (a) to—

7
8 (1) the Committee on Foreign Relations of the
9 Senate;

10 (2) the Committee on Homeland Security and
11 Governmental Affairs of the Senate;

12 (3) the Committee on the Judiciary of the Senate;

13 (4) the Committee on Foreign Affairs of the
14 House of Representatives;

15 (5) the Committee on Homeland Security of the
16 House of Representatives; and

17 (6) the Committee on the Judiciary of the
18 House of Representatives.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary to carry out subsection (a).
22
23

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 depart-
22 ure, 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 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 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)”; and

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 sserting “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 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 which shall include, with respect to any such
7 deaths—

8 (1) whether such death could have been prevented
9 by the delivery of medical treatment administered while
10 the detainee was in the custody of the Department of
11 Homeland Security;

12 (2) whether Department practices and procedures were
13 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 Senate,
23 the Committee on Homeland Security and Governmental
24 Affairs of the Senate, the Committee on the Judiciary of
25 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(c);

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(e),
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 **“§ 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-

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.—

1 (1) INAPPLICABILITY OF RESTRICTION ON RE-
2 MOVAL TO CERTAIN COUNTRIES.—Section
3 241(b)(3)(B) of the Immigration and Nationality
4 Act (8 U.S.C. 1231(b)(3)(B)) is amended in the
5 matter preceding clause (i) by inserting “who is de-
6 scribed in section 212(a)(2)(J)(i) or section
7 237(a)(2)(G)(i) or who is” after “to an alien”.

8 (2) INELIGIBILITY FOR ASYLUM.—Section
9 208(b)(2)(A) of the Immigration and Nationality
10 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

11 (A) in clause (v), by striking “or” at the
12 end;

13 (B) by redesignating clause (vi) as clause
14 (vii);

15 (C) by inserting after clause (v) the fol-
16 lowing:

17 “(vi) the alien is described in section
18 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
19 (relating to participation in criminal
20 gangs); or”; and

21 (D) by amending clause (vii), as redesign-
22 nated, to read as follows:

23 “(vii) the alien was firmly resettled in
24 another country in any legal status prior to
25 arriving in the United States.”.

1 (h) GOOD MORAL CHARACTER BAR FOR CRIMINAL
2 GANG MEMBERS.—Section 101(f) of the Immigration and
3 Nationality Act (8 U.S.C. 1101(f)), as amended by section
4 1710(d), 1713(d), and 1822(a) of this Act, is further
5 amended by inserting after paragraph (10) the following:

6 “(11) is a member of 1 or more classes of per-
7 sons described in section 212(a)(2)(J) or
8 237(a)(2)(G) and has been convicted of any offense
9 described in section 101(a)(43), 212(a)(2), or
10 237(a)(2); or”.

11 (i) ANNUAL REPORT ON DETENTION OF CRIMINAL
12 GANG MEMBERS.—Not later than March 1 of the first
13 calendar year beginning at least 1 year after the date of
14 the enactment of this Act, and annually thereafter, the
15 Secretary of Homeland Security, after consultation with
16 the heads of appropriate Federal agencies, shall submit
17 a report to the Committee on Homeland Security and Gov-
18 ernmental Affairs of the Senate, the Committee on the Ju-
19 diciary of the Senate, the Committee on Homeland Secu-
20 rity of the House of Representatives, and the Committee
21 on the Judiciary of the House of Representatives that
22 identifies the number of aliens detained described in sec-
23 tions 212(a)(2)(J) and section 237(a)(2)(G) of the Immi-
24 gration and Nationality Act, as added by subsections (b)
25 and (d).

1 (j) EFFECTIVE DATE AND APPLICATION.—The
2 amendments made by this section shall take effect on the
3 date of the enactment of this Act and shall apply to acts
4 that occur before, on, or after the date of the enactment
5 of this Act.

6 **SEC. 1713. BARRING AGGRAVATED FELONS, BORDER**
7 **CHECKPOINT RUNNERS, AND SEX OFFEND-**
8 **ERS FROM ADMISSION TO THE UNITED**
9 **STATES.**

10 (a) INADMISSIBILITY ON CRIMINAL AND RELATED
11 GROUNDS; WAIVERS.—Section 212 of the Immigration
12 and Nationality Act (8 U.S.C. 1182) is amended—

13 (1) in subsection (a)(2)—

14 (A) in subparagraph (A)(i)—

15 (i) in subclause (I), by striking “, or”
16 at the end and inserting a semicolon;

17 (ii) in subclause (II), by striking the
18 comma at the end and inserting “; or”;
19 and

20 (iii) by inserting after subclause (II)
21 the following:

22 “(III) a violation of (or a con-
23 spiracy or attempt to violate) any
24 statute relating to section 208 of the
25 Social Security Act (42 U.S.C. 408)

1 (relating to social security account
2 numbers or social security cards) or
3 section 1028 of title 18, United States
4 Code (relating to fraud and related
5 activity in connection with identifica-
6 tion documents, authentication fea-
7 tures, and information)”; and

8 (B) by inserting after subparagraph (K),
9 as added by section 1713(b) of this Act, the fol-
10 lowing:

11 “(L) CITIZENSHIP FRAUD.—Any alien con-
12 victed of, or who admits having committed, or
13 who admits committing acts which constitute
14 the essential elements of, a violation of, or an
15 attempt or a conspiracy to violate, subsection
16 (a) or (b) of section 1425 of title 18, United
17 States Code (relating to the procurement of
18 citizenship or naturalization unlawfully), is in-
19 admissible.

20 “(M) CERTAIN FIREARM OFFENSES.—Any
21 alien who at any time has been convicted under
22 any law of, admits having committed, or admits
23 committing acts which constitute the essential
24 elements of, any law relating to, purchasing,
25 selling, offering for sale, exchanging, using,

1 owning, possessing, or carrying, or of attempt-
2 ing or conspiring to purchase, sell, offer for
3 sale, exchange, use, own, possess, or carry, any
4 weapon, part, or accessory which is a firearm or
5 destructive device (as defined in section 921(a)
6 of title 18, United States Code) in violation of
7 any law, is inadmissible. For purposes of this
8 subparagraph the term ‘any law’ includes State
9 laws that do not contain an exception for an-
10 tique firearms. If the State law does not con-
11 tain an exception for antique firearms, the Sec-
12 retary or the Attorney General may consider
13 documentary evidence related to the conviction,
14 including, but not limited to, charging docu-
15 ments, plea agreements, plea colloquies, jury in-
16 structions, and police reports, to establish that
17 the offense involved at least 1 firearm that is
18 not an antique firearm.

19 “(N) AGGRAVATED FELONS.—Any alien
20 who has been convicted of an aggravated felony
21 at any time is inadmissible.

22 “(O) HIGH SPEED FLIGHT.—Any alien
23 who has been convicted of a violation of section
24 758 of title 18, United States Code (relating to

1 high speed flight from an immigration check-
2 point) is inadmissible.

3 “(P) FAILURE TO REGISTER AS A SEX OF-
4 FENDER.—Any alien convicted under section
5 2250 of title 18, United States Code, is inad-
6 missible.

7 “(Q) CRIMES OF DOMESTIC VIOLENCE,
8 STALKING, OR VIOLATION OF PROTECTION OR-
9 DERS; CRIMES AGAINST CHILDREN.—

10 “(i) DOMESTIC VIOLENCE, STALKING,
11 AND CHILD ABUSE.—Except as provided in
12 subsection (v), any alien who at any time
13 is or has been convicted of a crime involv-
14 ing the use or attempted use of physical
15 force, or threatened use of a deadly weap-
16 on, a crime of domestic violence, a crime of
17 stalking, or a crime of child abuse, child
18 neglect, or child abandonment is inadmis-
19 sible. For purposes of this clause, the term
20 ‘crime of domestic violence’ has the mean-
21 ing given the term in section
22 237(a)(2)(E)(i).

23 “(ii) VIOLATORS OF PROTECTION OR-
24 DERS.—Except as provided in subsection
25 (v), any alien who at any time is or has

1 been enjoined under a protection order
2 issued by a court and whom the court de-
3 termines has engaged in conduct that vio-
4 lates the portion of a protection order that
5 involves protection against credible threats
6 of violence, repeated harassment, or bodily
7 injury to the person or persons for whom
8 the protection order was issued is inadmis-
9 sible. For purposes of this clause, the term
10 ‘protection order’ has the meaning given
11 the term in section 237(a)(2)(E)(ii).”;

12 (2) in subsection (h)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (A), by redesignig-
15 nating clauses (i), (ii), and (iii) as sub-
16 clauses (I), (II), and (III), respectively;

17 (ii) by redesignating subparagraphs
18 (A), (B), and (C) as clauses (i), (ii), and
19 (iii), respectively;

20 (B) by redesignating paragraphs (1) and
21 (2) as subparagraphs (A) and (B), respectively;

22 (C) in the matter preceding subparagraph
23 (A), as redesignated and as amended by section
24 1713(e) of this Act—

1 (i) by inserting “(1)” before “The At-
2 torney General”; and

3 (ii) by striking “, and (K)”, and in-
4 sserting “(K), and (M)”;

5 (D) in the matter following subparagraph
6 (B), as redesignated—

7 (i) by striking the first 2 sentences
8 and inserting the following:

9 “(2) A waiver may not be provided under this sub-
10 section to an alien—

11 “(A) who has been convicted of (or who has ad-
12 mitted committing acts that constitute)—

13 “(i) murder or criminal acts of torture; or

14 “(ii) an attempt or conspiracy to commit
15 murder or a criminal act involving torture;

16 “(B) who has been convicted of an aggravated
17 felony; or

18 “(C) who has been lawfully admitted for perma-
19 nent residence and who since the date of such ad-
20 mission has not lawfully resided continuously in the
21 United States for at least 7 years immediately pre-
22 ceding the date on which proceedings were initiated
23 to remove the alien from the United States.”; and

24 (ii) by striking “No court” and insert-
25 ing the following:

1 “(3) No court”;

2 (3) by redesignating subsection (t), as added by
3 section 1(b)(2)(B) of Public Law 108–449, as sub-
4 section (u); and

5 (4) by adding at the end the following:

6 “(v) WAIVER FOR VICTIMS OF DOMESTIC VIO-
7 LENCE.—

8 “(1) IN GENERAL.—The Secretary or the Attor-
9 ney General is not limited by the criminal court
10 record and may waive the application of subsection
11 (a)(2)(Q)(i) (with respect to crimes of domestic vio-
12 lence and crimes of stalking) and subsection
13 (a)(2)(Q)(ii), in the case of an alien who has been
14 battered or subjected to extreme cruelty and who is
15 not and was not the primary perpetrator of violence
16 in the relationship, upon a determination that—

17 “(A) the alien was acting in self-defense;

18 “(B) the alien was found to have violated
19 a protection order intended to protect the alien;
20 or

21 “(C) the alien committed or was convicted
22 of committing a crime—

23 “(i) that did not result in serious bod-
24 ily injury; and

1 “(ii) where there was a connection be-
2 tween the crime and the alien’s having
3 been battered or subjected to extreme cru-
4 elty.

5 “(2) CREDIBLE EVIDENCE CONSIDERED.—In
6 acting on applications for a waiver under this sub-
7 section, the Secretary or the Attorney General shall
8 consider any credible evidence relevant to the appli-
9 cation. The determination of what evidence is cred-
10 ible and the weight to be given that evidence shall
11 be within the sole discretion of the Secretary or the
12 Attorney General.”.

13 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
14 237(a)(2) of the Immigration and Nationality Act (8
15 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and
16 1713(c) of this Act, is further amended by adding at the
17 end the following:

18 “(I) IDENTIFICATION FRAUD.—Any alien
19 who is convicted of a violation of (or a con-
20 spiracy or attempt to violate) an offense relat-
21 ing to section 208 of the Social Security Act
22 (42 U.S.C. 408) (relating to social security ac-
23 count numbers or social security cards) or sec-
24 tion 1028 of title 18, United States Code (relat-

1 ing to fraud and related activity in connection
2 with identification) is deportable.”.

3 (c) DEPORTABILITY; CRIMINAL OFFENSES.—Section
4 237(a)(3)(B) of the Immigration and Nationality Act (8
5 U.S.C. 1227(a)(3)(B)) is amended—

6 (1) in clause (i), by striking the comma at the
7 end and inserting a semicolon;

8 (2) in clause (ii), by striking “, or” at the end
9 and inserting a semicolon;

10 (3) in clause (iii), by striking the comma at the
11 end and inserting “; or”; and

12 (4) by inserting after clause (iii) the following:

13 “(iv) of a violation of, or an attempt
14 or a conspiracy to violate, subsection (a) or
15 (b) of section 1425 of title 18, United
16 States Code (relating to the unlawful pro-
17 curement of citizenship or naturaliza-
18 tion),”.

19 (d) APPLICABILITY.—The amendments made by this
20 section shall apply to—

21 (1) any act that occurred before, on, or after
22 the date of the enactment of this Act;

23 (2) all aliens who are required to establish ad-
24 missibility on or after such date of enactment; and

1 (3) all removal, deportation, or exclusion pro-
2 ceedings that are filed, pending, or reopened, on or
3 after such date of enactment.

4 (e) **RULE OF CONSTRUCTION.**—The amendments
5 made by this section may not be construed to create eligi-
6 bility for relief from removal under section 212(c) of the
7 Immigration and Nationality Act (8 U.S.C. 1182(c)), as
8 in effect on the day before the date of the enactment of
9 this Act, if such eligibility did not exist before such date
10 of enactment.

11 **SEC. 1714. PROTECTING IMMIGRANTS FROM CONVICTED**
12 **SEX OFFENDERS.**

13 (a) **IMMIGRANTS.**—Section 204(a)(1) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1154(a)(1)) is amend-
15 ed—

16 (1) in subparagraph (A), by amending clause
17 (viii) to read as follows:

18 “(viii) Clause (i) shall not apply to a citizen of the
19 United States who has been convicted of an offense de-
20 scribed in subparagraph (A), (I), or (K) of section
21 101(a)(43) or a specified offense against a minor (as de-
22 fined in section 111(7) of the Adam Walsh Child Protec-
23 tion and Safety Act of 2006 (34 U.S.C. 20911(7))) unless
24 the Secretary, in the Secretary’s sole and unreviewable
25 discretion, determines that the citizen poses no risk to the

1 alien with respect to whom a petition described in clause
2 (i) is filed.”; and

3 (2) in subparagraph (B)(i)—

4 (A) by redesignating the second subclause
5 (I) as subclause (II); and

6 (B) by amending such subclause (II) to
7 read as follows:

8 “(II) Subclause (I) shall not apply to an alien law-
9 fully admitted for permanent residence who has been con-
10 victed of an offense described in subparagraph (A), (I),
11 or (K) of section 101(a)(43) or a specified offense against
12 a minor as defined in section 111(7) of the Adam Walsh
13 Child Protection and Safety Act of 2006 (34 U.S.C.
14 20911(7)) unless the Secretary, in the Secretary’s sole and
15 unreviewable discretion, determines that the alien lawfully
16 admitted for permanent residence poses no risk to the
17 alien with respect to whom a petition described in sub-
18 clause (I) is filed.”.

19 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1101(a)(15)(K)) is amended by striking
22 “204(a)(1)(A)(viii)(I)” each place it appears and insert-
23 ing “204(a)(1)(A)(viii)”.

24 (c) EFFECTIVE DATE AND APPLICATION.—The
25 amendments made by this section shall take effect on the

1 date of the enactment of this Act and shall apply to peti-
2 tions filed on or after such date.

3 **SEC. 1715. ENHANCED CRIMINAL PENALTIES FOR HIGH**
4 **SPEED FLIGHT.**

5 (a) IN GENERAL.—Section 758 of title 18, United
6 States Code, is amended to read as follows:

7 **“§ 758. Unlawful flight from immigration or customs**
8 **controls**

9 “(a) EVADING A CHECKPOINT.—Any person who,
10 while operating a motor vehicle or vessel, knowingly flees
11 or evades a checkpoint operated by the Department of
12 Homeland Security or any other Federal law enforcement
13 agency, and then knowingly or recklessly disregards or dis-
14 obeys the lawful command of any law enforcement agent,
15 shall be fined under this title, imprisoned not more than
16 5 years, or both.

17 “(b) FAILURE TO STOP.—Any person who, while op-
18 erating a motor vehicle, aircraft, or vessel, knowingly or
19 recklessly disregards or disobeys the lawful command of
20 an officer of the Department of Homeland Security en-
21 gaged in the enforcement of the immigration, customs, or
22 maritime laws, or the lawful command of any law enforce-
23 ment agent assisting such officer, shall be fined under this
24 title, imprisoned not more than 2 years, or both.

1 “(c) ALTERNATIVE PENALTIES.—Notwithstanding
2 the penalties provided in subsection (a) or (b), any person
3 who violates such subsection—

4 “(1) shall be fined under this title, imprisoned
5 not more than 10 years, or both, if the violation in-
6 volved the operation of a motor vehicle, aircraft, or
7 vessel—

8 “(A) in excess of the applicable or posted
9 speed limit;

10 “(B) in excess of the rated capacity of the
11 motor vehicle, aircraft, or vessel; or

12 “(C) in an otherwise dangerous or reckless
13 manner;

14 “(2) shall be fined under this title, imprisoned
15 not more than 20 years, or both, if the violation cre-
16 ated a substantial and foreseeable risk of serious
17 bodily injury or death to any person;

18 “(3) shall be fined under this title, imprisoned
19 not more than 30 years, or both, if the violation
20 caused serious bodily injury to any person; or

21 “(4) shall be fined under this title, imprisoned
22 for any term of years or life, or both, if the violation
23 resulted in the death of any person.

24 “(d) ATTEMPT AND CONSPIRACY.—Any person who
25 attempts or conspires to commit any offense under this

1 section shall be punished in the same manner as a person
2 who completes the offense.

3 “(e) FORFEITURE.—Any property, real or personal,
4 constituting or traceable to the gross proceeds of the of-
5 fense and any property, real or personal, used or intended
6 to be used to commit or facilitate the commission of the
7 offense shall be subject to forfeiture.

8 “(f) FORFEITURE PROCEDURES.—Seizures and for-
9 feitures under this section shall be governed by the provi-
10 sions of chapter 46 (relating to civil forfeitures), including
11 section 981(d), except that such duties as are imposed
12 upon the Secretary of the Treasury under the customs
13 laws described in that section shall be performed by such
14 officers, agents, and other persons as may be designated
15 for that purpose by the Secretary of Homeland Security
16 or the Attorney General. Nothing in this section may be
17 construed to limit the authority of the Secretary of Home-
18 land Security to seize and forfeit motor vehicles, aircraft,
19 or vessels under the customs laws or any other laws of
20 the United States.

21 “(g) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘checkpoint’ includes any customs
23 or immigration inspection at a port of entry or im-
24 migration inspection at a U.S. Border Patrol check-
25 point;

1 “(2) the term ‘law enforcement agent’ means—

2 “(A) any Federal, State, local or tribal of-
3 ficial authorized to enforce criminal law; and

4 “(B) when conveying a command described
5 in subsection (b), an air traffic controller;

6 “(3) the term ‘lawful command’ includes a com-
7 mand to stop, decrease speed, alter course, or land,
8 whether communicated orally, visually, by means of
9 lights or sirens, or by radio, telephone, or other com-
10 munication;

11 “(4) the term ‘motor vehicle’ means any motor-
12 ized or self-propelled means of terrestrial transpor-
13 tation; and

14 “(5) the term ‘serious bodily injury’ has the
15 meaning given in section 2119(2).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 35 of title 18, United States Code, is amended
18 by striking the item relating to section 758 and inserting
19 the following:

“758. Unlawful flight from immigration or customs controls.”.

20 (c) RULE OF CONSTRUCTION.—The amendments
21 made by subsection (a) may not be construed to create
22 eligibility for relief from removal under section 212(c) of
23 the Immigration and Nationality Act (8 U.S.C. 1182(c)),
24 as in effect on the day before the date of the enactment

1 of this Act, if such eligibility did not exist before such date
2 of enactment.

3 **SEC. 1716. PROHIBITION ON ASYLUM AND CANCELLATION**
4 **OF REMOVAL FOR TERRORISTS.**

5 (a) ASYLUM.—Section 208(b)(2)(A) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)), as
7 amended by 1712(f) of this Act, is further amended—

8 (1) by inserting “or the Secretary” after “if the
9 Attorney General”; and

10 (2) by amending clause (v) to read as follows:

11 “(v) the alien is described in subpara-
12 graph (B)(i) or (F) of section 212(a)(3),
13 unless, in the case of an alien described in
14 section 212(a)(3)(B)(i)(IX), the Secretary
15 or the Attorney General determines, in his
16 or her sole and unreviewable discretion,
17 that there are not reasonable grounds for
18 regarding the alien as a danger to the se-
19 curity of the United States;”.

20 (b) CANCELLATION OF REMOVAL.—Section
21 240A(c)(4) of the Immigration and Nationality Act (8
22 U.S.C. 1229b(c)(4)) is amended—

23 (1) by striking “inadmissible under” and insert-
24 ing “described in”; and

1 (2) by striking “deportable under” and insert-
2 ing “described in”.

3 (c) RESTRICTION ON REMOVAL.—

4 (1) IN GENERAL.—Section 241(b)(3)(A) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1231(b)(3)(A)) is amended—

7 (A) by inserting “or the Secretary” after
8 “Attorney General” both places it appears;

9 (B) by striking “Notwithstanding” and in-
10 serting the following:

11 “(i) IN GENERAL.—Notwithstanding”;

12 and

13 (C) by adding at the end the following:

14 “(ii) BURDEN OF PROOF.—The alien
15 has the burden of proof to establish that
16 the alien’s life or freedom would be threat-
17 ened in such country, and that race, reli-
18 gion, nationality, membership in a par-
19 ticular social group, or political opinion
20 would be at least 1 central reason for such
21 threat.”.

22 (2) EXCEPTION.—Section 241(b)(3)(B) of such
23 Act (8 U.S.C. 1231(b)(3)(B)) is amended—

24 (A) by inserting “or the Secretary” after
25 “Attorney General” both places it appears;

1 (B) in clause (iii), striking “or” at the end;

2 (C) in clause (iv), striking the period at

3 the end and inserting a semicolon;

4 (D) inserting after clause (iv) the fol-
5 lowing:

6 “(v) the alien is described in subpara-
7 graph (B)(i) or (F) of section
8 212(a)(3)(B), unless, in the case of an
9 alien described in section
10 212(a)(3)(B)(i)(IX), the Secretary or the
11 Attorney General determines, in his or her
12 sole and unreviewable discretion, that there
13 are not reasonable grounds for regarding
14 the alien as a danger to the security of the
15 United States; or

16 “(vi) the alien is convicted of an ag-
17 gravated felony.”; and

18 (E) by striking the undesignated matter at
19 the end.

20 (3) SUSTAINING BURDEN OF PROOF; CREDI-
21 BILITY DETERMINATIONS.—Section 241(b)(3)(C) of
22 such Act (8 U.S.C. 1231(b)(3)(C)) is amended by
23 striking “In determining whether an alien has dem-
24 onstrated that the alien’s life or freedom would be
25 threatened for a reason described in subparagraph

1 (A),” and inserting “For purposes of this para-
2 graph,”.

3 (4) EFFECTIVE DATE AND APPLICATION.—The
4 amendments made by paragraphs (1) and (2) shall
5 take effect as if enacted on May 11, 2005, and shall
6 apply to applications for withholding of removal
7 made on or after such date.

8 (d) EFFECTIVE DATES; APPLICATIONS.—Except as
9 provided in subsection (c)(4), the amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act and sections 208(b)(2)(A), 240A(c), and
12 241(b)(3) of the Immigration and Nationality Act, as
13 amended by this section, shall apply to—

14 (1) all aliens in removal, deportation, or exclu-
15 sion proceedings;

16 (2) all applications pending on, or filed after,
17 the date of the enactment of this Act; and

18 (3) with respect to aliens and applications de-
19 scribed in paragraph (1) or (2), acts and conditions
20 constituting a ground for exclusion, deportation, or
21 removal occurring or existing before, on, or after the
22 date of the enactment of this Act.

1 **SEC. 1717. AGGRAVATED FELONIES.**

2 (a) DEFINITION OF AGGRAVATED FELONY.—Section
3 101(a)(43) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(43)) is amended to read as follows:

5 “(43)(A) The term ‘aggravated felony’ means—

6 “(i) any offense punishable by a maximum term
7 of imprisonment of not less than 2 years regardless
8 of the term of imprisonment, if any, actually im-
9 posed;

10 “(ii) any offense for which the term of impris-
11 onment imposed was not less than 1 year even if
12 that term is suspended or probated;

13 “(iii) any 2 or more offenses, regardless of
14 whether the convictions for such offenses resulted
15 from a single trial or plea or whether the offenses
16 arose from a single scheme of misconduct, for which
17 the aggregate term of imprisonment imposed was
18 not less than 3 years;

19 “(iv) any offense not otherwise determined to
20 be an aggravated felony offense under clauses (i)
21 through (iii), regardless of the term of imprisonment
22 imposed (unless otherwise indicated) or of the ele-
23 ments of the offense required for a conviction if the
24 nature of the offense is described in 1 of the fol-
25 lowing subclauses:

26 “(I) Any crime of, or related to—

1 “(aa) murder, in any degree;

2 “(bb) voluntary or involuntary man-
3 slaughter;

4 “(cc) homicide (regardless of the re-
5 quired level of intent and including reck-
6 less or negligent homicide);

7 “(dd) sexual assault or battery;

8 “(ee) rape (including statutory rape);

9 “(ff) any offense for which the indi-
10 vidual was required to register as a sex of-
11 fender under Federal or state law;

12 “(gg) , or any other sex offense, in-
13 cluding offenses related to the actual or at-
14 tempted abuse of or contact with minors
15 (defined as individuals under the age of 18
16 but including offenses in which the in-
17 tended victim was actually a law enforce-
18 ment officer), regardless of the reason and
19 extent of the act.

20 “(II) Any drug trafficking crime (as de-
21 fined in section 924(c) of title 18, United
22 States Code).

23 “(III) Any other crime classified as a fel-
24 ony in the jurisdiction of conviction involving or
25 related to a controlled substance that is classi-

1 fied as controlled in the jurisdiction of convic-
2 tion, regardless of whether the substance is also
3 classified as controlled by the Federal govern-
4 ment and regardless of whether the crime would
5 be classified as a felony under Federal law.

6 “(IV) Any offense relating to illicit traf-
7 ficking in firearms or destructive devices (as de-
8 fined in section 921 of title 18, United States
9 Code) or in explosive materials (as defined in
10 section 841(c) of such title).

11 “(V) Any offense relating to laundering of
12 monetary instruments or engaging in monetary
13 transactions in property derived from unlawful
14 activity if the amount of the funds exceeded
15 \$10,000.

16 “(VI) A crime of violence (or an offense re-
17 lating to a crime of violence), including any
18 crime labeled as assault or battery by the rel-
19 evant jurisdiction of conviction, state or Fed-
20 eral, regardless of whether the crime also meets
21 the definition in section 16 of title 18, United
22 States Code, for which the term of imprison-
23 ment imposed is at least 9 months.

24 “(VII) A theft offense (or an offense relat-
25 ing to a theft offense), including any crime la-

1 beled as theft, shoplifting, burglary, or embez-
2 zlement by the relevant jurisdiction of convic-
3 tion, state or Federal, and regardless of the
4 method of the theft , and regardless of whether
5 any taking was temporary or permanent, for
6 which the term of imprisonment imposed is at
7 least 9 months.

8 “(VIII) Any offense relating to offenses de-
9 scribed in—

10 “(aa) section 842 or 844 of title 18,
11 United States Code;

12 “(bb) section 922 or 924 of such title;
13 or

14 “(cc) section 5861 of the Internal
15 Revenue Code of 1986.

16 “(IX) Any offense relating to a failure to
17 appear before a court pursuant to a court order
18 to answer to or dispose of a charge of a felony.

19 “(X) Any offense relating to the demand
20 for or receipt of ransom.

21 “(XI) Any offense relating to child pornog-
22 raphy (as defined by the jurisdiction of convic-
23 tion).

24 “(XII) Any offense relating to racketeer
25 influenced corrupt organizations, or relating to

1 transmission of wagering information (if it is a
2 second or subsequent offense) or relating to ille-
3 gal gambling business offenses.

4 “(XIII) Any offense relating to—

5 “(aa) the owning, controlling, man-
6 aging, or supervising of a prostitution busi-
7 ness;

8 “(bb) transportation for the purpose
9 of prostitution, if committed for commer-
10 cial advantage; or

11 “(cc) peonage, slavery, involuntary
12 servitude, and trafficking in persons.

13 “(XIV) Any offense relating to—

14 “(aa) gathering or transmitting na-
15 tional defense information, disclosure of
16 classified information, sabotage or treason;

17 “(bb) protecting the identity of under-
18 cover intelligence agents; or

19 “(cc) protecting the identity of under-
20 cover agents; or

21 “(XV) Any offense—

22 “(aa) involving fraud or deceit in
23 which the loss to the victim or victims ex-
24 ceeds \$10,000; or

1 “(bb) relating to those described in
2 section 7201 of the Internal Revenue Code
3 of 1986 (relating to tax evasion) in which
4 the revenue loss to the Government exceeds
5 \$10,000.

6 “(XVI) Any offense relating to an offense
7 described in paragraph (1)(A) or (2) of section
8 274(a) (relating to alien smuggling), except in
9 the case of a first offense for which the alien
10 has affirmatively shown that the alien com-
11 mitted the offense for the purpose of assisting,
12 abetting, or aiding only the alien’s spouse,
13 child, or parent (and no other individual) to vio-
14 late a provision of this Act.

15 “(XVII) Any offense relating to offenses
16 described in section 275(a) or 276 committed
17 by an alien who was previously excluded, de-
18 ported, or removed from the United States.

19 “(XVIII) An offense related to falsely
20 making, forging, counterfeiting, mutilating, or
21 altering a passport or instrument relating to
22 document fraud.

23 “(XIX) Any offense relating to a failure to
24 appear by a defendant for service of sentence if

1 the underlying offense is punishable by impris-
2 onment for a term of 3 years or more.

3 “(XX) Any offense relating to commercial
4 bribery, counterfeiting, forgery, or trafficking in
5 vehicles the identification numbers of which
6 have been altered.

7 “(XXI) Any offense relating to obstruction
8 of justice, perjury or subornation of perjury, or
9 bribery of a witness.

10 “(XXII)(aa) A single conviction for driving
11 while intoxicated or impaired (as such terms
12 are defined under the jurisdiction in which the
13 conviction occurred), including a conviction for
14 driving while under the influence of or impaired
15 by alcohol or drugs, without regard to whether
16 the conviction is classified as a misdemeanor or
17 felony under State law when such impaired
18 driving was a cause of serious bodily injury or
19 death of another person.

20 “(bb) A second or subsequent conviction
21 for driving while intoxicated or impaired (as
22 such terms are defined under the jurisdiction in
23 which the conviction occurred), including a con-
24 viction for driving while under the influence of
25 or impaired by alcohol or drugs) without regard

1 to whether the conviction is classified as a mis-
2 demeanor or felony under State law.

3 “(cc) A finding under this subclause does
4 not require the Secretary or the Attorney Gen-
5 eral to prove the first conviction for driving
6 while intoxicated or impaired (including a con-
7 viction for driving while under the influence of
8 or impaired by alcohol or drugs) as a predicate
9 offense.

10 “(dd) The Secretary or the Attorney Gen-
11 eral need only make a factual determination
12 that the alien was previously convicted for driv-
13 ing while intoxicated or impaired (as such terms
14 are defined under the jurisdiction in which the
15 conviction occurred), including a conviction for
16 driving while under the influence of or impaired
17 by alcohol or drugs.

18 “(XXIII) An offense relating to terrorism
19 or national security, including a conviction for
20 a violation under chapter 113B of title 18,
21 United States Code.

22 “(XXIV) A conviction for violating section
23 295.

24 “(XXV) Any offense relating to those de-
25 scribed in chapter 50A (genocide), 113C (tor-

1 ture), or 118 (war crimes and recruitment or
2 use of child soldiers) of title 18, United States
3 Code, or section 116 of such title (female gen-
4 ital mutilation), or a felony conviction under
5 chapter 35 of title 50, United States Code (re-
6 lating to violations of International Emergency
7 Economic Powers Act licenses, orders, regula-
8 tions, or prohibitions) or under section 38 of
9 the Arms Export Control Act (22 U.S.C. 2778).

10 “(XXVI) An attempt, conspiracy, or solici-
11 tation to commit an offense described in sub-
12 clauses I through XXV or any other inchoate
13 form of an offense described in this clause.

14 “(B) Notwithstanding any other provision of
15 law (including any effective date), the term ‘aggra-
16 vated felony’ applies, regardless of whether the con-
17 viction was entered before, on, or after the effective
18 date of the SECURE and SUCCEED Act, to—

19 “(i) an offense described in subparagraph
20 (A), whether in violation of Federal or State
21 law; and

22 “(ii) an offense described in subparagraph
23 (A) in violation of the law of a foreign country
24 for which the term of imprisonment was com-
25 pleted within the previous 15 years.”.

1 (b) DEFINITION OF CONVICTION.—Section
2 101(a)(48) of the Immigration and Nationality Act (8
3 U.S.C. 1101(a)(48)) is amended to read as follows:

4 “(48)(A) The term ‘conviction’ means, with respect
5 to an alien—

6 “(i) a formal judgment of guilt of the alien en-
7 tered by a court; or

8 “(ii) if adjudication of guilt has been withheld
9 or deferred, where—

10 “(I) a judge, jury, or other adjudicator has
11 found the alien guilty or the alien has entered
12 a plea of guilty, an Alford plea, or a plea of
13 nolo contendere, or the alien has admitted suffi-
14 cient facts to warrant a finding of guilt; and

15 “(II) the judge or other adjudicator has
16 ordered some form of punishment, penalty, or
17 restraint on the alien’s liberty to be imposed,
18 including, but not limited to, the imposition of
19 probation or any fees or costs associated with
20 the proceeding.

21 “(B) Any reference to a term of imprisonment or a
22 sentence with respect to an offense is deemed to include
23 the period of incarceration or confinement ordered by a
24 court of law regardless of any suspension of the imposition
25 or execution of that imprisonment or sentence in whole

1 or in part, including a sentence of imprisonment that is
2 probated.

3 “(C) Any reference to a term of imprisonment of at
4 least ‘1 year’ includes any sentence of 365 days or more,
5 or as ‘1 year’ was defined under State or local law in the
6 jurisdiction in which the conviction occurred at the time
7 of the conviction.

8 “(D) Any reference to a term of imprisonment that
9 is ‘punishable by’ shall include the maximum statutory
10 term of imprisonment authorized by law for the most ag-
11 gravated instance of the offense without regard to the in-
12 dividual circumstances of the defendant or the specific
13 facts of the conviction, provided that for convictions under
14 Federal law, the maximum statutory term of imprison-
15 ment shall not include a statutory sentence enhancement
16 under title 18, United States Code, or the title IV of the
17 Controlled Substances Act (21 U.S.C. 841 et seq.) unless
18 the defendant’s record of conviction reflects that he was
19 convicted or sentenced pursuant to such an enhancement.

20 “(E) Subject to subparagraphs (F) and (G), no order
21 purporting to vacate a conviction, modify a sentence, or
22 clarify a sentence shall have any effect under this Act un-
23 less all 4 of the following conditions are met:

1 “(i) The order was entered prior to the initi-
2 ation of any proceeding to remove the alien from the
3 United States.

4 “(ii) The order was entered not later than 1
5 year after the date of the original order of conviction
6 or sentencing.

7 “(iii) The court issuing the order had jurisdic-
8 tion and authority to do so.

9 “(iv) The order was not entered for purposes of
10 ameliorating the immigration consequences of the
11 conviction or sentence.

12 “(F) No nunc pro tunc order purporting to vacate
13 a conviction, modify a sentence, or clarify a sentence shall
14 have any effect under the immigration laws.

15 “(G) No reversal, vacatur, expungement, or modifica-
16 tion of a conviction or sentence that was granted, solely
17 or in part, to ameliorate the immigration consequences of
18 the conviction or sentence or was granted, solely or in
19 part, for rehabilitative purposes shall have any effect
20 under the immigration laws. For purposes of this subpara-
21 graph, any reversal, vacatur, expungement, or modifica-
22 tion of a conviction or sentence due to an alleged proce-
23 dural or constitutional defect shall be insufficient to meet
24 the alien’s burden of proof, even if the conditions in sub-
25 paragraphs (E) and (F) are otherwise satisfied, unless the

1 record contains a clear statement of position from the
2 prosecutor on the issue and a clear explanation in the rel-
3 evant order of the alleged defect.

4 “(H) In all cases under the immigration laws, the
5 alien shall bear the burden of establishing that all 4 condi-
6 tions in subparagraph (E) have been met and that the lim-
7 itations in subparagraph (F) and (G) do not apply.

8 “(I) Any order purporting to vacate a conviction,
9 modify a sentence, or clarify a sentence shall not be given
10 any effect for immigration purposes unless the require-
11 ments under this paragraph have been met. The fact that
12 these requirements have been met shall not preclude a
13 finding by the Attorney General or Secretary, in the exer-
14 cise of discretion, that the conviction is still valid for immi-
15 gration purposes. Notwithstanding any other provision of
16 law (statutory or nonstatutory) and regardless of whether
17 the determination is made in removal proceedings, no
18 court shall have jurisdiction to review a determination by
19 the Attorney General or Secretary of Homeland Security
20 regarding whether such an order should be given any ef-
21 fect under the immigration laws.

22 “(J) All references to a criminal offense or criminal
23 conviction in the immigration laws shall be deemed to in-
24 clude any attempt, conspiracy, or solicitation to commit
25 the offense or any other inchoate form of the offense.

1 “(K) In making a determination of whether a crimi-
2 nal conviction is for an aggravated felony or a crime in-
3 volving moral turpitude or for any other provision under
4 the immigration laws, the Attorney General shall not be
5 required to apply any single or particular methodology. In
6 making such determinations, the Attorney General shall
7 not be limited to applying a categorical or modified cat-
8 egorical approach (including determining if a statute of
9 conviction is divisible), shall not limit his consideration to
10 a single generic definition of a crime, and shall not con-
11 sider any hypothetical criminal offense beyond the facts
12 of the actual conviction at issue. In all cases, the Attorney
13 General may look behind the record of conviction and con-
14 sider all reliable evidence (including charging documents,
15 plea agreements, plea colloquies, jury instructions, police
16 reports, testimony during the removal hearing, and any
17 prior statements by the respondent or any other person
18 about the crime) of relevant facts (including the under-
19 lying conduct at issue, the actual type of firearm involved
20 (if any), the amount of a controlled substance involved (if
21 any), and the identity of the victim).”.

22 **SEC. 1718. FAILURE TO OBEY REMOVAL ORDERS.**

23 (a) IN GENERAL.—Section 243 of the Immigration
24 and Nationality Act (8 U.S.C. 1253) is amended—

25 (1) in subsection (a)—

1 (A) in paragraph (1), in the matter pre-
2 ceding subparagraph (A), by inserting “212(a)
3 or” before “237(a),”; and

4 (B) by striking paragraph (3);

5 (2) by striking subsection (b); and

6 (3) by redesignating subsections (c) and (d) as
7 subsections (b) and (c), respectively.

8 (b) **EFFECTIVE DATE AND APPLICATION.**—The
9 amendments made by subsection (a)(1) shall take effect
10 on the date of the enactment of this Act and shall apply
11 to acts that are described in subparagraphs (A) through
12 (D) of section 243(a)(1) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1253(a)(1)) that occur on or after such
14 date of enactment.

15 **SEC. 1719. SANCTIONS FOR COUNTRIES THAT DELAY OR**
16 **PREVENT REPATRIATION OF THEIR NATION-**
17 **ALS.**

18 Section 243 of the Immigration and Nationality Act
19 (8 U.S.C. 1253), as amended by section 1720(a), is fur-
20 ther amended by adding at the end the following:

21 “(e) **LISTING OF COUNTRIES WHO DELAY REPATRI-**
22 **ATION OF REMOVED ALIENS.**—

23 “(1) **LISTING OF COUNTRIES.**—Beginning on
24 the date that is 6 months after the date of the en-
25 actment of the **SECURE** and **SUCCEED** Act, and

1 every 6 months thereafter, the Secretary shall pub-
2 lish a report in the Federal Register that includes a
3 list of—

4 “(A) countries that have refused or unrea-
5 sonably delayed repatriation of an alien who is
6 a national of that country since the date of en-
7 actment of this Act and the total number of
8 such aliens, disaggregated by nationality;

9 “(B) countries that have an excessive repa-
10 triation failure rate; and

11 “(C) each country that was reported as
12 noncompliant in the most recent reporting pe-
13 riod.

14 “(2) EXEMPTION.—The Secretary, in the Sec-
15 retary’s sole and unreviewable discretion, and in con-
16 sultation with the Secretary of State, may exempt a
17 country from inclusion on the list under paragraph
18 (1) if there are significant foreign policy or security
19 concerns that warrant such an exemption.

20 “(f) DISCONTINUING GRANTING OF VISAS TO NA-
21 TIONALS OF COUNTRIES DENYING OR DELAYING ACCEPT-
22 ING ALIEN.—

23 “(1) IN GENERAL.—Notwithstanding section
24 221(c), the Secretary shall take the action described
25 in paragraph (2)(A), and may take an action de-

1 scribed in paragraph (2)(B), if the Secretary deter-
2 mines that—

3 “(A) an alien who is a national of a foreign
4 country is inadmissible under section 212 or de-
5 portable under section 237, or has been ordered
6 removed from the United States; and

7 “(B) the government of the foreign coun-
8 try referred to in subparagraph (A) is—

9 “(i) denying or unreasonably delaying
10 accepting aliens who are citizens, subjects,
11 nationals, or residents of that country
12 after the Secretary asks whether the gov-
13 ernment will accept an alien under this
14 section; or

15 “(ii) refusing to issue any required
16 travel or identity documents to allow the
17 alien who is citizen, subject, national, or
18 resident of that country to return to that
19 country.

20 “(2) ACTIONS DESCRIBED.—The actions de-
21 scribed in this paragraph are the following:

22 “(A) Direct the Secretary of State to au-
23 thorize consular officers in the foreign country
24 referred to in paragraph (1) to deny visas
25 under section 101(a)(15)(A)(iii) to attendants,

1 servants, personal employees, and members of
2 their immediate families, of the officials and
3 employees of that country who receive non-
4 immigrant status under clause (i) or (ii) of sec-
5 tion 101(a)(15)(A).

6 “(B) In consultation with the Secretary of
7 State, deny admission to any citizens, subjects,
8 nationals, or residents from the foreign country
9 referred to in paragraph (1), consistent with
10 other international obligations, and the imposi-
11 tion of any limitations, conditions, or additional
12 fees on the issuance of visas or travel from that
13 country, or the imposition of any other sanc-
14 tions against that country that are authorized
15 by law.

16 “(3) RESUMPTION OF VISA ISSUANCE.—Con-
17 sular officers in the foreign country that refused or
18 unreasonably delayed repatriation or refused to issue
19 required identity or travel documents may resume
20 visa issuance after the Secretary notifies the Sec-
21 retary of State that the country has accepted the
22 aliens.”.

1 **SEC. 1720. ENHANCED PENALTIES FOR CONSTRUCTION**
2 **AND USE OF BORDER TUNNELS.**

3 Section 555 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a), by striking “not more
6 than 20 years.” and inserting “not less than 7 years
7 and not more than 20 years.”; and

8 (2) in subsection (b), by striking “not more
9 than 10 years.” and inserting “not less than 3 years
10 and not more than 10 years.”.

11 **SEC. 1721. ENHANCED PENALTIES FOR FRAUD AND MISUSE**
12 **OF VISAS, PERMITS, AND OTHER DOCU-**
13 **MENTS.**

14 Section 1546(a) of title 18, United States Code, is
15 amended—

16 (1) by striking “Commissioner of the Immigra-
17 tion and Naturalization Service” each place it ap-
18 pears and inserting “Secretary of Homeland Secu-
19 rity”; and

20 (2) by striking “Shall be fined” and all that fol-
21 lows and inserting “Shall be fined under this title or
22 imprisoned for not less than 12 years and not more
23 than 25 years (if the offense was committed to fa-
24 cilitate an act of international terrorism (as defined
25 in section 2331)), not less than 10 years and not
26 more than 20 years (if the offense was committed to

1 facilitate a drug trafficking crime (as defined in sec-
2 tion 929(a)), not less than 5 years and not more
3 than 10 years (for the first or second such offense,
4 if the offense was not committed to facilitate such
5 an act of international terrorism or a drug traf-
6 ficking crime), or not less than 7 years and not more
7 than 15 years (for any other offense), or both.”.

8 **SEC. 1722. EXPANSION OF CRIMINAL ALIEN REPATRIATION**
9 **PROGRAMS.**

10 (a) **EXPANSION OF CRIMINAL ALIEN REPATRIATION**
11 **FLIGHTS.**—Not later than 90 days after the date of the
12 enactment of this Act, the Secretary of Homeland Security
13 shall increase the number of criminal and illegal alien re-
14 patriation flights from the United States conducted by
15 U.S. Customs and Border Protection and U.S. Immigra-
16 tion and Customs Enforcement Air Operations by not less
17 than 15 percent compared to the number of such flights
18 operated, and authorized to be operated, under existing
19 appropriations and funding on the date of the enactment
20 of this Act.

21 (b) **U.S. IMMIGRATION AND CUSTOMS ENFORCE-**
22 **MENT AIR OPERATIONS.**—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary of
24 Homeland Security shall issue a directive to expand U.S.
25 Immigration and Customs Enforcement Air Operations

1 (referred to in this subsection as “ICE Air Ops”) so that
2 ICE Air Ops provides additional services with respect to
3 aliens who are illegally present in the United States. Such
4 expansion shall include—

5 (1) increasing the daily operations of ICE Air
6 Ops with buses and air hubs in the top 5 geographic
7 regions along the southern border;

8 (2) allocating a set number of seats for such
9 aliens for each metropolitan area; and

10 (3) allowing a metropolitan area to trade or
11 give some of seats allocated to such area under para-
12 graph (2) for such aliens to other areas in the region
13 of such area based on the transportation needs of
14 each area.

15 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-
16 tion to the amounts otherwise authorized to be appro-
17 priated, there is authorized to be appropriated
18 \$10,000,000 for each of the fiscal years 2018 through
19 2022 to carry out this section.

20 **SEC. 1723. PROHIBITION ON FLIGHT TRAINING AND NU-**
21 **CLEAR STUDIES FOR NATIONALS OF HIGH-**
22 **RISK COUNTRIES.**

23 (a) IN GENERAL.—The Secretary of State shall deny
24 a visa to, and the Secretary of Homeland Security may

1 not admit or parole into the United States, any alien
2 who—

3 (1) is a citizen of Libya, Iran, Syria, or any
4 country designated by the Secretary of State as a
5 state sponsor of terrorism; and

6 (2)(A)(i) is an applicant for a visa or for admis-
7 sion to the United States; and

8 (ii) the Secretary of State or the Secretary of
9 Homeland Security determines seeks to enter the
10 United States to participate in—

11 (I) coursework at an institution of higher
12 education (as defined in section 101(a) of the
13 Higher Education Act of 1965 (20 U.S.C.
14 1001(a))) to prepare the alien for a career in
15 nuclear science, nuclear engineering, or a re-
16 lated field; or

17 (II) coursework or training or otherwise
18 engage in aviation maintenance or flight oper-
19 ations;

20 (B)(i) is in the United States; and

21 (ii) the Secretary of Homeland Security deter-
22 mines is applying to change status to participate in
23 coursework, training, or activities described in sub-
24 paragraph (A)(ii); or

1 (C)(i) is lawfully present in the United States,
2 either as a nonimmigrant student or otherwise au-
3 thorized to study at an institution of higher edu-
4 cation; and

5 (ii) the Secretary of Homeland Security deter-
6 mines is participating in coursework, training, or ac-
7 tivities described in subparagraph (A)(ii) or seeks to
8 change his or her field of study to participate in
9 such coursework, training, or activities.

10 (b) TERMINATION OF STATUS.—The Secretary of
11 Homeland Security shall terminate the nonimmigrant sta-
12 tus or otherwise revoke the authorization to remain in the
13 United States of any alien in the United States who is
14 described in subsection (a).

15 (c) HIGH-RISK COUNTRIES.—The Secretary of
16 Homeland Security may, in the discretion of the Sec-
17 retary, designate additional countries whose nationals are
18 subject to the restrictions described in subsection (a) if
19 the Secretary determines that the imposition of such re-
20 strictions on such nationals is in the national interest.

21 **CHAPTER 2—STRONG VISA INTEGRITY**

22 **SECURES AMERICA ACT**

23 **SEC. 1731. SHORT TITLE.**

24 This chapter may be cited as the “Strong Visa Integ-
25 rity Secures America Act”.

1 **SEC. 1732. VISA SECURITY.**

2 (a) VISA SECURITY UNITS AT HIGH RISK POSTS.—

3 Section 428(e)(1) of the Homeland Security Act of 2002

4 (6 U.S.C. 236(e)(1)) is amended—

5 (1) by striking “The Secretary” and inserting
6 the following:

7 “(A) AUTHORIZATION.—Subject to the
8 minimum number specified in subparagraph
9 (B), the Secretary”; and

10 (2) by adding at the end the following:

11 “(B) RISK-BASED ASSIGNMENTS.—

12 “(i) IN GENERAL.—In carrying out
13 subparagraph (A), the Secretary shall as-
14 sign employees of the Department to not
15 fewer than 75 diplomatic and consular
16 posts at which visas are issued. Assign-
17 ments under this subparagraph shall be
18 made—

19 “(I) in a risk-based manner;

20 “(II) after considering the cri-
21 teria described in clause (iii); and

22 “(III) in accordance with Nation-
23 ality Security Decision Directive 38,
24 issued by President Reagan on June
25 2, 1982, or any superseding presi-

1 dential directive concerning staffing at
2 diplomatic and consular posts.

3 “(ii) PRIORITY CONSIDERATION.—In
4 carrying out the presidential directive de-
5 scribed in clause (i)(III), the Secretary of
6 State shall ensure priority consideration of
7 any staffing assignment under this sub-
8 paragraph.

9 “(iii) CRITERIA DESCRIBED.—The cri-
10 teria referred to in clause (i) are—

11 “(I) the number of nationals of a
12 country in which any of the diplomatic
13 and consular posts referred to in
14 clause (i) are located who were identi-
15 fied in United States Government
16 databases related to the identities of
17 known or suspected terrorists during
18 the previous year;

19 “(II) information on cooperation
20 of the country referred to in subclause
21 (I) with the counterterrorism efforts
22 of the United States;

23 “(III) information analyzing the
24 presence, activity, or movement of ter-
25 rorist organizations (as such term is

1 defined in section 212(a)(3)(B)(vi) of
2 the Immigration and Nationality Act
3 (8 U.S.C. 1182(a)(3)(B)(vi)) within
4 or through such country;

5 “(IV) the number of formal ob-
6 jections based on derogatory informa-
7 tion issued by the Visa Security Advi-
8 sory Opinion Unit pursuant to para-
9 graph (10) regarding nationals of a
10 country in which any of the diplomatic
11 and consular posts referred to in
12 clause (i) are located;

13 “(V) the adequacy of the border
14 and immigration control of such coun-
15 try; and

16 “(VI) any other criteria the Sec-
17 retary determines appropriate.”.

18 (b) ACCOMMODATION OF VISA SECURITY UNITS.—
19 Section 428 of the Homeland Security Act of 2002 (6
20 U.S.C. 236) is amended by adding at the end the fol-
21 lowing:

22 “(j) EXPEDITED CLEARANCE AND PLACEMENT OF
23 DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT
24 OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwith-
25 standing any other provision of law, and the processes set

1 forth in National Security Defense Directive 38, issued by
2 President Reagan on June 2, 1982, or any successor Di-
3 rective, the Chief of Mission of a post to which the Sec-
4 retary of Homeland Security has assigned personnel under
5 subsection (e) or (i) shall ensure, not later than 1 year
6 after the date on which the Secretary of Homeland Secu-
7 rity communicates such assignment to the Secretary of
8 State, that such personnel have been stationed and accom-
9 modated at post and are able to carry out their duties.”.

10 (c) FUNDING FOR THE VISA SECURITY PROGRAM.—

11 (1) IN GENERAL.—The Department of State
12 and Related Agency Appropriations Act, 2005 (title
13 IV of division B of Public Law 108–447) is amend-
14 ed, in the fourth paragraph under the heading “Dip-
15 lomatic and Consular Programs”, by striking “Be-
16 ginning” and all that follows and inserting the fol-
17 lowing: “Beginning in fiscal year 2005 and there-
18 after, the Secretary of State is authorized to charge
19 surcharges related to consular services in support of
20 enhanced border security that are in addition to the
21 immigrant visa fees in effect on January 1, 2004:
22 *Provided*, That funds collected pursuant to this au-
23 thority shall be credited to the appropriation for
24 U.S. Immigration and Customs Enforcement for the
25 fiscal year in which the fees were collected, and shall

1 be available until expended for the funding of the
2 Visa Security Program established by the Secretary
3 of Homeland Security under section 428(e) of the
4 Homeland Security Act of 2002 (Public Law 107–
5 296): *Provided further*, That such surcharges shall
6 be 10 percent of the fee assessed on immigrant visa
7 applications.”.

8 (2) REPAYMENT OF APPROPRIATED FUNDS.—
9 Of the amounts collected each fiscal year under the
10 heading “Diplomatic and Consular Programs” in the
11 Department of State and Related Agency Appropria-
12 tions Act, 2005 (title IV of division B of Public Law
13 108–447), as amended by paragraph (1), 20 percent
14 shall be deposited into the general fund of the
15 Treasury.

16 (d) COUNTERTERRORISM VETTING AND SCREEN-
17 ING.—Section 428(e)(2) of the Homeland Security Act of
18 2002 (6 U.S.C. 236(e)(2)) is amended—

19 (1) by redesignating subparagraph (C) as sub-
20 paragraph (D); and

21 (2) by inserting after subparagraph (B) the fol-
22 lowing:

23 “(C) Screen any such applications against
24 the appropriate criminal, national security, and

1 terrorism databases maintained by the Federal
2 Government.”.

3 (e) TRAINING AND HIRING.—Section 428(e)(6)(A) of
4 the Homeland Security Act of 2002 (6 U.S.C.
5 236(e)(6)(A)) is amended—

6 (1) by striking “The Secretary shall ensure, to
7 the extent possible, that any employees” and insert-
8 ing “The Secretary, acting through the Commis-
9 sioner of U.S. Customs and Border Protection and
10 the Director of U.S. Immigration and Customs En-
11 forcement, shall provide training to any employees”;
12 and

13 (2) by striking “shall be provided the necessary
14 training”.

15 (f) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
16 AND VISA SECURITY ADVISORY OPINION UNIT.—Section
17 428(e) of the Homeland Security Act of 2002 (6 U.S.C.
18 236(e)) is amended by adding at the end the following:

19 “(9) REMOTE PRE-ADJUDICATED VISA SECUR-
20 RITY ASSISTANCE.—At the visa-issuing posts at
21 which employees of the Department are not assigned
22 pursuant to paragraph (1), the Secretary shall, in a
23 risk-based manner, assign employees of the Depart-
24 ment to remotely perform the functions required

1 under paragraph (2) at not fewer than 50 of such
2 posts.

3 “(10) VISA SECURITY ADVISORY OPINION
4 UNIT.—The Secretary shall establish within U.S.
5 Immigration and Customs Enforcement a Visa Secu-
6 rity Advisory Opinion Unit to respond to requests
7 from the Secretary of State to conduct a visa secu-
8 rity review using information maintained by the De-
9 partment on visa applicants, including terrorism as-
10 sociation, criminal history, counter-proliferation, and
11 other relevant factors, as determined by the Sec-
12 retary.”.

13 (g) DEADLINES.—Not later than 3 years after the
14 date of the enactment of this Act, the Secretary of Home-
15 land Security shall implement the requirements under
16 paragraphs (1) and (9) of section 428(e) of the Homeland
17 Security Act of 2002 (6 U.S.C. 236(e)), as amended and
18 added by this section.

19 **SEC. 1733. ELECTRONIC PASSPORT SCREENING AND BIO-**
20 **METRIC MATCHING.**

21 (a) IN GENERAL.—Subtitle B of title IV of the
22 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
23 is amended by adding at the end the following:

1 **“SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIO-**
2 **METRIC MATCHING.**

3 “(a) IN GENERAL.—Not later than 1 year after the
4 date of the enactment of the Strong Visa Integrity Secures
5 America Act, the Commissioner of U.S. Customs and Bor-
6 der Protection shall—

7 “(1) screen electronic passports at airports of
8 entry by reading each such passport’s embedded
9 chip; and

10 “(2) to the greatest extent practicable, utilize
11 facial recognition technology or other biometric tech-
12 nology, as determined by the Commissioner, to in-
13 spect travelers at United States airports of entry.

14 “(b) APPLICABILITY.—

15 “(1) ELECTRONIC PASSPORT SCREENING.—
16 Subsection (a)(1) shall apply to passports belonging
17 to individuals who are United States citizens, indi-
18 viduals who are nationals of a program country pur-
19 suant to section 217 of the Immigration and Nation-
20 ality Act (8 U.S.C. 1187), and individuals who are
21 nationals of any other foreign country that issues
22 electronic passports.

23 “(2) FACIAL RECOGNITION MATCHING.—Sub-
24 section (a)(2) shall apply, at a minimum, to individ-
25 uals who are nationals of a program country pursu-
26 ant to section 217 of such Act.

1 “(c) ANNUAL REPORT.—

2 “(1) IN GENERAL.—The Commissioner of U.S.
3 Customs and Border Protection, in collaboration
4 with the Chief Privacy Officer of the Department,
5 shall submit an annual report, through fiscal year
6 2022, to the Committee on Homeland Security and
7 Governmental Affairs of the Senate and the Com-
8 mittee on Homeland Security of the House of Rep-
9 resentatives that describes the utilization of facial
10 recognition technology and other biometric tech-
11 nology pursuant to subsection (a)(2).

12 “(2) REPORT CONTENTS.—Each report sub-
13 mitted pursuant to paragraph (1) shall include—

14 “(A) information on the type of technology
15 used at each airport of entry;

16 “(B) the number of individuals who were
17 subject to inspection using either of such tech-
18 nologies at each airport of entry;

19 “(C) within the group of individuals sub-
20 ject to such inspection, the number of those in-
21 dividuals who were United States citizens and
22 lawful permanent residents;

23 “(D) information on the disposition of data
24 collected during the year covered by such re-
25 port; and

1 “(E) information on protocols for the man-
2 agement of collected biometric data, including
3 time frames and criteria for storing, erasing,
4 destroying, or otherwise removing such data
5 from databases utilized by the Department.

6 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
7 **AND BORDER PROTECTION.**

8 “The Commissioner of U.S. Customs and Border
9 Protection shall, in a risk-based manner, continuously
10 screen individuals issued any visa, and individuals who are
11 nationals of a program country pursuant to section 217
12 of the Immigration and Nationality Act (8 U.S.C. 1187),
13 who are present, or expected to arrive within 30 days, in
14 the United States, against the appropriate criminal, na-
15 tional security, and terrorism databases maintained by the
16 Federal Government.”.

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
20 419 the following:

“Sec. 420. Electronic passport screening and biometric matching.

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

21 **SEC. 1734. REPORTING VISA OVERSTAYS.**

22 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
23 is amended—

24 (1) in subsection (a)—

1 (A) by striking “Attorney General” and in-
2 serting “Secretary of Homeland Security”; and

3 (B) by inserting “, and any additional in-
4 formation that the Secretary determines nec-
5 essary for purposes of the report under sub-
6 section (b)” before the period at the end; and

7 (2) by amending subsection (b) to read as fol-
8 lows:

9 “(b) ANNUAL REPORT.—Not later than September
10 30, 2018, and annually thereafter, the Secretary of Home-
11 land Security shall submit a report to the Committee on
12 Homeland Security and Governmental Affairs of the Sen-
13 ate, the Committee on the Judiciary of the Senate, the
14 Committee on Homeland Security of the House of Rep-
15 resentatives, and the Committee on the Judiciary of the
16 House of Representatives that provides, for the preceding
17 fiscal year, numerical estimates (including information on
18 the methodology utilized to develop such numerical esti-
19 mates) of—

20 “(1) for each country, the number of aliens
21 from the country who are described in subsection
22 (a), including—

23 “(A) the total number of such aliens within
24 all classes of nonimmigrant aliens described in

1 section 101(a)(15) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1101(a)(15)); and

3 “(B) the number of such aliens within each
4 of the classes of nonimmigrant aliens, as well as
5 the number of such aliens within each of the
6 subclasses of such classes of nonimmigrant
7 aliens, as applicable;

8 “(2) for each country, the percentage of the
9 total number of aliens from the country who were
10 present in the United States and were admitted to
11 the United States as nonimmigrants who are de-
12 scribed in subsection (a);

13 “(3) the number of aliens described in sub-
14 section (a) who arrived by land at a port of entry
15 into the United States;

16 “(4) the number of aliens described in sub-
17 section (a) who entered the United States using a
18 border crossing identification card (as defined in sec-
19 tion 101(a)(6) of the Immigration and Nationality
20 Act (8 U.S.C. 1101(a)(6)); and

21 “(5) the number of Canadian nationals who en-
22 tered the United States without a visa and whose
23 authorized period of stay in the United States termi-
24 nated during the previous fiscal year, but who re-
25 mained in the United States.”.

1 **SEC. 1735. STUDENT AND EXCHANGE VISITOR INFORMA-**
2 **TION SYSTEM VERIFICATION.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the Secretary of Homeland Security shall
5 ensure that the information collected under the program
6 established under section 641 of the Illegal Immigration
7 Reform and Immigrant Responsibility Act of 1996 (8
8 U.S.C. 1372) is available to officers of U.S. Customs and
9 Border Protection conducting primary inspections of
10 aliens seeking admission to the United States at each port
11 of entry of the United States.

12 **SEC. 1736. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

13 (a) IN GENERAL.—Subtitle C of title IV of the
14 Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.),
15 as amended by sections 1127 and 1131, is further amend-
16 ed by adding at the end the following:

17 **“SEC. 436. SOCIAL MEDIA SCREENING.**

18 “(a) IN GENERAL.—Not later than 180 days after
19 the date of the enactment of the Strong Visa Integrity
20 Secures America Act, the Secretary shall, to the greatest
21 extent practicable, and in a risk based manner and on an
22 individualized basis, review the social media accounts of
23 visa applicants who are citizens of, or who reside in, high
24 risk countries, as determined by the Secretary based on
25 the criteria described in subsection (b).

1 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
2 mining whether a country is high-risk pursuant to sub-
3 section (a), the Secretary shall consider the following cri-
4 teria:

5 “(1) The number of nationals of the country
6 who were identified in United States Government
7 databases related to the identities of known or sus-
8 pected terrorists during the previous year.

9 “(2) The level of cooperation of the country
10 with the counter-terrorism efforts of the United
11 States.

12 “(3) Any other criteria the Secretary deter-
13 mines appropriate.

14 “(c) COLLABORATION.—To develop the technology
15 and procedures required to carry out the requirements
16 under subsection (a), the Secretary shall collaborate
17 with—

18 “(1) the head of a national laboratory within
19 the Department’s laboratory network with relevant
20 expertise;

21 “(2) the head of a relevant university-based
22 center within the Department’s centers of excellence
23 network; and

24 “(3) the heads of other appropriate Federal
25 agencies, including the Secretary of State, the Direc-

1 tor of National Intelligence, and the Attorney Gen-
2 eral.

3 “(d) WAIVER.—The Secretary, in collaboration with
4 the Secretary of State, is authorized to waive the require-
5 ments under subsection (a) to the extent necessary to com-
6 ply with the international obligations of the United States.

7 “(e) RULE OF CONSTRUCTION.—The requirement to
8 screen social information under subsection (a) may not be
9 construed as limiting the authority of the Secretary or the
10 Secretary of State to screen social media information from
11 any individual filing an application, petition, or other re-
12 quest with the Department or the Department of State
13 for—

14 “(1) an immigration benefit or immigration sta-
15 tus;

16 “(2) other authorization, employment author-
17 ization, identity, or travel document; or

18 “(3) relief or protection under any provision of
19 the immigration laws.

20 **“SEC. 437. OPEN SOURCE SCREENING.**

21 “The Secretary shall, to the greatest extent prac-
22 ticable, and in a risk-based manner, review open source
23 information of visa applicants.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002, as

1 amended by this Act, is further amended by inserting after
2 the item relating to section 435 the following:

“Sec. 436. Social media screening.

“Sec. 437. Open source screening.”.

3 **CHAPTER 3—VISA CANCELLATION AND**
4 **REVOCAATION**

5 **SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.**

6 (a) IN GENERAL.—Section 222(g) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “Attorney General,” and
10 inserting “Secretary,”; and

11 (B) by inserting “and any other non-
12 immigrant visa issued by the United States that
13 is in the possession of the alien” after “such
14 visa”; and

15 (2) in paragraph (2)(A), by adding “or foreign
16 residence” after “the alien’s nationality”.

17 (b) EFFECTIVE DATE AND APPLICATION.—The
18 amendments made by subsection (a) shall take effect on
19 the date of the enactment of this Act and shall apply to
20 a visa issued before, on, or after such date.

21 **SEC. 1742. VISA INFORMATION SHARING.**

22 (a) IN GENERAL.—Section 222(f) of the Immigration
23 and Nationality Act (8 U.S.C. 1202(f)) is amended—

1 (1) in the matter preceding paragraph (1), by
2 striking “issuance or refusal” and inserting
3 “issuance, refusal, or revocation”; and

4 (2) in paragraph (2)—

5 (A) in the matter preceding subparagraph
6 (A), by striking “and on the basis of reci-
7 procity” and all that follows and inserting “may
8 provide to a foreign government information in
9 a Department of State computerized visa data-
10 base and, when necessary and appropriate,
11 other records covered by this section related to
12 information in such database”;

13 (B) by amending subparagraph (A) to read
14 as follows:

15 “(A) on the basis of reciprocity, with re-
16 gard to individual aliens, at any time on a case-
17 by-case basis for the purpose of—

18 “(i) preventing, investigating, or pun-
19 ishing acts that would constitute a crime
20 in the United States, including, but not
21 limited to, terrorism or trafficking in con-
22 trolled substances, persons, or illicit weap-
23 ons; or

1 “(ii) determining a person’s remov-
2 ability or eligibility for a visa, admission,
3 or other immigration benefit;”;

4 (C) in subparagraph (B)—

5 (i) by inserting “on basis of reci-
6 procity,” before “with regard to”;

7 (ii) by striking “in the database” and
8 inserting “such database”;

9 (iii) by striking “for the purposes”
10 and inserting “for 1 of the purposes”; and

11 (iv) by striking “or to deny visas to
12 persons who would be inadmissible to the
13 United States.” and inserting “; or”;

14 (D) by adding at the end the following:

15 “(C) with regard to any or all aliens in
16 such database, specified data elements from
17 each record, if the Secretary of State deter-
18 mines that it is required for national security or
19 public safety or in the national interest to pro-
20 vide such information to a foreign govern-
21 ment.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date that is 60 days
24 after the date of the enactment of the Act.

1 **SEC. 1743. VISA INTERVIEWS.**

2 (a) IN GENERAL.—Section 222(h) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1202(h)) is amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (B), by striking “or”
6 at the end;

7 (B) in subparagraph (C), by striking
8 “and” at the end and inserting “or”; and

9 (C) by adding at the end the following:

10 “(D) by the Secretary of State, if the Sec-
11 retary, in his or her sole and unreviewable dis-
12 cretion, determines, after reviewing the applica-
13 tion, that an interview is unnecessary because
14 the alien is ineligible for a visa; and”.

15 (2) in paragraph (2)—

16 (A) in subparagraph (E), by striking “or”
17 at the end;

18 (B) in subparagraph (F), by striking the
19 period at the end and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(G) is an individual within a class of
22 aliens that the Secretary of State, in his or her
23 sole and unreviewable discretion, has deter-
24 mined may pose a threat to national security or
25 public safety.”.

1 **SEC. 1744. VISA REVOCATION AND LIMITS ON JUDICIAL RE-**
2 **VIEW.**

3 (a) IN GENERAL.—Section 221(i) of the Immigration
4 and Nationality Act (8 U.S.C. 1201(i)) is amended—

5 (1) by inserting “(1)” after “(i)”;

6 (2) in paragraph (1), as redesignated—

7 (A) by striking “Attorney General” and in-
8 serting “Secretary of Homeland Security”;

9 (B) by striking “shall invalidate the visa or
10 other documentation from the date of issuance:
11 *Provided, That carriers*” and inserting “of any
12 visa or documentation shall take effect imme-
13 diately. Carriers”; and

14 (C) by striking the last sentence and in-
15 serting the following:

16 “(2) Notwithstanding any other provision of
17 law, including section 2241 of title 28, United States
18 Code, any other habeas corpus provision, and sec-
19 tions 1361 and 1651 of such title, a revocation
20 under this subsection may not be reviewed by any
21 court, and no court shall have jurisdiction to hear
22 any claim arising from, or any challenge to, such a
23 revocation, provided that the revocation is executed
24 by the Secretary.

25 “(3) A revocation under this subsection of a
26 visa or other documentation from an alien shall

1 automatically cancel any other valid visa that is in
2 the alien's possession.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall—

5 (1) take effect on the date of the enactment of
6 this Act; and

7 (2) apply to all revocations made on or after
8 such date.

9 **CHAPTER 4—SECURE VISAS ACT**

10 **SEC. 1751. SHORT TITLE.**

11 This chapter may be cited as the “Secure Visas Act”.

12 **SEC. 1752. AUTHORITY OF THE SECRETARY OF HOMELAND** 13 **SECURITY AND THE SECRETARY OF STATE.**

14 (a) **IN GENERAL.**—Section 428 of the Homeland Se-
15 curity Act of 2002 (6 U.S.C. 236) is amended by striking
16 subsections (b) and (c) and inserting the following:

17 “(b) **AUTHORITY OF THE SECRETARY OF HOMELAND**
18 **SECURITY.**—

19 “(1) **IN GENERAL.**—Notwithstanding section
20 104(a) of the Immigration and Nationality Act (8
21 U.S.C. 1104(a)) and any other provision of law, and
22 except for the authority of the Secretary of State
23 under subparagraphs (A) and (G) of section
24 101(a)(15) of the Immigration and Nationality Act
25 (8 U.S.C. 1101(a)(15)), the Secretary—

1 “(A) shall have exclusive authority to issue
2 regulations, establish policy, and administer and
3 enforce the provisions of the Immigration and
4 Nationality Act (8 U.S.C. 1101 et seq.) and all
5 other immigration or nationality laws relating
6 to the functions of consular officers of the
7 United States in connection with the granting
8 and refusal of a visa; and

9 “(B) may refuse or revoke any visa to any
10 alien or class of aliens if the Secretary, or his
11 or her designee, determines that such refusal or
12 revocation is necessary or advisable in the secu-
13 rity interests of the United States.

14 “(2) EFFECT OF REVOCATION.—The revocation
15 of any visa under paragraph (1)(B)—

16 “(A) shall take effect immediately; and

17 “(B) shall automatically cancel any other
18 valid visa that is in the alien’s possession.

19 “(3) JUDICIAL REVIEW.—Notwithstanding any
20 other provision of law, including section 2241 of title
21 28, United States Code, any other habeas corpus
22 provision, and sections 1361 and 1651 of such title,
23 no United States court has jurisdiction to review a
24 decision by the Secretary or a consular officer to
25 refuse or revoke a visa.

1 “(c) VISA REFUSAL AUTHORITY OF THE SECRETARY
2 OF STATE.—

3 “(1) IN GENERAL.—The Secretary of State may
4 direct a consular officer to refuse or revoke a visa
5 to an alien if the Secretary determines that such re-
6 fusal or revocation is necessary or advisable in the
7 foreign policy interests of the United States.

8 “(2) LIMITATION.—No decision by the Sec-
9 retary of State to approve a visa may override a de-
10 cision by the Secretary under subsection (b).”.

11 (b) VISA REVOCATION.—Section 428 of the Home-
12 land Security Act (6 U.S.C. 236) is amended by adding
13 at the end the following:

14 “(j) VISA REVOCATION INFORMATION.—If the Sec-
15 retary or the Secretary of State revokes a visa—

16 “(1) the relevant consular, law enforcement,
17 and terrorist screening databases shall be imme-
18 diately updated on the date of the revocation; and

19 “(2) look-out notices shall be posted to all De-
20 partment port inspectors and Department of State
21 consular officers.”.

22 (c) CONFORMING AMENDMENT.—Section 104(a)(1)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1104(a)(1)) is amended by inserting “and the power au-

1 thORIZED under section 428(c) of the Homeland Security
2 Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

3 **CHAPTER 5—VISA FRAUD AND SECURITY**
4 **IMPROVEMENT ACT OF 2018**

5 **SEC. 1761. SHORT TITLE.**

6 This chapter may be cited as the “Visa Fraud and
7 Security Improvement Act of 2018”.

8 **SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION AND**
9 **DETECTION FEES.**

10 Section 286(v)(2)(A) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

12 (1) in the matter preceding clause (i), by strik-
13 ing “at United States embassies and consulates
14 abroad”;

15 (2) by amending clause (i) to read as follows:

16 “(i) to increase the number of diplo-
17 matic security personnel assigned exclu-
18 sively or primarily to the function of pre-
19 venting and detecting visa fraud;” and

20 (3) in clause (ii), by striking “, including pri-
21 marily fraud by applicants for visas described in
22 subparagraph (H)(i), (H)(ii), or (L) of section
23 101(a)(15)”.

1 **SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS AND**
2 **DAUGHTERS OF TRAFFICKERS.**

3 Section 212(a)(2) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(a)(2)) is amended—

5 (1) in subparagraph (C)(ii), by inserting “, or
6 has been,” after “is”; and

7 (2) in subparagraph (H)(ii), by inserting “, or
8 has been,” after “is”.

9 **SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.**

10 (a) DNA TESTING FOR VISA APPLICANTS.—Section
11 222(b) of the Immigration and Nationality Act (8 U.S.C.
12 1202(b)) is amended by inserting after the second sen-
13 tence the following: “If considered necessary by a consular
14 officer to establish the bona fides of a family relationship,
15 the immigrant shall provide DNA evidence of such rela-
16 tionship in accordance with procedures established for
17 submitting such evidence. The Secretary of State may
18 issue regulations to require the submission of DNA evi-
19 dence to establish family relationship from applicants for
20 certain visa classifications.”.

21 (b) REQUIRED DOCUMENTARY EVIDENCE AND DNA
22 TESTING.—Section 245 of the Immigration and Nation-
23 ality Act (8 U.S.C. 1255) is amended by adding at the
24 end the following:

25 “(n) REQUIRED DOCUMENTARY EVIDENCE AND
26 DNA TESTING FOR ADJUSTMENT OF STATUS.—

1 “(1) REQUIRED DOCUMENTARY EVIDENCE.—
2 Any alien applying for adjustment of status under
3 the immigration laws shall present a valid unexpired
4 passport or other suitable travel document, or docu-
5 ment of identity and nationality, if such documenta-
6 tion is required under regulations issued by the Sec-
7 retary of Homeland Security. The alien shall fur-
8 nish, with his or her application—

9 “(A) a copy of a certification by the appro-
10 priate police authorities, stating what their
11 records show concerning the alien;

12 “(B) a certified copy of any existing prison
13 record, military record, and record of his or her
14 birth; and

15 “(C) a certified copy of all other records or
16 documents concerning the alien or his or her
17 case, which may be required by the Secretary or
18 the Attorney General.

19 “(2) DNA TESTING.—If the Secretary or the
20 Attorney General determine that DNA evidence is
21 necessary to establish the bona fides of a family re-
22 lationship, the immigrant shall provide DNA evi-
23 dence of such relationship in accordance with proce-
24 dures established for submitting such evidence. The
25 Secretary may issue regulations to require the sub-

1 mission of DNA evidence to establish family rela-
2 tionship from applicants for certain visa classifica-
3 tions. If the alien establishes, to the satisfaction of
4 the Secretary or the Attorney General, that any docu-
5 ment or record required under this subsection is
6 unobtainable, the Secretary or the Attorney General
7 may permit the alien to submit, in lieu of such docu-
8 ment or record, other satisfactory evidence of the
9 fact to which such document or record, if obtainable,
10 pertains.”.

11 **SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY DATABASE**
12 **FOR DIPLOMATIC VISAS.**

13 Subsection (a) of article V of section 217 of the Na-
14 tional Crime Prevention and Privacy Compact Act of 1998
15 (34 U.S.C. 40316(V)(a)) is amended by inserting “, ex-
16 cept for diplomatic visa applications for which only full
17 biographical information is required” before the period at
18 the end.

19 **SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH RE-**
20 **QUIREMENT FOR VISA APPLICATIONS.**

21 Section 221(b) of the Immigration and Nationality
22 Act (8 U.S.C. 1201(b)) is amended by striking the first
23 sentence and insert the following: “Each alien who applies
24 for a visa shall be registered in connection with his or her

1 application and shall furnish copies of his or her photo-
2 graph for such use as may be required by regulation.”.

3 **CHAPTER 6—OTHER MATTERS**

4 **SEC. 1771. REQUIREMENT FOR COMPLETION OF BACK-**
5 **GROUND CHECKS.**

6 (a) IN GENERAL.—Section 103 of Immigration and
7 Nationality Act (8 U.S.C. 1103) is amended by adding
8 at the end the following:

9 “(h) COMPLETION OF BACKGROUND AND SECURITY
10 CHECKS.—

11 “(1) REQUIREMENT TO COMPLETE.—Notwith-
12 standing any other provision of law (statutory or
13 nonstatutory), including section 309 of the En-
14 hanced Border Security and Visa Entry Reform Act
15 of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of
16 title 28, United States Code, and section 706(1) of
17 title 5, United States Code, the Secretary and the
18 Attorney General may not approve or grant to an
19 alien any status, relief, protection from removal, em-
20 ployment authorization, or any other benefit under
21 the immigration laws, including an adjustment of
22 status to lawful permanent residence or a grant of
23 United States citizenship or issue to the alien any
24 documentation evidencing a status or grant of any
25 status, relief, protection from removal, employment

1 authorization, or other benefit under the immigra-
2 tion laws until—

3 “(A) all background and security checks
4 required by statute or regulation or deemed
5 necessary by the Secretary or the Attorney
6 General, in his or her sole and unreviewable dis-
7 cretion, for the alien have been completed; and

8 “(B) the Secretary or the Attorney Gen-
9 eral has determined that the results of such
10 checks do not preclude the approval or grant of
11 any status, relief, protection from removal, em-
12 ployment authorization, or any other benefit
13 under the immigration laws or approval, grant,
14 or the issuance of any documentation evidenc-
15 ing such status, relief, protection, authorization,
16 or benefit.

17 “(2) PROHIBITION ON JUDICIAL ACTION.—No
18 court shall have authority to order the approval of,
19 grant, mandate, or require any action in a certain
20 time period, or award any relief for the Secretary’s
21 or Attorney General’s failure to complete or delay in
22 completing any action to provide any status, relief,
23 protection from removal, employment authorization,
24 or any other benefit under the immigration laws, in-
25 cluding an adjustment of status to lawful permanent

1 residence, naturalization, or a grant of United
2 States citizenship for an alien until—

3 “(A) all background and security checks
4 for the alien have been completed; and

5 “(B) the Secretary or the Attorney Gen-
6 eral has determined that the results of such
7 checks do not preclude the approval or grant of
8 such status, relief, protection, authorization, or
9 benefit, or issuance of any documentation evi-
10 dencing such status, relief, protection, author-
11 ization, or benefit.”.

12 (b) EFFECTIVE DATE AND APPLICATION.—The
13 amendment made by subsection (a) shall take effect on
14 the date of the enactment of this Act and shall apply to
15 any application, petition, or request for any benefit or re-
16 lief or any other case or matter under the immigration
17 laws pending with on or filed with the Secretary of Home-
18 land Security, the Attorney General, the Secretary of
19 State, the Secretary of Labor, or a consular officer on or
20 after such date of enactment.

21 **SEC. 1772. WITHHOLDING OF ADJUDICATION.**

22 (a) IN GENERAL.—Section 103 of Immigration and
23 Nationality Act (8 U.S.C. 1103), as amended by section
24 1771 of this Act, is further amended by adding at the
25 end the following:

1 “(i) WITHHOLDING OF ADJUDICATION.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (4), nothing in this Act or in any other law,
4 including sections 1361 and 1651 of title 28, United
5 States Code, may be construed to require, and no
6 court can order, the Secretary, the Attorney Gen-
7 eral, the Secretary of State, the Secretary of Labor,
8 or a consular officer to grant any visa or other ap-
9 plication, approve any petition, or grant or continue
10 any relief, protection from removal, employment au-
11 thorization, or any other status or benefit under the
12 immigration laws by, to, or on behalf of any alien
13 with respect to whom a criminal proceeding or inves-
14 tigation is open or pending (including the issuance
15 of an arrest warrant or indictment), if such pro-
16 ceeding or investigation is deemed by such official to
17 be material to the alien’s eligibility for the status,
18 relief, protection, or benefit sought.

19 “(2) WITHHOLDING OF ADJUDICATION.—The
20 Secretary, the Attorney General, the Secretary of
21 State, or the Secretary of Labor may, in his or her
22 discretion, withhold adjudication any application, pe-
23 tition, request for relief, request for protection from
24 removal, employment authorization, status or benefit

1 under the immigration laws pending final resolution
2 of the criminal or other proceeding or investigation.

3 “(3) JURISDICTION.—Notwithstanding any
4 other provision of law (statutory or nonstatutory),
5 including section 309 of the Enhanced Border Secu-
6 rity and Visa Entry Reform Act of 2002 (8 U.S.C.
7 1738), sections 1361 and 1651 of title 28, United
8 States Code, and section 706(1) of title 5, United
9 States Code, no court shall have jurisdiction to re-
10 view a decision to withhold adjudication pursuant to
11 this subsection.

12 “(4) WITHHOLDING OF REMOVAL AND TOR-
13 TURE CONVENTION.—This subsection does not limit
14 or modify the applicability of section 241(b)(3) or
15 the United Nations Convention Against Torture and
16 Other Cruel, Inhuman or Degrading Treatment or
17 Punishment, subject to any reservations, under-
18 standings, declarations and provisos contained in the
19 United States Senate resolution of ratification of the
20 Convention, as implemented by section 2242 of the
21 Foreign Affairs Reform and Restructuring Act of
22 1998 (Public Law 105–277) with respect to an alien
23 otherwise eligible for protection under such provi-
24 sions.”.

1 (b) EFFECTIVE DATE AND APPLICATION.—The
2 amendment made by subsection (a) shall take effect on
3 the date of the enactment of this Act and shall apply to
4 any application, petition, or request for any benefit or re-
5 lief or any other case or matter under the immigration
6 laws pending with or filed with the Secretary of Homeland
7 Security on or after such date of enactment.

8 **SEC. 1773. ACCESS TO THE NATIONAL CRIME INFORMATION**
9 **CENTER INTERSTATE IDENTIFICATION**
10 **INDEX.**

11 (a) CRIMINAL JUSTICE ACTIVITIES.—Section 104 of
12 the Immigration and Nationality Act (8 U.S.C. 1104) is
13 amended by adding at the end the following:

14 “(f) Notwithstanding any other provision of law, any
15 Department of State personnel with authority to grant or
16 refuse visas or passports may carry out activities that have
17 a criminal justice purpose.”.

18 (b) LIAISON WITH INTERNAL SECURITY OFFICERS;
19 DATA EXCHANGE.—Section 105 of the Immigration and
20 Nationality Act (8 U.S.C. 1105) is amended by striking
21 subsections (b) and (c) and inserting the following:

22 “(b) ACCESS TO NCIC-III.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of law, the Attorney General and the Di-
25 rector of the Federal Bureau of Investigation shall

1 provide to the Department of Homeland Security
2 and the Department of State access to the criminal
3 history record information contained in the National
4 Crime Information Center's Interstate Identification
5 Index (NCIC-III) and the Wanted Persons File and
6 to any other files maintained by the National Crime
7 Information Center for the purpose of determining
8 whether an applicant or petitioner for a visa, admis-
9 sion, or any benefit, relief, or status under the immi-
10 gration laws, or any beneficiary of an application,
11 petition, relief, or status under the immigration
12 laws, has a criminal history record indexed in the
13 file.

14 “(2) AUTHORIZED ACTIVITIES.—

15 “(A) IN GENERAL.—The Secretary and the
16 Secretary of State—

17 “(i) shall have direct access, without
18 any fee or charge, to the information de-
19 scribed in paragraph (1) to conduct name-
20 based searches, file number searches, and
21 any other searches that any criminal jus-
22 tice or other law enforcement officials are
23 entitled to conduct; and

1 “(ii) may contribute to the records
2 maintained by the National Crime Infor-
3 mation Center.

4 “(B) SECRETARY OF HOMELAND SECUR-
5 RITY.—The Secretary shall receive, upon re-
6 quest, access to the information described in
7 paragraph (1) by means of extracts of the
8 records for placement in the appropriate data-
9 base without any fee or charge.

10 “(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT
11 PURPOSES.—Notwithstanding any other provision of law,
12 adjudication of eligibility for benefits, relief, or status
13 under the immigration laws, and other purposes relating
14 to citizenship and immigration services, shall be consid-
15 ered to be criminal justice or law enforcement purposes
16 with respect to access to or use of any information main-
17 tained by the National Crime Information Center or other
18 criminal history information or records.”.

19 **SEC. 1774. APPROPRIATE REMEDIES FOR IMMIGRATION**
20 **LITIGATION.**

21 (a) LIMITATION ON CLASS ACTIONS.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), no court may certify, or continue the cer-
24 tification of, a class under Rule 23 of the Federal
25 Rules of Civil Procedure in any civil action that—

1 (A) is pending or filed on or after the date
2 of the enactment of this Act; and

3 (B) pertains to the administration or en-
4 forcement of the immigration laws.

5 (2) EXCEPTION.—A court may certify a class
6 upon a motion by the Government if the Govern-
7 ment is requesting such a certification to ensure effi-
8 ciency in case management or uniformity in applica-
9 tion of precedent decisions or interpretations of laws
10 when there is a nationwide class.

11 (b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
12 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

13 (1) IN GENERAL.—If a court determines that
14 prospective relief should be ordered against the Gov-
15 ernment in any civil action pertaining to the admin-
16 istration or enforcement of the immigration laws,
17 the court shall—

18 (A) limit the relief to the minimum nec-
19 essary to correct the violation of law;

20 (B) adopt the least intrusive means to cor-
21 rect the violation of law;

22 (C) minimize, to the greatest extent prac-
23 ticable, the adverse impact on national security,
24 border security, immigration administration and
25 enforcement, and public safety; and

1 (D) provide for the expiration of the relief
2 on a specific date, which is not later than the
3 earliest date necessary for the Government to
4 remedy the violation.

5 (2) WRITTEN EXPLANATION.—The require-
6 ments described in paragraph (1) shall be discussed
7 and explained in writing in the order granting pro-
8 spective relief and shall be sufficiently detailed to
9 allow review by another court.

10 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE
11 RELIEF.—Preliminary injunctive relief granted
12 under paragraph (1) shall automatically expire on
13 the date that is 90 days after the date on which
14 such relief is entered, unless the court—

15 (A) finds that such relief meets the re-
16 quirements described in subparagraphs (A)
17 through (D) of paragraph (1) for the entry of
18 permanent prospective relief; and

19 (B) orders the preliminary relief to become
20 a final order granting prospective relief before
21 the expiration of such 90-day period.

22 (c) PROCEDURE FOR MOTION AFFECTING ORDER
23 GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERN-
24 MENT.—

1 (1) IN GENERAL.—A court shall promptly rule
2 on a motion made by the United States Government
3 to vacate, modify, dissolve, or otherwise terminate
4 an order granting prospective relief in any civil ac-
5 tion pertaining to the administration or enforcement
6 of the immigration laws.

7 (2) AUTOMATIC STAYS.—

8 (A) IN GENERAL.—A motion to vacate,
9 modify, dissolve, or otherwise terminate an
10 order granting prospective relief made by the
11 United States Government in any civil action
12 pertaining to the administration or enforcement
13 of the immigration laws shall automatically, and
14 without further order of the court, stay the
15 order granting prospective relief on the date
16 that is 15 days after the date on which such
17 motion is filed unless the court previously has
18 granted or denied the Government’s motion.

19 (B) DURATION OF AUTOMATIC STAY.—An
20 automatic stay under subparagraph (A) shall
21 continue until the court enters an order grant-
22 ing or denying the Government’s motion.

23 (C) POSTPONEMENT.—The court, for good
24 cause, may postpone an automatic stay under
25 subparagraph (A) for not longer than 15 days.

1 (D) ORDERS BLOCKING AUTOMATIC
2 STAYS.—Any order staying, suspending, delay-
3 ing, or otherwise barring the effective date of
4 the automatic stay described in subparagraph
5 (A), other than an order to postpone the effec-
6 tive date of the automatic stay for not longer
7 than 15 days under subparagraph (C)—

8 (i) shall be treated as an order refus-
9 ing to vacate, modify, dissolve, or otherwise
10 terminate an injunction; and

11 (ii) shall be immediately appealable
12 under section 1292(a)(1) of title 28,
13 United States Code.

14 (d) SETTLEMENTS.—

15 (1) CONSENT DECREES.—In any civil action
16 pertaining to the administration or enforcement of
17 the immigration laws of the United States, the court
18 may not enter, approve, or continue a consent decree
19 that does not comply with the requirements under
20 subsection (b)(1).

21 (2) PRIVATE SETTLEMENT AGREEMENTS.—
22 Nothing in this subsection may be construed to pre-
23 clude parties from entering into a private settlement
24 agreement that does not comply with subsection
25 (b)(1).

1 (e) EXPEDITED PROCEEDINGS.—It shall be the duty
2 of every court to advance on the docket and to expedite
3 the disposition of any civil action or motion considered
4 under this section.

5 (f) CONSENT DECREE DEFINED.—In this section,
6 the term “consent decree”—

7 (1) means any relief entered by the court that
8 is based in whole or in part on the consent or acqui-
9 escence of the parties; and

10 (2) does not include private settlements.

11 (g) COSTS AND FEES.—Section 2412(d)(2)(B) of
12 title 28, United States Code, is amended—

13 (1) by striking “an individual” and inserting “a
14 United States citizen”; and

15 (2) by inserting “United States citizen” before
16 “owner”.

17 **SEC. 1775. USE OF 1986 IRCA LEGALIZATION INFORMATION**
18 **FOR NATIONAL SECURITY PURPOSES.**

19 (a) SPECIAL AGRICULTURAL WORKERS.—Section
20 210(b)(6) of the Immigration and Nationality Act (8
21 U.S.C. 1160(b)(6)) is amended—

22 (1) by striking “Attorney General” each place
23 it appears and inserting “Secretary”;

1 (2) in subparagraph (A), in the matter pre-
2 ceding clause (i), by striking “Justice” and inserting
3 “Homeland Security”;

4 (3) by redesignating subparagraphs (C) and
5 (D) as subparagraphs (D) and (E), respectively;

6 (4) inserting after subparagraph (B) the fol-
7 lowing:

8 “(C) AUTHORIZED DISCLOSURES.—

9 “(i) CENSUS PURPOSE.—The Sec-
10 retary may provide, in the Secretary’s dis-
11 cretion, for the furnishing of information
12 furnished under this section in the same
13 manner and circumstances as census infor-
14 mation may be disclosed under section 8 of
15 title 13, United States Code.”.

16 “(ii) NATIONAL SECURITY PUR-
17 POSE.—The Secretary may provide, in the
18 Secretary’s discretion, for the furnishing,
19 use, publication, or release of information
20 furnished under this section in any inves-
21 tigation, case, or matter, or for any pur-
22 pose, relating to terrorism, national intel-
23 ligence or the national security.

24 “(iii) SUBSEQUENT APPLICATIONS
25 FOR IMMIGRATION BENEFITS.—The Sec-

1 retary may use the information furnished
2 under this section to adjudicate subsequent
3 applications, petitions, or requests for im-
4 migration benefits filed by the alien.

5 “(iv) ALIEN CONSENT.—The Sec-
6 retary may use the information furnished
7 under this section for any purpose when
8 the alien consents to its disclosure or use
9 by the Secretary.

10 “(v) OTHER CIRCUMSTANCES.—The
11 Secretary may use the information fur-
12 nished under this section for other pur-
13 poses and in other circumstances in which
14 disclosure of the information is not related
15 to removal of the alien from the United
16 States.”; and

17 (5) in subparagraph (D), as redesignated, strik-
18 ing “Service” and inserting “Department of Home-
19 land Security”.

20 (b) ADJUSTMENT OF STATUS.—Section 245A(c)(5)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1255a(c)(5)) is amended—

23 (1) by striking “Attorney General” each place
24 it appears and inserting “Secretary”;

1 (2) in subparagraph (A), in the matter pre-
2 ceding clause (i), by striking “Justice” and inserting
3 “Homeland Security”; and

4 (3) by amending subparagraph (C) to read as
5 follows:

6 “(C) AUTHORIZED DISCLOSURES.—

7 “(i) CENSUS PURPOSE.—The Sec-
8 retary may provide, in the Secretary’s dis-
9 cretion, for the furnishing of information
10 furnished under this section in the same
11 manner and circumstances as census infor-
12 mation may be disclosed under section 8 of
13 title 13, United States Code.

14 “(ii) NATIONAL SECURITY PUR-
15 POSE.—The Secretary may provide, in the
16 Secretary’s discretion, for the furnishing,
17 use, publication, or release of information
18 furnished under this section in any inves-
19 tigation, case, or matter, or for any pur-
20 pose, relating to terrorism, national intel-
21 ligence or the national security.”.

1 **SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
2 **TAIN IMMIGRATION, NATURALIZATION, AND**
3 **PEONAGE OFFENSES.**

4 Section 3291 of title 18, United States Code, is
5 amended to read as follows:

6 **“§ 3291. Nationality, citizenship and passports**

7 “No person shall be prosecuted, tried, or punished
8 for a violation of any section of chapter 69 (relating to
9 nationality and citizenship offenses) or 75 (relating to
10 passport, visa, and immigration offenses), for a violation
11 of any criminal provision of section 243, 274, 275, 276,
12 277, or 278 of the Immigration and Nationality Act (8
13 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
14 attempt or conspiracy to violate any such section, unless
15 the indictment is returned or the information is filed with-
16 in 10 years after the commission of the offense.”.

17 **SEC. 1777. CONFORMING AMENDMENT TO THE DEFINITION**
18 **OF RACKETEERING ACTIVITY.**

19 Section 1961(1) of title 18, United States Code, is
20 amended by striking “section 1542” and all that follows
21 through “section 1546 (relating to fraud and misuse of
22 visas, permits, and other documents)” and inserting “sec-
23 tions 1541 through 1546 (relating to passports and
24 visas)”.

25 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

26 (a) CIVIL CASES.—

1 (1) IN GENERAL.—Chapter 9 of title II of the
2 Immigration and Nationality Act (8 U.S.C. 1351 et
3 seq.), as amended by section 1126(a) of this Act, is
4 further amended by adding at the end the following:

5 **“SEC. 296. VALIDITY OF SIGNATURES.**

6 “(a) IN GENERAL.—In any proceeding, adjudication,
7 or any other matter arising under the immigration laws,
8 an individual’s hand written or electronic signature on any
9 petition, application, or any other document executed or
10 provided for any purpose under the immigration laws es-
11 tablishes a rebuttable presumption that the signature exe-
12 cuted is that of the individual signing, that the individual
13 is aware of the contents of the document, and intends to
14 sign it.”.

15 “(b) RECORD INTEGRITY.—The Secretary shall es-
16 tablish procedures to ensure that when any electronic sig-
17 nature is captured for any petition, application, or other
18 document submitted for purposes of obtaining an immi-
19 gration benefit, the identity of the person is verified and
20 authenticated, and the record of such identification and
21 verification is preserved for litigation purposes.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents in the first section of the Immigration and Na-
24 tionality Act is amended by inserting after the item

1 relating to section 295, as added by section
2 1126(a)(2) of this Act, the following:

“Sec. 296. Validity of signatures.”.

3 (b) CRIMINAL CASES.—

4 (1) IN GENERAL.—Chapter 223 of title 18,
5 United States Code, is amended by adding at the
6 end the following:

7 **“§ 3513. Signatures relating to immigration matters**

8 “In a criminal proceeding in a court of the United
9 States, if an individual’s handwritten or electronic signa-
10 ture appears on a petition, application, or other document
11 executed or provided for any purpose under the immigra-
12 tion laws (as defined in section 101(a)(17) of the Immi-
13 gration and Nationality Act (8 U.S.C. 1101(a)(17)), the
14 trier of fact may infer that the document was signed by
15 that individual, and that the individual knew the contents
16 of the document and intended to sign the document.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions for chapter 223 of title 18, United States
19 Code, is amended by inserting after the item relating
20 to section 3512 the following:

“3513. Signatures relating to immigration matters.”.

1 **Subtitle H—Prohibition on Terror-**
2 **ists Obtaining Lawful Status in**
3 **the United States**

4 **CHAPTER 1—PROHIBITION ON ADJUST-**
5 **MENT TO LAWFUL PERMANENT RESI-**
6 **DENT STATUS**

7 **SEC. 1801. LAWFUL PERMANENT RESIDENTS AS APPLI-**
8 **CANTS FOR ADMISSION.**

9 Section 101(a)(13)(C) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

11 (1) in clauses (i), (ii), (iii), and (iv), by striking
12 the comma at the end of each clause and inserting
13 a semicolon;

14 (2) in clause (v), by striking the “, or” and in-
15 serting a semicolon;

16 (3) in clause (vi), by striking the period at the
17 end and inserting “; or” and

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

19 “(vii) is described in section 212(a)(3) or
20 237(a)(4).”.

21 **SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF ADJUST-**
22 **MENT OF STATUS.**

23 (a) **APPLICANTS FOR ADMISSION.**—Section
24 101(a)(13) of the Immigration and Nationality Act (8

1 U.S.C. 1101(a)(13)), as amended by section 1801, is fur-
2 ther amended by adding at the end the following:

3 “(D) Notwithstanding subparagraph (A), adjustment
4 of status of an alien to that of an alien lawfully admitted
5 for permanent residence under section 245 or under any
6 other provision of law is an admission of the alien.”.

7 (b) **ELIGIBILITY TO BE REMOVED FOR A CRIME IN-**
8 **VOLVING MORAL TURPITUDE.**—Section
9 237(a)(2)(A)(i)(I) of such Act (8 U.S.C.
10 1227(a)(2)(A)(i)(I)) is amended by striking “date of ad-
11 mission,” inserting “alien’s most recent date of admis-
12 sion;”.

13 **SEC. 1803. PRECLUDING ASYLEE AND REFUGEE ADJUST-**
14 **MENT OF STATUS FOR CERTAIN GROUNDS OF**
15 **INADMISSIBILITY AND DEPORTABILITY.**

16 (a) **GROUND OF INADMISSIBILITY.**—Section 209(c)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1159(c)) is amended by striking “(other than paragraph
19 (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph
20 (3))”, and inserting “(other than subparagraph (C) or (G)
21 of paragraph (2) or subparagraph (A), (B), (C), (E), (F),
22 or (G) of paragraph (3))”.

23 (b) **GROUND OF DEPORTABILITY.**—Section 209 of
24 such Act, as amended by subsection (a), is further amend-
25 ed by adding at the end the following:

1 “(d) An alien’s status may not be adjusted under this
2 section if the alien is in removal proceedings under section
3 238 or 240 and is charged with any ground of deport-
4 ability under paragraph (2), (3), (4), or (6) of section
5 237(a).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to—

8 (1) any act that occurred before, on, or after
9 the date of the enactment of this Act; and

10 (2) all aliens who are required to establish ad-
11 missibility on or after such date in all removal, de-
12 portation, or exclusion proceedings that are filed,
13 pending, or reopened, on or after such date.

14 **SEC. 1804. REVOCATION OF LAWFUL PERMANENT RESI-**
15 **DENT STATUS FOR HUMAN RIGHTS VIOLA-**
16 **TORS.**

17 Section 240(b)(5) of the Immigration and Nationality
18 Act (8 U.S.C. 1229a(b)(5)) is amended by adding at the
19 end the following:

20 “(F) ADDITIONAL APPLICATION TO CER-
21 TAIN ALIENS OUTSIDE OF THE UNITED STATES
22 WHO ARE ASSOCIATED WITH HUMAN RIGHTS
23 VIOLATIONS.—Subparagraphs (A) through (E)
24 shall apply to any alien placed in proceedings
25 under this section who—

1 “(i) is outside of the United States;

2 “(ii) has been provided written notice
3 in accordance with section 239(a) (whether
4 the alien is within or outside the United
5 States); and

6 “(iii) is described in section
7 212(a)(2)(G) (persons who have committed
8 particularly severe violations of religious
9 freedom), 212(a)(3)(E) (Nazi and other
10 persecution, genocide, war crimes, crimes
11 against humanity, extrajudicial killing, tor-
12 ture, or specified human rights violations),
13 or 212(a)(3)(G) (recruitment or use of
14 child soldiers).”.

15 **SEC. 1805. REMOVAL OF CONDITION ON LAWFUL PERMA-**
16 **NENT RESIDENT STATUS PRIOR TO NATU-**
17 **RALIZATION.**

18 Chapter 2 of title II of the Immigration and Nation-
19 ality Act (8 U.S.C. 1181 et seq.) is amended—

20 (1) in section 216(e) (8 U.S.C. 1186a(e)), by
21 inserting “, if the alien has had the conditional basis
22 removed pursuant to this section” before the period
23 at the end; and

24 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by
25 inserting “, if the alien has had the conditional basis

1 removed pursuant to this section” before the period
2 at the end.

3 **SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS WHO**
4 **POSE A THREAT TO NATIONAL SECURITY OR**
5 **PUBLIC SAFETY FROM RECEIVING AN AD-**
6 **JUSTMENT OF STATUS.**

7 (a) APPLICATION FOR ADJUSTMENT OF STATUS IN
8 THE UNITED STATES.—

9 (1) IN GENERAL.—Section 245 of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1255) is amend-
11 ed by striking the section heading and subsection (a)
12 and inserting the following:

13 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERSON**
14 **ADMITTED FOR PERMANENT RESIDENCE.**

15 **“(a) IN GENERAL.—**

16 **“(1) ELIGIBILITY FOR ADJUSTMENT.—**The sta-
17 tus of an alien who was inspected and admitted or
18 paroled into the United States or the status of any
19 other alien having an approved petition for classi-
20 fication under the Violence Against Women Act of
21 1994 (42 U.S.C. 13701 et seq.) as a spouse or child
22 who has been battered or subjected to extreme cru-
23 elty may be adjusted by the Secretary or by the At-
24 torney General, in the discretion of the Secretary or
25 the Attorney General, and under such regulations as

1 the Secretary or the Attorney General may pre-
2 scribe, to that of an alien lawfully admitted for per-
3 manent residence if—

4 “(A) the alien files an application for such
5 adjustment;

6 “(B) the alien is eligible to receive an im-
7 migrant visa, is admissible to the United States
8 for permanent residence, and is not subject to
9 exclusion, deportation, or removal from the
10 United States; and

11 “(C) an immigrant visa is immediately
12 available to the alien at the time the alien’s ap-
13 plication is filed.

14 “(2) REQUIREMENT TO OBTAIN AN IMMIGRANT
15 VISA OUTSIDE OF THE UNITED STATES.—Notwith-
16 standing any other provision of this section, if the
17 Secretary determines that an alien may be a threat
18 to national security or public safety or if the Sec-
19 retary determines that a favorable exercise of discre-
20 tion to allow an alien to seek to adjust his or her
21 status in the United States is not warranted, the
22 Secretary, in the Secretary’s sole and unreviewable
23 discretion, may deny the application for adjustment
24 of status. If the Secretary denies an application for
25 adjustment of status under this paragraph, the Sec-

1 retary shall notify the Attorney General of such deci-
2 sion and the Attorney General shall deny any appli-
3 cation for adjustment of status filed by the alien in
4 an immigration proceeding.”.

5 (2) CLERICAL AMENDMENT.—The table of con-
6 tents in the first section of the Immigration and Na-
7 tionality Act is amended by striking the item relat-
8 ing to section 245 and inserting the following:

 “Sec. 245. Adjustment of status to that of a person admitted for permanent
 residence.”.

9 (b) PROHIBITION ON TERRORISTS AND ALIENS WHO
10 POSE A THREAT TO NATIONAL SECURITY OR PUBLIC
11 SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESI-
12 DENT STATUS.—Section 245(c) of the Immigration and
13 Nationality Act (8 U.S.C. 1255(c)) is amended to read
14 as follows:

15 “(c) Except for an alien who has an approved petition
16 for classification as a VAWA self-petitioner, subsection (a)
17 shall not apply to—

18 “(1) an alien crewman;

19 “(2) subject to subsection (k), any alien (other
20 than an immediate relative (as defined in section
21 201(b)) or a special immigrant (as described in sub-
22 paragraph (H), (I), (J), or (K) of section
23 101(a)(27))) who—

1 “(A) continues in or accepts unauthorized
2 employment before filing an application for ad-
3 justment of status;

4 “(B) is in unlawful immigration status on
5 the date he or she files an application for ad-
6 justment of status; or

7 “(C) has failed (other than through no
8 fault of his or her own or for technical reasons)
9 to maintain continuously a lawful status since
10 entry into the United States;

11 “(3) any alien admitted in transit without a
12 visa under section 212(d)(4)(C);

13 “(4) an alien (other than an immediate relative
14 (as defined in section 201(b))) who was admitted as
15 a nonimmigrant visitor without a visa under section
16 212(l) or 217;

17 “(5) an alien who was admitted as a non-
18 immigrant under section 101(a)(15)(S);

19 “(6) an alien described in section 212(a)(3)(B)
20 or in subparagraph (B), (F), or (G) of section
21 237(a)(4);

22 “(7) any alien who seeks adjustment of status
23 to that of an immigrant under section 203(b) and is
24 not in a lawful nonimmigrant status;

1 “(8) any alien who has committed, ordered, in-
2 cited, assisted, or otherwise participated in the per-
3 secution of any person on account of race, religion,
4 nationality, membership in a particular social group,
5 or political opinion; or

6 “(9) any alien who—

7 “(A) was employed while the alien was an
8 unauthorized alien (as defined in section
9 274A(h)(3)); or

10 “(B) has otherwise violated the terms of a
11 nonimmigrant visa.”.

12 **SEC. 1807. TREATMENT OF APPLICATIONS FOR ADJUST-**
13 **MENT OF STATUS DURING PENDING**
14 **DENATURALIZATION PROCEEDINGS.**

15 (a) VISA ISSUANCE.—Section 221(g) of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1201(g)) is amended—

17 (1) by inserting “(1)” before “No visa”;

18 (2) by striking “if (1) it appears” and inserting
19 the following: “if—

20 “(A) it appears”;

21 (3) by striking “law, (2) the application” and
22 inserting the following: “law;

23 “(B) the application”;

24 (4) by striking “thereunder, or (3) the consular
25 officer” and inserting the following: “thereunder;

1 “(C) the consular officer”;

2 (5) by striking “provision of law: *Provided*,
3 That a visa” and inserting the following: “provision
4 of law; or

5 “(D) the approved petition for classification
6 under section 203 or 204 that is the underlying
7 basis for the application for a visa was filed by an
8 individual who has a judicial proceeding pending
9 against him or her that would result in the individ-
10 ual’s denaturalization under section 340.

11 “(2) A visa”; and

12 (6) by striking “section 213: *Provided further*,
13 That a visa” and inserting the following: “section
14 213.

15 “(3) A visa”.

16 (b) ADJUSTMENT OF STATUS.—Section 245 of the
17 Immigration and Nationality Act (8 U.S.C. 1451), as
18 amended by sections 1764 and 1806, is further amended
19 by adding at the end the following:

20 “(o) An application for adjustment of status may not
21 be considered or approved by the Secretary or the Attor-
22 ney General, and no court may order the approval of an
23 application for adjustment of status if the approved peti-
24 tion for classification under section 204 that is the under-
25 lying basis for the application for adjustment of status was

1 filed by an individual who has a judicial proceeding pend-
2 ing against him or her that would result in the revocation
3 of the individual's naturalization under section 340.”.

4 **SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESCIS-**
5 **SION OF PERMANENT RESIDENT STATUS.**

6 Section 246 of the Immigration and Nationality Act
7 (8 U.S.C. 1256) is amended—

8 (1) in subsection (a)—

9 (A) by inserting “(1)” after “(a)”;

10 (B) by striking “within five years” and in-
11 serting “within 10 years”;

12 (C) by striking “Attorney General” each
13 place that term appears and inserting “Sec-
14 retary”; and

15 (D) by adding at the end the following:

16 “(2) In any removal proceeding involving an alien
17 whose status has been rescinded under this subsection, the
18 determination by the Secretary that the alien was not eli-
19 gible for adjustment of status is not subject to review or
20 reconsideration during such proceedings.”.

21 (2) by redesignating subsection (b) as sub-
22 section (c); and

23 (3) by inserting after subsection (a) the fol-
24 lowing:

1 “(b) Nothing in subsection (a) may be construed to
2 require the Secretary to rescind the alien’s status before
3 the commencement of removal proceedings under section
4 240. The Secretary may commence removal proceedings
5 at any time against any alien who is removable, including
6 aliens whose status was adjusted to that of an alien law-
7 fully admitted for permanent residence under section 245
8 or 249 or under any other provision of law. There is no
9 statute of limitations with respect to the commencement
10 of removal proceedings under section 240. An order of re-
11 moval issued by an immigration judge shall be sufficient
12 to rescind the alien’s status.”.

13 **SEC. 1809. BARRING PERSECUTORS AND TERRORISTS**
14 **FROM REGISTRY.**

15 Section 249 of the Immigration and Nationality Act
16 (8 U.S.C. 1259) is amended to read as follows:

17 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESI-**
18 **DENCE IN THE CASE OF CERTAIN ALIENS**
19 **WHO ENTERED THE UNITED STATES PRIOR**
20 **TO JANUARY 1, 1972.**

21 “(a) IN GENERAL.—The Secretary, in the discretion
22 of the Secretary and under such regulations as the Sec-
23 retary may prescribe, may enter a record of lawful admis-
24 sion for permanent residence in the case of any alien, if
25 no such record is otherwise available and the alien—

1 “(1) entered the United States before January
2 1, 1972;

3 “(2) has continuously resided in the United
4 States since such entry;

5 “(3) has been a person of good moral character
6 since such entry;

7 “(4) is not ineligible for citizenship;

8 “(5) is not described in paragraph (1)(A)(iv),
9 (2), (3), (6)(C), (6)(E), (8), or (9)(C) of section
10 212(a);

11 “(6) is not described in paragraph (1)(E),
12 (1)(G), (2), (4) of section 237(a); and

13 “(7) did not, at any time, without reasonable
14 cause, fail or refuse to attend or remain in attend-
15 ance at a proceeding to determine the alien’s inad-
16 missibility or deportability.

17 “(b) RECORDATION DATE OF PERMANENT RESI-
18 DENCE.—The record of an alien’s lawful admission for
19 permanence residence shall be the date on which the Sec-
20 retary approves the application for such status under this
21 section.”.

1 **CHAPTER 2—PROHIBITION ON NATU-**
2 **RALIZATION AND UNITED STATES**
3 **CITIZENSHIP**

4 **SEC. 1821. BARRING TERRORISTS FROM BECOMING NATU-**
5 **RALIZED UNITED STATES CITIZENS.**

6 (a) IN GENERAL.—Section 316 of the Immigration
7 and Nationality Act (8 U.S.C. 1427) is amended by add-
8 ing at the end the following:

9 “(g)(1)(A) Except as provided in subparagraph (B),
10 a person may not be naturalized if the Secretary deter-
11 mines, in the discretion of the Secretary, that the alien
12 is described in section 212(a)(3) or 237(a)(4) at any time,
13 including any period before or after the filing of an appli-
14 cation for naturalization.

15 “(B) Subparagraph (A) shall not apply to an alien
16 described in section 212(a)(3) if—

17 “(i) the alien received an exemption under sec-
18 tion 212(d)(3)(B)(i); and

19 “(ii) the only conduct or actions by the alien
20 that are described in section 212(a)(3) (and would
21 bar the alien from naturalization under this para-
22 graph) are specifically covered by the exemption re-
23 ferred to in clause (i).

1 “(2) A determination under paragraph (1) may be
2 based upon any relevant information or evidence, includ-
3 ing classified, sensitive, or national security information.”.

4 (b) APPLICABILITY TO CITIZENSHIP THROUGH NAT-
5 URALIZATION OF PARENT OR SPOUSE.—Section 340(d) of
6 such Act (8 U.S.C. 1451(d)) is amended—

7 (1) by striking the first sentence and inserting
8 the following:

9 “(1) A person who claims United States citizenship
10 through the naturalization of a parent or spouse shall be
11 deemed to have lost his or her citizenship, and any right
12 or privilege of citizenship which he or she may have ac-
13 quired, or may hereafter acquire by virtue of the natu-
14 ralization of such parent or spouse, if the order granting
15 citizenship to such parent or spouse is revoked and set
16 aside under the provisions of—

17 “(A) subsection (a) on the ground that the
18 order and certificate of naturalization were procured
19 by concealment of a material fact or by willful mis-
20 representation; or

21 “(B) subsection (e) pursuant to a conviction
22 under section 1425 of title 18, United States
23 Code.”.

24 (2) in the second sentence, by striking “Any
25 person” and inserting the following:

1 “(2) Any person”.

2 **SEC. 1822. TERRORIST BAR TO GOOD MORAL CHARACTER.**

3 (a) DEFINITION OF GOOD MORAL CHARACTER.—

4 Section 101(f) of the Immigration and Nationality Act (8
5 U.S.C. 1101(f)), as amended by sections 1710(d),
6 1712(h), and 1713(d), is further amended—

7 (1) in paragraph (8), by inserting “, regardless
8 of whether the crime was classified as an aggravated
9 felony at the time of conviction” before the semi-
10 colon at the end;

11 (2) by inserting after paragraph (11), the fol-
12 lowing:

13 “(12) one who the Secretary or the Attorney
14 General determines, in the unreviewable discretion of
15 the Secretary or the Attorney General, to have been
16 an alien described in section 212(a)(3) or 237(a)(4),
17 which determination—

18 “(A) may be based upon any relevant in-
19 formation or evidence, including classified, sen-
20 sitive, or national security information; and

21 “(B) shall be binding upon any court re-
22 gardless of the applicable standard of review.”;
23 and

24 (3) in the undesignated matter at the end, by
25 striking the first sentence and inserting following:

1 “The fact that a person is not within any of the foregoing
2 classes shall not preclude a discretionary finding for other
3 reasons that such a person is or was not of good moral
4 character. The Secretary or the Attorney General shall not
5 be limited to the applicant’s conduct during the period for
6 which good moral character is required, but may take into
7 consideration as a basis for determination the applicant’s
8 conduct and acts at any time. The Secretary or the Attor-
9 ney General, in the unreviewable discretion of the Sec-
10 retary or the Attorney General, may determine that para-
11 graph (8) shall not apply to a single aggravated felony
12 conviction (other than murder, manslaughter, homicide,
13 rape, or any sex offense when the victim of such sex of-
14 fense was a minor) for which completion of the term of
15 imprisonment or the sentence (whichever is later) occurred
16 15 years or longer before the date on which the person
17 filed an application under this Act.”.

18 (b) AGGRAVATED FELONS.—Section 509(b) of the
19 Immigration Act of 1990 (8 U.S.C. 1101 note; Public Law
20 101–649) is amended by striking “convictions” and all
21 that follows and inserting “convictions occurring before,
22 on, or after such date.”.

23 (c) EFFECTIVE DATES; APPLICATION.—

24 (1) SUBSECTION (a).—The amendments made
25 by subsection (a) shall take effect on the date of the

1 enactment of this Act, shall apply to any act that oc-
2 curred before, on, or after such date of enactment,
3 and shall apply to any application for naturalization
4 or any other benefit or relief, or any other case or
5 matter under the immigration laws pending on or
6 filed after such date of enactment.

7 (2) SUBSECTION (b).—The amendment made
8 by subsection (b) shall take effect as if included in
9 the enactment of the Intelligence Reform and Ter-
10 rorism Prevention Act of 2004 (Public Law 108–
11 458).

12 **SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF NATU-
13 RALIZATION APPLICATIONS FOR ALIENS IN
14 REMOVAL PROCEEDINGS.**

15 Section 318 of the Immigration and Nationality Act
16 (8 U.S.C. 1429) is amended to read as follows:

17 **“SEC. 318. PREREQUISITE TO NATURALIZATION; BURDEN
18 OF PROOF.**

19 “(a) IN GENERAL.—Except as otherwise provided in
20 this chapter, no person may be naturalized unless he or
21 she has been lawfully admitted to the United States for
22 permanent residence in accordance with all applicable pro-
23 visions of this chapter.

24 “(b) BURDEN OF PROOF.—A person described in
25 subsection (a) shall have the burden of proof to show that

1 he or she entered the United States lawfully, and the time,
2 place, and manner of such entry into the United States.
3 In presenting such proof, the person is entitled to the pro-
4 duction of his or her immigrant visa, if any, or of other
5 entry document, if any, and of any other documents and
6 records, not considered by the Secretary to be confidential,
7 pertaining to such entry, in the custody of the Depart-
8 ment.

9 “(c) LIMITATIONS ON REVIEW.—Notwithstanding
10 section 405(b), and except as provided in sections 328 and
11 329—

12 “(1) a person may not be naturalized against
13 whom there is outstanding a final finding of re-
14 moval, exclusion, or deportation;

15 “(2) an application for naturalization may not
16 be considered by the Secretary or by any court if
17 there is pending against the applicant any removal
18 proceeding or other proceeding to determine whether
19 the applicant’s lawful permanent resident status
20 should be rescinded, regardless of when such pro-
21 ceeding was commenced; and

22 “(3) the findings of the Attorney General in
23 terminating removal proceedings or in cancelling the
24 removal of an alien pursuant to this Act may not be
25 deemed binding in any way upon the Secretary with

1 respect to the question of whether such person has
2 established his or her eligibility for naturalization
3 under this Act.”.

4 **SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGEN-**
5 **CY HAS NOT MADE DECISION ON NATU-**
6 **RALIZATION APPLICATION AND ON DENIALS.**

7 (a) LIMITATION ON REVIEW OF PENDING NATU-
8 RALIZATION APPLICATIONS.—Section 336 of the Immi-
9 gration and Nationality Act (8 U.S.C. 1447) is amend-
10 ed—

11 (1) in subsection (a), by striking “If,” and in-
12 sserting the following:

13 “(b) IN GENERAL.—If,”; and

14 (2) by amending subsection (b) to read as fol-
15 lows:

16 “(b) REQUEST FOR HEARING BEFORE DISTRICT
17 COURT.—If a final administrative determination is not
18 made on an application for naturalization under section
19 335 before the end of the 180-day period beginning on
20 the date on which the Secretary completes all examina-
21 tions and interviews under such section (as such terms are
22 defined by the Secretary, by regulation), the applicant
23 may apply to the district court for the district in which
24 the applicant resides for a hearing on the matter. Such
25 court shall only have jurisdiction to review the basis for

1 delay and remand the matter to the Secretary for the Sec-
2 retary's determination on the application.”.

3 (b) LIMITATIONS ON REVIEW OF DENIAL.—Section
4 310 of the Immigration and Nationality Act (8 U.S.C.
5 1421) is amended—

6 (1) by amending subsection (c) to read as fol-
7 lows:

8 “(c) JUDICIAL REVIEW.—

9 “(1) JUDICIAL REVIEW OF DENIAL.—A person
10 whose application for naturalization under this title
11 is denied may, not later than 120 days after the
12 date of the Secretary's administratively final deter-
13 mination on the application and after a hearing be-
14 fore an immigration officer under section 336(a),
15 seek review of such denial before the United States
16 district court for the district in which such person
17 resides in accordance with chapter 7 of title 5,
18 United States Code.

19 “(2) BURDEN OF PROOF.—The petitioner shall
20 have burden of proof to show that the Secretary's
21 denial of the application for naturalization was not
22 supported by facially legitimate and bona fide rea-
23 sons.

24 “(3) LIMITATIONS ON REVIEW.—Except in a
25 proceeding under section 340, and notwithstanding

1 any other provision of law, including section 2241 of
2 title 28, United States Code, any other habeas cor-
3 pus provision, and sections 1361 and 1651 of such
4 title, no court shall have jurisdiction to determine, or
5 to review a determination of the Secretary made at
6 any time regarding, whether, for purposes of an ap-
7 plication for naturalization, an alien—

8 “(A) is a person of good moral character;

9 “(B) understands and is attached to the
10 principles of the Constitution of the United
11 States; or

12 “(C) is well disposed to the good order and
13 happiness of the United States.”;

14 (2) in subsection (d)—

15 (A) by inserting “**SUBPOENAS.—**” before
16 “The immigration officer”;

17 (B) by striking “subpena” and inserting
18 “subpoena”; and

19 (C) by striking “subpenas” each place such
20 term appears and inserting “subpoenas”; and

21 (3) in subsection (e), by inserting “NAME
22 CHANGE.—” before “It shall”.

23 (c) **EFFECTIVE DATE; APPLICATION.—**The amend-
24 ments made by this section—

1 (1) shall take effect on the date of the enact-
2 ment of this Act;

3 (2) shall apply to any act that occurred before,
4 on, or after such date of enactment; and

5 (3) shall apply to any application for natu-
6 ralization or any other case or matter under the im-
7 migration laws that is pending on, or filed after,
8 such date of enactment.

9 **SEC. 1825. CLARIFICATION OF DENATURALIZATION AU-**
10 **THORITY.**

11 Section 340 of the Immigration and Nationality Act
12 (8 U.S.C. 1451) is amended—

13 (1) in subsection (a), by striking “United
14 States attorneys for the respective districts” and in-
15 serting “Attorney General”; and

16 (2) by amending subsection (c) to read as fol-
17 lows:

18 “(c) The Government shall have the burden of proof
19 to establish, by clear, unequivocal, and convincing evi-
20 dence, that an order granting citizenship to an alien
21 should be revoked and a certificate of naturalization can-
22 celled because such order and certificate were illegally pro-
23 cured or were procured by concealment of a material fact
24 or by willful misrepresentation.”.

1 **SEC. 1826. DENATURALIZATION OF TERRORISTS.**

2 (a) DENATURALIZATION FOR TERRORISTS ACTIVI-
3 TIES.—Section 340 of the Immigration and Nationality
4 Act, as amended by section 1825, is further amended—

5 (1) by redesignating subsections (d) through (h)
6 as subsections (f) through (j), respectively; and

7 (2) by inserting after subsection (c) the fol-
8 lowing:

9 “(d)(1) If a person who has been naturalized, during
10 the 15-year period after such naturalization, participates
11 in any act described in paragraph (2)—

12 “(A) such act shall be considered prima facie
13 evidence that such person was not attached to the
14 principles of the Constitution of the United States
15 and was not well disposed to the good order and
16 happiness of the United States at the time of natu-
17 ralization; and

18 “(B) in the absence of countervailing evidence,
19 such act shall be sufficient in the proper proceeding
20 to authorize the revocation and setting aside of the
21 order admitting such person to citizenship and the
22 cancellation of the certificate of naturalization as
23 having been obtained by concealment of a material
24 fact or by willful misrepresentation; and

25 “(C) such revocation and setting aside of the
26 order admitting such person to citizenship and such

1 canceling of certificate of naturalization shall be ef-
2 fective as of the original date of the order and cer-
3 tificate, respectively.

4 “(2) The acts described in this paragraph that shall
5 subject a person to a revocation and setting aside of his
6 or her naturalization under paragraph (1)(B) are—

7 “(A) any activity a purpose of which is the op-
8 position to, or the control or overthrow of, the Gov-
9 ernment of the United States by force, violence, or
10 other unlawful means;

11 “(B) engaging in a terrorist activity (as defined
12 in clauses (iii) and (iv) of section 212(a)(3)(B));

13 “(C) endorsing or espousing terrorist activity,
14 or persuading others to endorse or espouse terrorist
15 activity or a terrorist organization; and

16 “(D) receiving military-type training (as defined
17 in section 2339D(e)(1) of title 18, United States
18 Code) from or on behalf of any organization that, at
19 the time the training was received, was a terrorist
20 organization (as defined in section
21 212(a)(3)(B)(vi)).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to acts that occur on
25 or after such date.

1 **SEC. 1827. TREATMENT OF PENDING APPLICATIONS DUR-**
2 **ING DENATURALIZATION PROCEEDINGS.**

3 (a) IN GENERAL.—Section 204(b) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1154(b)) is amended—

5 (1) by striking “After” and inserting “(1) Ex-
6 cept as provided in paragraph (2), after”; and

7 (2) by adding at the end the following:

8 “(2) The Secretary may not adjudicate or approve
9 any petition filed under this section by an individual who
10 has a judicial proceeding pending against him or her that
11 would result in the individual’s denaturalization under sec-
12 tion 340 until—

13 “(A) such proceedings have concluded; and

14 “(B) the period for appeal has expired or any
15 appeals have been finally decided, if applicable.”.

16 (b) WITHHOLDING OF IMMIGRATION BENEFITS.—
17 Section 340 of such Act (8 U.S.C. 1451), as amended by
18 sections 1825 and 1826, is further amended by inserting
19 after subsection (d), as added by section 1826(a)(2), the
20 following:

21 “(e) The Secretary may not approve any application,
22 petition, or request for any immigration benefit from an
23 individual against whom there is a judicial proceeding
24 pending that would result in the individual’s
25 denaturalization under this section until—

26 “(1) such proceedings have concluded; and

1 “(2) the period for appeal has expired or any
2 appeals have been finally decided, if applicable.”.

3 **SEC. 1828. NATURALIZATION DOCUMENT RETENTION.**

4 (a) IN GENERAL.—Chapter 2 of title III of the Immi-
5 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
6 amended by inserting after section 344 the following:

7 **“SEC. 345. NATURALIZATION DOCUMENT RETENTION.**

8 “(a) IN GENERAL.—The Secretary shall retain all
9 documents described in subsection (b) for a minimum of
10 7 years for law enforcement and national security inves-
11 tigations and for litigation purposes, regardless of whether
12 such documents are scanned into U.S. Citizenship and Im-
13 migration Services’ electronic immigration system or
14 stored in any electronic format.

15 “(b) DOCUMENTS TO BE RETAINED.—The docu-
16 ments described in this subsection are—

17 “(1) the original paper naturalization applica-
18 tion and all supporting paper documents submitted
19 with the application at the time of filing, subsequent
20 to filing, and during the course of the naturalization
21 interview; and

22 “(2) any paper documents submitted in connec-
23 tion with an application for naturalization that is
24 filed electronically.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in the first section of the Immigration and Nationality Act
3 is amended by inserting after the item relating to section
4 344 the following:

“Sec. 345. Naturalization document retention.”.

5 **CHAPTER 3—FORFEITURE OF PROCEEDS**
6 **FROM PASSPORT AND VISA OFFENSES,**
7 **AND PASSPORT REVOCATION.**

8 **SEC. 1831. FORFEITURE OF PROCEEDS FROM PASSPORT**
9 **AND VISA OFFENSES.**

10 Section 981(a)(1) of title 18, United States Code, is
11 amended by adding at the end the following:

12 “(J) Any real or personal property that has
13 been used to commit, or to facilitate the commission
14 of, a violation of chapter 75, the gross proceeds of
15 such violation, and any property traceable to any
16 such property or proceeds.”.

17 **SEC. 1832. PASSPORT REVOCATION ACT.**

18 (a) SHORT TITLE.—This section may be cited as the
19 “Passport Revocation Act”.

20 (b) REVOCATION OR DENIAL OF PASSPORTS AND
21 PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILI-
22 ATED WITH FOREIGN TERRORIST ORGANIZATIONS.—The
23 Act entitled “An Act to regulate the issue and validity of
24 passports, and for other purposes”, approved July 3, 1926
25 (22 U.S.C. 211a et seq.), which is commonly known as

1 the “Passport Act of 1926”, is amended by adding at the
2 end the following:

3 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
4 **PASSPORT CARD.**

5 “(a) INELIGIBILITY.—

6 “(1) ISSUANCE.—Except as provided under
7 subsection (b), the Secretary of State shall refuse to
8 issue a passport or a passport card to any indi-
9 vidual—

10 “(A) who has been convicted of a violation
11 of chapter 113B of title 18, United States
12 Code; or

13 “(B)(i) whom the Secretary has deter-
14 mined is a member of or is otherwise affiliated
15 with an organization the Secretary has des-
16 ignated as a foreign terrorist organization pur-
17 suant to section 219 of the Immigration and
18 Nationality Act (8 U.S.C. 1189); or

19 “(ii) has aided, abetted, or provided mate-
20 rial support to an organization described in
21 clause (i).

22 “(2) REVOCATION.—The Secretary of State
23 shall revoke a passport previously issued to any indi-
24 vidual described in paragraph (1).

25 “(b) EXCEPTIONS.—

1 “(1) EMERGENCY CIRCUMSTANCES, HUMANI-
2 TARIAN REASONS, AND LAW ENFORCEMENT PUR-
3 POSES.—Notwithstanding subsection (a), the Sec-
4 retary of State may issue, or decline to revoke, a
5 passport of an individual described in such sub-
6 section in emergency circumstances, for humani-
7 tarian reasons, or for law enforcement purposes.

8 “(2) LIMITATION FOR RETURN TO UNITED
9 STATES.—Notwithstanding subsection (a)(2), the
10 Secretary of State, before revocation, may—

11 “(A) limit a previously issued passport for
12 use only for return travel to the United States;
13 or

14 “(B) issue a limited passport that only
15 permits return travel to the United States.

16 “(c) RIGHT OF REVIEW.—Any individual who, in ac-
17 cordance with this section, is denied issuance of a passport
18 by the Secretary of State, or whose passport is revoked
19 or otherwise limited by the Secretary of State, may re-
20 quest a hearing before the Secretary of State not later
21 than 60 days after receiving notice of such denial, revoca-
22 tion, or limitation.

23 “(d) REPORT.—If the Secretary of State denies,
24 issues, limits, or declines to revoke a passport or passport
25 card under subsection (b), the Secretary, not later than

1 30 days after such denial, issuance, limitation, or revoca-
2 tion, shall submit a report to Congress that describes such
3 denial, issuance, limitation, or revocation, as appro-
4 priate.”.

5 **TITLE II—PERMANENT REAU-**
6 **THORIZATION OF VOL-**
7 **UNTARY E-VERIFY**

8 **SEC. 2001. PERMANENT REAUTHORIZATION.**

9 Section 401(b) of the Illegal Immigration Reform and
10 Immigrant Responsibility Act of 1996 (division C of Pub-
11 lic Law 104–208; 8 U.S.C. 1324a note) is amended by
12 striking “Unless the Congress otherwise provides, the Sec-
13 retary of Homeland Security shall terminate a pilot pro-
14 gram on September 30, 2015.”.

15 **SEC. 2002. PREEMPTION; LIABILITY.**

16 Section 402 of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
18 note) is amended by adding at the end the following:

19 “(g) **LIMITATION ON STATE AUTHORITY.**—

20 “(1) **PREEMPTION.**—A State or local govern-
21 ment may not prohibit a person or other entity from
22 verifying the employment authorization of new hires
23 or current employees through E-Verify.

24 “(2) **LIABILITY.**—A person or other entity that
25 participates in E-Verify may not be held liable under

1 any Federal, State, or local law for any employment-
2 related action taken with respect to the wrongful
3 termination of an individual in good faith reliance on
4 information provided through E-Verify.”.

5 **SEC. 2003. INFORMATION SHARING.**

6 The Commissioner of Social Security, the Secretary
7 of Homeland Security, and the Secretary of the Treasury
8 shall jointly establish a program to share information
9 among their respective agencies that could lead to the
10 identification of unauthorized aliens (as defined in section
11 274A(h)(3) of the Immigration and Nationality Act (8
12 U.S.C. 1324a(h)(3)), including no-match letters and any
13 information in the earnings suspense file.

14 **SEC. 2004. SMALL BUSINESS DEMONSTRATION PROGRAM.**

15 Section 403 of the Illegal Immigration Reform and
16 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
17 note) is amended—

18 (1) by redesignating subsection (d) as sub-
19 section (e); and

20 (2) by inserting after subsection (e) the fol-
21 lowing:

22 “(d) **SMALL BUSINESS DEMONSTRATION PRO-**
23 **GRAM.**—Not later than 9 months after the date of enact-
24 ment of the SECURE and SUCCEED Act, the Director
25 of U.S. Citizenship and Immigration Services shall estab-

1 lish a demonstration program that assists small businesses
2 in rural areas or areas without internet capabilities to
3 verify the employment eligibility of newly hired employees
4 solely through the use of publicly accessible internet termi-
5 nals.”.

6 **SEC. 2005. FRAUD PREVENTION.**

7 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
8 **NUMBERS.**—The Secretary of Homeland Security, in con-
9 sultation with the Commissioner of Social Security, shall
10 establish a program in which Social Security account num-
11 bers that have been identified to be subject to unusual
12 multiple use in the employment eligibility verification sys-
13 tem established under section 274A(d) of the Immigration
14 and Nationality Act (8 U.S.C. 1324a(d)), or that are oth-
15 erwise suspected or determined to have been compromised
16 by identity fraud or other misuse, shall be blocked from
17 use for such system purposes unless the individual using
18 such number is able to establish, through secure and fair
19 additional security procedures, that the individual is the
20 legitimate holder of the number.

21 (b) **ALLOWING SUSPENSION OF USE OF CERTAIN SO-**
22 **CIAL SECURITY ACCOUNT NUMBERS.**—The Secretary of
23 Homeland Security, in consultation with the Commis-
24 sioner of Social Security, shall establish a program that
25 provides a reliable, secure method by which victims of

1 identity fraud and other individuals may suspend or limit
2 the use of their Social Security account number or other
3 identifying information for purposes of the employment
4 eligibility verification system established under section
5 274A(d) of the Immigration and Nationality Act (8 U.S.C.
6 1324a(d)). The Secretary may implement the program on
7 a limited pilot program basis before making it fully avail-
8 able to all individuals.

9 (c) ALLOWING PARENTS TO PREVENT THEFT OF
10 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
11 Security, in consultation with the Commissioner of Social
12 Security, shall establish a program that provides a reli-
13 able, secure method by which parents or legal guardians
14 may suspend or limit the use of the Social Security ac-
15 count number or other identifying information of a minor
16 under their care for the purposes of the employment eligi-
17 bility verification system established under 274A(d) of the
18 Immigration and Nationality Act (8 U.S.C. 1324a(d)).
19 The Secretary may implement the program on a limited
20 pilot program basis before making it fully available to all
21 individuals.

22 **SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT ELI-**
23 **GIBILITY VERIFICATION PILOT PROGRAMS.**

24 (a) IN GENERAL.—Not later than 2 years after the
25 date of the enactment of this Act, the Secretary of Home-

1 land Security, after consultation with the Commissioner
2 of Social Security and the Director of the National Insti-
3 tute of Standards and Technology, shall establish, by reg-
4 ulation, not fewer than 2 Identity Authentication Employ-
5 ment Eligibility Verification pilot programs (referred to in
6 this section as the “Authentication Pilots”), each of which
7 shall use a separate and distinct technology.

8 (b) PURPOSE.—The purpose of the Authentication
9 Pilots shall be to provide for identity authentication and
10 employment eligibility verification with respect to enrolled
11 new employees to any employer that elects to participate
12 in an Authentication Pilot.

13 (c) CANCELLATION.—Any participating employer
14 may cancel the employer’s participation in an Authentica-
15 tion Pilot after 1 year after electing to participate without
16 prejudice to future participation.

17 (d) REPORT.—Not later than 12 months after com-
18 mencement of the Authentication Pilots, the Secretary
19 shall submit a report to the Committee on the Judiciary
20 of the Senate and the Committee on the Judiciary of the
21 House of Representatives that includes the Secretary’s
22 findings on the Authentication Pilots and the authentica-
23 tion technologies chosen.

1 **TITLE III—SUCCEED ACT**

2 **SEC. 3001. SHORT TITLES.**

3 This title may be cited as the “Solution for Undocu-
4 mented Children through Careers, Employment, Edu-
5 cation, and Defending our Nation Act” or the “SUC-
6 CEED Act”.

7 **SEC. 3002. DEFINITIONS.**

8 In this title:

9 (1) **IN GENERAL.**—Except as otherwise specifi-
10 cally provided, any term used in this title that is also
11 used in the immigration laws shall have the meaning
12 given such term in the immigration laws.

13 (2) **ALIEN ENLISTEE.**—The term “alien en-
14 listee” means a conditional temporary resident that
15 seeks to maintain or extend such status by com-
16 plying with the requirements under this title relating
17 to enlistment and service in the Armed Forces of the
18 United States.

19 (3) **ALIEN POSTSECONDARY STUDENT.**—The
20 term “alien postsecondary student” means a condi-
21 tional temporary resident that seeks to maintain or
22 extend such status by complying with the require-
23 ments under this title relating to enrollment in, and
24 graduation from, an institution of higher education
25 in the United States.

1 (4) CONDITIONAL TEMPORARY RESIDENT.—

2 (A) DEFINITION.—The term “conditional
3 temporary resident” means an alien described
4 in subparagraph (B) who is granted conditional
5 temporary resident status under this title.

6 (B) DESCRIPTION.—An alien granted con-
7 ditional temporary resident status under this
8 title—

9 (i) shall not be considered to be an
10 alien who is unlawfully present in the
11 United States for purposes of the immigra-
12 tion laws, including section 505 of the Ille-
13 gal Immigration Reform and Immigrant
14 Responsibility Act of 1996 (8 U.S.C.
15 1623);

16 (ii) shall not be permitted to apply for
17 adjustment of status under section 245(a)
18 of the Immigration and Nationality Act (8
19 U.S.C. 1255(a)) until the date on which
20 the alien is permitted to so apply under
21 section 3005;

22 (iii) has the intention to permanently
23 reside in the United States;

1 (iv) is not required to have a foreign
2 residence which the alien has no intention
3 of abandoning; and

4 (v) on the date on which the alien is
5 eligible to apply for adjustment of status
6 to that of an alien lawfully admitted for
7 permanent residence under section 3005,
8 the shall be considered to have been in-
9 spected and admitted for the purposes of
10 section 245(a) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1255(a)).

12 (5) FEDERAL PUBLIC BENEFIT.—The term
13 “Federal public benefit” means—

14 (A) the American Opportunity Tax Credit
15 authorized under section 25A(i) of the Internal
16 Revenue Code of 1986;

17 (B) the Earned Income Tax Credit author-
18 ized under section 32 of the Internal Revenue
19 Code of 1986;

20 (C) the Health Coverage Tax Credit au-
21 thorized under section 35 of the Internal Rev-
22 enue Code of 1986;

23 (D) Social Security benefits authorized
24 under title II of the Social Security Act (42
25 U.S.C. 401 et seq.);

1 (E) Medicare benefits authorized under
2 title XVIII of the Social Security Act (42
3 U.S.C. 1395 et seq.); and

4 (F) benefits received under the Federal-
5 State Unemployment Compensation Act of
6 1970 (26 U.S.C. 3304 note).

7 (6) IMMIGRATION LAWS.—The term “immigra-
8 tion laws” has the meaning given the term in section
9 101(a)(17) of the Immigration and Nationality Act
10 (8 U.S.C. 1101(a)(17)).

11 (7) INSTITUTION OF HIGHER EDUCATION.—The
12 term “institution of higher education” has the
13 meaning given the term in section 102 of the Higher
14 Education Act of 1965 (20 U.S.C. 1002), except
15 that the term does not include an institution of high-
16 er education outside of the United States.

17 (8) MILITARY-RELATED TERMS.—The terms
18 “active duty”, “active service”, “active status”, and
19 “armed forces” have the meanings given those terms
20 in section 101 of title 10, United States Code.

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

1 (10) SECRETARY.—The term “Secretary”
2 means the Secretary of Homeland Security.

3 (11) SIGNIFICANT MISDEMEANOR.—The term
4 “significant misdemeanor” means—

5 (A) a criminal offense involving—

6 (i) domestic violence;

7 (ii) sexual abuse or exploitation, in-
8 cluding sexually explicit conduct involving
9 minors (as such terms are defined in sec-
10 tion 2256 of title 18, United States Code);

11 (iii) burglary;

12 (iv) unlawful possession or use of a
13 firearm;

14 (v) drug distribution or trafficking; or

15 (vi) driving under the influence or
16 driving while intoxicated; or

17 (B) any other misdemeanor for which the
18 individual was sentenced to a term of imprison-
19 ment of not less than 90 days (excluding a sus-
20 pended sentence).

1 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**
2 **LONG-TERM RESIDENTS WHO ENTERED THE**
3 **UNITED STATES AS CHILDREN.**

4 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
5 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
6 DREN.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law and except as otherwise provided in
9 this title, the Secretary may cancel the removal of
10 an alien who is inadmissible or deportable from the
11 United States and grant the alien conditional tem-
12 porary resident status under this title, if—

13 (A) the alien has been physically present in
14 the United States for a continuous period since
15 June 15, 2012;

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

19 (C) on June 15, 2012, the alien—

20 (i) was younger than 31 years of age;

21 and

22 (ii) had no lawful status in the United
23 States;

24 (D) in the case of an alien who is 18 years
25 of age or older on the date of enactment of this
26 Act, the alien—

1 (i) meets the other requirements of
2 this section; and

3 (ii)(I) has, while in the United States,
4 earned a high school diploma, obtained a
5 general education development certificate
6 recognized under State law, or received a
7 high school equivalency diploma;

8 (II) has been admitted to an institu-
9 tion of higher education in the United
10 States; or

11 (III) has served, is serving, or has en-
12 listed in the Armed Forces of the United
13 States;

14 (E) in the case of an alien who is younger
15 than 18 years of age on the date of enactment
16 of this Act, the alien—

17 (i) meets the other requirements of
18 this section; and

19 (ii)(I) is attending, or has enrolled in,
20 a primary or secondary school; or

21 (II) is attending, or has enrolled in, a
22 postsecondary school;

23 (F) the alien has been a person of good
24 moral character (as defined in section 101(f) of
25 the Immigration and Nationality Act (8 U.S.C.

1 1101(f))) since the date on which the alien ini-
2 tially entered the United States;

3 (G) the alien has paid any applicable Fed-
4 eral tax liability or has agreed to cure such li-
5 ability through a payment installment plan that
6 has been approved by the Internal Revenue
7 Service; and

8 (H) the alien, subject to paragraph (2)—

9 (i) is not inadmissible under para-
10 graph (1), (2), (3), (4), (6)(C), (6)(E), (8),
11 (9)(C), or (10) of section 212(a) of the Im-
12 migration and Nationality Act (8 U.S.C.
13 1182(a)), and is not inadmissible under
14 subparagraph (A) of section 212(a)(9) of
15 such Act (unless the Secretary determines
16 that the sole basis for the alien's removal
17 under such subparagraph was unlawful
18 presence under subparagraph (B) or (C) of
19 such section 212(a)(9));

20 (ii) is not deportable under paragraph
21 (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or
22 (6) of section 237(a) of the Immigration
23 and Nationality Act (8 U.S.C. 1227(a));

24 (iii) has not ordered, incited, assisted,
25 or otherwise participated in the persecution

1 of any person on account of race, religion,
2 nationality, membership in a particular so-
3 cial group, or political opinion;

4 (iv) does not, in the sole and
5 unreviewable discretion of the Secretary,
6 pose a threat to national security or public
7 safety;

8 (v) is not a person who the Secretary
9 knows, or has reason to believe—

10 (I) is a member of a criminal
11 gang; or

12 (II) has participated in an activ-
13 ity of a criminal gang, knowing or
14 having reason to believe that the ac-
15 tivity promoted, furthered, aided, or
16 supported, or will promote, further,
17 aid, or support, the illegal activity of
18 the criminal gang; and

19 (vi) has not been convicted of—

20 (I) a felony under Federal or
21 State law, regardless of the sentence
22 imposed;

23 (II) any combination of offenses
24 under Federal or State law for which

1 the alien was sentenced to imprison-
2 ment for at least 1 year;

3 (III) a significant misdemeanor;

4 and

5 (IV) 3 or more misdemeanors;

6 and

7 (I) the alien has never been under a final
8 administrative or judicial order of exclusion, de-
9 portation, or removal, unless the alien—

10 (i) has remained in the United States
11 under color of law after such final order
12 was issued; or

13 (ii) received the final order before at-
14 taining 18 years of age.

15 (2) WAIVER.—

16 (A) IN GENERAL.—The Secretary, in the
17 discretion of the Secretary, may waive, on a
18 case-by-case basis, a ground of inadmissibility
19 under paragraph (1), (4), (6)(B), or (6)(E) of
20 section 212(a) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1182(a)), and a ground of
22 deportability under paragraph (A), (B), (C), or
23 (E) of section 237(a)(1) of such Act (8 U.S.C.
24 1227(a)(1)) for humanitarian purposes or if
25 such waiver is otherwise in the public interest.

501

1 (B) QUARTERLY REPORT.—Not later than
2 180 days after the date of the enactment of this
3 Act, and quarterly thereafter, the Secretary
4 shall submit a report to Congress that identi-
5 fies—

6 (i) the number of waivers under this
7 paragraph that were requested by aliens
8 during the preceding quarter;

9 (ii) the number of such requests that
10 were granted; and

11 (iii) the number of such requests that
12 were denied.

13 (C) JUDICIAL REVIEW.—Notwithstanding
14 any other provision of law (statutory or non-
15 statutory), including sections 2241 of title 28,
16 United States Code, any other habeas corpus
17 provision, and sections 1361 and 1651 of title
18 28, United States Code, a court shall not have
19 jurisdiction to review a determination made by
20 the Secretary under subparagraph (A).

21 (3) PROCEDURES.—

22 (A) APPLICATION FOR AFFIRMATIVE RE-
23 LIEF.—

24 (i) REGULATIONS.—

1 (I) IN GENERAL.—The Secretary
2 shall issue regulations that provide a
3 procedure for eligible individuals to
4 affirmatively apply for the relief avail-
5 able under this subsection without
6 being placed in removal proceedings.

7 (II) REQUIREMENTS.—The regu-
8 lations issued under subclause (I)—

9 (aa) shall establish a date
10 after which an alien may not
11 seek relief under this title; and

12 (bb) shall not allow an affi-
13 davit or a sworn statement to be
14 considered sufficient evidence to
15 establish any claim under this
16 title.

17 (ii) ELECTRONIC SUBMISSION.—An
18 alien shall submit electronically an applica-
19 tion for relief under this title that includes
20 all supporting documentation, in accord-
21 ance with the regulations issued under
22 clause (i).

23 (iii) JUDICIAL REVIEW.—Notwith-
24 standing any other provision of law (statu-
25 tory or nonstatutory), including sections

1 2241 of title 28, United States Code, any
2 other habeas corpus provision, and sections
3 1361 and 1651 of title 28, United States
4 Code, a court shall not have jurisdiction to
5 review a determination by the Secretary
6 with respect to an application under this
7 subsection.

8 (iv) DEADLINE FOR APPLICATION.—
9 An alien shall submit an application under
10 this section not later than the later of—

11 (I) in the case of an alien who is
12 18 years of age or older, 1 year after
13 the date on which the Secretary be-
14 gins accepting applications; and

15 (II) 180 days after the date on
16 which the alien attains 18 years of
17 age.

18 (v) FEE.—With respect to an applica-
19 tion under this subsection, the Secretary
20 shall collect a fee in an amount that will
21 ensure the recovery of the full costs of ad-
22 ministering the application and adjudica-
23 tion process.

24 (B) ACKNOWLEDGMENT TO BARS TO RE-
25 LIEF.—

1 (i) ACKNOWLEDGMENT OF NOTIFICA-
2 TION.—The regulations issued pursuant to
3 subparagraph (A) shall include a require-
4 ment that each alien applying for condi-
5 tional temporary resident status under this
6 title who is at least 18 years of age sign,
7 under penalty of perjury, an acknowledg-
8 ment confirming that the alien was notified
9 and understands that he or she will be in-
10 eligible for any form of relief or immigra-
11 tion benefit under this title or other immi-
12 gration laws other than withholding of re-
13 moval under section 241(b)(3), or relief
14 from removal based on a claim under the
15 Convention Against Torture and Other
16 Cruel, Inhuman or Degrading Treatment
17 or Punishment, done at New York, Decem-
18 ber 10, 1984, if the alien violates a term
19 for conditional temporary resident status
20 under this title.

21 (ii) EXCEPTION.—Notwithstanding an
22 acknowledgment under clause (i), the Sec-
23 retary, in the discretion of the Secretary,
24 may allow an alien who violated the terms
25 of conditional temporary resident status

1 (other than a criminal alien or an alien
2 deemed to be a national security or public
3 safety risk) to seek relief from removal if
4 the Secretary determines that such relief is
5 warranted for humanitarian purposes or if
6 otherwise in the public interest.

7 (iii) JUDICIAL REVIEW.—Notwith-
8 standing any other provision of law (statu-
9 tory or nonstatutory), including section
10 2241 of title 28, United States Code, any
11 other habeas corpus provision, and sections
12 1361 and 1651 of such title, no court shall
13 have jurisdiction to review a determination
14 by the Secretary under clause (ii).

15 (4) SUBMISSION OF BIOMETRIC AND BIO-
16 GRAPHIC DATA.—

17 (A) IN GENERAL.—The Secretary may not
18 cancel the removal of, or grant temporary per-
19 manent resident status to, an alien under this
20 title before the date on which—

21 (i) the alien submits biometric and
22 biographic data, in accordance with proce-
23 dures established by the Secretary; and

1 background checks required under subpara-
2 graph (A) shall be completed, to the satisfaction
3 of the Secretary, before the date on which the
4 Secretary cancels the removal of an alien under
5 this title.

6 (C) CRIMINAL RECORD REQUESTS.—The
7 Secretary, in cooperation with the Secretary of
8 State, shall seek to obtain information about
9 any criminal activity the alien engaged in, or
10 for which the alien was convicted in his or her
11 country of nationality, country of citizenship, or
12 country of last habitual residence, from
13 INTERPOL, EUROPOL, or any other inter-
14 national or national law enforcement agency of
15 the alien's country of nationality, country of
16 citizenship, or country of last habitual resi-
17 dence.

18 (6) MEDICAL EXAMINATION.—An alien applying
19 for relief available under this subsection shall under-
20 go a medical examination conducted by a designated
21 civil surgeon pursuant to procedures established by
22 the Secretary.

23 (7) INTERVIEW.—The Secretary may conduct
24 an in-person interview of an applicant for conditional
25 temporary resident status as part of a determination

1 with respect to whether the alien meets the eligibility
2 requirements described in this section.

3 (8) MILITARY SELECTIVE SERVICE.—An alien
4 applying for relief available under this subsection
5 shall establish that the alien has registered for the
6 Selective Service under the Military Selective Service
7 Act (50 U.S.C. App. 451 et seq.) if the alien is sub-
8 ject to such registration requirement under such
9 Act.

10 (9) TREATMENT OF EXPUNGED CONVIC-
11 TIONS.—

12 (A) IN GENERAL.—The Secretary shall
13 evaluate expunged convictions on a case-by-case
14 basis according to the nature and severity of
15 the offense to determine whether, under the
16 particular circumstances, an alien may be eligi-
17 ble for—

18 (i) conditional temporary resident sta-
19 tus under this title; or

20 (ii) adjustment to that of an alien
21 lawfully admitted for permanent residence
22 under section 3005.

23 (B) JUDICIAL REVIEW.—Notwithstanding
24 any other provision of law (statutory or non-
25 statutory), including section 2241 of title 28,

1 United States Code, any other habeas corpus
2 provision, and sections 1361 and 1651 of such
3 title, no court shall have jurisdiction to review
4 a determination by the Secretary under sub-
5 paragraph (A).

6 (b) TERMINATION OF CONTINUOUS PERIOD.—For
7 purposes of this section, any period of continuous resi-
8 dence or continuous physical presence in the United States
9 of an alien who applies for cancellation of removal under
10 subsection (a) shall not terminate when the alien is served
11 a notice to appear under section 239(a) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1229(a)).

13 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
14 ENCE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), an alien shall be considered to have failed
17 to maintain continuous physical presence in the
18 United States under subsection (a)(1)(A) if the alien
19 has departed from the United States for—

20 (A) any period exceeding 90 days; or

21 (B) any periods exceeding 180 days, in the
22 aggregate, during a 5-year period.

23 (2) EXTENSIONS FOR EXCEPTIONAL CIR-
24 CUMSTANCES.—The Secretary may extend the peri-
25 ods described in paragraph (1) by 90 days if the

1 alien demonstrates that the failure to timely return
2 to the United States was due to exceptional cir-
3 cumstances. The exceptional circumstances deter-
4 mined sufficient to justify an extension should be
5 not less compelling than the serious illness of the
6 alien, or the death or serious illness of the alien's
7 parent, grandparent, sibling, or child.

8 (3) EXCEPTION FOR MILITARY SERVICE.—Any
9 time spent outside of the United States that is due
10 to the alien's active service in the Armed Forces of
11 the United States shall not be counted towards the
12 time limits set forth in paragraph (1).

13 (d) RULEMAKING.—

14 (1) INITIAL PUBLICATION.—Not later than 180
15 days after the date of enactment of this Act, the
16 Secretary shall publish regulations implementing this
17 section.

18 (2) INTERIM REGULATIONS.—Notwithstanding
19 section 553 of title 5, United States Code, the regu-
20 lations required under paragraph (1) shall be effec-
21 tive, on an interim basis, immediately upon publica-
22 tion but may be subject to change and revision after
23 public notice and opportunity for a period of public
24 comment.

1 (3) FINAL REGULATIONS.—Within a reasonable
2 time after publication of the interim regulations
3 under paragraph (1), the Secretary shall publish
4 final regulations implementing this section.

5 (e) REMOVAL OF ALIEN.—The Secretary may not
6 seek to remove an alien who establishes prima facie eligi-
7 bility for cancellation of removal and conditional tem-
8 porary resident status under this title until the alien has
9 been provided with a reasonable opportunity to file an ap-
10 plication for conditional temporary resident status under
11 this title.

12 **SEC. 3004. CONDITIONAL TEMPORARY RESIDENT STATUS.**

13 (a) INITIAL LENGTH OF STATUS.—Conditional tem-
14 porary resident status granted to an alien under this title
15 shall be valid—

16 (1) for an initial period of 7 years, subject to
17 termination under subsection (c), if applicable; and

18 (2) if the alien will not reach 18 years of age
19 before the end of the period described in paragraph
20 (1), until the alien reaches 18 years of age.

21 (b) TERMS OF CONDITIONAL TEMPORARY RESIDENT
22 STATUS.—

23 (1) EMPLOYMENT.—A conditional temporary
24 resident may—

1 (A) be employed in the United States inci-
2 dent to conditional temporary resident status
3 under this title; and

4 (B) enlist in the Armed Forces of the
5 United States in accordance with section
6 504(b)(1)(D) of title 10, United States Code.

7 (2) TRAVEL.—A conditional temporary resident
8 may travel outside the United States and may be ad-
9 mitted (if otherwise admissible) upon returning to
10 the United States without having to obtain a visa
11 if—

12 (A) the alien is the bearer of valid, unex-
13 pired documentary evidence of conditional tem-
14 porary resident status under this title; and

15 (B) the alien's absence from the United
16 States—

17 (i) was not for a period of 180 days
18 or longer, or for multiple periods exceeding
19 180 days in the aggregate; or

20 (ii) was due to active service in the
21 Armed Forces of the United States.

22 (c) TERMINATION OF STATUS.—The Secretary shall
23 immediately terminate the conditional temporary resident
24 status of an alien under this title—

1 (1) in the case of an alien who is 18 years of
2 age or older, if the Secretary determines that the
3 alien is a postsecondary student who was admitted
4 to an accredited institution of higher education in
5 the United States, but failed to enroll in such insti-
6 tution within 1 year after the date on which the
7 alien was granted conditional temporary resident
8 status under this title or to remain so enrolled;

9 (2) in the case of an alien who is younger than
10 18 years of age, if the Secretary determines that the
11 alien enrolled in a primary or secondary school as a
12 full-time student, but has failed to attend such
13 school for a period exceeding 1 year during the 7-
14 year period beginning on the date on which the alien
15 was granted conditional temporary resident status
16 under this title;

17 (3) in the case of an alien who was granted
18 conditional temporary resident status under this title
19 as an enlistee, if the alien—

20 (A) failed to complete basic training and
21 begin active duty service or service in Selected
22 Ready Reserve of the Ready Reserve of the
23 Armed Forces of the United States within 1
24 year after the date on which the alien was

1 granted conditional temporary resident status
2 under this title; or

3 (B) has received a dishonorable or other
4 than honorable discharge from the Armed
5 Forces of the United States;

6 (4) if the alien was granted conditional tem-
7 porary resident status under this title as a result of
8 fraud or misrepresentation;

9 (5) if the alien ceases to meet a requirement
10 under subparagraph (F), (G), (H), or (I) of section
11 3003(a)(1);

12 (6) if the alien violated a term or condition of
13 his or her conditional resident status;

14 (7) if the alien has become a public charge;

15 (8) if the alien has not maintained employment
16 in the United States for a period of at least 1 year
17 since the alien was granted conditional temporary
18 resident status under this title and while the alien
19 was not enrolled as a student in a postsecondary
20 school or institution of higher education or serving
21 in the Armed Forces of the United States; or

22 (9) if the alien has not completed a combination
23 of employment, military service, or postsecondary
24 school totaling 62 months during the 7-year period
25 beginning on the date on which the alien was grant-

1 ed conditional temporary resident status under this
2 title.

3 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

4 The immigration status of an alien the conditional tem-
5 porary resident status of whom is terminated under sub-
6 section (c) shall return to the immigration status of the
7 alien on the day before the date on which the alien re-
8 ceived conditional temporary resident status under this
9 title.

10 (e) EXTENSION OF CONDITIONAL TEMPORARY RESI-

11 DENT STATUS.—The Secretary shall extend the condi-
12 tional temporary resident status of an alien granted such
13 status under this title for 1 additional 5-year period be-
14 yond the period specified in subsection (a) if the alien—

15 (1) has demonstrated good moral character dur-
16 ing the entire period the alien has been a conditional
17 temporary resident under this title;

18 (2) is in compliance with section 3003(a)(1);

19 (3) has not abandoned the alien's residence in
20 the United States by being absent from the United
21 States for a period of 180 days, or multiple periods
22 of at least 180 days, in the aggregate, during the pe-
23 riod of conditional temporary resident status under
24 this title, unless the absence of the alien was due to

1 active service in the Armed Forces of the United
2 States;

3 (4) does not have any delinquent tax liabilities;

4 (5) has not received any Federal public benefit;

5 and

6 (6) while the alien has been a conditional tem-
7 porary resident under this title—

8 (A) has graduated from an accredited in-
9 stitution of higher education in the United
10 States;

11 (B) has attended an accredited institution
12 of higher education in the United States on a
13 full-time basis for not less than 8 semesters;

14 (C)(i) has served as a member of a regular
15 or reserve component of the Armed Forces of
16 the United States in an active duty status for
17 at least 3 years; and

18 (ii) if discharged from such service, re-
19 ceived an honorable discharge; or

20 (D) has, for a cumulative total of not less
21 than 48 months—

22 (i) attended an accredited institution
23 of higher education in the United States
24 on a full-time basis;

- 1 (ii)(I) honorably served in the Armed
2 Forces of the United States; and
3 (II) maintained employment in the
4 United States; or
5 (iii)(I) attended an accredited institu-
6 tion of higher education in the United
7 States;
8 (II) honorably served in the Armed
9 Forces of the United States; and
10 (III) otherwise maintained lawful em-
11 ployment in the United States.

12 (f) RETURN TO PREVIOUS STATUS.—The immigra-
13 tion status of an alien receiving an extension of conditional
14 temporary resident status shall return to the immigration
15 status of the alien on the day before the date on which
16 the alien received conditional temporary resident status if
17 the alien has not filed to adjust status to that of an alien
18 lawfully admitted for permanent residence under section
19 3005 by the date on which the 5-year period referred to
20 in subsection (e) ends.

21 **SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR TEM-**
22 **PORARY RESIDENCE.**

23 (a) IN GENERAL.—An alien who has been a condi-
24 tional temporary resident under this title for at least 7
25 years may file an application with the Secretary, in ac-

1 cordance with subsection (c), to adjust status to that of
2 an alien lawfully admitted for permanent residence. The
3 application shall include the required fee and shall be filed
4 in accordance with the procedures established by the Sec-
5 retary.

6 (b) ADJUDICATION OF APPLICATION FOR ADJUST-
7 MENT OF STATUS.—

8 (1) ADJUSTMENT OF STATUS IF FAVORABLE
9 DETERMINATION.—If the Secretary determines that
10 an alien who filed an application under subsection
11 (a) meets the requirements described in subsection
12 (d), the Secretary shall—

13 (A) notify the alien of such determination;
14 and

15 (B) adjust the alien's status to that of an
16 alien lawfully admitted for permanent residence.

17 (2) TERMINATION IF ADVERSE DETERMINA-
18 TION.—If the Secretary determines that an alien
19 who files an application under subsection (a) does
20 not meet the requirements described in subsection
21 (d), the Secretary shall—

22 (A) notify the alien of such determination;
23 and

24 (B) terminate the conditional temporary
25 status of the alien.

1 (c) TIME TO FILE APPLICATION.—

2 (1) IN GENERAL.—Applications for adjustment
3 of status described in subsection (a) shall be filed
4 during the period—

5 (A) beginning 180 days before the expira-
6 tion of the 7-year period of conditional tem-
7 porary resident status under this title; and

8 (B) ending—

9 (i) 7 years after the date on which
10 conditional temporary resident status was
11 initially granted to the alien under this
12 title; or

13 (ii) after the conditional temporary
14 resident status has been terminated.

15 (2) STATUS DURING PENDENCY.—An alien
16 shall be deemed to be in conditional temporary resi-
17 dent status in the United States during the period
18 in which an application filed by the alien under sub-
19 section (a) is pending.

20 (d) CONTENTS OF APPLICATION.—

21 (1) IN GENERAL.—Each application filed by an
22 alien under subsection (a) shall contain information
23 to permit the Secretary to determine whether the
24 alien—

1 (A) has been a conditional temporary resi-
2 dent under this title for at least 7 years;

3 (B) has demonstrated good moral char-
4 acter during the entire period the alien has
5 been a conditional temporary resident under
6 this title;

7 (C) is in compliance with section
8 3003(a)(1); and

9 (D) has not abandoned the alien's resi-
10 dence in the United States.

11 (2) PRESUMPTIONS.—For purposes of para-
12 graph (1)—

13 (A) the Secretary shall presume that an
14 alien has abandoned the alien's residence in the
15 United States if the alien is absent from the
16 United States for more than 365 days, in the
17 aggregate, during the period of conditional tem-
18 porary resident status under this title, unless
19 the alien demonstrates that the alien has not
20 abandoned the alien's residence; and

21 (B) an alien who is absent from the United
22 States due to active service in the Armed
23 Forces of the United States has not abandoned
24 the alien's residence in the United States dur-
25 ing the period of such service.

1 (e) CITIZENSHIP REQUIREMENT.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), an alien granted conditional temporary
4 resident status under this title may not be adjusted
5 to permanent resident status unless the alien dem-
6 onstrates to the satisfaction of the Secretary that
7 the alien satisfies the requirements under section
8 312(a)(1) of the Immigration and Nationality Act (8
9 U.S.C. 1423(a)(1)).

10 (2) EXCEPTION.—Paragraph (1) shall not
11 apply to an alien whom the Secretary determines is
12 unable because of a physical or developmental dis-
13 ability or mental impairment to meet the require-
14 ments of such paragraph. The Secretary, in coordi-
15 nation with the Secretary of Health and Human
16 Services and the Surgeon General, shall establish
17 procedures for making determinations under this
18 subsection.

19 (f) PAYMENT OF FEDERAL TAXES.—Not later than
20 the date on which an application for adjustment of status
21 is filed under subsection (a), the alien shall satisfy any
22 applicable Federal tax liability due and owing on such
23 date, as determined and verified by the Commissioner of
24 Internal Revenue, notwithstanding section 6103 of title
25 26, United States Code, or any other provision of law.

1 (g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
2 DATA.—

3 (1) IN GENERAL.—The Secretary may not ad-
4 just the status of an alien under this section unless
5 the alien submits biometric and biographic data, in
6 accordance with procedures established by the Sec-
7 retary.

8 (2) ALTERNATIVE PROCEDURE.—The Secretary
9 shall provide an alternative procedure for an appli-
10 cant who is unable to provide the biometric or bio-
11 graphic data referred to in paragraph (1) due to a
12 physical disability or impairment.

13 (h) BACKGROUND CHECKS.—

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

18 (A) to conduct security and law enforce-
19 ment background checks of an alien applying
20 for adjustment of status under this section; and

21 (B) to determine whether there is any
22 criminal, national security, or other factor that
23 would render the alien ineligible for such ad-
24 justment of status.

1 (2) COMPLETION OF BACKGROUND CHECKS.—

2 The security and law enforcement background
3 checks required under paragraph (1) shall be com-
4 pleted with respect to an alien, to the satisfaction of
5 the Secretary, before the date on which the Sec-
6 retary makes a decision on the application for ad-
7 justment of status of the alien.

8 (i) EXEMPTION FROM NUMERICAL LIMITATIONS.—

9 Nothing in this section or in any other law may be con-
10 strued to apply a numerical limitation on the number of
11 aliens who may be eligible for adjustment of status under
12 this section.

13 (j) TREATMENT OF ALIENS MEETING REQUIRE-

14 MENTS FOR EXTENSION OF CONDITIONAL TEMPORARY

15 RESIDENT STATUS.—If an alien has satisfied all of the

16 requirements under section 3003(a)(1) as of the date of

17 enactment of this Act, the Secretary may cancel the re-

18 moval of the alien and permit the alien to apply for condi-

19 tional temporary resident status under this title. After the

20 initial period of conditional temporary resident status de-

21 scribed in section 3004(a), the Secretary shall extend such

22 alien's conditional temporary resident status and permit

23 the alien to apply for adjustment of status in accordance

24 with subsection (a) if the alien has met the requirements

1 under section 3004(e) during the entire period of condi-
2 tional temporary resident status under this title.

3 **SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS GRANTED**
4 **CONDITIONAL TEMPORARY RESIDENT STA-**
5 **TUS.**

6 Notwithstanding any other provision of law, a natural
7 parent, prior adoptive parent, spouse, parent, child, or any
8 other family member of an alien provided conditional tem-
9 porary resident status or lawful permanent resident status
10 under this title shall not thereafter be accorded, by virtue
11 of parentage or familial relationship, any right, privilege,
12 or status under the immigration laws.

13 **SEC. 3007. EXCLUSIVE JURISDICTION.**

14 (a) SECRETARY OF HOMELAND SECURITY.—Except
15 as provided in subsection (b), the Secretary shall have ex-
16 clusive jurisdiction to determine eligibility for relief under
17 this title. If a final order of deportation, exclusion, or re-
18 moval is entered, the Secretary shall resume all powers
19 and duties delegated to the Secretary under this title. If
20 a final order is entered before relief is granted under this
21 title, the Attorney General shall terminate such order only
22 after the alien has been granted conditional temporary
23 resident status under this title.

24 (b) ATTORNEY GENERAL.—The Attorney General
25 shall have exclusive jurisdiction to determine eligibility for

1 relief under this title for any alien who has been placed
2 into deportation, exclusion, or removal proceedings, wheth-
3 er such placement occurred before or after the alien filed
4 an application for cancellation of removal and conditional
5 temporary resident status or adjustment of status under
6 this title. Such exclusive jurisdiction shall continue until
7 such proceedings are terminated.

8 **SEC. 3008. CONFIDENTIALITY OF INFORMATION.**

9 (a) CONFIDENTIALITY OF INFORMATION.—The Sec-
10 retary shall establish procedures to protect the confiden-
11 tiality of information provided by an alien under this title.

12 (b) PROHIBITION.—Except as provided in subsection
13 (c), an officer or employee of the United States may not—

14 (1) use the information provided by an indi-
15 vidual pursuant to an application filed under this
16 title as the sole basis to initiate removal proceedings
17 under section 240 of the Immigration and Nation-
18 ality Act (8 U.S.C. 1229a) against the parent or
19 spouse of the individual;

20 (2) make any publication whereby the informa-
21 tion provided by any particular individual pursuant
22 to an application under this title can be identified;
23 or

1 (3) permit anyone other than an officer or em-
2 ployee of the United States Government to examine
3 such application filed under this title.

4 (c) REQUIRED DISCLOSURE.—The Attorney General
5 or the Secretary shall disclose the information provided
6 by an individual under this title and any other information
7 derived from such information to—

8 (1) a Federal, State, Tribal, or local govern-
9 ment agency, court, or grand jury in connection with
10 an administrative, civil, or criminal investigation or
11 prosecution;

12 (2) a background check conducted pursuant to
13 the Brady Handgun Violence Protection Act (Public
14 Law 103–159; 107 Stat. 1536) or an amendment
15 made by that Act;

16 (3) for homeland security or national security
17 purposes;

18 (4) an official coroner for purposes of affirma-
19 tively identifying a deceased individual (whether or
20 not such individual is deceased as a result of a
21 crime); or

22 (5) the Bureau of the Census in the same man-
23 ner and circumstances as the information may be
24 disclosed under section 8 of title 13, United States
25 Code.

1 (d) FRAUD IN APPLICATION PROCESS OR CRIMINAL
2 CONDUCT.—Nothing in this section may be construed to
3 prevent the disclosure and use of information provided by
4 an alien under this title to determine whether an alien
5 seeking relief under this title has engaged in fraud in an
6 application for such relief or at any time committed a
7 crime from being used or released for immigration en-
8 forcement, law enforcement, or national security purposes.

9 (e) SUBSEQUENT APPLICATIONS FOR IMMIGRATION
10 BENEFITS.—The Secretary may use the information pro-
11 vided by an individual pursuant to an application filed
12 under this title to adjudicate an application, petition, or
13 other request for an immigration benefit made by the indi-
14 vidual on a date after the date on which the individual
15 filed the application under this title.

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

19 **SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR CON-**
20 **DITIONAL TEMPORARY RESIDENTS.**

21 An individual who has met the requirements under
22 section 3005 for adjustment from conditional temporary
23 resident status to lawful permanent resident status shall
24 be considered, as of the date of such adjustment, to have
25 completed the 5-year eligibility waiting period under sec-

1 tion 403 of the Personal Responsibility and Work Oppor-
2 tunity Reconciliation Act of 1996 (8 U.S.C. 1613).

3 **SEC. 3010. GAO REPORT.**

4 Not later than 7 years after the date of the enact-
5 ment of this Act, the Comptroller General of the United
6 States shall submit a report to the Committee on the Judi-
7 ciary of the Senate and the Committee on the Judiciary
8 of the House of Representatives that sets forth—

9 (1) the number of aliens who were eligible for
10 cancellation of removal and grant of conditional tem-
11 porary resident status under section 3003(a);

12 (2) the number of aliens who applied for can-
13 cellation of removal and grant of conditional tem-
14 porary resident status under section 3003(a);

15 (3) the number of aliens who were granted con-
16 ditional temporary resident status under section
17 3003(a); and

18 (4) the number of aliens whose status was ad-
19 justed to that of an alien lawfully admitted for per-
20 manent residence pursuant to section 3005.

21 **SEC. 3011. MILITARY ENLISTMENT.**

22 Section 504(b)(1) of title 10, United States Code, is
23 amended by adding at the end the following:

1 “(D) An alien who is a conditional tem-
2 porary resident (as defined in section 3002 of
3 the SUCCEED Act).”.

4 **SEC. 3012. ELIGIBILITY FOR NATURALIZATION.**

5 Notwithstanding sections 319(b), 328, and 329 of the
6 Immigration and Nationality Act (8 U.S.C. 1430(b),
7 1439, and 1440), an alien whose status is adjusted under
8 section 3005 to that of an alien lawfully admitted for per-
9 manent residence may apply for naturalization under
10 chapter 2 of title III of the Immigration and Nationality
11 Act (8 U.S.C. 310 et seq.) not earlier than 7 years after
12 such adjustment of status.

13 **SEC. 3013. FUNDING.**

14 (a) DEPARTMENT OF HOMELAND SECURITY IMMI-
15 GRATION REFORM IMPLEMENTATION ACCOUNT.—

16 (1) IN GENERAL.—There is established in the
17 Treasury a separate account, which shall be known
18 as the “Department of Homeland Security Immigra-
19 tion Reform Implementation Account” (referred to
20 in this section as the “Implementation Account”).

21 (2) AUTHORIZATION AND APPROPRIATIONS.—

22 There are appropriated to the Implementation Ac-
23 count, out of any funds in the Treasury not other-
24 wise appropriated, \$400,000,000, which shall remain
25 available until September 30, 2022.

1 (3) USE OF APPROPRIATIONS.—The Secretary
2 is authorized to use funds appropriated to the Im-
3 plementation Account to pay for one-time and start-
4 up costs necessary to implement this title, including,
5 but not limited to—

6 (A) personnel required to process applica-
7 tions and petitions;

8 (B) equipment, information technology sys-
9 tems, infrastructure, and human resources;

10 (C) outreach to the public, including devel-
11 opment and promulgation of any regulations,
12 rules, or other public notice; and

13 (D) anti-fraud programs and actions re-
14 lated to implementation of this title.

15 (4) REPORTING.—Not later than 180 days after
16 the date of the enactment of this Act, the Secretary
17 shall submit a plan to the Committee on Appropria-
18 tions of the Senate, the Committee on the Judiciary
19 of the Senate, the Committee on Appropriations of
20 the House of Representatives, and the Committee on
21 the Judiciary of the House of Representatives for
22 spending the funds appropriated under paragraph
23 (2) that describes how such funds will be obligated
24 in each fiscal year, by program.

25 (b) DEPOSIT AND USE OF PROCESSING FEES.—

1 (1) in section 101(b)(1), in the matter pre-
2 ceding subparagraph (A), by striking “under twenty-
3 one years of age who” and inserting “who is younger
4 than 18 years of age and”; and

5 (2) in section 201 (8 U.S.C. 1151)—

6 (A) in subsection (b)(2)(A)—

7 (i) in clause (i), by striking “children,
8 spouses, and parents of a citizen of the
9 United States, except that, in the case of
10 parents, such citizens shall be at least 21
11 years of age.” and inserting “children and
12 spouse of a citizen of the United States.”;
13 and

14 (ii) in clause (ii), by striking “such an
15 immediate relative” and inserting “the im-
16 mediate relative spouse of a United States
17 citizen”;

18 (B) by amending subsection (c) to read as
19 follows:

20 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
21 IMMIGRANTS.—(1) The worldwide level of family-spon-
22 sored immigrants under this subsection for a fiscal year
23 is equal to 39 percent of 226,000 minus the number com-
24 puted under paragraph (2).

1 “(2) The number computed under this paragraph for
2 a fiscal year is the number of aliens who were paroled into
3 the United States under section 212(d)(5) in the second
4 preceding fiscal year who—

5 “(A) did not depart from the United States
6 (without advance parole) within 1 year; and

7 “(B)(i) did not acquire the status of an alien
8 lawfully admitted to the United States for perma-
9 nent residence during the 2 preceding fiscal years;
10 or

11 “(ii) acquired such status during such period
12 under a provision of law (other than subsection (b))
13 that exempts adjustment to such status from the nu-
14 merical limitation on the worldwide level of immigra-
15 tion under this section.”; and

16 (C) in subsection (f)—

17 (i) in paragraph (2), by striking “sec-
18 tion 203(a)(2)(A)” and inserting “section
19 203(a)”;

20 (ii) by striking paragraph (3);

21 (iii) by redesignating paragraph (4) as
22 paragraph (3); and

23 (iv) in paragraph (3), as redesignated,
24 by striking “(1) through (3)” and inserting
25 “(1) and (2)”.

1 (b) FAMILY-BASED VISA PREFERENCES.—Section
2 203(a) of the Immigration and Nationality Act (8 U.S.C.
3 1153(a)) is amended to read as follows:

4 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
5 NENT RESIDENT ALIENS.—Family-sponsored immigrants
6 described in this subsection are qualified immigrants who
7 are the spouse or a child of an alien lawfully admitted
8 for permanent residence.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) DEFINITION OF V NONIMMIGRANT.—Section
11 101(a)(15)(V) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-
13 ing “section 203(a)(2)(A)” each place such term ap-
14 pears and inserting “section 203(a)”.

15 (2) NUMERICAL LIMITATION TO ANY SINGLE
16 FOREIGN STATE.—Section 202 of such Act (8
17 U.S.C. 1152) is amended—

18 (A) in subsection (a)(4)—

19 (i) by striking subparagraphs (A) and
20 (B) and inserting the following:

21 “(A) 75 PERCENT OF FAMILY-SPONSORED
22 IMMIGRANTS NOT SUBJECT TO PER COUNTRY
23 LIMITATION.—Of the visa numbers made avail-
24 able under section 203(a) in any fiscal year, 75

1 percent shall be issued without regard to the
2 numerical limitation under paragraph (2).

3 “(B) TREATMENT OF REMAINING 25 PER-
4 CENT FOR COUNTRIES SUBJECT TO SUB-
5 SECTION (e).—

6 “(i) IN GENERAL.—Of the visa num-
7 bers made available under section 203(a)
8 in any fiscal year, 25 percent shall be
9 available, in the case of a foreign state or
10 dependent area that is subject to sub-
11 section (e) only to the extent that the total
12 number of visas issued in accordance with
13 subparagraph (A) to natives of the foreign
14 state or dependent area is less than the
15 subsection (e) ceiling.

16 “(ii) SUBSECTION (e) CEILING DE-
17 FINED.—In clause (i), the term ‘subsection
18 (e) ceiling’ means, for a foreign state or
19 dependent area, 77 percent of the max-
20 imum number of visas that may be made
21 available under section 203(a) to immi-
22 grants who are natives of the state or area,
23 consistent with subsection (e).”; and

24 (ii) by striking subparagraphs (C) and
25 (D); and

- 1 (B) in subsection (e)—
- 2 (i) in paragraph (1), by adding “and”
- 3 at the end;
- 4 (ii) by striking paragraph (2);
- 5 (iii) by redesignating paragraph (3) as
- 6 paragraph (2); and
- 7 (iv) in the undesignated matter after
- 8 paragraph (2), as redesignated, by striking
- 9 “, respectively,” and all that follows and
- 10 inserting a period.

11 (3) RULES FOR DETERMINING WHETHER CER-

12 TAIN ALIENS ARE CHILDREN.—Section 203(h) of the

13 Immigration and Nationality Act (8 U.S.C. 1153(h))

14 is amended by striking “(a)(2)(A)” each place such

15 term appears and inserting “(a)(2)”.

16 (4) PROCEDURE FOR GRANTING IMMIGRANT

17 STATUS.—Section 204 of such Act (8 U.S.C. 1154)

18 is amended—

- 19 (A) in subsection (a)(1)—
- 20 (i) in subparagraph (A)(i), by striking
- 21 “to classification by reason of a relation-
- 22 ship described in paragraph (1), (3), or (4)
- 23 of section 203(a) or”;

1 (ii) in subparagraph (B), by striking
2 “203(a)(2)(A)” each place such term ap-
3 pears and inserting “203(a)”; and

4 (iii) in subparagraph (D)(i)(I), by
5 striking “a petitioner” and all that follows
6 through “(a)(1)(B)(iii).” and inserting “an
7 individual younger than 18 years of age for
8 purposes of adjudicating such petition and
9 for purposes of admission as an immediate
10 relative under section 201(b)(2)(A)(i) or a
11 family-sponsored immigrant under section
12 203(a), as appropriate, notwithstanding
13 the actual age of the individual.”;

14 (B) in subsection (f)(1), by striking “,
15 203(a)(1), or 203(a)(3), as appropriate”; and

16 (C) by striking subsection (k).

17 (5) WAIVERS OF INADMISSIBILITY.—Section
18 212 of the Immigration and Nationality Act (8
19 U.S.C. 1182) is amended—

20 (A) in subsection (a)(6)(E)(ii), by striking
21 “section 203(a)(2)” and inserting “section
22 203(a)”; and

23 (B) in subsection (d)(11), by striking
24 “(other than paragraph (4) thereof)”.

1 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
2 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
3 1184(q)(1)(B)(i)) is amended by striking “section
4 203(a)(2)(A)” each place such term appears and in-
5 serting “section 203(a)”.

6 (7) DEFINITION OF ALIEN SPOUSE.—Section
7 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
8 is amended by striking “section 203(a)(2)” and in-
9 serting “section 203(a)”.

10 (8) CLASSES OF DEPORTABLE ALIENS.—Sec-
11 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
12 1227(a)(1)(E)(ii)) is amended by striking “section
13 203(a)(2)” and inserting “section 203(a)”.

14 (d) CREATION OF NONIMMIGRANT CLASSIFICATION
15 FOR ALIEN PARENTS OF ADULT UNITED STATES CITI-
16 ZENS.—

17 (1) IN GENERAL.—Section 101(a)(15) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)) is amended—

20 (A) in subparagraph (T)(ii)(III), by strik-
21 ing the period at the end and inserting a semi-
22 colon;

23 (B) in subparagraph (U)(iii), by striking
24 “or” at the end;

1 (C) in subparagraph (V)(ii)(II), by striking
2 the period at the end and inserting “; or”; and

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

4 “(W) Subject to section 214(s), an alien who is
5 a parent of a citizen of the United States, if the cit-
6 izen is at least 21 years of age.”.

7 (2) CONDITIONS ON ADMISSION.—Section 214
8 of the Immigration and Nationality Act (8 U.S.C.
9 1184) is amended by adding at the end the fol-
10 lowing:

11 “(s)(1) The initial period of authorized admission for
12 a nonimmigrant described in section 101(a)(15)(W) shall
13 be 5 years, but may be extended by the Secretary of
14 Homeland Security for additional 5-year periods if the
15 United States citizen son or daughter of the nonimmigrant
16 is still residing in the United States.

17 “(2) A nonimmigrant described in section
18 101(a)(15)(W)—

19 “(A) is not authorized to be employed in the
20 United States; and

21 “(B) is not eligible for any Federal, State, or
22 local public benefit.

23 “(3) Regardless of the resources of a nonimmigrant
24 described in section 101(a)(15)(W), the United States cit-
25 izen son or daughter who sponsored the nonimmigrant

1 parent shall be responsible for the nonimmigrant's support
2 while the nonimmigrant resides in the United States.

3 “(4) An alien is ineligible to receive a visa or to be
4 admitted into the United States as a nonimmigrant de-
5 scribed in section 101(a)(15)(W) unless the alien provides
6 satisfactory proof that the United States citizen son or
7 daughter has arranged for health insurance coverage for
8 the alien, at no cost to the alien, during the anticipated
9 period of the alien's residence in the United States.”.

10 (e) EFFECTIVE DATE; APPLICABILITY.—

11 (1) EFFECTIVE DATE.—The amendments made
12 by this section shall take effect on the date of enact-
13 ment of this Act.

14 (2) NEW PETITIONS.—

15 (A) IN GENERAL.—The Director of U. S.
16 Citizenship and Immigration Services shall only
17 accept new family-based petitions for spouses
18 and minor children of United States citizens
19 and lawful permanent residents under—

20 (i) section 201(b)(1)(A) of the Immi-
21 gration and Nationality Act (8 U.S.C.
22 1151(b)(1)(A)); or

23 (ii) subsection (a) or (b) of section
24 203 of such Act (8 U.S.C. 1153).

1 (B) LIMITATION.—The Director of U. S.
2 Citizenship and Immigration Services may not
3 accept any new family-based petition other than
4 a petition described in subparagraph (A).

5 (3) GRANDFATHERED PETITIONS AND VISAS.—
6 Notwithstanding the termination by this title of the
7 family-sponsored immigrant visa categories under
8 section 203(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1153(a)) (as of the date before the
10 date of enactment of this Act), the amendments
11 made by this section shall not apply, and visas shall
12 remain available to, any alien who has—

13 (A) an approved family-based petition that
14 has not been terminated or revoked, or

15 (B) a properly-filed family-based petition
16 that is—

17 (i) pending with U.S. Citizenship and
18 Immigration Services; and

19 (ii) based on subsection (a) of section
20 203 of the Immigration and Nationality
21 Act (8 U.S.C. 1153(a)) (as in effect on the
22 day before the date of enactment of this
23 Act).

24 (4) AVAILABILITY OF VISAS FOR GRAND-
25 FATHERED PETITIONS.—The Secretary shall con-

1 tinue to allocate a sufficient number of visas in fam-
2 ily-sponsored immigrant visa categories until the
3 date on which a visa has been made available, in
4 conformance with the numeric and per country limi-
5 tations in effect on the day before the date of enact-
6 ment of this Act, to each beneficiary of an approved
7 or pending petition described in subparagraph (A) or
8 (B) of paragraph (3), if the beneficiary—

9 (A) indicates an intent to pursue the immi-
10 grant visa not later than 1 year after the date
11 on which the Secretary of State notifies the
12 beneficiary of the availability of the visa; and

13 (B) is otherwise qualified to receive a visa
14 under this Act.

15 (f) **TERMINATION OF REGISTRATION.**—Section
16 203(g) of the Immigration and Nationality Act (8 U.S.C.
17 1153(g)) is amended—

18 (1) by striking the second sentence;

19 (2) by striking the subsection designation and
20 heading and all that follows through “For purposes”
21 in the first sentence and inserting the following:

22 “(g) **LISTS.**—

23 “(1) **IN GENERAL.**—For purposes”; and

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

25 “(2) **TERMINATION OF REGISTRATION.**—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Secretary of State shall
3 terminate the registration of any alien who fails
4 to apply for an immigrant visa within the 1-
5 year period beginning on the date on which the
6 Secretary of State notifies the alien of the avail-
7 ability of the immigrant visa.

8 “(B) EXCEPTION.—The Secretary of State
9 shall not terminate the registration of an alien
10 under subparagraph (A) if the alien dem-
11 onstrates that the failure of the alien to apply
12 for an immigrant visa during the period de-
13 scribed in that subparagraph was due to an ex-
14 tenuating circumstance beyond the control of
15 the alien.”.

16 **SEC. 4003. ELIMINATION OF DIVERSITY VISA PROGRAM.**

17 (a) IN GENERAL.—Section 203 of the Immigration
18 and Nationality Act (8 U.S.C. 1153) is amended—

19 (1) by striking subsection (c);

20 (2) by redesignating subsections (d), (e), (f),
21 (g), and (h) as subsections (c), (d), (e), (f), and (g),
22 respectively;

23 (3) in subsection (c), as redesignated, by strik-
24 ing “subsection (a), (b), or (c)” and inserting “sub-
25 section (a) or (b)”;

1 (4) in subsection (d), as redesignated—

2 (A) by striking paragraph (2); and

3 (B) by redesignating paragraph (3) as
4 paragraph (2);

5 (5) in subsection (e), as redesignated, by strik-
6 ing “subsection (a), (b), or (c) of this section” and
7 inserting “subsection (a) or (b)”;

8 (6) in subsection (f), as redesignated, by strik-
9 ing “subsections (a), (b), and (c)” and inserting
10 “subsections (a) and (b)”;

11 (7) in subsection (g), as redesignated—

12 (A) by striking “(d)” each place it appears
13 and inserting “(c)”;

14 (B) in paragraph (2)(B), by striking “sub-
15 section (a), (b), or (c)” and inserting “sub-
16 section (a) or (b)”.

17 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

18 The Immigration and Nationality Act (8 U.S.C. 1101 et
19 seq.) is amended—

20 (1) in section 101(a)(15)(V) (8 U.S.C.
21 1101(a)(15)(V)), by striking “section 203(d)” and
22 inserting “section 203(c)”;

23 (2) in section 201 (8 U.S.C. 1151)—

24 (A) in subsection (a)—

- 1 (i) in paragraph (1), by adding “and”
2 at the end;
- 3 (ii) in paragraph (2), by striking “;
4 and” and inserting a period; and
- 5 (iii) by striking paragraph (3);
- 6 (B) by striking subsection (e); and
- 7 (C) by redesignating subsection (f) as sub-
8 section (e);
- 9 (3) in section 203(b)(2)(B)(ii)(IV) (8 U.S.C.
10 1153(b)(2)(B)(ii)(IV)), by striking “section
11 203(b)(2)(B)” each place such term appears and in-
12 serting “clause (i)”;
- 13 (4) in section 204 (8 U.S.C. 1154)—
- 14 (A) in subsection (a)(1)—
- 15 (i) by striking subparagraph (I); and
- 16 (ii) by redesignating subparagraphs
17 (J) through (L) as subparagraphs (I)
18 through (K), respectively;
- 19 (B) in subsection (e), by striking “sub-
20 section (a), (b), or (c) of section 203” and in-
21 serting “subsection (a) or (b) of section 203”;
22 and
- 23 (C) in subsection (l)(2)—

1 (i) in subparagraph (B), by striking
2 “section 203 (a) or (d)” and inserting
3 “subsection (a) or (c) of section 203”; and
4 (ii) in subparagraph (C), by striking
5 “section 203(d)” and inserting “section
6 203(c)”;

7 (5) in section 214(q)(1)(B)(i) (8 U.S.C.
8 1184(q)(1)(B)(i)), by striking “section 203(d)” and
9 inserting “section 203(c)”;

10 (6) in section 216(h)(1) (8 U.S.C.
11 1186a(h)(1)), in the undesignated matter following
12 subparagraph (C), by striking “section 203(d)” and
13 inserting “section 203(c)”;

14 (7) in section 245(i)(1)(B) (8 U.S.C.
15 1255(i)(1)(B)), by striking “section 203(d)” and in-
16 serting “section 203(c)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the first day of the first
19 fiscal year beginning on or after the date of the enactment
20 of this Act.

21 (d) REALLOCATION OF VISAS; GRANDFATHERED PE-
22 TITIONS.—

23 (1) GRANDFATHERED PETITIONS AND VISAS.—
24 Notwithstanding the elimination under this section
25 of the diversity visa program described in sections

1 voked as of the date of enactment of
2 this Act.

3 (II) 25,000 visas shall be made
4 available to qualified aliens who have
5 an approved employment-based peti-
6 tion based on paragraphs (1), (2), or
7 (3) of section 203(b) of the Immigra-
8 tion and Nationality Act (8 U.S.C.
9 1153) that has not been terminated or
10 revoked as of the date of enactment of
11 this Act.

12 (ii) NACARA VISAS.—On the exhaus-
13 tion of 5,000 visas made available under
14 the Nicaraguan Adjustment and Central
15 American Relief Act (Public Law 105–100;
16 8 U.S.C. 1153 note), the remainder of the
17 visas made available under that Act shall
18 be equally divided and added to the visas
19 provided under subclauses (I) and (II) of
20 clause (i).

21 (B) NOTIFICATION.—

22 (i) FEDERAL REGISTER.—The Sec-
23 retary of Homeland Security, in consulta-
24 tion with the Secretary of State, shall pub-

1 lish a notice in the Federal Register to no-
2 tify affected aliens with respect to—

3 (I) the availability of visas under
4 subparagraph (A);

5 (II) the manner in which the
6 visas shall be allocated.

7 (ii) VISA BULLETIN.—The Secretary
8 of State shall publish a notice in the
9 monthly visa bulletin of the Department of
10 State with respect to—

11 (I) the availability of visas under
12 subparagraph (A);

13 (II) the manner in which the
14 visas shall be allocated.

15 **TITLE V—OTHER MATTERS**

16 **SEC. 5001. OTHER IMMIGRATION AND NATIONALITY ACT** 17 **AMENDMENTS.**

18 (a) NOTICE OF ADDRESS CHANGE.—Section 265(a)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1305(a)) is amended to read as follows:

21 “(a) Each alien required to be registered under this
22 Act who is physically present in the United States shall
23 notify the Secretary of Homeland Security of each change
24 of address and new address not later than 10 days after

1 the date of such change and shall furnish such notice in
2 the manner prescribed by the Secretary.”.

3 (b) PHOTOGRAPHS FOR NATURALIZATION CERTIFI-
4 CATES.—Section 333 of the Immigration and Nationality
5 Act (8 U.S.C. 1444) is amended—

6 (1) in subsection (b)—

7 (A) by redesignating paragraphs (1)
8 through (7) as subparagraphs (A) through (G);

9 (B) by inserting “(1)” after “(b)”; and

10 (C) by striking the undesignated matter at
11 the end and inserting the following:

12 “(2) Of the photographs furnished pursuant to para-
13 graph (1)—

14 “(A) 1 shall be affixed to each certificate issued
15 by the Attorney General; and

16 “(B) 1 shall be affixed to the copy of such cer-
17 tificate retained by the Department.”; and

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

19 “(c) The Secretary may modify the technical require-
20 ments under this section in the Secretary’s discretion and
21 as the Secretary may consider necessary to provide for
22 photographs to be furnished and used in a manner that
23 is efficient, secure, and consistent with the latest develop-
24 ments in technology.”.

1 **SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE PRO-**
2 **CEDURE ACT.**

3 Except for regulations promulgated pursuant to this
4 Act, section 552 of title 5, United States Code (commonly
5 known as the “Freedom of Information Act” (5 U.S.C.
6 522)), and section 552a of such title (commonly known
7 as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title
8 5, United States Code (commonly known as the “Adminis-
9 trative Procedures Act”), and any other law relating to
10 rulemaking, information collection, or publication in the
11 Federal Register, shall not apply to any action to imple-
12 ment this Act or the amendments made by this Act, to
13 the extent the Secretary of Homeland Security, the Sec-
14 retary of State, or the Attorney General determines that
15 compliance with any such law would impede the expedi-
16 tious implementation of this Act or the amendments made
17 by this Act.

18 **SEC. 5003. EXEMPTION FROM THE PAPERWORK REDUC-**
19 **TION ACT.**

20 (1) IN GENERAL.—Chapter 35 of title 44,
21 United States Code, shall not apply to any action to
22 implement this Act or the amendments made by this
23 Act to the extent the Secretary of Homeland Secu-
24 rity, the Secretary of State, or the Attorney General
25 determines that compliance with such law would im-

1 pede the expeditious implementation of this Act or
2 the amendments made by this Act.

3 (2) SUNSET.—

4 (A) IN GENERAL.—The exemption pro-
5 vided under this section shall sunset not later
6 than 3 years after the date of enactment of this
7 Act.

8 (B) RULE OF CONSTRUCTION.—Subpara-
9 graph (A) does not impose any requirement on,
10 or affect the validity of, any rule issued or other
11 action taken by the Secretary under the exemp-
12 tion described in paragraph (1).

13 **SEC. 5004. EXEMPTION FROM GOVERNMENT CONTRACTING**
14 **AND HIRING RULES.**

15 (1) COMPETITION REQUIREMENTS.—

16 (A) IN GENERAL.—For purposes of imple-
17 menting this Act, the competition requirements
18 of section 253(a) of title 41, United States
19 Code, shall not apply.

20 (B) AGENCY DETERMINATION.—The deter-
21 mination of an agency under section 253(c) of
22 title 41, United States Code, shall not be sub-
23 ject to challenge by protest to—

1 (i) the Government Accountability Of-
2 fice, under sections 3551 through 3556 of
3 title 31, United States Code; or

4 (ii) the Court of Federal Claims,
5 under section 1491 of title 28, United
6 States Code.

7 (C) NOTICE TO CONGRESS.—An agency
8 shall immediately advise the Congress of the ex-
9 ercise of the authority granted under this para-
10 graph.

11 (2) CONTRACTING.—

12 (A) IN GENERAL.—Notwithstanding any
13 other provision of law, the Secretary, in ad-
14 vance of the receipt of any fees imposed on any
15 beneficiary or petitioner for benefits under this
16 Act, may enter into 1 or more contracts for the
17 purpose of implementing the programs under
18 this Act.

19 (B) LIMITATION.—With respect to a con-
20 tract under subparagraph (A), the Secretary
21 shall not enter into an obligation that exceeds
22 the amount necessary to defray the cost of the
23 programs under this Act.

24 (3) NOTICE TO CONGRESS.—The Secretary
25 shall—

1 (A) immediately advise Congress of the ex-
2 ercise of authority granted in paragraph (2);
3 and

4 (B) shall report quarterly on the estimated
5 obligations incurred pursuant to that para-
6 graph.

7 (4) APPOINTMENTS.—

8 (A) IN GENERAL.—Notwithstanding any
9 other provision of law, the Secretary shall have
10 authority to make term, temporary limited, and
11 part-time appointments without regard to—

12 (i) the number of such employees;

13 (ii) the ratio of such employees to per-
14 manent full-time employees; or

15 (iii) the duration of employment of
16 such employees.

17 (B) RULE OF CONSTRUCTION.—Chapter
18 71 of title 5, United States Code, shall not af-
19 fect the authority of any management official of
20 the Department to hire term, temporary lim-
21 ited, or part-time employees under this para-
22 graph.

1 **SEC. 5005. ABILITY TO FILL AND RETAIN DEPARTMENT OF**
2 **HOMELAND SECURITY POSITIONS IN UNITED**
3 **STATES TERRITORIES.**

4 (a) IN GENERAL.—Section 530C of title 28, United
5 States Code, is amended—

6 (1) in subsection (a), in the matter preceding
7 paragraph (1)—

8 (A) by inserting “or the Department of
9 Homeland Security” after “Department of Jus-
10 tice”; and

11 (B) by inserting “or the Secretary of
12 Homeland Security” after “Attorney General”;

13 (2) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) in the matter preceding subpara-
16 graph (A), by inserting “or to the Sec-
17 retary of Homeland Security” after “At-
18 torney General”; and

19 (ii) in subparagraph (K)—

20 (I) in clause (i)—

21 (aa) by inserting “or within
22 United States territories or com-
23 monwealths” after “outside
24 United States”; and

1 (bb) by inserting “or the
2 Secretary of Homeland Security”
3 after “Attorney General”;

4 (II) in clause (ii), by inserting
5 “or the Secretary of Homeland Secu-
6 rity” after “Attorney General”;

7 (B) in paragraph (2)—

8 (i) in subparagraph (A), by striking
9 “for the Drug Enforcement Administra-
10 tion, and for the Immigration and Natu-
11 ralization Service” and inserting “and for
12 the Drug Enforcement Administration”;
13 and

14 (ii) in subparagraph (B), in the mat-
15 ter preceding clause (i), by striking “the
16 Immigration and Naturalization Service”
17 and inserting “the Department of Home-
18 land Security”;

19 (C) in paragraph (5), by striking “IMMI-
20 GRATION AND NATURALIZATION SERVICE.—
21 Funds available to the Attorney General” and
22 replacing with “DEPARTMENT OF HOMELAND
23 SECURITY.—Funds available to the Secretary of
24 Homeland Security”; and

25 (D) in paragraph (7)—

1 (i) by inserting “or the Secretary of
2 Homeland Security” after “Attorney Gen-
3 eral”; and

4 (ii) by striking “the Immigration and
5 Naturalization Service” and inserting
6 “U.S. Immigration and Customs Enforce-
7 ment”; and

8 (3) in subsection (d), by inserting “or the De-
9 partment of Homeland Security” after “Department
10 of Justice”.

11 **SEC. 5006. SEVERABILITY.**

12 If any provision of this Act or any amendment made
13 by this Act, or any application of such provision or amend-
14 ment to any person or circumstance, is held to be uncon-
15 stitutional, the remainder of the provisions of this Act and
16 the amendments made by this Act and the application of
17 the provision or amendment to any other person or cir-
18 cumstance shall not be affected.

19 **SEC. 5007. FUNDING.**

20 (a) IMPLEMENTATION.—The Director of the Office of
21 Management and Budget shall determine and identify—

22 (1) the appropriation accounts which have un-
23 obligated funds that could be rescinded and used to
24 fund the provisions of this Act; and

1 (2) the amount of the rescission that shall be
2 applied to each such account.

3 (b) REPORT.—Not later than 60 days after the date
4 of enactment of this Act, the Director of the Office of
5 Management and Budget shall submit to Congress and to
6 the Secretary of the Treasury a report that describes the
7 accounts and amounts determined and identified for re-
8 scission pursuant to subsection (a).

9 (c) EXCEPTIONS.—This section shall not apply to un-
10 obligated funds of—

11 (1) the Department of Homeland Security;

12 (2) the Department of Defense; or

13 (3) the Department of Veterans Affairs.

14 **TITLE VI—TECHNICAL**
15 **AMENDMENTS**

16 **SEC. 6001. REFERENCES TO THE IMMIGRATION AND NA-**
17 **TIONALITY ACT.**

18 Except as otherwise expressly provided, whenever in
19 this title an amendment or repeal is expressed in terms
20 of an amendment to, or repeal of, a section or other provi-
21 sion, the reference shall be considered to be made to a
22 section or other provision of the Immigration and Nation-
23 ality Act (8 U.S.C. 1101 et seq.).

1 **SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF THE**
2 **IMMIGRATION AND NATIONALITY ACT.**

3 (a) SECTION 101.—

4 (1) DEPARTMENT.—Section 101(a)(8) (8
5 U.S.C. 1101(a)(8)) is amended to read as follows:

6 “(8) The term ‘Department’ means the Department
7 of Homeland Security.”.

8 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C.
9 1101(a)(15)) is amended—

10 (A) in subparagraph (F)(i)—

11 (i) by striking the term “Attorney
12 General” each place that term appears and
13 inserting “Secretary”; and

14 (ii) by striking “214(l)” and inserting
15 “214(m)”;

16 (B) in subparagraph (H)(i)—

17 (i) in subclause (b), by striking “cer-
18 tifies to the Attorney General that the in-
19 tending employer has filed with the Sec-
20 retary” and inserting “certifies to the Sec-
21 retary of Homeland Security that the in-
22 tending employer has filed with the Sec-
23 retary of Labor”; and

24 (ii) in subclause (c), by striking “cer-
25 tifies to the Attorney General” and insert-

1 ing “certifies to the Secretary of Homeland
2 Security”; and

3 (C) in subparagraph (M)(i), by striking the
4 term “Attorney General” each place that term
5 appears and inserting “Secretary”.

6 (3) IMMIGRATION OFFICER.—Section
7 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
8 striking “Service or of the United States designated
9 by the Attorney General,” and inserting “Depart-
10 ment or of the United States designated by the Sec-
11 retary,”.

12 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C.
13 1101(a)(34)) is amended to read as follows:

14 “(34) The term ‘Secretary’ means the Secretary of
15 Homeland Security, except as provided in section
16 219(d)(4).”.

17 (5) SPECIAL IMMIGRANT.—Section
18 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
19 amended by adding “; or” at the end.

20 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPAC-
21 ITY.—Section 101(a)(44)(C) (8 U.S.C.
22 1101(a)(44)(C)) is amended by striking “Attorney
23 General” and inserting “Secretary”.

1 (7) ORDER OF REMOVAL.—Section
2 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amend-
3 ed to read as follows:

4 “(A) The term ‘order of removal’ means the
5 order of the immigration judge, or other such ad-
6 ministrative officer to whom the Attorney General or
7 the Secretary has delegated the responsibility for de-
8 termining whether an alien is removable, concluding
9 that the alien is removable or ordering removal.”.

10 (8) TITLE I AND II DEFINITIONS.—Section
11 101(b) (8 U.S.C. 1101(b)) is amended—

12 (A) in paragraph (1)(F)(i), by striking
13 “Attorney General” and inserting “Secretary”;
14 and

15 (B) in paragraph (4), by striking “Immi-
16 gration and Naturalization Service.” and insert-
17 ing “Department.”.

18 (b) SECTION 103.—

19 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103)
20 is amended by striking the section heading and sub-
21 section (a)(1) and inserting the following:

22 **“SEC. 103. POWERS AND DUTIES.**

23 “(a)(1) The Secretary shall be charged with the ad-
24 ministration and enforcement of this Act and all other
25 laws relating to the immigration and naturalization of

1 aliens, except insofar as this Act or such laws relate to
2 the powers, functions, and duties conferred upon the
3 President, the Attorney General, the Secretary of Labor,
4 the Secretary of Agriculture, the Secretary of Health and
5 Human Services, the Commissioner of Social Security, the
6 Secretary of State, the officers of the Department of
7 State, or diplomatic or consular officers. A determination
8 and ruling by the Attorney General with respect to all
9 questions of law shall be controlling.”.

10 (2) TECHNICAL AND CONFORMING CORREC-
11 TIONS.—Section 103 (8 U.S.C. 1103), as amended
12 by paragraph (1), is further amended—

13 (A) in subsection (a)—

14 (i) in paragraph (2), by striking “He”
15 and inserting “The Secretary”;

16 (ii) in paragraph (3)—

17 (I) by striking “He” and insert-
18 ing “The Secretary”;

19 (II) by striking “he” and insert-
20 ing “the Secretary”; and

21 (III) by striking “his authority”
22 and inserting “the authority of the
23 Secretary”;

24 (iii) in paragraph (4)—

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1 (I) by striking “He” and insert-
2 ing “The Secretary”; and

3 (II) by striking “Service or the
4 Department of Justice” and insert the
5 “Department”;

6 (iv) in paragraph (5)—

7 (I) by striking “He” and insert-
8 ing “The Secretary”;

9 (II) by striking “his discretion,”
10 and inserting “the discretion of the
11 Secretary,” and

12 (III) by striking “him” and in-
13 serting “the Secretary”;

14 (v) in paragraph (6)—

15 (I) by striking “He” and insert-
16 ing “The Secretary”;

17 (II) by striking “Department”
18 and inserting “agency, department,”;

19 and

20 (III) by striking “Service.” and
21 inserting “Department or upon con-
22 sular officers with respect to the
23 granting or refusal of visas”;

24 (vi) in paragraph (7)—

1 (I) by striking “He” and insert-
2 ing “The Secretary”;

3 (II) by striking “countries;” and
4 inserting “countries”;

5 (III) by striking “he” and insert-
6 ing “the Secretary”; and

7 (IV) by striking “his judgment”
8 and inserting “the judgment of the
9 Secretary”;

10 (vii) in paragraph (8), by striking
11 “Attorney General” and inserting “Sec-
12 retary”;

13 (viii) in paragraph (10), by striking
14 “Attorney General” each place that term
15 appears and inserting “Secretary”; and

16 (ix) in paragraph (11), by striking
17 “Attorney General,” and inserting “Sec-
18 retary,”;

19 (B) by amending subsection (c) to read as
20 follows:

21 “(c) SECRETARY; APPOINTMENT.—The Secretary
22 shall be a citizen of the United States and shall be ap-
23 pointed by the President, by and with the advice and con-
24 sent of the Senate. The Secretary shall be charged with
25 any and all responsibilities and authority in the adminis-

1 tration of the Department and of this Act. The Secretary
2 may enter into cooperative agreements with State and
3 local law enforcement agencies for the purpose of assisting
4 in the enforcement of the immigration laws.”;

5 (C) in subsection (e)—

6 (i) in paragraph (1), by striking
7 “Commissioner” and inserting “Sec-
8 retary”; and

9 (ii) in paragraph (2), by striking
10 “Service” and inserting “U.S. Citizenship
11 and Immigration Services”;

12 (D) in subsection (f)—

13 (i) by striking “Attorney General”
14 and inserting “Secretary”;

15 (ii) by striking “Immigration and
16 Naturalization Service” and inserting “De-
17 partment”; and

18 (iii) by striking “Service,” and insert-
19 ing “Department,”; and

20 (E) in subsection (g)(1), by striking “Im-
21 migration Reform, Accountability and Security
22 Enhancement Act of 2002” and inserting
23 “Homeland Security Act of 2002 (Public Law
24 107–296; 116 Stat. 2135)”.

1 (3) CLERICAL AMENDMENT.—The table of con-
2 tents in the first section is amended by striking the
3 item relating to section 103 and inserting the fol-
4 lowing:

“Sec. 103. Powers and duties.”.

5 (c) SECTION 105.—Section 105(a) is amended (8
6 U.S.C. 1105(a)) by striking “Commissioner” each place
7 that term appears and inserting “Secretary”.

8 **SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF THE**
9 **IMMIGRATION AND NATIONALITY ACT.**

10 (a) SECTION 202.—Section 202(a)(1)(B) (8 U.S.C.
11 1152(a)(1)(B)) is amended by inserting “the Secretary
12 or” after “the authority of”.

13 (b) SECTION 203.—Section 203 (8 U.S.C. 1153) is
14 amended—

15 (1) in subsection (b)(2)(B)(ii)—

16 (A) in subclause (II)—

17 (i) by inserting “the Secretary or” be-
18 fore “the Attorney General”; and

19 (ii) by moving such subclause 4 ems
20 to the left; and

21 (B) by moving subclauses (III) and (IV) 4
22 ems to the left; and

23 (2) in subsection (f) (as redesignated by section
24 4003(a)(2))—

1 (A) by striking “Secretary’s” and inserting
2 “Secretary of State’s”; and

3 (B) by inserting “of State” after “but the
4 Secretary”.

5 (c) SECTION 204.—Section 204 (8 U.S.C. 1154) is
6 amended—

7 (1) in subsection (a)(1)(G)(ii), by inserting “of
8 State” after “by the Secretary”;

9 (2) in subsection (c), by inserting “the Sec-
10 retary or” before “the Attorney General” each place
11 that term appears; and

12 (3) in subsection (e), by inserting “to” after
13 “admitted”.

14 (d) SECTION 208.—Section 208 (8 U.S.C. 1158) is
15 amended—

16 (1) in subsection (a)(2)—

17 (A) by inserting “the Secretary or” before
18 “Attorney General” in subparagraph (A);

19 (B) by inserting “the Secretary or” before
20 “Attorney General” in subparagraph (D);

21 (2) in subsection (b)(2)—

22 (A) in subparagraph (B)(ii), by inserting
23 “the Secretary or” before “Attorney General”;

24 (B) in subparagraph (C), by inserting “the
25 Secretary or” before “Attorney General”; and

1 (C) in subparagraph (D), by inserting “the
2 Secretary or” before “Attorney General”.

3 (3) in subsection (c)—

4 (A) in paragraph (1), by striking “the At-
5 torney General” and inserting “the Secretary”;

6 (B) in paragraphs (2) and (3), by inserting
7 “the Secretary or” before “Attorney General”
8 each place that term appears; and

9 (4) in subsection (d)—

10 (A) in paragraph (1), by inserting “the
11 Secretary or” before “the Attorney General”,

12 (B) in paragraph (2), by striking “Attor-
13 ney General” and inserting “Secretary”;

14 (C) in paragraph (3)—

15 (i) by striking “Attorney General”
16 each place that term appears and inserting
17 “Secretary”; and

18 (ii) by striking “Attorney General’s”
19 and inserting “Secretary’s”; and

20 (D) in paragraphs (4) through (6), by in-
21 serting “the Secretary or” before “the Attorney
22 General”; and

23 (e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C.
24 1159(a)(1)(A)) is amended by striking “Secretary of

1 Homeland Security or the Attorney General” each place
2 that term appears and inserting “Secretary”.

3 (f) SECTION 212.—Section 212 (8 U.S.C. 1182) is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2), in subparagraphs
7 (C), (H)(ii), and (I), by inserting “, the Sec-
8 retary,” before “or the Attorney General” each
9 place that term appears;

10 (B) in paragraph (3)—

11 (i) in subparagraph (B)(ii)(II), by in-
12 serting “, the Secretary,” before “or the
13 Attorney General” each place that term
14 appears; and

15 (ii) in subparagraph (D), by inserting
16 “the Secretary or” before “the Attorney
17 General” each place that term appears;

18 (C) in paragraph (4)—

19 (i) in subparagraph (A), by inserting
20 “the Secretary or” before “the Attorney
21 General”; and

22 (ii) in subparagraph (B), by inserting
23 “, the Secretary,” before “or the Attorney
24 General” each place that term appears;

1 (D) in paragraph (5)(C), by striking “or,
2 in the case of an adjustment of status, the At-
3 torney General, a certificate from the Commis-
4 sion on Graduates of Foreign Nursing Schools,
5 or a certificate from an equivalent independent
6 credentialing organization approved by the At-
7 torney General” and inserting “or, in the case
8 of an adjustment of status, the Secretary or the
9 Attorney General, a certificate from the Com-
10 mission on Graduates of Foreign Nursing
11 Schools, or a certificate from an equivalent
12 independent credentialing organization ap-
13 proved by the Secretary”;

14 (E) in paragraph (9)—

15 (i) in subparagraph (B)(v)—

16 (I) by inserting “or the Sec-
17 retary” after “Attorney General” each
18 place that term appears; and

19 (II) by striking “has sole discre-
20 tion” and inserting “have discretion”;
21 and

22 (ii) in subparagraph (C)(iii), by in-
23 sserting “or the Attorney General” after
24 “Secretary of Homeland Security”; and

1 (F) in paragraph (10)(C), in clauses
2 (ii)(III) and (iii)(II), by striking “Secretary’s”
3 and inserting “Secretary of State’s”;

4 (2) in subsection (d), in paragraphs (11) and
5 (12), by inserting “or the Secretary” after “Attor-
6 ney General” each place that term appears;

7 (3) in subsection (e), by striking the first pro-
8 viso and inserting the following: “Provided, That
9 upon the favorable recommendation of the Director,
10 pursuant to the request of an interested United
11 States Government agency (or, in the case of an
12 alien described in clause (iii), pursuant to the re-
13 quest of a State Department of Public Health, or its
14 equivalent), or of the Secretary after the Secretary
15 has determined that departure from the United
16 States would impose exceptional hardship upon the
17 alien’s spouse or child (if such spouse or child is a
18 citizen of the United States or a lawfully resident
19 alien), or that the alien cannot return to the country
20 of his or her nationality or last residence because the
21 alien would be subject to persecution on account of
22 race, religion, or political opinion, the Secretary may
23 waive the requirement of such two-year foreign resi-
24 dence abroad in the case of any alien whose admis-
25 sion to the United States is found by the Secretary

1 to be in the public interest except that in the case
2 of a waiver requested by a State Department of
3 Public Health, or its equivalent, or in the case of a
4 waiver requested by an interested United States
5 Government agency on behalf of an alien described
6 in clause (iii), the waiver shall be subject to the re-
7 quirements under section 214(l):”;

8 (4) in subsections (g), (h), (i), and (k), by in-
9 serting “or the Secretary” after “Attorney General”
10 each place that term appears;

11 (5) in subsection (m)(2)(E)(iv), by inserting “of
12 Labor” after “Secretary” the second and third place
13 that term appears;

14 (6) in subsection (n), by inserting “of Labor”
15 after “Secretary” each place that term appears, ex-
16 cept that this amendment shall not apply to ref-
17 erences to the “Secretary of Labor”; and

18 (7) in subsection (s), by inserting “, the Sec-
19 retary,” before “or the Attorney General”.

20 (g) SECTION 213A.—Section 213A (8 U.S.C. 1183a)
21 is amended—

22 (1) in subsection (a)(1), in the matter pre-
23 ceding paragraph (1), by inserting “, the Secretary,”
24 after “the Attorney General”; and

1 (2) in subsection (f)(6)(B), by inserting “the
2 Secretary,” after “The Secretary of State,”.

3 (h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C.
4 1184(c)(9)(A) is amended, in the matter preceding clause
5 (i), by striking “before”.

6 (i) SECTION 217.—Section 217 (8 U.S.C. 1187) is
7 amended—

8 (1) in subsection (e)(3)(A), by inserting a
9 comma after “Regulations”;

10 (2) in subsection (f)(2)(A), by striking “section
11 (c)(2)(C),” and inserting “subsection (c)(2)(C),”;
12 and

13 (3) in subsection (h)(3)(A), by striking “the
14 alien” and inserting “an alien”.

15 (j) SECTION 218.—Section 218 (8 U.S.C. 1188) is
16 amended—

17 (1) by inserting “of Labor” after “Secretary”
18 each place that term appears, except that this
19 amendment shall not apply to references to the
20 “Secretary of Labor” or to the “Secretary of Agri-
21 culture”;

22 (2) in subsection (c)(3)(B)(iii), by striking
23 “Secretary’s” and inserting “Secretary of Labor’s”;
24 and

1 (3) in subsection (g)(4), by striking “Sec-
2 retary’s” and inserting “Secretary of Agriculture’s”.

3 (k) SECTION 219.—Section 219 (8 U.S.C. 1189) is
4 amended—

5 (1) in subsection (a)(1)(B)—

6 (A) by inserting a close parenthesis after
7 “section 212(a)(3)(B)”; and

8 (B) by striking the close parenthesis before
9 the semicolon;

10 (2) in subsection (c)(3)(D), by striking “(2),”
11 and inserting “(2);”; and

12 (3) in subsection (d)(4), by striking “the Sec-
13 retary of the Treasury” and inserting “the Secretary
14 of Homeland Security, the Secretary of the Treas-
15 ury,”.

16 (l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

17 (1) by inserting “or the Secretary” after “Sec-
18 retary of State” each place that term appears; and

19 (2) in subsection (f)—

20 (A) in the matter preceding paragraph (1),
21 by inserting “, the Department,” after “De-
22 partment of State”; and

23 (B) in paragraph (2), by striking “Sec-
24 retary’s” and inserting “their”.

1 (m) SECTION 231.—Section 231 (8 U.S.C. 1221) is
2 amended—

3 (1) in subsection (c)(10), by striking “Attorney
4 General,” and inserting “Secretary”;

5 (2) in subsection (f), by striking “Attorney
6 General” each place that term appears and inserting
7 “Secretary”;

8 (3) in subsection (g)—

9 (A) by striking “Attorney General” each
10 places that term appears and inserting “Sec-
11 retary”;

12 (B) by striking “Commissioner” each place
13 that term appears and inserting “Secretary”;
14 and

15 (4) in subsection (h), by striking “Attorney
16 General” each place that term appears and inserting
17 “Secretary”.

18 (n) SECTION 236.—Section 236(e) (8 U.S.C.
19 1226(e)) is amended—

20 (1) by striking “review.” and inserting “review,
21 other than administrative review by the Attorney
22 General pursuant to the authority granted under
23 section 103(g).”; and

24 (2) by inserting “the Secretary or” before “the
25 Attorney General under”.

1 (o) SECTION 236A.—Section 236A(a)(4) (8 U.S.C.
2 1226a(a)(4)) is amended by striking “Deputy Attorney
3 General” both places that term appears and inserting
4 “Deputy Secretary of Homeland Security”.

5 (p) SECTION 237.—Section 237(a) (8 U.S.C.
6 1227(a)) is amended—

7 (1) in the matter preceding paragraph (1), by
8 inserting “following the initiation by the Secretary
9 of removal proceedings” after “upon the order of the
10 Attorney General”; and

11 (2) in paragraph (2)(E), in the subparagraph
12 heading, by striking “, CRIMES AGAINST CHILDREN
13 AND” and inserting “; CRIMES AGAINST CHILDREN”.

14 (q) SECTION 238.—Section 238 (8 U.S.C. 1228) is
15 amended—

16 (1) in subsection (a)—

17 (A) in paragraph (2), by striking “Attor-
18 ney General” each place that term appears and
19 inserting “Secretary”; and

20 (B) in paragraphs (3) and (4)(A), by in-
21 serting “and the Secretary” after “Attorney
22 General” each place that term appears; and

23 (2) in subsection (e) (as redesignated by section
24 1703(a)(4))—

1 (A) by striking “Commissioner” each place
2 that term appears and inserting “Secretary”;

3 (B) by striking “Attorney General” each
4 place that term appears and inserting “Sec-
5 retary”; and

6 (C) in subparagraph (D)(iv), by striking
7 “Attorney General” and inserting “United
8 States Attorney”.

9 (r) SECTION 239.—Section 239(a)(1) (8 U.S.C.
10 1229(a)(1)) is amended by inserting “and the Secretary”
11 after “Attorney General” each place that term appears.

12 (s) SECTION 240.—Section 240 (8 U.S.C. 1229a) is
13 amended—

14 (1) in subsection (b)—

15 (A) in paragraph (1), by inserting “, with
16 the concurrence of the Secretary with respect to
17 employees of the Department” after “Attorney
18 General”; and

19 (B) in paragraph (5)(A), by inserting “the
20 Secretary or” before “the Attorney General”;
21 and

22 (2) in subsection (c)—

23 (A) in paragraph (2), by inserting “, the
24 Secretary of State, or the Secretary” before “to
25 be confidential”; and

1 (B) in paragraph (7)(C)(iv)(I), by striking
2 “240A(b)(2)” and inserting “section
3 240A(b)(2)”.

4 (t) SECTION 240A.—Section 240A(b) (8 U.S.C.
5 1229b(b)) is amended—

6 (1) in paragraph (3), by striking “Attorney
7 General shall” and inserting “Secretary shall”; and

8 (2) in paragraph (4)(A), by striking “Attorney
9 General” and inserting “Secretary”.

10 (u) SECTION 240B.—Section 240B(a) (8 U.S.C.
11 1229c(a)) is amended in paragraphs (1) and (3), by in-
12 serting “or the Secretary” after “Attorney General” each
13 place that term appears.

14 (v) SECTION 241.—Section 241 (8 U.S.C. 1231) is
15 amended—

16 (1) in subsection (a)(4)(B)(i), by inserting a
17 close parenthesis after “(L)”;

18 (2) in subsection (g)(2)—

19 (A) by striking the paragraph heading and
20 inserting “DETENTION FACILITIES OF THE DE-
21 PARTMENT OF HOMELAND SECURITY.—”; and

22 (B) by striking “Service, the Commis-
23 sioner” and inserting “Department, the Sec-
24 retary”.

1 (w) SECTION 242.—Section 242(g) (8 U.S.C.
2 1252(g)) is amended by inserting “the Secretary or” be-
3 fore “the Attorney General”.

4 (x) SECTION 243.—Section 243 (8 U.S.C. 1253) (as
5 amended by section 1720) is amended in subsection
6 (b)(1)—

7 (1) by striking “Attorney General” each place
8 that term appears and inserting “Secretary”; and

9 (2) by striking “Commissioner” each place that
10 term appears and inserting “Secretary”.

11 (y) SECTION 244.—Section 244 (8 U.S.C. 1254a) is
12 amended—

13 (1) in subsection (c)(2), by inserting “or the
14 Secretary” after “Attorney General” each place the
15 term appears; and

16 (2) in subsection (g), by inserting “or the Sec-
17 retary” after “Attorney General”.

18 (z) SECTION 245.—Section 245 (8 U.S.C. 1255) is
19 amended—

20 (1) by inserting “or the Secretary” after “At-
21 torney General” each place that term appears except
22 in subsections (j) (other than the first reference), (l),
23 and (m);

24 (2) in subsection (k)(1), adding an “and” at
25 the end; and

1 (3) in subsection (l)—

2 (A) in paragraph (1), by inserting a
3 comma after “appropriate”; and

4 (B) in paragraph (2)—

5 (i) in the matter preceding paragraph
6 (1), by striking “Attorney General’s” and
7 inserting “Secretary’s”; and

8 (ii) in subparagraph (B), by striking
9 “(10(E))” and inserting “(10(E))”.

10 (aa) SECTION 245A.—Section 245A (8 U.S.C.
11 1255a) is amended—

12 (1) in subsection (c)(7), by striking subpara-
13 graph (C); and

14 (2) in subsection (h)—

15 (A) in paragraph (4)(C), by striking “The
16 The” and inserting “The”; and

17 (B) in paragraph (5), by striking “(Public
18 Law 96–122),” and inserting “(8 U.S.C. 1522
19 note),”.

20 (bb) SECTION 251.—Section 251(d) (8 U.S.C.
21 1281(d)) is amended—

22 (1) by striking “Attorney General” each place
23 that term appears and inserting “Secretary”; and

24 (2) by striking “Commissioner” each place that
25 term appears and inserting “Secretary”.

1 (cc) SECTION 254.—Section 254(a) (8 U.S.C.
2 1284(a)) is amended by striking “Commissioner” each
3 place that term appears and inserting “Secretary”.

4 (dd) SECTION 255.—Section 255 (8 U.S.C. 1285) is
5 amended by striking “Commissioner” each place that term
6 appears and inserting “Secretary”.

7 (ee) SECTION 256.—Section 256 (8 U.S.C. 1286) is
8 amended—

9 (1) by striking “Commissioner” each place that
10 term appears and inserting “Secretary”;

11 (2) in the first and second sentences, by strik-
12 ing “Attorney General” each place that term ap-
13 pears and inserting “Secretary”.

14 (ff) SECTION 258.—Section 258 (8 U.S.C. 1288) is
15 amended—

16 (1) by inserting “of Labor” after “Secretary”
17 each place that term appears (except for in sub-
18 section (e)(2)), except that this amendment shall not
19 apply to references to the “Secretary of Labor”,
20 “the Secretary of State”;

21 (2) in subsection (d)(2)(A), by striking “at”
22 after “while”; and

23 (3) in subsection (e)(2), by striking “the Sec-
24 retary shall” and inserting “the Secretary of State
25 shall”.

1 (gg) SECTION 264.—Section 264(f) (8 U.S.C.
2 1304(f)) is amended by striking “Attorney General is”
3 and inserting “Attorney General and the Secretary are”.

4 (hh) SECTION 272.—Section 272 (8 U.S.C. 1322) is
5 amended by striking “Commissioner” each place that term
6 appears and inserting “Secretary”.

7 (ii) SECTION 273.—Section 273 (8 U.S.C. 1323) is
8 amended—

9 (1) by striking “Commissioner” each place that
10 term appears and inserting “Secretary”; and

11 (2) by striking “Attorney General” each place
12 that term appears (except in subsection (e), in the
13 matter preceding paragraph (1)) and inserting “Sec-
14 retary”.

15 (jj) SECTION 274.—Section 274(b)(2) (8 U.S.C.
16 1324(b)(2)) is amended by striking “Secretary of the
17 Treasury” and inserting “Secretary”.

18 (kk) SECTION 274B.—Section 274B(f)(2) (8 U.S.C.
19 1324b(f)(2)) is amended by striking “subsection” and in-
20 serting “section”.

21 (ll) SECTION 274C.—Section 274C(d)(2)(A) (8
22 U.S.C. 1324c(d)(2)(A)) is amended by inserting “or the
23 Secretary” after “subsection (a), the Attorney General”.

1 (mm) SECTION 274D.—Section 274D(a)(2) (8
2 U.S.C. 1324d(a)(2)) is amended by striking “Commis-
3 sioner” and inserting “Secretary”.

4 (nn) SECTION 286.—Section 286 (8 U.S.C. 1356) is
5 amended—

6 (1) in subsection (q)(1)(B), by striking “, in
7 consultation with the Secretary of the Treasury,”;

8 (2) in subsection (r)(2), by striking “section
9 245(i)(3)(b)” and inserting “section 245(i)(3)(B)”;
10 and

11 (3) in subsection (s)(5)—

12 (A) by striking “5 percent” and inserting
13 “USE OF FEES FOR DUTIES RELATING TO PETI-
14 TIONS.—Five percent”; and

15 (B) by striking “paragraph (1) (C) or (D)
16 of section 204” and inserting “subparagraph
17 (C) or (D) of section 204(a)(1)”.

18 (oo) SECTION 294.—Section 294 (8 U.S.C. 1363a)
19 is amended—

20 (1) in subsection (a), in the undesignated mat-
21 ter following paragraph (4), by striking “Commis-
22 sioner, in consultation with the Deputy Attorney
23 General,” and inserting “Secretary”; and

24 (2) in subsection (d), by striking “Deputy At-
25 torney General” and inserting “Secretary”.

1 **SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF THE**
2 **IMMIGRATION AND NATIONALITY ACT.**

3 (a) SECTION 316.—Section 316 (8 U.S.C. 1427) is
4 amended—

5 (1) in subsection (d), by inserting “or by the
6 Secretary” after “Attorney General”; and

7 (2) in subsection (f)(1), by striking “Intel-
8 ligence, the Attorney General and the Commissioner
9 of Immigration” and inserting “Intelligence and the
10 Secretary”.

11 (b) SECTION 322.—Section 322(a)(1) (8 U.S.C.
12 1433(a)(1)) is amended—

13 (1) by inserting “is” before “(or,”; and

14 (2) by striking “is” before “a citizen”.

15 (c) SECTION 342.—

16 (1) SECTION HEADING.—

17 (A) IN GENERAL.—Section 342 (8 U.S.C.
18 1453) is amended by striking the section head-
19 ing and inserting “**CANCELLATION OF CER-**
20 **TIFICATES; ACTION NOT TO AFFECT CITI-**
21 **ZENSHIP STATUS**”.

22 (B) CLERICAL AMENDMENT.—The table of
23 contents in the first section is amended by
24 striking the item relating to section 342 and in-
25 serting the following:

“Sec. 342. Cancellation of certificates; action not to affect citizenship status.”.

1 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453)
2 is amended—

3 (A) by striking “heretofore issued or made
4 by the Commissioner or a Deputy Commis-
5 sioner or hereafter made by the Attorney Gen-
6 eral”; and

7 (B) by striking “practiced upon, him or
8 the Commissioner or a Deputy Commissioner;”.

9 **SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF THE**
10 **IMMIGRATION AND NATIONALITY ACT.**

11 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i))
12 is amended by striking “insure” and inserting “ensure”.

13 **SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF THE**
14 **IMMIGRATION AND NATIONALITY ACT.**

15 (a) SECTION 504.—Section 504 (8 U.S.C. 1534) is
16 amended—

17 (1) in subsection (a)(1)(A), by striking “a” be-
18 fore “removal proceedings”;

19 (2) in subsection (i), by striking “Attorney Gen-
20 eral” inserting “Government”; and

21 (3) in subsection (k)(2), by striking “by”.

22 (b) SECTION 505.—Section 505(e)(2) (8 U.S.C.
23 1535(e)(2)) is amended by inserting “and the Secretary”
24 after “Attorney General”.

1 **SEC. 6007. OTHER AMENDMENTS.**

2 (a) CORRECTION OF COMMISSIONER OF IMMIGRA-
3 TION AND NATURALIZATION.—

4 (1) IN GENERAL.—The Immigration and Na-
5 tionality Act (8 U.S.C. 1101 et seq.) as amended by
6 this Act, is further amended by striking “Commis-
7 sioner” and “Commissioner of Immigration and
8 Naturalization” each place those terms appear and
9 inserting “Secretary”.

10 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL
11 SECURITY.—The amendment made by paragraph (1)
12 shall not apply to any reference to the “Commis-
13 sioner of Social Security”.

14 (b) CORRECTION OF BUREAU OF CITIZENSHIP AND
15 IMMIGRATION SERVICES.—Section 451(a)(1) of the
16 Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is
17 amended by striking “a bureau to be known as the ‘Bu-
18 reau of Citizenship and Immigration Services’” and in-
19 serting “an agency to be known as the ‘United States Citi-
20 zenship and Immigration Services’, the headquarters of
21 which shall be in the same State as the office of the Sec-
22 retary.”.

23 (c) CORRECTION OF IMMIGRATION AND NATURALIZA-
24 TION SERVICE.—The Immigration and Nationality Act (8
25 U.S.C. 1101 et seq.), as amended by this Act, is further
26 amended by striking “Service” and “Immigration and

1 Naturalization Service” each place those terms appear and
2 inserting “Department”.

3 (d) CORRECTION OF DEPARTMENT OF JUSTICE.—

4 (1) IN GENERAL.—The Immigration and Na-
5 tionality Act (8 U.S.C. 1101 et seq.), as amended by
6 this Act, is further amended by striking “Depart-
7 ment of Justice” each place that term appears and
8 inserting “Department”.

9 (2) EXCEPTIONS.—The amendment made by
10 paragraph (1) shall not apply in—

11 (A) subsections (d)(3)(A) and (r)(5)(A) of
12 section 214 (8 U.S.C. 1184);

13 (B) section 274B(c)(1) (8 U.S.C.
14 1324b(c)(1)); or

15 (C) title V (8 U.S.C. 1531 et seq.).

16 (e) CORRECTION OF ATTORNEY GENERAL.—The Im-
17 migration and Nationality Act (8 U.S.C. 1101 et seq.) as
18 amended by this Act, is further amended by striking “At-
19 torney General” each place that term appears and insert-
20 ing “Secretary”, except for in the following:

21 (1) Any joint references to the “Attorney Gen-
22 eral and the Secretary of Homeland Security” or
23 “the Secretary of Homeland Security and the Attor-
24 ney General”.

25 (2) Section 101(a)(5).

- 1 (3) Subparagraphs (S), (T), and (V) of section
- 2 101(a)(15).
- 3 (4) Section 101(a)(47)(A).
- 4 (5) Section 101(b)(4).
- 5 (6) Subsections (a)(1) and (g) of section 103.
- 6 (7) Subsections (b)(1) and (c) of section 105.
- 7 (8) Section 204(c).
- 8 (9) Section 208.
- 9 (10) Subparagraphs (C), (H), and (I) of section
- 10 212(a)(2).
- 11 (11) Subparagraphs (A), (B)(ii)(II), and (D) of
- 12 section 212(a)(3).
- 13 (12) Section 212(a)(9)(C)(iii).
- 14 (13) Paragraphs (11) and (12) of section
- 15 212(d).
- 16 (14) Subsections (g), (h), (i), (k), and (s) of
- 17 section 212.
- 18 (15) Subsections (a)(1) and (f)(6)(B) of section
- 19 213A.
- 20 (16) Section 216(d)(2)(c).
- 21 (17) Section 219(d)(4).
- 22 (18) Section 235(b)(1)(B)(iii)(III).
- 23 (19) The second sentence of section 236(e).
- 24 (20) Section 237.

1 (21) Paragraphs (1), (3), and (4)(A) of section
2 238(a).

3 (22) Paragraphs (1) and (5) of section 238(b).

4 (23) Section 238(c)(2)(D)(iv).

5 (24) Subsections (a) and (b) of section 239.

6 (25) Section 240.

7 (26) Section 240A.

8 (27) Subsections (a)(1), (a)(3), (b), and (c) of
9 section 240B.

10 (28) The first reference in section
11 241(a)(4)(B)(i).

12 (29) Section 241(b)(3) (except for the first ref-
13 erence in subparagraph (A), to which the amend-
14 ment shall apply).

15 (30) Section 241(i) (except for paragraph
16 (3)(B)(i), to which the amendment shall apply).

17 (31) Section 242(a)(2)(B).

18 (32) Section 242(b) (except for paragraph (8),
19 to which the amendment shall apply).

20 (33) Section 242(g).

21 (34) Subsections (a)(3)(C), (c)(2), (e), and (g)
22 of section 244.

23 (35) Section 245 (except for subsection
24 (i)(1)(B)(i), subsection (i)(3)) and the first reference
25 to the Attorney General in subsection 245(j)).

1 (36) Section 245A(a)(1)(A).

2 (37) Section 246(a).

3 (38) Section 249.

4 (39) Section 264(f).

5 (40) Section 274(e).

6 (41) Section 274A.

7 (42) Section 274B.

8 (43) Section 274C.

9 (44) Section 292.

10 (45) Subsections (d) and (f)(1) of section 316.

11 (46) Section 342.

12 (47) Section 412(f)(1)(A).

13 (48) Title V (except for subsections 506(a)(1)

14 and 507(b), (c), and (d) (first reference), to which

15 the amendment shall apply).

16 **SEC. 6008. REPEALS; RULE OF CONSTRUCTION.**

17 (a) REPEALS.—

18 (1) IMMIGRATION AND NATURALIZATION SERV-

19 ICE.—

20 (A) IN GENERAL.—Section 4 of the Act of

21 February 14, 1903 (32 Stat. 826, chapter 552;

22 8 U.S.C. 1551) is repealed.

23 (B) 8 U.S.C. 1551.—The language of the

24 compilers set out in section 1551 of title 8 of

1 the United States Code shall be removed from
2 the compilation of such title 8.

3 (2) COMMISSIONER OF IMMIGRATION AND NAT-
4 URALIZATION; OFFICE.—

5 (A) IN GENERAL.—Section 7 of the Act of
6 March 3, 1891 (26 Stat. 1085, chapter 551; 8
7 U.S.C. 1552) is repealed.

8 (B) 8 U.S.C. 1552.—The language of the
9 compilers set out in section 1552 of title 8 of
10 the United States Code shall be removed from
11 the compilation of such title 8.

12 (3) ASSISTANT COMMISSIONERS AND DISTRICT
13 DIRECTOR; COMPENSATION AND SALARY GRADE.—
14 Title II of the Department of Justice Appropriation
15 Act, 1957 (70 Stat. 307, chapter 414; 8 U.S.C.
16 1553) is amended, in the matter under the heading
17 “Immigration and Naturalization Service” and
18 under the subheading “SALARIES AND EX-
19 PENSES”, by striking “That the compensation of
20 the five assistant commissioners and one district di-
21 rector shall be at the rate of grade GS-16: Provided
22 further”.

23 (4) SPECIAL IMMIGRANT INSPECTORS AT WASH-
24 INGTON.—The Act of March 2, 1895 (28 Stat. 780,
25 chapter 177; 8 U.S.C. 1554) is amended in the mat-

1 ter following the heading “Bureau of Immigration:”
2 by striking “That hereafter special immigrant in-
3 spectors, not to exceed three, may be detailed for
4 duty in the Bureau at Washington: And provided
5 further,”.

6 (b) **RULE OF CONSTRUCTION.**—Nothing in this title
7 may be construed to repeal or limit the applicability of
8 sections 462 and 1512 of the Homeland Security Act of
9 2002 (6 U.S.C. 279 and 552) with respect to any provi-
10 sion of law or matter not specifically addressed by the
11 amendments made by this title.

12 **SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.**

13 Section 7 of the Central Intelligence Agency Act of
14 1949 (50 U.S.C. 3508) is amended by striking “Commis-
15 sioner of Immigration” and inserting “Secretary of Home-
16 land Security”.