AMENDMENT NO. _______ Calendar No._____

Purpose: In the nature of a substitute.


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 following:

2. SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

3. (a) Short Titles.—This Act may be cited as the “SECURE and SUCCEED Act”.

4. (b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short titles; table of contents.

Title I—Building America’s Trust Act

Sec. 1001. Short title.

Subtitle A—Border Security
Sec. 1101. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

Sec. 1111. Strengthening the requirements for barriers along the southern border.
Sec. 1112. Air and Marine Operations flight hours.
Sec. 1113. Capability deployment to specific sectors and transit zone.
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. 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


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.
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.
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.
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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
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 VISAS 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. 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.
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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.
TITLE I—BUILDING AMERICA'S TRUST ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the “Building America’s Trust Act”.

Subtitle A—Border Security

SEC. 1101. DEFINITIONS.

In this subtitle:

(1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term “advanced unattended surveillance sensors” means sensors that utilize an onboard computer to analyze detections in an effort to discern between vehicles, humans, and animals, and ultimately filter false positives before transmission.

(2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term “appropriate congressional committee” has the meaning given the term in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).

(3) COMMISSIONER.—The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(4) HIGH TRAFFIC AREAS.—The term “high traffic areas” has the meaning given the term in section 102(e)(1) of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996, as added by section 1111.

(5) OPERATIONAL CONTROL.—The term “operational control” has the meaning given the term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

(6) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(7) SITUATIONAL AWARENESS.—The term “situational awareness” has the meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

(8) SMALL UNMANNED AERIAL VEHICLE.—The term “small unmanned aerial vehicle” has the meaning given the term “small unmanned aircraft” in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(9) TRANSIT ZONE.—The term “transit zone” has the meaning given the term in section 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).
(10) **UNMANNED AERIAL SYSTEM.**—The term “unmanned aerial system” has the meaning given the term “unmanned aircraft system” in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(11) **UNMANNED AERIAL VEHICLE.**—The term “unmanned aerial vehicle” has the meaning given the term “unmanned aircraft system” in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

**CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT**

**SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.**

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208; 8 U.S.C. 1103 note) is amended—

(1) by amending subsection (a) to read as follows:

“(a) **IN GENERAL.**—The Secretary of Homeland Security shall take such actions as may be necessary (including the removal of obstacles to detection of illegal entrants) to construct, install, deploy, operate, and permanently maintain physical barriers, tactical infrastructure and technology in the vicinity of the United States border
(2) in subsection (b)—

(A) in the subsection heading, by striking “FENCING AND ROAD IMPROVEMENTS” and inserting “PHYSICAL BARRIERS”;

(B) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking “subsection (a)” and inserting “this section”; and

(II) by striking “roads, lighting, cameras, and sensors” and inserting “tactical infrastructure, and technology”; and

(III) by striking “gain” and inserting “achieve situational awareness and”; and

(ii) by amending subparagraph (B) to read as follows:

“(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

“(i) IN GENERAL.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this
section, shall deploy along the United States border the most practical and effective physical barriers and tactical infrastructure available for achieving situational awareness and operational control of the border.

“(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—The deployment of physical barriers and tactical infrastructure under this subparagraph shall not apply in any area or region along the border where natural terrain features, natural barriers, or the remoteness of such area or region would make any such deployment ineffective, as determined by the Secretary, for the purposes of gaining situational awareness or operational control of such area or region.”;

(iii) in subparagraph (C)—

(I) by amending clause (i) to read as follows:

“(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall, before constructing physical
barriers in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of Federal, State, local, and tribal governments, and appropriate private property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such physical barriers are to be constructed.”;

(II) by redesignating clause (ii) as clause (iii); and

(III) by inserting after clause (i), as amended, the following:

“(ii) NOTIFICATION.—Not later than 60 days after the consultation required under clause (i), the Secretary of Homeland Security shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the type of physical barriers, tactical infrastructure, or technology the Secretary has determined is
most practical and effective to achieve situ-

ational awareness and operational control
in a specific area and the other alter-

atives the Secretary considered before
making such a determination.”; and

(IV) in clause (iii), as redesig-

nated—

(aa) in subclause (I), by

striking “or” at the end;

(bb) by amending subclause

(II) to read as follows:

“(II) delay the transfer of the

possession of property to the United

States or affect the validity of any

property acquisition by purchase or

eminent domain, or to otherwise affect

the eminent domain laws of the

United States or of any state; or”;

and

(cc) by adding at the end

the following:

“(III) create any right or liability

for any party.”; and

(iv) by striking subparagraph (D);

(C) in paragraph (2)—
(i) by striking “Attorney General” and inserting “Secretary of Homeland Security”; 
(ii) by striking “this subsection” and inserting “this section”; and 
(iii) by striking “construction of fences” and inserting “the construction of physical barriers”; and 
(D) by amending paragraph (3) to read as follows:
“(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, constructing, and deploying physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into the design, construction, or deployment of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines, in the Secretary’s sole discretion, are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.”;
(3) in subsection (c), by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements that the Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious design, testing, construction, installation, deployment, operation, and maintenance of the physical barriers, tactical infrastructure and technology under this section. Any such decision by the Secretary shall be effective upon publication in the Federal Register.”; and

(4) by adding after subsection (d) the following:

“(e) TECHNOLOGY.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this section, shall deploy, operate, and permanently maintain along the United States border the most practical and effective technology available for achieving situational awareness and operational control of the border.

“(f) LIMITATION ON REQUIREMENTS.—Nothing in this section may be construed as requiring the Secretary to install tactical infrastructure, technology, and physical barriers in a particular location along an international border of the United States if the Secretary determines
that the use or placement of such resources is not the most appropriate means to achieve and maintain situational awareness and operational control over the international border at such location.

“(g) DEFINITIONS.—In this section:

“(1) HIGH TRAFFIC AREAS.—The term ‘high traffic areas’ means areas in the vicinity of the United States border that—

“(A) are within the responsibility of U.S. Customs and Border Protection; and

“(B) have significant unlawful cross-border activity, as determined by the Secretary of Homeland Security.

“(2) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given the term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

“(3) PHYSICAL BARRIERS.—The term ‘physical barriers’ includes reinforced fencing, a border wall system, and levee walls.

“(4) SITUATIONAL AWARENESS DEFINED.—The term ‘situational awareness’ has the meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).
“(5) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps, access gates, checkpoints, lighting, and roads.

“(6) TECHNOLOGY.—The term ‘technology’ means border surveillance and detection technology, including—

“(A) tower-based surveillance technology;

“(B) deployable, lighter-than-air ground surveillance equipment;

“(C) Vehicle and Dismount Exploitation Radars (VADER);

“(D) 3-dimensional, seismic acoustic detection and ranging border tunneling detection technology;

“(E) advanced unattended surveillance sensors;

“(F) mobile vehicle-mounted and man-portable surveillance capabilities;

“(G) unmanned aerial vehicles; and

“(H) other border detection, communication, and surveillance technology.

“(7) UNMANNED AERIAL VEHICLES.—The term ‘unmanned aerial vehicle’ has the meaning given the term ‘unmanned aircraft’ in section 331 of the FAA
Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).”.

SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.

(a) **INCREASED FLIGHT HOURS.**—The Secretary shall ensure that not fewer than 95,000 annual flight hours are carried out by Air and Marine Operations of U.S. Customs and Border Protection.

(b) **UNMANNED AERIAL SYSTEM.**—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that Air and Marine Operations operate unmanned aerial systems on the southern border of the United States for not fewer than 24 hours per day for 5 days per week.

(c) **CONTRACT AIR SUPPORT AUTHORIZATION.**—The Commissioner shall contract for the unfulfilled identified air support mission critical hours, as identified by the Chief of the U.S. Border Patrol.

(d) **PRIMARY MISSION.**—The Commissioner shall ensure that—

(1) the primary missions for Air and Marine Operations are to directly support U.S. Border Patrol activities along the southern border of the United States and Joint Interagency Task Force South operations in the transit zone; and
(2) the Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions established by the Commissioner to carry out the requirements under this Act.

(e) **HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.**—In accordance with subsection (d), the Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—

(1) identify critical flight hour requirements; and

(2) direct Air and Marine Operations to support requests from Sector Chiefs as their primary mission.

(f) **SMALL UNMANNED AERIAL VEHICLES.**—

(1) **IN GENERAL.**—The Chief of the U.S. Border Patrol shall be the executive agent for U.S. Customs and Border Protection’s use of small, unmanned aerial vehicles for the purpose of meeting the U.S. Border Patrol’s unmet flight hour operational requirements and to achieve situational awareness and operational control.

(2) **COORDINATION.**—In carrying out paragraph (1), the Chief of the U.S. Border Patrol shall—

(A) coordinate flight operations with the Administrator of the Federal Aviation Adminis-
tration to ensure the safe and efficient operation of the National Airspace System; and

(B) coordinate with the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection to ensure the safety of other aircraft flying in the vicinity of small, unmanned aerial vehicles operated by the U.S. Border Patrol.

(3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of 2002 (6 U.S.C. 211(e)(3)) is amended—

(A) in subparagraph (B), by striking “and” at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

“(C) carry out the small unmanned aerial vehicle requirements pursuant to section 1112(f) of the Building America’s Trust Act; and”.

(g) SAVINGS CLAUSE.—Nothing in this section may be construed to confer, transfer, or delegate to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs
and Border Protection, or the Chief of the U.S. Border
Patrol any authority of the Secretary of Transportation
or the Administrator of the Federal Aviation Administra-
tion relating to the use of airspace or aviation safety.

SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-
TORS AND TRANSIT ZONE.

(a) In general.—Not later than September 30, 2022, the Secretary, in implementing section 102 of the
Illegal Immigration Reform and Immigrant Responsibility
Act of 1996, as amended by section 1111, and acting
through the appropriate component of the Department of
Homeland Security, shall deploy to each sector or region
of the southern border and the northern border, in a
prioritized manner to achieve situational awareness and
operational control of such borders, the following addi-
tional capabilities:

(1) San Diego Sector.—For the San Diego
sector, the following:

(A) Tower-based surveillance technology.

(B) Subterranean surveillance and detec-
tion technologies.

(C) To increase coastal maritime domain
awareness, the following:

(i) Deployable, lighter-than-air surface
surveillance equipment.
(ii) Unmanned aerial vehicles with maritime surveillance capability.

(iii) U.S. Customs and Border Protection maritime patrol aircraft.

(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(F) A rapid reaction capability supported by aviation assets.

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(2) El Centro Sector.—For the El Centro sector, the following:

(A) Tower-based surveillance technology.

(B) Deployable, lighter-than-air ground surveillance equipment.
(C) Man-portable unmanned aerial vehicles.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(F) A rapid reaction capability supported by aviation assets.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

(3) YUMA SECTOR.—For the Yuma sector, the following:

(A) Tower-based surveillance technology.

(B) Deployable, lighter-than-air ground surveillance equipment.

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(E) A rapid reaction capability supported by aviation assets.

(F) Mobile vehicle-mounted and man-portable surveillance systems.
(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

(4) TUCSON SECTOR.—For the Tucson sector, the following:

(A) Tower-based surveillance technology.

(B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(C) Deployable, lighter-than-air ground surveillance equipment.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(F) A rapid reaction capability supported by aviation assets.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

(5) EL PASO SECTOR.—For the El Paso sector, the following:

(A) Tower-based surveillance technology.
(B) Deployable, lighter-than-air ground surveillance equipment.

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(E) Mobile vehicle-mounted and man-portable surveillance systems.

(F) A rapid reaction capability supported by aviation assets.

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(6) BIG BEND SECTOR.—For the Big Bend sector, the following:

(A) Tower-based surveillance technology.

(B) Deployable, lighter-than-air ground surveillance equipment.

(C) Improved agent communications capabilities.

(D) Ultralight aircraft detection capabilities.
(E) Advanced unattended surveillance sensors.

(F) A rapid reaction capability supported by aviation assets.

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(7) DEL RIO SECTOR.—For the Del Río sector, the following:

(A) Tower-based surveillance technology.

(B) Increased monitoring for cross-river dams, culverts, and footpaths.

(C) Improved agent communications capabilities.

(D) Improved maritime capabilities in the Amistad National Recreation Area.

(E) Advanced unattended surveillance sensors.

(F) A rapid reaction capability supported by aviation assets.

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.
(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(8) LAREDO SECTOR.—For the Laredo sector, the following:

(A) Tower-based surveillance technology.

(B) Maritime detection resources for the Falcon Lake region.

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Increased monitoring for cross-river dams, culverts, and footpaths.

(E) Ultralight aircraft detection capability.

(F) Advanced unattended surveillance sensors.

(G) A rapid reaction capability supported by aviation assets.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(9) RIO GRANDE VALLEY SECTOR.—For the Rio Grande Valley sector, the following:
(A) Tower-based surveillance technology.

(B) Deployable, lighter-than-air ground surveillance equipment.

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Ultralight aircraft detection capability.

(E) Advanced unattended surveillance sensors.

(F) Increased monitoring for cross-river dams, culverts, footpaths.

(G) A rapid reaction capability supported by aviation assets.

(H) Increased maritime interdiction capabilities.

(I) Mobile vehicle-mounted and man-portable surveillance capabilities.

(J) Man-portable unmanned aerial vehicles.

(K) Improved agent communications capabilities.

(10) Blaine sector.—For the Blaine sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

(11) SPOKANE SECTOR.—For the Spokane sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Increased maritime interdiction capabilities.

(C) Mobile vehicle-mounted and man-portable surveillance capabilities.
(D) Advanced unattended surveillance sensors.

(E) Ultralight aircraft detection capabilities.

(F) Completion of six miles of the Bog Creek road.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(12) HAVRE SECTOR.—For the Havre sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.
(13) **GRAND FORKS SECTOR.**—For the Grand Forks sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(14) **DETROIT SECTOR.**—For the Detroit sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.
(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(15) BUFFALO SECTOR.—For the Buffalo sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications systems.

(16) SWANTON SECTOR.—For the Swanton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(17) HOULTON SECTOR.—For the Houlton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.
(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(18) TRANSIT ZONE.—For the transit zone, the following:

(A) Not later than 2 years after the date of the enactment of this Act, an increase in the number of overall cutter, boat, and aircraft hours spent conducting interdiction operations over the average number of such hours during the preceding 3 fiscal years.

(B) Increased maritime signals intelligence capabilities.

(C) To increase maritime domain awareness—

(i) unmanned aerial vehicles with maritime surveillance capability; and

(ii) increased maritime aviation patrol hours.
(D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Deployable Specialized Forces of the Coast Guard.

(E) Coastal radar surveillance systems with long range day and night cameras capable of providing full maritime domain awareness of the United States territorial waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island, Culebra Island, Saint Thomas, Saint John, and Saint Croix.

(b) REIMBURSEMENT RELATED TO THE LOWER RIO GRANDE VALLEY FLOOD CONTROL PROJECT.—The International Boundary and Water Commission is authorized to reimburse State and local governments for any expenses incurred before, on, or after the date of the enactment of this Act by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley Flood Control Project of the Commission.

(c) TACTICAL FLEXIBILITY.—

(1) SOUTHERN AND NORTHERN LAND BORDERS.—
(A) IN GENERAL.—Beginning on September 30, 2021, or after the Secretary has deployed at least 25 percent of the capabilities required in each sector specified in subsection (a), whichever comes later, the Secretary may deviate from such capability deployments if the Secretary determines that such deviation is required to achieve situational awareness or operational control.

(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is the subject of such exercise. If the Secretary makes any changes to such deviation, the Secretary shall, not later than 90 days after any such change, notify such committees regarding such change.

(2) TRANSIT ZONE.—

(A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security
and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives regarding the capability deployments for the transit zone specified in paragraph (18) of subsection (a), including information relating to—

(i) the number and types of assets and personnel deployed; and

(ii) the impact such deployments have on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

(B) ALTERATION.—The Secretary may alter the capability deployments referred to in this section if the Secretary—

(i) determines, after consultation with the committees referred to in subparagraph (A), that such alteration is necessary; and
(ii) not later than 30 days after making a determination under clause (i), notifies the committees referred to in such subparagraph regarding such alteration, including information relating to—

(I) the number and types of assets and personnel deployed pursuant to such alteration; and

(II) the impact such alteration has on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

(d) EXIGENT CIRCUMSTANCES.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the capabilities referred to in subsection (a) in a manner that is inconsistent with the requirements specified in such subsection if, after the Secretary has deployed at least 25 percent of such capabilities, the Secretary determines that exigent circumstances demand such an inconsistent deployment or that such an inconsistent deployment is vital to the national security interests of the United States.
(2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, not later than 30 days after making a determination under paragraph (1). Such notification shall include a detailed justification for such determination.

SEC. 1114. U.S. BORDER PATROL ACTIVITIES.

The Chief of the U.S. Border Patrol shall prioritize the deployment of U.S. Border Patrol agents to as close to the physical land border as possible, consistent with border security enforcement priorities and accessibility to such areas.

(a) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 433 the following:

“Sec. 434. Border security technology program management.”.

(b) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 434 of the Homeland Security Act of 2002, as added by subsection (a). Such section shall be carried out using amounts otherwise authorized for such purposes.
SEC. 1115. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER.

(a) In General.—The Secretary may request that the Secretary of Defense support, pursuant to chapter 15 of title 10, United States Code, the Secretary’s efforts to secure the southern border of the United States. The Secretary of Defense may authorize the provision of such support under section 502(f) of title 32, United States Code, including pursuant to chapter 9 of such title 32.

(b) Type of Support Authorized.—The support provided in accordance with subsection (a) may include—

(1) construction of reinforced fencing or other physical barriers;

(2) operation of ground-based surveillance systems;

(3) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(4) intelligence analysis support.

c) Materiel and Logistical Support.—The Secretary of Defense may deploy such materiel, equipment, and logistical support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).
(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State authorized pursuant to this section does not degrade the training and readiness of such units and personnel, in determining the homeland defense activities that such units and personnel may perform, the following requirements shall apply:

(1) The performance of such activities shall not affect adversely the quality of such training or readiness or otherwise interfere with the ability of a unit or personnel of the National Guard of a State to perform the military functions of such member or unit.

(2) The performance of such activities shall not degrade the military skills of the units or personnel of the National Guard of a State performing such activities.

(e) REIMBURSEMENT NOTIFICATION.—Prior to providing any support in accordance with subsection (a), the Secretary of Defense shall notify the Secretary whether such support qualifies for a reimbursement waiver under chapter 15 of title 10, United States Code.

(f) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and bi-annually thereafter through December 31, 2021, the
Secretary of Defense shall submit a report to the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) that describes any support provided pursuant to subsection (a) during the 6-month period preceding each such report.

(2) ELEMENTS.—Each report under paragraph (1) shall include a description of—

(A) the support provided; and

(B) the sources and amounts of funds obligated and expended to provide such support.

SEC. 1116. OPERATION PHALANX.

(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary, shall provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern border.

(b) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include—

(1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(2) intelligence analysis support.

(c) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment,
and logistics support as may be necessary to ensure the
effectiveness of the assistance provided under subsection
(a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated for the Department of
Defense $75,000,000 to provide assistance under this sec-
tion. The Secretary of Defense may not seek reimburse-
ment from the Secretary for any assistance provided under
this section.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 90 days after
the date of the enactment of this Act and annually
thereafter, the Secretary of Defense shall submit a
report to the appropriate congressional defense com-
mittees (as defined in section 101(a)(16) of title 10,
United States Code) regarding any assistance pro-
vided under subsection (a) during the period speci-
fied in paragraph (3).

(2) ELEMENTS.—Each report under paragraph
(1) shall include, for the period specified in para-
graph (3), a description of—

(A) the assistance provided;

(B) the sources and amounts of funds used
to provide such assistance; and
(C) the amounts obligated to provide such assistance.

(3) Period specified.—The period specified in this paragraph is—

(A) in the case of the first report required under paragraph (1), the 90-day period beginning on the date of the enactment of this Act; and

(B) in the case of any subsequent report submitted under paragraph (1), the calendar year for which the report is submitted.

SEC. 1117. MERIDA INITIATIVE.

(a) Sense of Congress.—It is the sense of Congress that assistance to Mexico, including assistance from the Department of State and the Department of Defense and any aid related to the Merida Initiative—

(1) should be focused on providing enhanced border security at Mexico’s northern and southern borders, judicial reform, and support for Mexico’s anti-drug efforts; and

(2) should return to its original focus and prioritize security, training, and acquisition of equipment for Mexican security forces involved in border security and anti-drug efforts as well as be used to train prosecutors in ongoing justice reform efforts.
(b) ASSISTANCE FOR MEXICO.—The Secretary of State, in coordination with the Secretary and the Secretary of Defense, shall provide level and consistent assistance to Mexico—

(1) to combat drug production and trafficking and related violence, transnational organized criminal organizations, and corruption;

(2) to build a secure, modern border security system capable of preventing illegal migration;

(3) to support border security and cooperation with United States military, intelligence, and law enforcement agencies on border incursions;

(4) to support judicial reform, institution building, and rule of law activities to build judicial capacity, address corruption and impunity, and support human rights; and

(5) to provide for training and equipment for Mexican security forces involved in efforts to eradicate and interdict drugs.

(e) ALLOCATION OF FUNDS; REPORT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any assistance appropriated in any appropriations Act to implement this section shall be withheld until after the Secretary of State submits a written report to the congressional
committees specified in paragraph (3) certifying that
the Government of Mexico is—

(A) significantly reducing illegal migration,
drug trafficking, and cross-border criminal ac-
tivities on Mexico’s northern and southern bor-
ders;

(B) taking significant action to address
corruption, impunity, and human rights abuses;
and

(C) improving the transparency and ac-
countability of Mexican Federal police forces
and working with Mexican State and municipal
authorities to improve the transparency and ac-
countability of Mexican State and municipal po-
lice forces.

(2) MATTERS TO INCLUDE.—The report re-
quired under paragraph (1) shall include a descrip-
tion of—

(A) actions taken by the Government of
Mexico to address the matters described in such
paragraph;

(B) any relevant assessments by civil soci-
ety and non-government organizations in Mex-
ico relating to such matters; and
(C) any instances in which the Secretary determines that the actions taken by the Government of Mexico are inadequate to address such matters.

(3) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this paragraph are—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Foreign Relations of the Senate;

(E) the Committee on Appropriations of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives;

(G) the Committee on the Judiciary of the House of Representatives; and

(H) the Committee on Foreign Affairs of the House of Representatives.
(d) NOTIFICATIONS.—Any assistance made available by the Secretary of State under this section shall be subject to—

(1) the notification procedures set forth in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1); and

(2) the notification requirements of—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on the Judiciary of the Senate;

(C) the Committee on Foreign Relations of the Senate;

(D) the Committee on Homeland Security of the House of Representatives;

(E) the Committee on the Judiciary of the House of Representatives; and

(F) the Committee on Foreign Affairs of the House of Representatives.

(e) SPENDING PLAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall submit, to the congressional committees specified in subsection (e)(3), a detailed spending plan for assistance to Mexico under this section, which shall include
a strategy, developed after consulting with relevant au-
1 thorities of the Government of Mexico, for—
2
3 (1) combating drug trafficking and related vio-
4 lence and organized crime; and
5
6 (2) anti-corruption and rule of law activities,
7 which shall include concrete goals, actions to be
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
described in subsection (b) on covered Federal land
applies without regard to whether a state of emer-
20 gency exists.

21 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
22 BORDER PROTECTION.—
51

(1) IN GENERAL.—U.S. Customs and Border Protection shall have immediate access to covered Federal land to conduct the activities described in paragraph (2) on such land to prevent all unlawful entries into the United States, including entries by terrorists, unlawful aliens, instruments of terrorism, narcotics, and other contraband through the southern border or the northern border.

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(A) the execution of search and rescue operations;

(B) the use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(C) the design, testing, construction, installation, deployment, and operation of physical barriers, tactical infrastructure, and technology pursuant to section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 1111 of this title.

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—
(1) **IN GENERAL.**—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

(2) **PROVISIONS OF LAW SPECIFIED.**—The provisions of law specified in this paragraph are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:


(C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”).

(D) Division A of subtitle III of title 54, United States Code (54 U.S.C. 300301 et seq.) (formerly known as the “National Historic Preservation Act”).


(F) The Clean Air Act (42 U.S.C. 7401 et seq.).

(H) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).


(J) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).


(L) Chapter 3125 of title 54, United States Code (formerly known as the “Archaeological and Historic Preservation Act”).

(M) The Antiquities Act (16 U.S.C. 431 et seq.).

(N) Chapter 3203 of title 54, United States Code (formerly known as the “Historic Sites, Buildings, and Antiquities Act”).

(O) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).


(Q) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).
(R) The Wilderness Act (16 U.S.C. 1131 et seq.).


(V) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).

(W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”).

(X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

(Z) Division A of subtitle I of title 54, United States Code (formerly known as the “National Park Service Organic Act”).

(AA) The National Park Service General Authorities Act (Public Law 91–383, 16 U.S.C. 1a–1 et seq.).
(BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).

(CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law 101–628).


(EE) The Eagle Protection Act (16 U.S.C. 668 et seq.).


(3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1, 2008, and before
the date of the enactment of this Act, the waiver described in paragraph (1) shall apply to the provision of such title that corresponds to the provision of law specified in paragraph (2) to the same extent the waiver applied to that provision of law.

(4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any relevant matter.

(d) PROTECTION OF LEGAL USES.—Nothing in this section may be construed to provide—

(1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

(e) EFFECT ON STATE AND PRIVATE LAND.—This section shall have no force or effect on State lands or private lands and shall not provide authority, on or access to, State lands or private lands.
(f) Tribal Sovereignty.—Nothing in this section may be construed to supersede, replace, negate, or diminish treaties or other agreements between the United States and Indian tribes.

(g) Memoranda of Understanding.—The requirements under this section shall not apply to the extent that such requirements are incompatible with any memorandum of understanding or similar agreement entered into between the Commissioner of U.S. Customs and Border Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

(h) Definitions.—In this section:

(1) Covered Federal Land.—The term “covered Federal land” includes all land under the control of the Secretary concerned that is located within 100 miles of the southern border or the northern border.

(2) Secretary Concerned.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.
SEC. 1119. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) Establishment of National Border Security Advisory Committee.—The Secretary shall establish a National Border Security Advisory Committee, which—

(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to border security matters, including—

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) Consideration of Views.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.
(c) Membership.—The National Border Security Advisory Committee shall consist of at least 1 member from each State who—

(1) has at least 5 years practical experience in border security operations; or

(2) lives and works in the United States within 80 miles of the southern border or within 80 miles of the northern border.

(d) Nonapplicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

SEC. 1120. LIMITATION ON LAND OWNER’S LIABILITY.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following:

“(i) Indemnity for Actions of Law Enforcement Officers.—

“(1) Definitions.—In this subsection—

“(A) the term ‘land’ includes roads, water, watercourses, and private ways, and buildings, structures, machinery, and equipment that is attached to real property; and

“(B) the term ‘owner’ includes the possessor of a fee interest, a tenant, a lessee, an
occupant, the possessor of any other interest in land, and any person having a right to grant permission to use the land.

“(2) REIMBURSEMENT AUTHORIZED.—Notwithstanding any other provision of law, and subject to the availability of appropriations, any owner of land located in the United States within 150 miles of the southern border of the United States may seek reimbursement from the Department and the Secretary shall pay for any adverse final tort judgment for negligence (excluding attorneys’ fees and costs) authorized under Federal or State tort law, arising directly from any border patrol action, such as apprehensions, tracking, and detention of aliens, that is conducted on privately-owned land if—

“(A) such land owner has been found negligent by a Federal or State court in any tort litigation;

“(B) such land owner has not already been reimbursed for the final tort judgment, including outstanding attorneys’ fees and costs;

“(C) such land owner did not have or does not have sufficient property insurance to cover the judgment and has had an insurance claim for such coverage denied; and
“(D) such tort action was brought against such land owner as a direct result of activity of law enforcement officers of the Department of Homeland Security, acting in their official capacity, on the owner’s land.

“(3) EXCEPTIONS.—Nothing in this subsection may be construed to require the Secretary to reimburse a land owner under paragraph (2) for any adverse final tort judgment for negligence or to limit land owner liability which would otherwise exist for—

“(A) willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm;

“(B) maintaining an attractive nuisance;

“(C) gross negligence; or

“(D) direct interference with, or hindrance of, any agent or officer of the Federal Government who is authorized to enforce the immigration laws during—

“(i) a patrol of such landowner’s land;

or

“(ii) any action taken to apprehend or detain any alien attempting to enter the United States illegally or to evade execu-
tion of an arrest warrant for a violation of any immigration law.

“(4) SAVINGS PROVISION.—Nothing in this sub-section may be construed to affect any right or remedy available pursuant to chapter 171 of title 28, United States Code (commonly known as the ‘Federal Tort Claims Act’).”.

SEC. 1121. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

Not later than September 30, 2022, the Secretary, after coordinating with the heads of the relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River.

SEC. 1122. PREVENTION, DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) DEFINITIONS.—In this section:

(1) ANIMAL.—The term “animal” means any member of the animal kingdom (except a human).

(2) ARTICLE.—The term “article” means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) DISEASE.—The term “disease” has the meaning given such term by the Secretary of Agriculture.
(4) LIVESTOCK.—The term “livestock” means all farm-raised animals.

(5) MEANS OF CONVEYANCE.—The term “means of conveyance” means any personal property used for, or intended for use for, the movement of any other personal property.

(6) PEST.—The term “pest” means any of the following that can directly or indirectly injure, cause damage to, or cause disease in human livestock, a plant, or a plant part:

(A) A protozoan.

(B) A plant or plant part.

(C) An animal.

(D) A bacterium.

(E) A fungus.

(F) A virus or viroid.

(G) An infectious agent or other pathogen.

(H) An arthropod.

(I) A parasite or parasitic plant.

(J) A prion.

(K) A vector.

(L) Any organism similar to or allied with any of the organisms described in this paragraph.
(7) PLANT.—The term “plant” means any plant (including any plant part) capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(8) STATE.—The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, and any territory or possession of the United States.

(b) DETECTION, CONTROL, AND ERADICATION OF THE SPREAD OF DISEASES AND PESTS.—

(1) IN GENERAL.—The Secretary of Agriculture may carry out operations and measures to prevent, detect, control, or eradicate the spread of any pest or disease of livestock or plant that threatens any segment of agriculture.

(2) COMPENSATION.—

(A) IN GENERAL.—The Secretary of Agriculture may pay a claim arising out of—

(i) the destruction of any animal, plant, plant part, article, or means of conveyance consistent with the purposes of this section; and
(ii) implementing measures to prevent, detect, control, or eradicate the spread of any pest disease of livestock or plant that threatens any segment of agriculture.

(B) Specific Cooperative Programs.—
The Secretary of Agriculture shall compensate industry participants and State agencies that cooperate with the Secretary of Agriculture in carrying out operations and measures under this subsection for up to 100 percent of eligible costs relating to—

(i) cooperative programs involving Federal, State, or industry participants to control diseases of low or high pathogenicity and pests in accordance with regulations issued by the Secretary of Agriculture; and

(ii) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

(C) Reviewability.—The action of any officer, employee, or agent of the Secretary of Agriculture under paragraph (1) shall not be
subject to review by any officer or employee of
the Federal Government other than the Sec-
retary of Agriculture or a designee of the Sec-
retary of Agriculture.

(c) Cooperation.—

(1) In general.—In carrying out this section,
the Secretary of Agriculture may cooperate with
other Federal agencies, States, State agencies, polit-
ical subdivisions of States, national and local govern-
ments of foreign countries, domestic and inter-
national organizations and associations, domestic
nonprofit corporations, Indian tribes, and other per-
sons.

(2) Responsibility.—The person or other en-
tity cooperating with the Secretary of Agriculture
shall be responsible for the authority necessary to
carry out operations or measures—

(A) on all land and property within a for-

gn country or State, or under the jurisdiction

of an Indian tribe, other than on land and

property owned or controlled by the United

States; and

(B) using other facilities and means, as de-
termined by the Secretary of Agriculture.
(d) FUNDING.—For fiscal year 2018, and for each 
subsequent fiscal year, the Secretary of Agriculture shall 
use such amounts from the Commodity Credit Cooperation 
as may be necessary to carry out operations and measures 
to prevent, detect, control, or eradicate the spread of any 
pest or disease of livestock or plant that threatens any 
segment of agriculture.

(e) REIMBURSEMENT.—The Secretary of Agriculture 
shall reimburse any Federal agency, State, State agency, 
political subdivision of a State, national or local govern-
ment of a foreign country, domestic or international orga-
nization or association, domestic nonprofit corporation, 
Indian tribe, or other person for specified costs, as pre-
scribed by the Secretary of Agriculture, in the discretion 
of the Secretary of Agriculture, that result from coopera-
tion with the Secretary of Agriculture in carrying out op-
erations and measures under this section.

SEC. 1123. TRANSMISSION CRIMINAL ORGANIZATION IL-
LICT SPOTTER PREVENTION AND DETEC-
TION.

(a) BRINGING IN AND HARBORING CERTAIN 
ALIENS.—Section 274(a) of the Immigration and Nation-
ality Act (8 U.S.C. 1324(a)) is amended—

(1) in subsection (a)(2), in the matter pre-
ceding subparagraph (A), by striking “brings to or
attempts to” and inserting “brings to or attempts or
conspires to”; and

(2) by adding at the end the following:

“(5) The sentence otherwise provided for a person
who has brought aliens into the United States in violation
of this subsection may be increased by up to 10 years if
that person—

“(A) at the time of the offense, used or carried
a firearm; or

“(B) in furtherance of any such crime, pos-

essed a firearm.”.

(b) AIDING OR ASSISTING CERTAIN ALIENS TO
ENTER THE UNITED STATES.—Section 277 of the Immi-
gration and Nationality Act (8 U.S.C. 1327) is amend-
ed—

(1) by inserting “or attempts to aid or assist”
after “knowingly aids or assists”; and

(2) by adding at the end the following: “The
sentence otherwise provided for a person convicted of
an offense under this section may be increased by up
to 10 years if that person, at the time of the offense,
used or carried a firearm or who, in furtherance of
any such crime, possessed a firearm.”.
(c) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Section 1361 of title 18, United States Code, is amended—

(1) by striking “If the damage” and inserting the following:

“(1) Except as otherwise provided in this section, if the damage”; and

(2) by striking the semicolon and inserting a period;

(3) by striking “if the damage” after “both.” and inserting the following:

“(2) Except as otherwise provided in this section, if the damage”; and

(4) by adding at the end the following:

“(3) If the injury or depredation was made or attempted against any fence, barrier, sensor, camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry or otherwise was intended to construct, excavate, or make any structure intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry, by a fine under this title, imprisonment for not more than 15 years, or both.
“(4) If the injury or depredation was described under paragraph (2) and, in the commission of the offense, the offender used or carried a firearm or, in furtherance of any such offense, possessed a firearm, by a fine under this title, imprisonment for not more than 20 years, or both.”.

(d) **UNLAWFULLY HINDERING IMMIGRATION, BORDER, AND CUSTOMS CONTROLS.**—

1. (1) **ENHANCED PENALTIES.**—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C. 1351 et seq.) is amended by adding at the end the following:

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SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BORDER, AND CUSTOMS CONTROLS.

“(a) **ILICIT SPOTTING.**—Any person who knowingly transmits, by any means, to another person the location, movement, or activities of any Federal, State, local, or tribal law enforcement agency or officer with the intent to further a Federal crime relating to United States immigration, customs, controlled substances, agriculture, monetary instruments, or other border controls shall be fined under title 18, imprisoned not more than 10 years, or both.

“(b) **DESTRUCTION OF UNITED STATES BORDER CONTROLS.**—Any person who knowingly and without law-
ful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry—

“(1) shall be fined under title 18, imprisoned not more than 10 years, or both; and

“(2) if, at the time of the offense, the person uses or carries a firearm or who, in furtherance of any such crime, possesses a firearm, shall be fined under title 18, imprisoned not more than 20 years, or both.

“(c) CONSPIRACY AND ATTEMPT.—Any person who attempts or conspires to violate subsection (a) or (b) shall be punished in the same manner as a person who completes a violation of such subsection.”.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 294 the following:

“Sec. 295. Unlawfully hindering immigration, border, and customs controls.”.
(c) Carrying or Using a Firearm During and in Relation to an Alien Smuggling Crime.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “, alien smuggling crime,” after “crime of violence” each place that term appears; and

(B) in subparagraph (D)(ii), by inserting “, alien smuggling crime,” after “crime of violence”;

(2) by striking paragraphs (2) through (4);

(3) by redesignating paragraph (5) as paragraph (2); and

(4) by adding at the end the following:

“(3) For purposes of this subsection—

“(A) the term ‘alien smuggling crime’ means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328);

“(B) the term ‘brandish’ means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person;
“(C) the term ‘crime of violence’ means a felony offense that—

“(i) has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or

“(ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

“(D) the term ‘drug trafficking crime’ means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.”.

(f) STATUTE OF LIMITATIONS.—Section 3298 of title 18, United States Code, is amended by inserting “, or 295” after “274(a)”.

SEC. 1124. SOUTHERN BORDER THREAT ANALYSIS.

(a) THREAT ANALYSIS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the
House of Representatives a southern border threat analysis.

(2) CONTENTS.—The analysis submitted under paragraph (1) shall include an assessment of—

(A) current and potential terrorism and criminal threats posed by individuals and organized groups seeking—

(i) to unlawfully enter the United States through the southern border; or

(ii) to exploit security vulnerabilities along the southern border;

(B) improvements needed at and between ports of entry along the southern border to prevent terrorists and instruments of terror from entering the United States;

(C) gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts;

(D) the current percentage of situational awareness achieved by the Department of Homeland Security along the southern border;
(E) the current percentage of operational control achieved by the Department of Homeland Security along the southern border; and

(F) traveler crossing times and any potential security vulnerability associated with prolonged wait times.

(3) ANALYSIS REQUIREMENTS.—In compiling the southern border threat analysis under this subsection, the Secretary shall consider and examine—

(A) the technology needs and challenges, including such needs and challenges identified as a result of previous investments that have not fully realized the security and operational benefits that were sought;

(B) the personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(C) the infrastructure needs and challenges;

(D) the roles and authorities of State, local, and tribal law enforcement in general border security activities;

(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;
(F) the terrain, population density, and climate along the southern border; and

(G) the international agreements between the United States and Mexico related to border security.

(4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.

(b) U.S. BORDER PATROL STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat analysis under subsection (a) or June 30, 2018, and every 5 years thereafter, the Secretary, acting through the Chief of the U.S. Border Patrol, shall issue a Border Patrol Strategic Plan.

(2) CONTENTS.—The Border Patrol Strategic Plan required under this subsection shall include a consideration of—

(A) the southern border threat analysis required under subsection (a), with an emphasis on efforts to mitigate threats identified in such threat analysis;
(B) efforts to analyze and disseminate border security and border threat information between border security components of the Department of Homeland Security and other appropriate Federal departments and agencies with missions associated with the southern border;

(C) efforts to increase situational awareness, including—

(i) surveillance capabilities, including capabilities developed or utilized by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense; and

(ii) the use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets;

(D) efforts to detect and prevent terrorists and instruments of terrorism from entering the United States;

(E) efforts to detect, interdict, and disrupt aliens and illicit drugs at the earliest possible point;
(F) efforts to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States;

(G) efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department of Homeland Security;

(H) any technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary determines to be necessary;

(I) operational coordination unity of effort initiatives of the border security components of the Department of Homeland Security, including any relevant task forces of the Department of Homeland Security;

(J) lessons learned from Operation Jumpstart and Operation Phalanx;

(K) cooperative agreements and information sharing with State, local, tribal, territorial, and other Federal law enforcement agencies
that have jurisdiction on the northern border or the southern border;

(L) border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the northern border or the southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the northern border or the southern border;

(M) staffing requirements for all departmental border security functions;

(N) a prioritized list of departmental research and development objectives to enhance the security of the southern border;

(O) an assessment of training programs, including training programs for—

(i) identifying and detecting fraudulent documents;
(ii) understanding the scope of enforcement authorities and the use of force policies; and

(iii) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and

(P) an assessment of how border security operations affect border crossing times.

SEC. 1125. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION.

(a) Duties.—Section 411(e) of the Homeland Security Act of 2002 (6 U.S.C. 211(e)) is amended—

(1) in paragraph (18), by striking “and” at the end;

(2) by redesignating paragraph (19) as paragraph (21); and

(3) by inserting after paragraph (18) the following:

“(19) administer the U.S. Customs and Border Protection public private partnerships under subtitle G;

“(20) administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title
VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

(b) Office of Field Operations Staffing.—Section 411(g)(5)(A) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)(A)) is amended by inserting before the period at the end the following: “compared to the number indicated by the current fiscal year work flow staffing model”.

(e) Implementation Plan.—Subparagraph (B) of section 814(e)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 4433(e)(1)), as enacted in subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4301 et seq.) is amended to read as follows:

“(B) a port of entry vacancy rate which compares the number of officers identified in subparagraph (A) with the number of officers at the port at which such officer is currently assigned.”.

(d) Definitions.—Section 411(r) of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended—

(1) by striking “this section, the terms” and inserting the following: “this section:”

“(1) the terms”;
(2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(2) the term ‘unmanned aerial systems’ has the meaning given the term ‘unmanned aircraft system’ in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).”.

SEC. 1126. AGENT AND OFFICER TECHNOLOGY USE.

In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 1111, and in carrying out section 1112, the Secretary, to the greatest extent practicable, shall ensure that technology deployed to gain situational awareness and operational control of the border be provided to front-line officers and agents of the Department of Homeland Security.

SEC. 1127. INTEGRATED BORDER ENFORCEMENT TEAMS.

(a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:

“SEC. 434. INTEGRATED BORDER ENFORCEMENT TEAMS.

“(a) Establishment.—The Secretary shall establish within the Department a program, which shall be
known as the Integrated Border Enforcement Team program (referred to in this section as the ‘IBET Program’).

“(b) PURPOSE.—The Secretary shall administer the IBET Program in a manner that results in a cooperative approach between the United States and Canada to—

“(1) strengthen security between designated ports of entry;

“(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

“(3) facilitate collaboration among components and offices within the Department and international partners;

“(4) execute coordinated activities in furtherance of border security and homeland security; and

“(5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

“(c) COMPOSITION AND LOCATION OF IBETS.—

“(1) COMPOSITION.—IBETs shall be led by the U.S. Border Patrol and may be comprised of personnel from—

“(A) other subcomponents of U.S. Customs and Border Protection;
“(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations;

“(C) the Coast Guard, for the purpose of securing the maritime borders of the United States;

“(D) other Department personnel, as appropriate;

“(E) other Federal departments and agencies, as appropriate;

“(F) appropriate State law enforcement agencies;

“(G) foreign law enforcement partners;

“(H) local law enforcement agencies from affected border cities and communities; and

“(I) appropriate tribal law enforcement agencies.

“(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider—

“(A) whether the region in which the IBET would be established is significantly impacted by cross-border threats;
“(B) the availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET; and

“(C) whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

“(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C.
70101 note) or the Border Enforcement Security Task Force established under section 432.

“(d) OPERATION.—

“(1) IN GENERAL.—After determining the regions in which to establish IBETs, the Secretary may—

“(A) direct the assignment of Federal personnel to such IBETs; and

“(B) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

“(2) LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(1)(C).

“(e) COORDINATION.—The Secretary shall coordinate the IBET Program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.
“(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET Program. Such memoranda with entities specified in subsection (c)(1)(G) shall be entered into with the concurrence of the Secretary of State.

“(g) REPORT.—Not later than 180 days after the date on which an IBET is established, and biannually thereafter for the following 6 years, the Secretary shall submit a report to the appropriate congressional committees, including the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and in the case of Coast Guard personnel used to secure the maritime borders of the United States, to the Committee on Transportation and Infrastructure of the House of Representatives, that—

“(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

“(2) assesses the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;

“(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoper-
ability to allow for secure cross-border radio communications; and

“(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding after the item relating to section 433 the following:

“Sec. 434. Integrated Border Enforcement Teams.”.

SEC. 1128. LAND USE OR ACQUISITION.

Section 103(b) of the Immigration and Nationality Act (8 U.S.C. 1103) is amended to read as follows:

“(b)(1) The Secretary may lease, contract for, or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Secretary determines that such land is essential to control and guard the boundaries and borders of the United States against any violation of this Act.

“(2) The Secretary may lease, contract for, or buy any interest in land described in paragraph (1) if—

“(A) the lawful owner of that interest fixes a price for leasing, contracting, or buying such interest; and
“(B) the Secretary considers the price referred to in subparagraph (A) to be reasonable.

“(3) If the Secretary and the lawful owner of an interest in land described in paragraph (1) are unable to agree to lease, contract for, or buy such interest at a reasonable price for such lease, contract, or purchase, the Secretary may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

“(4) The Secretary may accept, on behalf of the United States, a gift of any interest in land described in paragraph (1)’’.

SEC. 1129. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and remediating tunnels that breach the international borders of the United States.

SEC. 1130. PILOT PROGRAM ON USE OF ELECTROMAGNETIC SPECTRUM IN SUPPORT OF BORDER SECURITY OPERATIONS.

(a) In General.—The Commissioner of U.S. Customs and Border Protection, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall conduct a pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Cus-
toms and Border Protection in support of border security operations through—

(1) ongoing management and monitoring of spectrum to identify threats such as unauthorized spectrum use, and the jamming and hacking of United States communications assets, by persons engaged in criminal enterprises;

(2) automated spectrum management to enable greater efficiency and speed for U.S. Customs and Border Protection in addressing emerging challenges in overall spectrum use on the United States border; and

(3) coordinated use of spectrum resources to better facilitate interoperability and interagency cooperation and interdiction efforts at or near the United States border.

(b) REPORT TO CONGRESS.—Not later than 180 days after the conclusion of the pilot program under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit a report to the Committee on Homeland Security of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science, and Transportation of the Senate
that contains the findings and data derived from such pilot program.

SEC. 1131. FOREIGN MIGRATION ASSISTANCE.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 1127, is further amended by adding at the end the following:

"SEC. 435. FOREIGN MIGRATION ASSISTANCE.

"(a) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, may provide, to a foreign government, financial assistance for foreign country operations to address migration flows that may affect the United States.

"(b) DETERMINATION.—Assistance provided under subsection (a) may be provided only if such assistance would enhance the recipient government’s capacity to address irregular migration flows that may affect the United States, including any detention or removal operations of the recipient government, including procedures to screen and provide protection for certain individuals.

"(c) REIMBURSEMENT OF EXPENSES.—The Secretary may, if appropriate, seek reimbursement from the receiving foreign government for the provision of financial assistance under this section."
“(d) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any reimbursement collected pursuant to subsection (c) shall—

“(1) be credited as offsetting collections to the account that finances the security assistance under this section for which such reimbursement is received; and

“(2) shall remain available until expended for the purpose of carrying out this section.

“(e) EFFECTIVE PERIOD.—The authority provided under this section shall remain in effect until September 30, 2022.

“(f) DEVELOPMENT AND PROGRAM EXECUTIVE.—The Secretary and the Secretary of State shall jointly develop and implement any financial assistance under this section.

“(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.

“(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $50,000,000,000 for the 5-year period ending on September 30, 2022, to carry out this section.”.
(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 434, as added by section 1127, the following:

“Sec. 435. Security assistance.”

CHAPTER 2—PERSONNEL

SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION AGENTS AND OFFICERS.

(a) BORDER PATROL AGENTS.—Not later than September 30, 2022, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient agents to maintain an active duty presence of not fewer than 26,370 full-time equivalent agents.

(b) CBP OFFICERS.—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection as of such date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2022—

(1) sufficient U.S. Customs and Border Protection officers to maintain an active duty presence of not fewer than 27,725 full-time equivalent officers; and

(2) 350 full-time support staff distributed among all United States ports of entry.
(c) Air and Marine Operations.—Not later than September 30, 2022, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient agents for Air and Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern border air and maritime operations.

(d) U.S. Customs and Border Protection K–9 Units and Handlers.—

(1) K–9 units.—Not later than September 30, 2022, the Commissioner shall deploy not fewer than 300 new K–9 units, with supporting officers of U.S. Customs and Border Protection and other required staff, at land ports of entry and checkpoints, on the southern border and the northern border.

(2) Use of canines.—The Commissioner shall prioritize the use of canines at the primary inspection lanes at land ports of entry and checkpoints.

(e) U.S. Customs and Border Protection Horseback Units.—

(1) Increase.—Not later than September 30, 2022, the Commissioner shall increase the number of horseback units, with supporting officers of U.S. Customs and Border Protection and other required
staff, by not fewer than 100 officers and 50 horses
for security patrol along the Southern border.

(2) HORSE UNIT SUPPORT.—The Commissioner
of U.S. Customs and Border Protection shall con-
struct new stables, maintain and improve existing
stables, and provide other resources needed to main-
tain the health and well-being of the horses that
serve in the horseback units.

(f) U.S. CUSTOMS AND BORDER PROTECTION
SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
September 30, 2022, the Commissioner shall increase by
not fewer than 50 the number of officers engaged in
search and rescue activities along the southern border.

(g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
later than September 30, 2022, the Commissioner shall
increase by not fewer than 50 the number of officers as-
sisting task forces and activities related to deployment and
operation of border tunnel detection technology and appre-
hensions of individuals using such tunnels for crossing
into the United States, drug trafficking, or human smug-
gling.

(h) AGRICULTURAL SPECIALISTS.—Not later than
September 30, 2022, the Secretary shall hire, train, and
assign to duty, in addition to the officers and agents au-
authorized under subsections (a) through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry along the southern border and the northern border.

(i) Office of Professional Responsibility.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

(j) Office of Intelligence.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to maintain not fewer than 700 full-time equivalent employees.

(k) GAO Report.—If the staffing levels required under this section are not achieved by September 30, 2022, the Comptroller General of the United States shall conduct a review of the reasons why such levels were not achieved.

SEC. 1142. FAIR LABOR STANDARDS FOR BORDER PATROL AGENTS.

(a) In General.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:
“(s) Employment as a Border Patrol Agent.—

No public agency shall be deemed to have violated subsection (a) with respect to the employment of any border patrol agent (as defined in section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days, the border patrol agent receives compensation at a rate that is not less than 150 percent of the regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours. Payments required under this section shall be in additional to any payments made under section 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set forth in that title.”.

(b) Technical and Conforming Amendments.—

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) in paragraph (16), by adding “or” at the end;

(2) in paragraph (17), in the undesignated matter following subparagraph (D), by striking “; or” and inserting a period; and

(3) by striking paragraph (18).
SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES. 

(a) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the following:

“SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION TEMPORARY EMPLOYMENT AUTHORITIES.

“(a) Definitions.—For purposes of this section—

“(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection described under any of subsections (a) through (h) of section 1141 of the Building America’s Trust Act;

“(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border Protection;

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

“(4) the term ‘Secretary’ means the Secretary of Homeland Security; and

“(5) the term ‘appropriate congressional committees’ means—

“(A) the Committee on Oversight and Government Reform of the House of Representatives;

“(B) the Committee on Homeland Security of the House of Representatives;
“(C) the Committee on Ways and Means of the House of Representatives;

“(D) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(E) the Committee on Finance of the Senate.

“(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND RETENTION BONUSES.—

“(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and staffing levels required under section 1141 of the Building America’s Trust Act. The Secretary may not use such authority beyond meeting the requirements under such section.

“(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees if the Secretary has given public notice for the positions.

“(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP employee at
the beginning of the service period multiplied by the number of years (including a fractional part of a year) in the required service period to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

“(A) the Secretary determines that conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of section 5753 are satisfied with respect to the individual (without regard to the regulations referenced in section 5753(b)(2)(B(ii)(I) or to any other provision of section 5753); and

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

“(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

“(ii) that includes—

“(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

“(II) the amount of the bonus; and
“(III) other terms and conditions
under which the bonus is payable, subject to the requirements of this subsection, including—

“(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

“(bb) the effect of a termination described in item (aa).

“(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent of basic pay to an individual CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

“(A) the Secretary determines that—

“(i) a condition consistent with the condition described in subsection (b)(1) of section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

“(ii) in the absence of a retention bonus, the CBP employee would be likely to leave—
“(I) the Federal service; or

“(II) for a different position in
the Federal service, including a posi-
tion in another agency or component
of the Department of Homeland Secu-
риту; and

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

“(i) under which the individual is re-
quired to complete a period of employment
as a CBP employee of not less than 2
years; and

“(ii) that includes—

“(I) the commencement and ter-
nination dates of the required service
period (or provisions for the deter-
mination thereof);

“(II) the amount of the bonus;

and

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

“(aa) the conditions under
which the agreement may be ter-
terminated before the agreed-upon service period has been completed; and

“(bb) the effect of a termination described in item (aa).

“(5) RULES FOR BONUSES.—

“(A) MAXIMUM BONUS.—A bonus paid to an employee—

“(i) under paragraph (3) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

“(ii) under paragraph (4) may not exceed 50 percent of the annual rate of basic pay of the employee.

“(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph (3) or (4) shall not be considered part of the basic pay of the employee for any purpose, including for retirement or in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or section 5552.
“(C) Period of service for recruitment, relocation, and retention bonuses.—

“(i) In general.—A bonus paid to an employee under paragraph (4) may not be based on any period of such service which is the basis for a recruitment or relocation bonus under paragraph (3).

“(ii) Further limitation.—A bonus paid to an employee under paragraph (3) or (4) may not be based on any period of service which is the basis for a recruitment or relocation bonus under section 5753 or a retention bonus under section 5754.

“(c) Special rates of pay.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section to assist the Secretary in meeting the requirements of section 1141 of the Building America’s Trust Act. The Director shall prioritize the consideration of requests from the Secretary for such special rates of pay and issue a decision as soon as practicable. The Secretary shall provide such information to the Director
as the Director deems necessary to evaluate special rates of pay under this subsection.

“(d) OPM OVERSIGHT.—

“(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to the Director on U.S. Customs and Border Protection’s use of authorities provided under subsections (b) and (c). In each report, the Secretary shall provide such information as the Director determines is appropriate to ensure appropriate use of authorities under such subsections. Each report shall also include an assessment of—

“(A) the impact of the use of authorities under subsections (b) and (c) on implementation of section 1141 of the Building America’s Trust Act;

“(B) solving hiring and retention challenges at the agency, including at specific locations;

“(C) whether hiring and retention challenges still exist at the agency or specific locations; and

“(D) whether the Secretary needs to continue to use authorities provided under this section at the agency or at specific locations.
“(2) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary shall consider—

“(A) whether any CBP employee accepted an employment incentive under subsection (b) and (c) and then transferred to a new location or left U.S. Customs and Border Protection; and

“(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

“(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report required under this subsection to the appropriate congressional committees.

“(e) OPM ACTION.—If the Director determines that the Secretary has inappropriately used the authority under subsection (b) or a special rate of pay authorized under subsection (c), the Director shall submit written notification to the appropriate congressional committees. Upon receipt of such notification, the Secretary may not make any new appointments or issue any new bonuses under subsection (b), or provide CBP employees with fur-
ther special rates of pay, until the Director has submitted
written notice to the Secretary and the appropriate con-
gressional committees stating that the Director is satisfied
that safeguards are in place to prevent further inappro-
priate use.

“(f) IMPROVING CBP HIRING AND RETENTION.—

“(1) EDUCATION OF CBP HIRING OFFICIALS.—
Not later than 180 days after the date of the enact-
ment of this section, and in conjunction with the
Chief Human Capital Officer of the Department of
Homeland Security, the Secretary shall develop and
implement a strategy to improve the education re-
garding hiring and human resources flexibilities (in-
cluding hiring and human resources flexibilities for
locations in rural or remote areas) for all employees,
serving in agency headquarters or field offices, who
are involved in the recruitment, hiring, assessment,
or selection of candidates for locations in a rural or
remote area, as well as the retention of current em-
ployees.

“(2) ELEMENTS.—Elements of the strategy de-
veloped under paragraph (1) shall include—

“(A) developing or updating training and
educational materials on hiring and human re-
sources flexibilities for employees who are in-
involved in the recruitment, hiring, assessment, or
selection of candidates, as well as the retention
of current employees;

“(B) regular training sessions for personnel who are critical to filling open positions
in rural or remote areas;

“(C) the development of pilot programs or
other programs, as appropriate, consistent with
authorities provided to the Secretary to address
identified hiring challenges, including in rural
or remote areas;

“(D) developing and enhancing strategic
recruiting efforts through the relationships with
institutions of higher education (as defined in
section 102 of the Higher Education Act of
1965 (20 U.S.C. 1002)), veterans transition
and employment centers, and job placement
program in regions that could assist in filling
positions in rural or remote areas;

“(E) examination of existing agency pro-
grams to determine how to most effectively aid
spouses and families of individuals who are can-
didates or new hires in a rural or remote area;

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

“(G) feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families; and

“(H) evaluation of Department of Homeland Security internship programs and the usefulness of such programs in improving hiring by the Secretary in rural or remote areas.

“(3) Evaluation.—

“(A) In General.—Each year the Secretary shall—

“(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

“(ii) make any appropriate updates to the strategy developed under paragraph (1).

“(B) Information.—The evaluation under subparagraph (A) shall include—
“(i) any reduction in the time taken by the Secretary to fill mission-critical positions, including in rural or remote areas;

“(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges, including in rural or remote areas; and

“(iii) other information the Secretary determines relevant.

“(g) INSPECTOR GENERAL REVIEW.—Not later than 2 years after the date of the enactment of this section, the Inspector General of the Department of Homeland Security shall review the use of hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such flexibilities is helping the Secretary meet hiring and retention needs, including in rural and remote areas.

“(h) REPORT ON POLYGRAPH REQUESTS.—The Secretary shall submit a report to the appropriate congressional committees that identifies the number of requests the Secretary has received from any other Federal agency for the file of an applicant for a position in U.S. Customs and Border Protection that includes the results of a polygraph examination.

“(i) EXERCISE OF AUTHORITY.—
“(1) SOLE DISCRETION.—The exercise of auth-

ority under subsection (b) shall be subject to the

sole and exclusive discretion of the Secretary (or the

Commissioner, as applicable under paragraph (2) of

this subsection), notwithstanding chapter 71 and

any collective bargaining agreement.

“(2) DELEGATION.—The Secretary may dele-

gate any authority under this section to the Com-

missioner.

“(j) RULE OF CONSTRUCTION.—Nothing in this sec-

tion shall be construed to exempt the Secretary or the Di-

rector from applicability of the merit system principles

under section 2301.

“(k) SUNSET.—The authorities under subsections (b)

and (c) shall terminate on September 30, 2022. Any bonus

to be paid pursuant to subsection (b) that is approved be-

fore such date may continue until such bonus has been

paid, subject to the conditions specified in this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 97 of title 5, United

States Code, is amended by adding at the end the fol-

lowing:

“9702. U.S. Customs and Border Protection temporary employment authori-

ties.”.
(c) OVERTIME LIMITATION.—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amended by striking “$25,000” and inserting “$45,000”.

SEC. 1144. RATE OF PAY FOR U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS AND AGENTS.

(a) In general.—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

“(l)(1) The provisions of subsections (a) through (h), providing for availability pay, shall apply to a law enforcement officer employed by U.S. Immigration and Customs Enforcement who is authorized to carry out the powers or authorities under section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) or section 589 of the Tariff Act of 1930 (19 U.S.C. 1589a) and who would not otherwise be covered by such subsections.

“(2) For the purposes of this section, section 5542(d) of this title, and subsections (a)(16) and (b)(30) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213), an officer described in paragraph (1) shall be deemed to be a criminal investigator.”.

(b)Rulemaking.—The Director of the Office of Personnel Management may prescribe regulations to carry
out section 5545a(l) of title 5, United States Code, as added by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first applicable pay period beginning on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 1145. ANTI-BORDER CORRUPTION REAUTHORIZATION ACT.

(a) SHORT TITLE.—This section may be cited as the “Anti-Border Corruption Reauthorization Act of 2018”.

(b) HIRING FLEXIBILITY.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221) is amended by striking subsection (b) and inserting the following:

“(b) WAIVER AUTHORITY.—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—

“(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

“(A) has continuously served as a law enforcement officer for not fewer than 3 years;

“(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of
any person for, any violation of law, and has statutory powers for arrest or apprehension;

“(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

“(D) has, during the past 10 years, successfully completed a polygraph examination as a condition of employment with such officer’s current law enforcement agency;

“(2) to a current, full-time Federal law enforcement officer who—

“(A) has continuously served as a law enforcement officer for not fewer than 3 years;

“(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

“(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under
investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

“(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; and

“(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

“(A) has served in the Armed Forces for not fewer than 3 years;

“(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

“(C) holds, or has undergone within the past 5 years, a current Tier 4 background investigation or current Tier 5 background investigation;

“(D) received, or is eligible to receive, an honorable discharge from service in the Armed Forces and has not engaged in criminal activity or committed a serious military or civil offense under the Uniform Code of Military Justice; and
“(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

“(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is 4 years after the date of the enactment of the SECURE and SUCCEED Act.”

(c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

(1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border Corruption Act of 2010 (Public Law 111–376) is amended to read as follows:

“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

“(a) NONEXEMPTION.—An individual who receives a waiver under section 3(b) is not exempt from other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position, as determined by the Commissioner of U.S. Customs and Border Protection.

“(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) and holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.
“(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for, or receives a waiver under, section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.”.

(2) Report.—The Anti-Border Corruption Act of 2010, as amended by paragraph (1), is further amended by adding at the end the following:

“SEC. 5. REPORTING.

“(a) Annual Report.—Not later than 1 year after the date of the enactment of this section, and annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that includes, with respect to each such reporting period—

“(1) the number of waivers requested, granted, and denied under section 3(b);

“(2) the reasons for any denials of such waiver;

“(3) the percentage of applicants who were hired after receiving a waiver;
“(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

“(5) an assessment of the current impact of the polygraph waiver program on filling law enforcement positions at U.S. Customs and Border Protection; and

“(6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

“(b) ADDITIONAL INFORMATION.—The first report submitted under subsection (a) shall include—

“(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

“(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).”.

(3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs (1) and
(2), is further amended by adding at the end the fol-
lowing:

“SEC. 6. DEFINITIONS.

“In this Act:

“(1) FEDERAL LAW ENFORCEMENT OFFICER.—
The term ‘Federal law enforcement officer’ has the
meaning given the term ‘law enforcement officer’ in
sections 8331(20) and 8401(17) of title 5, United
States Code.

“(2) SERIOUS MILITARY OR CIVIL OFFENSE.—
The term ‘serious military or civil offense’ means an
offense for which—

“(A) a member of the Armed Forces may
be discharged or separated from service in the
Armed Forces; and

“(B) a punitive discharge is, or would be,
authorized for the same or a closely related off-
ense under the Manual for Court-Martial, as
pursuant to Army Regulation 635-200 chapter
14–12.

“(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
‘Tier 5’ with respect to background investigations
have the meaning given such terms under the 2012
Federal Investigative Standards.
“(4) VETERAN.—The term ‘veteran’ has the
meaning given such term in section 101(2) of title
38, United States Code.”.

(d) POLYGRAPH EXAMINERS.—Not later than Sep-
tember 30, 2022, the Secretary shall increase to not fewer
than 150 the number of trained full-time equivalent poly-
graph examiners for administering polygraphs under the
Anti-Border Corruption Act of 2010, as amended by this
section.

SEC. 1146. TRAINING FOR OFFICERS AND AGENTS OF U.S.
CUSTOMS AND BORDER PROTECTION.

(a) IN GENERAL.—Section 411(l) of the Homeland
Security Act of 2002 (6 U.S.C. 211(l)) is amended to read
as follows:

“(l) TRAINING AND CONTINUING EDUCATION.—

“(1) MANDATORY TRAINING AND CONTINUING
EDUCATION.—The Commissioner shall ensure that
every agent and officer of U.S. Customs and Border
Protection receives at least 21 weeks of training that
is directly related to the mission of the U.S. Border
Patrol, Air and Marine, and the Office of Field Op-
erations before the initial assignment of such agents
and officers.

“(2) FLETC.—The Commissioner shall work
in consultation with the Director of the Federal Law
Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

“(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than 8 hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.

“(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the Ensuring Family Reunification Act of 2018, the Commissioner shall develop and require training courses geared towards the development of leadership skills for mid- and senior-level career employees not later than 1 year after such employees assume duties in supervisory roles.”.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental
Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that identifies the guidelines and curriculum established to carry out subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a).

(e) Assessment.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Finance of the Senate that assesses the training and education, including continuing education, required under subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a).

SEC. 1147. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.

(a) Enforcement and Removal Officers.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time, active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Op-
erations law enforcement officers performing interior imm-
migration enforcement functions by not fewer than 8,500.

(b) HOMELAND SECURITY INVESTIGATIONS SPECIAL
AGENTS.—By not later than September 30, 2022, the Di-
rector of U.S. Immigration and Customs Enforcement
shall increase the number of trained, full-time, active duty
Homeland Security Investigations special agents by not
fewer than 1,500.

(e) BORDER ENFORCEMENT SECURITY TASK
FORCE.—By not later than September 30, 2022, the Di-
rector of U.S. Immigration and Customs Enforcement
shall assign not fewer than 100 Homeland Security Inves-
tigations special agents to the Border Enforcement Secu-
rity Task Force Program established under section 432

SEC. 1148. OTHER IMMIGRATION AND LAW ENFORCEMENT
PERSONNEL.

(a) DEPARTMENT OF JUSTICE.—

(1) United States attorneys.—By not later
than September 30, 2022, in addition to positions
authorized before the date of the enactment of this
Act and any existing attorney vacancies within the
Department of Justice on such date of enactment,
the Attorney General shall—
(A) increase by not fewer than 100 the number of Assistant United States Attorneys; and

(B) increase by not fewer than 50 the number of Special Assistant United States Attorneys in the United States Attorneys’ office to litigate denaturalization and other immigration cases in the Federal courts.

(2) IMMIGRATION JUDGES.—

(A) ADDITIONAL IMMIGRATION JUDGES.—

By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase by 200 the number of trained full-time immigration judges.

(B) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney General is authorized to procure space, temporary facilities, support staff, and full-time interpreters on an expedited basis, to accommodate the additional immigration judges authorized under subparagraph (A).

(3) BOARD OF IMMIGRATION APPEALS.—
(A) **BOARD MEMBERS.**—By not later than September 30, 2022, the Attorney General shall increase the number of Board Members authorized to serve on the Board of Immigration Appeals to 25.

(B) **STAFF ATTORNEYS.**—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing staff attorney vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase the number of staff attorneys assigned to support the Board of Immigration Appeals by not fewer than 50.

(C) **FACILITIES AND SUPPORT PERSONNEL.**—The Attorney General is authorized to procure space, temporary facilities, and required administrative support staff, on an expedited basis, to accommodate the additional Board Members authorized under subparagraph (A).

(4) **OFFICE OF IMMIGRATION LITIGATION.**—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing vacancies within
the Department of Justice on such date of enact-
ment, the Attorney General shall increase by not
fewer than 100 the number of attorneys for the Of-

(b) DEPARTMENT OF HOMELAND SECURITY.—

(1) FRAUD DETECTION AND NATIONAL SECU-
RITY OFFICERS.—By not later than September 30,
2022, in addition to positions authorized before the
date of the enactment of this Act and any existing
officer vacancies within the Department of Home-
land Security on such date of enactment, the Direc-
tor of U.S. Citizenship and Immigration Services
shall increase by not fewer than 100 the number of
trained full-time active duty Fraud Detection and
National Security (FDNS) officers.

(2) ICE HOMELAND SECURITY INVESTIGATIONS
FORENSIC DOCUMENT LABORATORY PERSONNEL.—
By not later than September 30, 2022, in addition
to positions authorized before the date of the enact-
ment of this Act and any existing officer vacancies
within the Department of Homeland Security on
such date of enactment, the Director of U.S. Immi-

(A) the number of trained, full-time Foren-
sic Document Laboratory Examiners by 15;
(B) the number of trained, full-time Fingerprint Specialists by 15;

(C) the number of trained, full-time Intelligence Officers by 10; and

(D) the number of trained, full-time administrative staff by 3.

(3) IMMIGRATION ATTORNEYS.—

(A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time, active duty Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of such attorneys shall perform duties related to litigation of removal proceedings and representing the Department of Homeland Security in immigration matters before the immigration courts within the Department of Justice, the Executive Office for Immigration Review, and enforcement of U.S. customs and trade laws. At least
50 of these additional attorney positions shall be used by the Attorney General to increase the number of U.S. Immigration and Customs Enforcement attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

(B) USCIS IMMIGRATION ATTORNEYS.—
By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Citizenship and Immigration Services shall increase the number of trained, full-time, active duty Office of Chief Counsel attorneys by not fewer than 250. Such attorneys shall primarily handle national security and public safety cases, denaturalization cases, and legal sufficiency reviews of immigration benefit decisions. At least 50 of these additional attorney positions shall be used by the Attorney General to increase the number of U.S. Citizenship and Immigration Service attorneys serving as Special Assistant U.S. Attor-
neys, on detail to the Department of Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

(C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General and Secretary are authorized to procure space, temporary facilities, and to hire the required administrative and legal support staff, on an expedited basis, to accommodate the additional positions authorized under this paragraph.

(D) AUTHORITY TO ACQUIRE LEASEHOLD.—Notwithstanding any other provision of law, the Secretary may acquire a leasehold interest in real property, and may provide in a lease entered into under this subparagraph for the construction or modification of any facility on the leased property, if Secretary determines that the acquisition of such interest, and such construction or modification, are necessary in order to facilitate the implementation of this Act.

(E) USE OF USCIS FEE FUNDS.—Adjudication fees described in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) may not be used to pay for the cost
of employing or contracting for the services of
any person who is not an employee or con-
tractor of U.S. Citizenship and Immigration
Services or the Department of Homeland Secu-

rity’s Administrative Appeals Office.

(c) DEPARTMENT OF STATE.—

(1) Visa Specialists.—By not later than Sep-

tember 30, 2022, in addition to positions authorized
before the date of the enactment of this Act and any
existing attorney vacancies within the Department
on such date of enactment, the Assistant Secretary
of State for Consular Affairs shall increase the num-
ber of trained, full-time analysts within the Bureau
of Consular Affairs by not fewer than 50. Such ana-
lysts primarily should handle and advise on cases
and matters involving the potential for visa denial on
the basis of national security and public safety con-
cerns.

(2) Immigration Attorneys.—By not later
than September 30, 2022, in addition to positions
authorized before the date of the enactment of this
Act and any existing attorney vacancies within the
Department on such date of enactment, the Assist-
ant Secretary of State for Consular Affairs shall in-
crease the number of trained, full-time, active attor-
neys adviser within the Bureau of Consular Affairs
by not fewer than 25. Such attorneys primarily
should handle and advise on cases and matters in-
volving the potential for visa denial on the basis of
national security and public safety concerns.

(3) FOREIGN SERVICE CONSULAR FELLOWS
PROGRAM.—By not later than September 30, 2020,
the Secretary of State shall—

(A) increase the number of Consular Fel-
lows to double the number of Consular Fellows
employed as of the date of the enactment of
this Act;

(B) offer Consular Fellows permanent ca-
reer appointments; and

(C) make language training available to
Consular Fellows for assignment to posts out-
side of their area of core linguistic ability.

(d) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated, for each of the fiscal
years 2018 through 2022, such sums as may be necessary
to carry out this section.

SEC. 1149. JUDICIAL RESOURCES FOR BORDER SECURITY.

(a) BORDER CROSSING PROSECUTIONS; CRIMINAL
CONSEQUENCE INITIATIVE.—
(1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

(A) to increase the number of criminal prosecutions for unlawful border crossing in each and every sector of the southern border by not less than 80 percent per day, as compared to the average number of such prosecutions per day during the 12-month period preceding the date of the enactment of this Act, by increasing funding for—

(i) attorneys and administrative support staff in offices of United States attorneys;

(ii) support staff and interpreters in court clerks’ offices;

(iii) pre-trial services;

(iv) activities of the Office of the Federal Public Defender, including payments to retain appointed counsel under section 3006A of title 18, United States Code; and

(v) additional personnel, including deputy United States marshals in the United States Marshals Service, to perform intake, coordination, transportation, and court security; and
(B) to reimburse Federal, State, local, and tribal law enforcement agencies for any detention costs related to the increased border crossing prosecutions carried out pursuant to subparagraph (A).

(2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief judge of each judicial district located within a sector of the southern border is authorized to appoint additional full-time magistrate judges, who, consistent with the Constitution and laws of the United States, shall have the authority to hear cases and controversies in the judicial district in which the magistrate judges are appointed.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this subsection.

(b) ADDITIONAL PERMANENT DISTRICT COURT JUDGESHIPS IN SOUTHERN BORDER STATES.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 4 additional district judges for the District of Arizona;
(B) 2 additional district judges for the
Southern District of California;

(C) 4 additional district judges for the
Western District of Texas; and

(D) 2 additional district judges for the
Southern District of Texas.

(2) CONVERSIONS OF TEMPORARY DISTRICT
COURT JUDGESHIPS.—The judgeships for the Dis-
trict of Arizona and the Central District of Cali-
fornia authorized under section 312(c) of the 21st
Century Department of Justice Appropriations Au-
thorization Act (28 U.S.C. 133 note), in existence on
the day before the date of the enactment of this Act,
shall be authorized under section 133 of title 28,
United States Code, and the individuals holding
such judgeships on such day shall hold office under
section 133 of title 28, United States Code, as
amended by paragraph (3).

(3) TECHNICAL AND CONFORMING AMEND-
MENTS.—The table contained in section 133(a) of
title 28, United States Code, is amended—
(A) by striking the item relating to the dis-
trict of Arizona and inserting the following:

"Arizona ................................................................. 17";
(B) by striking the items relating to California and inserting the following:

“California:
Northern ................................................................. 19
Eastern ................................................................. 12
Central ................................................................. 28
Southern ................................................................. 15”; and

(C) by striking the items relating to Texas and inserting the following:

“Texas:
Northern ................................................................. 12
Southern ................................................................. 21
Eastern ................................................................. 7
Western ................................................................. 17”.

(c) INCREASE IN FILING FEES.—

(1) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended—

(A) by striking “$350” and inserting “$375”; and

(B) by striking “$5” and inserting “$7”.

(2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the amendments made by paragraph (1)—

(A) shall be deposited as offsetting receipts in the special fund of the Treasury established under section 1931 of title 28, United States Code; and

(B) shall be available solely for the purpose of facilitating the processing of civil cases, but only to the extent specifically appropriated by
an Act of Congress enacted after the date of
the enactment of this Act.

SEC. 1150. REIMBURSEMENT TO STATE AND LOCAL PROSE-
CUTORS FOR FEDERALLY INITIATED, IMMIGRATION-RELATED CRIMINAL CASES.

(a) IN GENERAL.—The Attorney General shall reim-
burse State, county, tribal, and municipal governments for
costs associated with the prosecution of federally initiated
criminal cases declined to be prosecuted by local offices
of the United States attorneys, including costs relating to
pre-trial services, detention, clerical support, and public
defenders’ services associated to such prosecution.

(b) EXCEPTION.—Reimbursement under subsection
(a) shall not be available, at the discretion of the Attorney
General, if the Attorney General determines that there is
reason to believe that the jurisdiction seeking reimbursement
has engaged in unlawful conduct in connection with
immigration-related apprehensions.

CHAPTER 3—GRANTS

SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

Section 241(i) of the Immigration and Nationality
Act (8 U.S.C. 1231(i)) is amended—

(1) in paragraph (1)—

(A) by inserting “AUTHORIZATION.—” before “If the chief”; and
(B) by inserting “or an alien with an unknown status” after “undocumented criminal alien” each place that term appears;

(2) by striking paragraphs (2) and (3) and inserting the following:

“(2) COMPENSATION.—

“(A) CALCULATION OF COMPENSATION.—
Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the Attorney General.

“(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall compensate the State or political subdivision of the State, in accordance with subparagraph (A), for the incarceration of an alien—

“(i) whose immigration status cannot be verified by the Secretary; and

“(ii) who would otherwise be an undocumented criminal alien if the alien is unlawfully present in the United States.

“(3) DEFINITIONS.—In this subsection:

“(A) ALIEN WITH AN UNKNOWN STATUS.—The term ‘alien with an unknown status’ means an individual—
“(i) who has been incarcerated by a Federal, State, or local law enforcement entity; and

“(ii) whose immigration status cannot be definitively identified.

“(B) UNDOCUMENTED CRIMINAL ALIEN.—

The term ‘undocumented criminal alien’ means an alien who—

“(i) has been charged with or convicted of a felony or any misdemeanors; and

“(ii)(I) entered the United States without inspection or at any time or place other than as designated by the Secretary;

“(II) was the subject of exclusion or deportation or removal proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

“(III) was admitted as a non-immigrant and, at the time he or she was taken into custody by the State or a political subdivision of the State, has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was
changed under section 248, or to comply
with the conditions of any such status.”;

(3) in paragraph (4), by inserting “and aliens
with an unknown status” after “undocumented
criminal aliens” each place that term appears;

(4) in paragraph (5)(C), by striking “to carry
out this subsection” and all that follows and inserting “$950,000,000, for each of the fiscal years 2018
through 2022, to carry out this subsection.”; and

(5) by adding at the end the following:

“(7) DISTRIBUTION OF REIMBURSEMENT.—Any
amounts provided to a State or to a political subdivi-
sion of a State as compensation under paragraph
(1)(A) for a fiscal year shall be distributed to such
State or political subdivision not later than 120 days
after the last day of the period specified by the At-
torney General for the submission of requests under
that paragraph for that fiscal year.”.

SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE
GRANTS.

(a) Authority.—

(1) IN GENERAL.—The Secretary, in consulta-
tion with State and local law enforcement agencies,
may award border security assistance grants to law
enforcement agencies located in the Southwest bor-
der region for the purposes described in subsection (b).

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to law enforcement agencies located in a county that is located within 25 miles of the Southern border.

(b) PURPOSES.—Each grant awarded under subsection (a) shall be used to address drug trafficking, smuggling, and border violence—

(1) by obtaining law enforcement equipment and tools, including secure 2-way communication devices, portable laptops and office computers, license plate readers, unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night viewing capabilities, and any other appropriate law enforcement equipment;

(2) by hiring additional personnel, including administrative support personnel, dispatchers, and jailers, and to provide overtime pay for such personnel;

(3) by purchasing law enforcement vehicles;

(4) by providing high performance aircraft and helicopters for border surveillance and other critical mission applications and paying for the operational and maintenance costs associated with such craft;
(5) by providing critical power generation systems, infrastructure, and technological upgrades to support State and local data management systems and fusion centers; or

(6) by providing specialized training and paying for the direct operating expenses associated with detecting and prosecuting drug trafficking, human smuggling, and other illegal activity or violence that occurs at or near the Southern border.

(c) APPLICATION.—

(1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a nonprofit organization or coalition acting as an agent for 1 or more such law enforcement entities, shall submit an application to the Secretary that includes the information described in paragraph (2) at such time and in such manner as the Secretary may require.

(2) CONTENT.—Each application submitted under paragraph (1) shall include—

(A) a description of the activities to be carried out with a grant awarded under subsection (a);

(B) if equipment will be purchased with the grant, a detailed description of—
(i) the type and quantity of such equipment; and

(ii) the personnel who will be using such equipment;

(C) a description of the need of the law enforcement agency or agencies for the grant, including a description of the inability of the agency or agencies to carry out the proposed activities without the grant; and

(D) an assurance that the agency or agencies will, to the extent practicable, seek, recruit, and hire women and members of racial and ethnic minority groups in law enforcement positions of the agency or agencies.

(d) Review and Award.—

(1) Review.—Not later than 90 days after receiving an application submitted under subsection (c), the Secretary shall review and approve or reject the application.

(2) Award of Funds.—Subject to the availability of appropriations, not later than 45 days after the date an application is approved under paragraph (1), the Secretary shall transmit the grant funds to the applicant.
(3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to high-intensity areas for drug trafficking, smuggling, and border violence.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for each of the fiscal years 2018 through 2022, $300,000,000 for grants authorized under this section.

SEC. 1153. OPERATION STONEGARDEN.

(a) IN GENERAL.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding at the end the following:

“SEC. 2009. OPERATION STONEGARDEN.

“(a) ESTABLISHMENT.—There is established in the Department a program to be known as ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

“(b) ELIGIBLE RECIPIENTS.—To be eligible to receive a grant under this section, a law enforcement agency—

“(1) shall be located in—
“(A) a State bordering Canada or Mexico;

or

“(B) a State or territory with a maritime border; and

“(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

“(c) PERMITTED USES.—The recipient of a grant under this section may use such grant for—

“(1) equipment, including maintenance and sustainment costs;

“(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

“(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security’s most recent Homeland Security Grant Program Notice of Funding Opportunity; and

“(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.
“(d) Period of Performance.—The Secretary shall award grants under this section to grant recipients for a period of not less than 36 months.

“(e) Report.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives containing information on the expenditure of grants made under this section by each grant recipient.

“(f) Authorization of Appropriations.—There is authorized to be appropriated $110,000,000, for each of the fiscal years 2018 through 2022, for grants under this section.”.

(b) Conforming Amendment.—Section 2002(a) of the Homeland Security Act of 2002 (6 U.S.C. 603(a)) is amended to read as follows:

“(a) Grants Authorized.—The Secretary, through the Administrator, may award grants under sections 2003, 2004, and 2009 to State, local, and tribal governments, as appropriate.”.

(c) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 2008 the following:

“Sec. 2009. Operation Stonegarden.”.
SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS OF CROSS-BORDER HUMAN SMUGGLING.

In addition to any funding for grants made available to the Attorney General for State and local law enforcement assistance, the Attorney General shall award grants to county, municipal, or tribal governments in States along the southern border for costs, or reimbursement of costs, associated with the transportation and processing of unidentified alien remains that have been transferred to an official medical examiner’s office or an institution of higher education in the area with the capacity to analyze human remains using forensic best practices, including DNA testing, where such expenses may contribute to the collection and analysis of information pertaining to missing and unidentified persons.

SEC. 1155. GRANT ACCOUNTABILITY.

(a) Definitions.—In this section:

(1) Awarding entity.—The term “awarding entity” means the Secretary, the Administrator of the Federal Emergency Management Agency, the Director of the National Science Foundation, or the Chief of the Office of Citizenship and New Americans.

(2) Nonprofit organization.—The term “nonprofit organization” means an organization that is described in section 501(c)(3) of the Internal Rev-
venue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding in a final audit report conducted by the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 1 year after the date when the final audit report is issued.

(b) ACCOUNTABILITY.—All grants awarded by an awarding entity pursuant to this subtitle shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and in each fiscal year thereafter, the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, shall conduct audits of re-
ipients of grants under this subtitle or any amendments made by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such Inspectors General shall determine the appropriate number of grantees to be audited each year.

(B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this subtitle or any amendment made by this subtitle during the first 2 fiscal years beginning after the end of the fiscal year in which a finding described in subsection (A) was discovered.

(C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by this subtitle, the awarding entity shall give priority to eligible applicants that did not have an unresolved audit finding during the 3 fiscal years immediately preceding the date on which the entity submitted the application for such grant.

(D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any amendment made by this subtitle during the 2-year period when the entity is barred from re-
receiving grants under subparagraph (B), the awarding entity shall—

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to such entity into the general fund of the Treasury; and

(ii) seek to recover the costs of the repayment under clause (i) from such entity.

(2) Nonprofit Organization Requirements.—

(A) Prohibition.—An awarding entity may not award a grant under this subtitle or any amendment made by this subtitle to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of the Internal Revenue Code of 1986.

(B) Disclosure.—Each nonprofit organization that is awarded a grant under this subtitle or any amendment made by this subtitle and uses the procedures prescribed by Internal Revenue regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees, and key employees, shall disclose to the awarding entity,
in the application for the grant, the process for
determining such compensation, including the
independent persons involved in reviewing and
approving such compensation, the comparability
data used, and contemporaneous substantiation
of the deliberation and decision. Upon request,
the awarding entity shall make the information
disclosed under this subparagraph available for
public inspection.

(3) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—Amounts authorized to
be appropriated to the Department of Hom-
land Security or the National Science Founda-
tion for grant programs under this subtitle or
any amendment made by this subtitle may not
be used by an awarding entity to host or sup-
port any expenditure for conferences that uses
more than $20,000 in funds made available by
the Department of Homeland Security or the
National Science Foundation unless the Deputy
Secretary for Homeland Security, or the Dep-
uty Director of the National Science Founda-
tion, or their designee, provides prior written
authorization that the funds may be expended
to host the conference.
(B) **Written Approval.**—Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) **Report.**—The Deputy Secretary of Homeland Security and the Deputy Director of the National Science Foundation shall submit an annual report to Congress that identifies all conference expenditures approved under this paragraph.

(4) **Annual Certification.**—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and annually thereafter, each awarding entity shall submit a report to Congress that—

(A) indicates whether—

(i) all audits issued by the Offices of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate individuals;

(ii) all mandatory exclusions required under paragraph (1)(B) have been issued; and
(iii) all reimbursements required under paragraph (1)(D) have been made; and

(B) includes a list of any grant recipients excluded under paragraph (1) during the previous year.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 1201. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Finance of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Homeland Security of the House of Representatives;

(E) the Committee on Ways and Means of the House of Representatives; and
(F) the Committee on the Judiciary of the House of Representatives.

(2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

(1) AUTHORITY.—Subject to section 3307 of title 40, United States Code, the Administrator of General Services may construct new ports of entry along the northern border and along the southern border at locations determined by the Secretary.

(2) CONSULTATION.—

(A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Transportation, the Administrator of General Services, and appropriate representatives of State and local governments, Indian tribes, and property owners in the United States prior to determining a location for any new port constructed pursuant to paragraph (1).

(B) CONSIDERATIONS.—The purpose of the consultations required under subparagraph (A) shall be to minimize any negative impacts
of such a new port on the environment, culture, commerce, and quality of life of the communities and residents located near such new port.

(b) Expansion and Modernization of High-Volume Southern Border Ports of Entry.—Not later than September 30, 2022, the Administrator of General Services, subject to section 3307 of title 40, United States Code, and in coordination with the Secretary, shall expand or modernize high-priority ports of entry on the southern border, as determined by the Secretary, for the purposes of reducing wait times and enhancing security.

(c) Port of Entry Prioritization.—Prior to constructing any new ports of entry pursuant to subsection (a), the Administrator of General Services shall complete the expansion and modernization of ports of entry pursuant to subsection (b), to the extent practicable.

(d) Notifications.—

(1) Relating to New Ports of Entry.—Not later than 15 days after determining the location of any new port of entry for construction pursuant to subsection (a), the Secretary and the Administrator of General Services shall jointly notify the Members of Congress who represent the State or congressional district in which such new port of entry will be located, the Committee on Homeland Security and
Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on the Judiciary of the House of Representatives. Such notification shall include—

(A) information relating to the location of such new port of entry;

(B) a description of the need for such new port of entry and associated anticipated benefits;

(C) a description of the consultations undertaken by the Secretary and the Administrator pursuant to subsection (a)(2)(A);

(D) any actions that will be taken to minimize negative impacts of such new port of entry; and

(E) the anticipated time line for the construction and completion of such new port of entry.
(2) EXPANSION AND MODERNIZATION OF PORTS
OF ENTRY.—Not later than 180 days after the date
of the enactment of this Act, the Secretary and the
Administrator of General Services shall jointly notify
the congressional committees listed in paragraph (1)
of—

(A) the ports of entry on the southern bor-
der selected for expansion or modernization
pursuant to subsection (b); and

(B) the plan of the Secretary and the Ad-
ministrator for expanding or modernizing each
such port of entry.

(e) SAVINGS PROVISION.—Nothing in this section
may be construed—

(1) to create or negate any right of action for
a State, local government, or other person or entity
affected by this section;

(2) to delay the transfer of the possession of
property to the United States;

(3) to affect the validity of any property acqui-
sitions by purchase or eminent domain or to other-
wise affect the eminent domain laws of the United
States or of any State; or

(4) to create any right or liability for any party.
(f) **Rule of Construction.**—Nothing in this section may be construed as providing the Secretary new authority related to the construction, acquisition, or renovation of real property.

**SEC. 1203. Secure Communications.**

(a) **In General.**—The Secretary shall ensure that each U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a secure radio or other 2-way communication device, supported by system interoperability, that allows each such officer to communicate—

(1) between ports of entry and inspection stations; and

(2) with other Federal, State, tribal, and local law enforcement entities.

(b) **U.S. Border Patrol Agents.**—The Secretary shall ensure that each U.S. Customs and Border Protection agent or officer assigned or required to patrol on foot, by horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-band encrypted portable radio.

**SEC. 1204. Border Security Deployment Program.**

(a) **Expansion.**—Not later than September 30, 2022, the Secretary shall fully implement U.S. Customs and Border Protection’s Border Security Deployment Pro-
gram and expand the integrated surveillance and intrusion
detection system at land ports of entry along the southern
border and the northern border.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
tion to amounts otherwise authorized to be appropriated
for such purpose, there is authorized to be appropriated
$33,000,000, for each of the fiscal year 2018 through
2022, to carry out subsection (a).

SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READ-
ERS AT PORTS OF ENTRY.

(a) UPGRADE.—Not later than 2 years after the date
of the enactment of this Act, the Commissioner of U.S.
Customs and Border Protection shall upgrade all existing
license plate readers on the northern border and on the
southern border on incoming and outgoing vehicle lanes.

(b) PILOT PROGRAM.—Not later than 90 days after
the date of the enactment of this Act, the Commissioner
of U.S. Customs and Border Protection shall conduct a
1-month pilot program on the southern border using li-
cense plate readers for 1 to 2 cargo lanes at the top 2
high-volume southern border land ports of entry or check-
points and at the top 2 high-volume northern border land
ports of entry or checkpoints to determine their effective-
ness in reducing cross-border wait times for commercial
traffic and tractor-trailers.
(c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that contains the results of the pilot program under subsection (b) and makes recommendations for using the technology described in such subsection on the southern border.

(d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $125,000,000 for the 2-year period ending on September 30, 2019, to carry out subsection (a).

SEC. 1206. BIOMETRIC TECHNOLOGY.

(a) Biometric Storage.—

(1) Creation or Expansion of System.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall create a system (or upgrade and expand the capability and capacity of an existing system, if a Department of Homeland
Security system already has capability and capacity for storage) to allow for the storage of fingerprints, photographs, iris scans, voice prints, and any other biometric data of aliens that can be used by the Department of Homeland Security, other Federal agencies, and State and local law enforcement agencies for identity verification, authentication, background checks, and document production.

(2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system created or expanded under paragraph (1) is compatible with existing State and local law enforcement systems that are used for the collection and storage of biometric data for criminal aliens.

(b) PILOT PROGRAM.—When the system created under subsection (a) is operational, U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall conduct a 6-month pilot program on the collection and use of iris scans and voice prints for identity verification, authentication, background checks, and document production.

(c) REPORT.—Not later than 6 months after the conclusion of the pilot program under subsection (b), the Secretary shall submit a report containing the results of the
pilot program and recommendations for using such technology to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Homeland Security of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

(d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through 2022, $10,000,000 carry out this section.

SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION PROJECT.

(a) In General.—

(1) Establishment.—Not later than 6 months after the date of the enactment of this Act, the Commissioner shall establish a 6-month operational demonstration project to deploy a high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land ports of entry along
the United States-Mexico border with significant cross-border traffic.

(2) Location.—The demonstration project established under paragraph (1)—

(A) shall be located within the pre-primary traffic flow; and

(B) should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

(b) Report.—Not later than 90 days after the conclusion of the operational demonstration project under subsection (a), the Commissioner shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that describes—

(1) the effects of the demonstration project on legitimate travel and trade;

(2) the effects of the demonstration project on wait times, including processing times, for non-pedestrian traffic; and

(3) the effectiveness of the demonstration project in combating terrorism and smuggling.
SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

(a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by inserting after section 415 the following:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

“(a) Establishment.—The Secretary—

“(1) not later than 180 days after the date of the enactment of this section, shall submit an implementation plan to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives for establishing a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

“(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs of such a system, that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;"
“(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

“(C) a consideration of training programs necessary to establish such a system that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

“(D) a consideration of how such a system will affect arrival and departure wait times that takes into account prior reports on such matter issued by the Government Accountability Office and the Department;

“(E) information received after consultation with private sector stakeholders, including the—

“(i) trucking industry;

“(ii) airport industry;

“(iii) airline industry;

“(iv) seaport industry;

“(v) travel industry; and

“(vi) biometric technology industry;
“(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this section may be impacted by, or incorporated into, such a system;

“(G) defined metrics of success and milestones;

“(H) identified risks and mitigation strategies to address such risks;

“(I) a consideration of how other countries have implemented a biometric exit data system; and

“(J) a list of statutory, regulatory, or administrative authorities needed to integrate such a system into the operations of the Transportation Security Administration; and

“(2) not later than 2 years after the date of the enactment of this section, shall establish a biometric exit data system at—

“(A) the 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

“(B) the 10 United States seaports that support the highest volume of international sea
travel, as determined by available Federal travel
data; and

“(C) the 15 United States land ports of
entry that support the highest volume of vehi-
cle, pedestrian, and cargo crossings, as deter-
mined by available Federal border crossing
data.

“(b) IMPLEMENTATION.—

“(1) PILOT PROGRAM AT LAND PORTS OF
ENTRY.—Not later than 6 months after the date of
the enactment of this section, the Secretary, in col-
laboration with industry stakeholders, shall establish
a 6-month pilot program to test the biometric exit
data system referred to in subsection (a)(2) on non-
pedestrian outbound traffic at not fewer than 3 land
ports of entry with significant cross-border traffic,
including at not fewer than 2 land ports of entry on
the southern land border and at least 1 land port of
entry on the northern land border. Such pilot pro-
gram may include a consideration of more than 1 bi-
ometric mode, and shall be implemented to deter-
mine—

“(A) how a nationwide implementation of
such biometric exit data system at land ports of
entry shall be carried out;
“(B) the infrastructure required to carry out subparagraph (A);

“(C) the effects of such pilot program on legitimate travel and trade;

“(D) the effects of such pilot program on wait times, including processing times, for such nonpedestrian traffic;

“(E) the effects of such pilot program on combating terrorism; and

“(F) the effects of such pilot program on identifying visa holders who violate the terms of their visas.

“(2) EXPANSION TO LAND PORTS OF ENTRY.—

“(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry.

“(B) EXTENSION.—The Secretary may extend, for a single 2-year period, the date specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House
of Representatives, and the Committee on the Judiciary of the House of Representatives that the 15 land ports of entry that support the highest volume of passenger vehicles, as determined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a biometric exit data system. Such extension shall only apply to nonpedestrian outbound traffic.

“(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all air and sea ports of entry.

“(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary, in consultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

“(d) TERMINATION OF PROCEEDING.—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate
the proceeding entitled ‘Collection of Alien Biometric Data
Upon Exit From the United States at Air and Sea Ports
of Departure; United States Visitor and Immigrant Status
Indicator Technology Program (“US-VISIT”), issued on

“(e) DATA-MATCHING.—The biometric exit data sys-
tem established under this section shall—

“(1) match biometric information for an indi-
vidual who is departing the United States against bi-
ometric data previously provided to the United
States Government by such individual for the pur-
poses of international travel;

“(2) leverage the infrastructure and databases
of the current biometric entry and exit system estab-
lished pursuant to section 7208 of the Intelligence
Reform and Terrorism Prevention Act of 2004 (8
U.S.C. 1365b) for the purpose described in para-
graph (1); and

“(3) be interoperable with, and allow matching
against, other Federal databases that—

“(A) store biometrics of known or sus-
ppected terrorists; and

“(B) identify visa holders who violate the
terms of their visas.

“(f) SCOPE.—
“(1) IN GENERAL.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

“(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the case of an individual who exits and then enters the United States on a passenger vessel (as such term is defined in section 2101 of title 46, United States Code) the itinerary of which originates and terminates in the United States.

“(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a United States or Canadian citizen who exits the United States through a land port of entry.

“(g) COLLECTION OF DATA.—The Secretary may not require any entity that is not part of the Federal Government to collect biometric data, or to contribute to the costs of collecting or administering the biometric exit data system established under this section, except through a mutual agreement.

“(h) MULTI-MODAL COLLECTION.—In carrying out subsections (a)(1) and (b), the Secretary shall make every
effort to collect biometric data using multiple modes of biometrics.

“(i) FACILITIES.—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity. For non-federally owned facilities, such space shall be provided and maintained at no cost to the Government.

“(j) NORTHERN LAND BORDER.—The requirements under subsections (a)(2)(C) and (b)(2)(A) may be achieved on the northern land border through the sharing of biometric data provided to the Department by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement.

“(k) FULL AND OPEN COMPETITION.—The Secretary shall procure goods and services to implement this section through full and open competition in accordance with the Federal Acquisition Regulation.

“(l) OTHER BIOMETRIC INITIATIVES.—The Secretary may pursue biometric initiatives at air, land, and sea ports of entry for the purposes of border security and trade facilitation distinct from the biometric exit data system described in this section.
“(m) CONGRESSIONAL REVIEW.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit reports and recommendations to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives regarding the Science and Technology Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

“(n) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 415 the following:

“Sec. 416. Biometric entry-exit.”.

SEC. 1209. SENSE OF CONGRESS ON COOPERATION BETWEEN AGENCIES.

(a) FINDING.—Congress finds that personnel constraints exist at land ports of entry with regard to sanitary and phytosanitary inspections for exported goods.
(b) Sense of Congress.—It is the sense of Congress that, in the best interest of cross-border trade and the agricultural community—

(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate the crossing and trade of perishable goods in a manner consistent with rules of the Department of Agriculture; and

(2) cross designation should be available for personnel who will assist more than 1 agency or department at land ports of entry to facilitate increased trade and commerce.

Subtitle C—Border Security Enforcement Fund

SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.

(a) Purpose.—There shall be established in the Treasury of the United States a Border Security Enforcement Fund (referred to in this section as the “Fund”), to be administered through the Department of Homeland Security and, in fiscal year 2018 only, through the De-
part of State only with respect to section 1120, which shall be available to carry out activities necessary to implement this Act and other Acts related to border security, including—

(1) the design, planning, construction, installation, deployment, operation, and maintenance of tactical infrastructure, technology, including physical barriers, and necessary mobility access and personnel support infrastructure in the vicinity of the United States border—

(A) to achieve situational awareness and operational control of such border;

(B) to deter, impede, and detect illegal activity; or

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

(2) the implementation of port of entry provisions under titles I and II;

(3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such craft; and

(4) hiring and recruitment.

(b) FUNDING.—There are appropriated to the Fund, out of any amounts in the Treasury not otherwise appropriated, $25,000,000,000, of which—
(1) $2,947,000,000 is appropriated for fiscal year 2018, and shall remain available through September 30, 2022;

(2) $2,225,000,000 is appropriated for fiscal year 2019, and shall remain available through September 30, 2023;

(3) $2,467,000,000 is appropriated for fiscal year 2020, and shall remain available through September 30, 2024;

(4) $2,644,000,000 is appropriated for fiscal year 2021, and shall remain available through September 30, 2025;

(5) $2,862,000,000 is appropriated for fiscal year 2022, and shall remain available through September 30, 2026;

(6) $2,370,000,000 is appropriated for fiscal year 2023, and shall remain available through September 30, 2027;

(7) $2,371,000,000 is appropriated for fiscal year 2024, and shall remain available through September 30, 2028;

(8) $2,401,000,000 is appropriated for fiscal year 2025, and shall remain available through September 30, 2029;
(9) $2,371,000,000 is appropriated for fiscal year 2026, and shall remain available through September 30, 2030; and

(10) $2,342,000,000 is appropriated for fiscal year 2027, and shall remain available through September 30, 2031.

(c) TACTICAL INFRASTRUCTURE.—

(1) TRANSFERS.—The Secretary shall transfer, from the Fund to the “U.S. Customs and Border Protection—Procurement, Construction and Improvements” account, for the purpose described in subsection (a)(1), $18,000,000,000, of which—

(A) $1,571,000,000 shall be transferred in fiscal year 2018;

(B) $1,600,000,000 shall be transferred in fiscal year 2019;

(C) $1,842,000,000 shall be transferred in fiscal year 2020;

(D) $2,019,000,000 shall be transferred in fiscal year 2021;

(E) $2,237,000,000 shall be transferred in fiscal year 2022;

(F) $1,745,000,000 shall be transferred in fiscal year 2023;
(G) $1,746,000,000 shall be transferred in fiscal year 2024;

(H) $1,776,000,000 shall be transferred in fiscal year 2025;

(I) $1,746,000,000 shall be transferred in fiscal year 2026; and

(J) $1,718,000,000 shall be transferred in fiscal year 2027.

(2) Availability of Funds.—Notwithstanding section 1532 of title 31, United States Code, any amounts transferred pursuant to paragraph (1) shall merge with the “U.S. Customs and Border Protection—Procurement, Construction and Improvements” account and remain available until expended.

(d) Transfer to Department of State.—During fiscal year 2018, the Secretary shall transfer $200,000,000 to the Secretary of State to implement section 1120.

(e) Transfer Authority.—In addition to the amounts transferred by the Secretary pursuant to subsection (c) and to the Secretary of State pursuant to subsection (d), the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide, in a subsequent appro-
priation, for the transfer of amounts in the Fund to the
Department of Homeland Security to eligible activities
under this section.

(f) USE OF FUND.—If the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives do not provide for the full transfer of funds pursuant to subsection (e) in an appropriation enacted in the fiscal year in which such funds are made available from the Fund pursuant to subsection (b), the Secretary of Homeland Security may transfer any remaining amounts in the Fund to accounts within the Department of Homeland Security for eligible activities under this section.

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

SEC. 1401. SHORT TITLES.

This subtitle may be cited as the “Stop the Importation and Trafficking of Synthetic Analogues Act of 2018” or the “SITSA Act.”

SEC. 1402. ESTABLISHMENT OF SCHEDULE A.

Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

(1) in subsection (a), by striking “five schedules of controlled substances, to be known as schedules I,
II, III, IV, and V” and inserting “six schedules of controlled substances, to be known as schedules I, II, III, IV, V, and A’’;

(2) in subsection (b), by adding at the end the following:

“(6) SCHEDULE A.—

“(A) IN GENERAL.—The drug or substance—

“(i) has—

“(I) a chemical structure that is substantially similar to the chemical structure of a controlled substance in schedule I, II, III, IV, or V; and

“(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I, II, III, IV, or V; and

“(ii) is not—

“(I) listed or otherwise included in any other schedule in this section or by regulation of the Attorney General; and

“(II) with respect to a particular person, subject to an exemption that is in ef-
pect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption.

“(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central nervous system may be based on—

“(i) the chemical structure, structure activity relationships, binding receptor assays, or other relevant scientific information about the substance;

“(ii)(I) the current or relative potential for abuse of the substance; and

“(II) the clandestine importation, manufacture, or distribution, or diversion from legitimate channels, of the substance; or

“(iii) the capacity of the substance to cause a state of dependence, including physical or psychological dependence that is similar to or greater than that of a controlled substance in schedule I, II, III, IV, or V.”; and

(3) in subsection (c)—
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(A) in the matter preceding schedule I, by
striking “IV, and V” and inserting “IV, V, and
A”; and

(B) by adding at the end the following:

“SCHEDULE A

“(a) Unless specifically excepted or unless listed in
another schedule, any of the following substances, as
scheduled in accordance with section 201(k)(5):

“(1) 4-fluoroisobutyryl fentanyl.
“(2) Valeryl fentanyl.
“(3) 4-methoxybutyryl fentanyl.
“(4) 4-methylphenethyl acetyl fentanyl.
“(5) 3-furanyl fentanyl.
“(6) Ortho-fluorofentanyl.
“(7) Tetrahydrofurananyl fentanyl.
“(8) Ocfentanil.
“(9) 4-fluorobutyryl fentanyl.
“(10) Methoxyacetyl fentanyl.
“(11) Meta-fluorofentanyl.
“(12) Isobutyryl fentanyl.
“(13) Acyl fentanyl.”.

SEC. 1403. TEMPORARY AND PERMANENT SCHEDULING OF
SCHEDULE A SUBSTANCES.

Section 201 of the Controlled Substances Act (21
U.S.C. 811) is amended by adding at the end the fol-
lowing:
“(k) TEMPORARY AND PERMANENT SCHEDULING OF
SCHEDULE A SUBSTANCES.—

“(1) The Attorney General may issue a tem-
porary order adding a drug or substance to schedule
A if the Attorney General finds that—

“(A) the drug or other substance satisfies
the criteria for being considered a schedule A
substance; and

“(B) adding such drug or substance to
schedule A will assist in preventing abuse or
misuse of the drug or other substance.

“(2)(A) A temporary scheduling order issued
under paragraph (1) shall not take effect until 30
days after the date on which the Attorney General
publishes a notice in the Federal Register of the in-
tention to issue such order and the grounds upon
which such order is to be issued.

“(B) The Attorney General may amend, with-
draw, or rescind a temporary scheduling order at
any time by publication of a notice in the Federal
Register.

“(C) Subject to paragraph (B), the temporary
scheduling order shall expire not later than 5 years
after the date on which it becomes effective, except
that the Attorney General may, during the pendency
of proceedings under paragraph (5), extend the tem-
porary scheduling order for up to 180 days.

“(3) A temporary scheduling order issued under
paragraph (1) shall be vacated upon the issuance of
a permanent order issued under paragraph (5) with
regard to the same substance, or upon the subse-
quent issuance of any scheduling order under this
section.

“(4) A temporary scheduling order issued under
paragraph (1) shall not be subject to judicial review.

“(5) The Attorney General may, by rule, issue
a permanent order adding a drug or other substance
to schedule A if such drug or substance satisfies the
criteria for being considered a schedule A substance.
Such rulemaking may be commenced simultaneously
with the issuance of the temporary scheduling order
issued under paragraph (1) with regard to the same
substance.

“(6) Before initiating proceedings under para-
graph (1) or (5), the Attorney General shall trans-
mit notice of an order proposed to be issued to the
Secretary of Health and Human Services. In issuing
an order under paragraph (1) or (5), the Attorney
General shall take into consideration any comments
submitted by the Secretary of Health and Human
Services in response to a notice transmitted pursuant to this paragraph.’’.

SEC. 1404. PENALTIES.

(a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

(1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

“(F)(i) In the case of any controlled substance in schedule A, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

“(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bod-
ily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

“(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 4 years in addition to such term of imprisonment.”;

(2) in section 403(a) (21 U.S.C. 843(a))—

(A) in paragraph (8), by striking “or” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; or”; and

(C) by inserting after paragraph (9) the following:
“(10) to export a substance in violation of the controlled substance laws of the country to which the substance is exported.”; and

(3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

“(b) A person shall not be subject to a criminal or civil penalty under this title or under any other Federal law solely for possession of a schedule A controlled substance.”.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the following:

“(8) In the case of a violation under subsection (a) involving a controlled substance in schedule A, the person committing such violation shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person com-
mits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, United States Code, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph.
which provide for a mandatory term of imprison-
ment if death or serious bodily injury results.”.

SEC. 1405. FALSE LABELING OF SCHEDULE A CONTROLLED
SUBSTANCES.

(a) IN GENERAL.—Section 305 of the Controlled
Substances Act (21 U.S.C. 825) is amended by adding at
the end the following:

“(f) FALSE LABELING OF SCHEDULE A CON-
TROLLED SUBSTANCES.—

“(1) It shall be unlawful to import, export,
manufacture, distribute, dispense, or possess with
intent to manufacture, distribute, or dispense, a
schedule A substance or product containing a sched-
ule A substance, unless the substance or product
bears a label clearly identifying a schedule A sub-
stance or product containing a schedule A substance
by the nomenclature used by the International
Union of Pure and Applied Chemistry.

“(2)(A) A product described in subparagraph
(B) is exempt from the International Union of Pure
and Applied Chemistry nomenclature requirement of
this subsection if such product is labeled in the man-
ner required under the Federal Food, Drug, and
Cosmetic Act.
“(B) A product is described in this subparagraph if the product—

“(i) is the subject of an approved application as described in section 505(b) or (j) of the Federal Food, Drug, and Cosmetic Act; or

“(ii) is exempt from the provisions of section 505 of such Act relating to new drugs because—

“(I) it is intended solely for investigational use as described in section 505(i) of such Act; and

“(II) such product is being used exclusively for purposes of a clinical trial that is the subject of an effective investigational new drug application.”.

(b) PENALTIES.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

(1) in subsection (a)(16), by inserting “or subsection (f)” after “subsection (e)”; and

(2) in subsection (c)(1)(D), by inserting “or a schedule A substance” after “anabolic steroid”.

SEC. 1406. REGISTRATION REQUIREMENTS FOR HANDLERS

OF SCHEDULE A SUBSTANCES.

(a) Controlled Substances Act.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended—

(1) in subsection (f), in the undesignated matter following paragraph (5)—

(A) by inserting “or A” after “schedule I” each place it appears; and

(B) by adding at the end the following: “A separate registration for engaging in research with a controlled substance in schedule A for practitioners already registered under this part to engage in research with controlled substances in schedule I shall not be required. The Secretary shall determine the merits of the research protocol submitted by the practitioner registering to engage in research with a controlled substance in schedule A, and the Attorney General may deny or revoke the registration only on a ground specified in section 304.”;

and

(2) by adding at the end the following:

“(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances if—
“(A) the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

“(B) the Attorney General determines that such registration is consistent with the public interest and with the United States obligations under international treaties, conventions, or protocols in effect on the date of enactment of this subsection.

“(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider—

“(A) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule A compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

“(B) compliance with applicable State and local law;
“(C) promotion of technical advances in the art of manufacturing substances described in subparagraph (A) and the development of new substances;
“(D) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of substances described in paragraph (A);
“(E) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and
“(F) such other factors as may be relevant to and consistent with the public health and safety.
“(3) If an applicant is registered to manufacture controlled substances in schedule I or II under subsection (a), the applicant shall not be required to apply for a separate registration under this subsection.
“(l)(1) The Attorney General shall register an applicant to distribute schedule A substances—
“(A) if the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and
“(B) unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest.
“(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider—

“(A) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

“(B) compliance with applicable State and local law;

“(C) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of substances described in subparagraph (A);

“(D) past experience in the distribution of controlled substances; and

“(E) such other factors as may be relevant to and consistent with the public health and safety.

“(3) If an applicant is registered to distribute a controlled substance in schedule I or II under subsection (b), the applicant shall not be required to apply for a separate registration under this subsection.

“(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any practitioner who was engaged in research on the substance before the placement of the substance in schedule A and any manufacturer or distributor who was handling the substance be-
fore the placement of the substance in schedule A shall register with the Attorney General.

“(2)(A) Not later than 60 days after the date on which the Attorney General receives an application for registration to conduct research on a schedule A substance, the Attorney General shall—

“(i) grant, or initiate proceedings under section 304(c) to deny, the application; or

“(ii) request supplemental information from the applicant.

“(B) Not later than 30 days after the date on which the Attorney General receives supplemental information requested under subparagraph (A)(ii) in connection with an application described in subparagraph (A), the Attorney General shall grant or deny the application.”.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:

“(j)(1) The Attorney General shall register an applicant to import or export a schedule A substance if—

“(A) the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and
“(B) the Attorney General determines that such
registration is consistent with the public interest and
with the United States obligations under inter-
national treaties, conventions, or protocols in effect
on the date of enactment of this subsection.
“(2) In determining the public interest under para-
graph (1)(B), the Attorney General shall consider the fac-
tors described in subparagraphs (A) through (F) of sec-
tion 303(k)(2).
“(3) If an applicant is registered to import or export
a controlled substance in schedule I or II under subsection
(a), the applicant shall not be required to apply for a sepa-
rate registration under this subsection.”.

SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

(a) CONTROLLED SUBSTANCES ACT.—The Con-
trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
ed—

(1) in section 303(c) (21 U.S.C. 823(c))—

(A) by striking “subsections (a) and (b)”
and inserting “subsection (a), (b), (k), or (l)”;
and

(B) by striking “schedule I or II” and in-
serting “schedule I, II, or A”;

(2) in section 306 (21 U.S.C. 826)—
(A) in subsection (a), in the first sentence, by striking “schedules I and II” and inserting “schedules I, II, and A”;  

(B) in subsection (b), in the second sentence, by striking “schedule I or II” and inserting “schedule I, II, or A”;  

(C) in subsection (c), in the first sentence, by striking “schedules I and II” and inserting “schedules I, II, and A”;  

(D) in subsection (d), in the first sentence, by striking “schedule I or II” and inserting “schedule I, II, or A”;  

(E) in subsection (e), in the first sentence, by striking “schedule I or II” and inserting “schedule I, II, or A”; and  

(F) in subsection (f), in the first sentence, by striking “schedules I and II” and inserting “schedules I, II, and A”;  

(3) in section 308(a) (21 U.S.C. 828(a)), by striking “schedule I or II” and inserting “schedule I, II, or A”;  

(4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by striking “schedule I or II” and inserting “schedule I, II, or A”;
(5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking “schedule I or II” and inserting “schedule I, II, or A”; and

(6) in section 511(f) (21 U.S.C. 881(f)), by striking “schedule I or II” each place it appears and inserting “schedule I, II, or A”.

(b) CONTROLLED SUBSTANCES IMPORT EXPORT ACT.—The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended—

(1) in section 1002(a) (21 U.S.C. 952(a))—

(A) in the matter preceding paragraph (1), by striking “schedule I or II” and inserting “schedule I, II, or A”; and

(B) in paragraph (2), by striking “schedule I or II” and inserting “schedule I, II, or A”;

(2) in section 1003 (21 U.S.C. 953)—

(A) in subsection (c), in the matter preceding paragraph (1), by striking “schedule I or II” and inserting “schedule I, II, or A”; and

(B) in subsection (d), by striking “schedule I or II” and inserting “schedule I, II, or A”;

(3) in section 1004(1) (21 U.S.C. 954(1)), by striking “schedule I” and inserting “schedule I or A”;

(4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule I, II, or A”.
(4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule I, II, or A”; and

(5) in section 1009(a) (21 U.S.C. 959(a)), by striking “schedule I or II” and inserting “schedule I, II, or A”.

SEC. 1408. CLARIFICATION OF THE DEFINITION OF CONTROLLED SUBSTANCE ANALOGUE UNDER THE ANALOGUE ENFORCEMENT ACT.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (6), by striking “or V” and inserting “V, or A”;

(2) in paragraph (14)—

(A) by striking “schedule I(c) and” and inserting “schedule I(c), schedule A, and”; and

(B) by striking “schedule I(c),” and inserting “schedule I(c) and schedule A,”; and

(3) in paragraph (32)(A), by striking “(32)(A)” and all that follows through clause (iii) and inserting the following:

“(32)(A) Except as provided in subparagraph (C), the term ‘controlled substance analogue’ means a substance whose chemical structure is substan-
tially similar to the chemical structure of a controlled substance in schedule I or II—

“(i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

“(ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.”.

SEC. 1409. RULES OF CONSTRUCTION.

Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

(1) the prosecution of offenses involving controlled substance analogues under the Controlled Substances Act (21 U.S.C. 801 et seq.); or

(2) the authority of the Attorney General to temporarily or permanently schedule, reschedule, or decontrol controlled substances under provisions of
section 201 of the Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of enactment of this Act.

Subtitle E—Domestic Security

CHAPTER 1—GENERAL MATTERS

SEC. 1501. KEEP OUR COMMUNITIES SAFE ACT.

(a) In General.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking the section designation and heading and all that follows through the period at the end of subsection (c) and inserting the following:

“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.

“(a) Arrest, Detention, and Release.—

“(1) In general.—The Secretary, on a warrant issued by the Secretary, may arrest an alien and detain the alien pending a decision on whether the alien is to be removed from the United States until the date on which the alien has an administratively final order of removal. Except as provided in subsection (c) and pending such decision, the Secretary—

“(A) may—

“(i) continue to detain the arrested alien if the Secretary or the Attorney Gen-
eral determines that continued detention is warranted;

“(ii) release the alien on bond of at least $5,000, with security approved by, and containing conditions prescribed by, the Secretary or the Attorney General; or

“(iii) release the alien on his or her own recognizance, subject to appropriate conditions set forth by the Secretary or the Attorney General, if the Secretary or the Attorney General determines that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding;

and

“(B) may not provide the alien with work authorization (including an ‘employment authorized’ endorsement or other appropriate work permit) or advance parole to travel outside of the United States, unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

“(b) REVOCATION OF BOND OR PAROLE.—The Secretary, at any time, may revoke bond or parole authorized
under subsection (a), rearrest the alien under the original warrant, and detain the alien.

“(c) MANDATORY DETENTION OF CRIMINAL ALIENS.—

“(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any alien at any time if the alien—

“(A)(i) has not been admitted or paroled into the United States; and

“(ii) was apprehended anywhere within 100 miles of the international border of the United States;

“(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2);

“(C) is deportable by reason of having committed any offense covered in section 237(a)(2);

“(D) is convicted for an offense under section 275(a);

“(E) is convicted for an offense under section 276;

“(F) is convicted for any felony; or

“(G) is inadmissible under subparagraph (A) or (B) of section 212(a)(3) or deportable
under subparagraph (A) or (B) of section 237(a)(4).

“(2) RELEASE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may release an alien described in paragraph (1) only if the Secretary decides pursuant to section 3521 of title 18, United States Code, and in accordance with a procedure that considers the severity of the offense committed by the alien, that—

“(i) release of the alien from custody is necessary to provide protection to—

“(I) a witness;

“(II) a potential witness;

“(III) a person cooperating with an investigation into major criminal activity; or

“(IV) an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation; and

“(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

“(I) is not a flight risk;
“(II) poses no danger to the safety of other persons or of property;

“(III) is not a threat to national security or public safety; and

“(IV) is likely to appear at any scheduled proceeding.

“(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

“(i) RELEASE FOR PROCEEDINGS.— The Secretary may release any alien held pursuant to paragraph (1) to the appropriate authority for any proceedings subsequent to the arrest.

“(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i), the Secretary shall—

“(I) resume custody of the alien during any period pending the final disposition of any proceedings subsequent to arrest for which the alien is not in the custody of the appropriate authority referred to in clause (i); and

“(II) if the alien is not convicted of the offense for which the alien was arrested, the Secretary shall continue
to detain the alien until the date on
which removal proceedings are com-
pleted.”.

(b) CLERICAL AMENDMENT.—The table of contents
in the first section of the Immigration and Nationality Act
is amended by striking the item relating to section 236
and inserting the following:

“Sec. 236. Apprehension and detention of aliens.”.

SEC. 1502. DETERRING VISA OVERSTAYS.

(a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
the Immigration and Nationality Act (8 U.S.C. 1184) is
amended by striking the section designation and heading
and all that follows through the end of subsection (a)(1)
and inserting the following:

“SEC. 214. ADMISSION OF NONIMMIGRANTS.

“(a) IN GENERAL.—

“(1) TERMS AND CONDITIONS OF ADMISSION.—

“(A) IN GENERAL.—Subject to subpara-
graphs (B) and (C), the admission to the
United States of any alien as a nonimmigrant
may be for such time and under such conditions
as the Secretary may prescribe, in his or her
sole and unreviewable discretion, including
when the Secretary deems necessary the giving
of a bond with sufficient surety in such sum
and containing such conditions as the Secretary
shall prescribe, to ensure that at the expiration
of such time or upon failure to maintain the
status under which the alien was admitted, or
to maintain any status subsequently acquired
under section 248, such alien will depart from
the United States.

“(B) Guam or CNMI Visa Waiver Non-
immigrants.—No alien admitted to Guam or
the Commonwealth of the Northern Mariana Is-
lands without a visa pursuant to section 212(l)
may be authorized to enter or stay in the
United States, other than in Guam or the Com-
monwealth of the Northern Mariana Islands, or
to remain in Guam or the Commonwealth of
the Northern Mariana Islands for a period ex-
ceeding 45 days after the date on which the
alien was admitted to Guam or the Common-
wealth of the Northern Mariana Islands.

“(C) Visa Waiver Program Non-
immigrants.—An alien admitted to the United
States without a visa pursuant to section 217
shall not be authorized to remain in the United
States as a nonimmigrant visitor for a period
exceeding 90 days from the date on which the
alien was admitted.
“(D) Bar to immigration benefits and to contesting removal.—

“(i) Definition of good cause.—

In this subparagraph, the term ‘good cause’ means extreme exigent humanitarian circumstances, determined on a case-by-case basis only, such as a medical emergency or force majeure.

“(ii) Consequence of overstay.—

Subject to clause (iii), except for an alien admitted as a nonimmigrant under of subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15) or as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant, any alien who remains in the United States for a period of more than 30 days after the date on which the period of stay or parole authorized by the Secretary for the alien ends, without good cause, is inadmissible and ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than—

“(I) asylum;
“(II) relief as a victim of trafficking under section 101(a)(15)(T);

“(III) relief as a victim of criminal activity under section 101(a)(15)(U);

“(IV) relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty;

“(V) relief as a battered spouse or child under section 240A(b)(2);

“(VI) withholding of removal under section 241(b)(3); or

“(VII) protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

“(iii) EXCEPTION.—The Secretary may, in the Secretary's sole and unreviewable discretion, determine that a nonimmigrant is not subject to clause (ii) if—
“(I) the alien was lawfully inspected and admitted to the United States as a nonimmigrant;

“(II) the alien filed a nonfrivolous application for change of status to another nonimmigrant category or for an extension of stay before the date on which the alien’s authorized period of stay as a nonimmigrant expired;

“(III) the alien has not been employed without authorization in the United States, before or during pendency of the application referred to in subclause (II);

“(IV) the alien has not otherwise violated the terms of the alien’s nonimmigrant status; and

“(V) the Secretary, in the Secretary’s sole and unreviewable discretion, determines that the alien is not a threat to national security or public safety.

“(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause
(ii) who remains in the United States more than 30 days after the date on which the period of stay authorized by the Secretary ends, without good cause, shall be detained and the Secretary shall expeditiously remove the alien from the United States not later than 90 days after the date on which the alien is detained.

“(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from, or relating to, the detention and expedited removal of an alien pursuant to clause (iv).”.

(b) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—Section 217(b) of the Immigration and Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

“(b) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the program unless the alien has—
“(1) signed, under penalty of perjury, an acknowledgment confirming that the alien was notified and understands that he or she will be—

“(A) ineligible for any form of relief or immigration benefit under the Act or any other immigration laws, including sections 240A(b)(1), 240B(b), 245, 248, and 249 (other than a request for asylum), relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984; and

“(B) subject to detention and expedited removal from the United States, if the alien fails to depart from the United States at the end of the 90-day period for admission;
“(2) waived any right to review or appeal under this Act of an immigration officer’s determination as to the admissibility of the alien at the port of entry into the United States; and

“(3) waived any right to contest any action for removal of the alien.”.

(e) DETENTION AND REPATRIATION OF VISA WAIVER VIOLATORS.—Section 217(c)(2)(E) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

“(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from the United States at the end of the 90-day period for admission shall be detained pending removal.”.

(d) ISSUANCE OF NONIMMIGRANT VISAS.—Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended by adding at the end the following:

“(3) The Secretary of State shall ensure that every application for a nonimmigrant visa includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the alien—

“(A) has been notified of the terms and conditions of the nonimmigrant visa, including the waiver of rights under subsection (j); and
“(B) understands that he or she will be ineligible for all immigration benefits and any form of relief or protection from removal, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than a request for asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, and from contesting removal if the alien violates any term or condition of his or her nonimmigrant visa or fails to depart the United States not later than 30 days after the end of the alien’s authorized period of stay.”.

(e) REQUIREMENT THAT ALL NONIMMIGRANTS HAVE A SPECIFIED AUTHORIZED PERIOD OF STAY END DATE.—Section 235(a) of the Immigration and Nation-
(6) Period of Stay.—Any alien who an examining immigration officer has determined to be admissible as a nonimmigrant, except for aliens who are admissible under subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or who such officer has determined to be eligible for parole—

"(A) shall be admitted or paroled, as appropriate, into the United States for a specific period; and

"(B) shall be issued documentation stating the end date of the alien’s period of stay in the United States.”.

(f) Bars to Immigration Relief.—Section 221 of the Immigration and Nationality Act is amended by adding at the end the following:

“(j) Waiver of Rights.—The Secretary of State may not issue a nonimmigrant visa under section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or (G) of section 101(a)(15), who is eligible for relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, or
qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 non-immigrant) until the alien has waived any right to relief under sections 240A(b)(1), 240B(b), 245, 248, and 249 (other than relief from removal under section 241(b)(3) or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984), any form of relief established after the date on which the nonimmigrant visa is issued, and from contesting removal if the alien—

“(1) violates a term or condition of his or her nonimmigrant status; or

“(2) fails to depart the United States not later than the date that is 30 days after last day of the alien’s authorized period of stay (as described in section 214(a)(1)).”.

(g) EFFECTIVE DATE; APPLICABILITY.—

(1) IN GENERAL.—This section and the amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply only to new visas, initial admissions of nonimmigrants, and initial requests for change of status from a nonimmigrant category to another nonimmigrant category under sec-

(2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the United States on a nonimmigrant visa who is present in the United States before the date of the enactment of this Act shall not be subject to this section or to the amendments made by this section until the alien departs from the United States or requests a change of non-immigrant classification under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

SEC. 1503. INCREASE IN IMMIGRATION DETENTION CAPACITY.

Not later than September 30, 2022, and subject to the availability of appropriations, the Secretary of Homeland Security shall increase the immigration detention capacity to a daily immigration detention capacity of not fewer than 48,879 detention beds.

SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND DETAINED ALIENS.

Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is amended—

(1) in subsection (a)(1), by adding at the end the following:
“(C) The Secretary of Homeland Security shall collect DNA samples from any alien (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

“(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

“(ii) is the subject of a final order of removal under section 240 of such Act (8 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)).”; and

(2) in subsection (b), by striking “or the probation office responsible (as applicable)” and inserting “the probation office responsible, or the Secretary of Homeland Security”.

SEC. 1505. COLLECTION, USE, AND STORAGE OF BIOMETRIC DATA.

(a) Collection and Use of Biometric Information for Immigration Purposes.—
(1) COLLECTION.—The Secretary of Homeland Security and the Secretary of State may require any individual filing with the Department of Homeland Security or the Department of State an application, petition, or other request for an immigration benefit or immigration status or seeking an immigration benefit or other authorization, employment authorization, identity, or travel document, or requesting relief or protection under any provision of the immigration laws to submit to either Secretary biometric information, including fingerprints, photograph, signature, voice print, iris scan, or DNA.

(2) USE.—The Secretary of Homeland Security and the Secretary of State may use any biometric information submitted under paragraph (1) to conduct background and security checks, verify an individual's identity, adjudicate, revoke, or terminate an immigration benefit or immigration status, and perform other functions related to administering and enforcing the immigration laws.

(b) BIOMETRIC AND BIOGRAPHIC INFORMATION SHARING.—

(1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—The Secretary of Homeland Security, the Secretary of
Defense, the Secretary of State, and the Director of
the Federal Bureau of Investigation—

(A) shall exchange appropriate biometric
and biographic information to determine or con-
firm the identity of an individual and to assess
whether the individual is a threat to national
security or public safety; and

(B) may use information exchanged pursuant
to subparagraph (A)—

(i) to compare biometric and bio-
graphic information contained in applicable
systems of the Department of Homeland
Security, the Department of Defense, the
Department of State, or the Federal Bu-
reau of Investigation to determine if there
is a match between such information; and

(ii) if there is a match between such
information, to relay such information to
the requesting agency.

(2) USE OF BIOMETRIC DATA BY THE DEPART-
MENT OF STATE.—The Secretary of State shall use
biometric information from applicable systems of the
Department of Homeland Security, the Department
of Defense, and the Federal Bureau of Investigation
to screen and track visa applicants and other individuals who are—

(A)(i) known or suspected terrorists; or

(ii) identified as a potential threat to national security; and

(B) using an alias while traveling.

(3) Report on Biometric Information Sharing with Mexico and Other Countries for Identity Verification.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint report on the status of efforts to engage with the Government of Mexico and the governments of other appropriate foreign countries located in Central America or South America—

(A) to discuss coordination on biometric information sharing between the United States and such countries; and

(B) to enter into bilateral agreements that provide for the sharing of such biometric information with the Department of State, the Department of Defense, the Department of Justice, the Federal Bureau of Investigation, and the Department of Homeland Security to use in—
(i) identifying individuals who are known or suspected terrorists or potential threats to national security; and

(ii) verifying the entry and exit of individuals to and from the United States.

(4) Rule of Construction.—The collection of biometric information under paragraph (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric information from any individual arriving to or departing from the United States.

SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S. Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers to electronically—

(1) process and serve charging documents, including notices to appear, while in the field;

(2) process and place detainers while in the field;
(3) collect biometric data for the purpose of identifying an alien and establishing both immigration status and criminal history while in the field;

(4) enter any required data, including personal information about an alien subject and the reason for issuing a document;

(5) apply the electronic signature of the issuing U.S. Immigration and Customs Enforcement officer or agent;

(6) apply or capture the electronic signature of the alien on any charging document or notice, including any electronic signature captured to acknowledge service of such documents or notices;

(7) set the date on which the alien is required to appear before an immigration judge, in the case of a notice to appear;

(8) print any documents the alien may be required to sign, along with additional copies of documents to be served on the alien; and

(9) interface with the ENFORCE database so that all data is collected, stored, and retrievable in real-time.

(b) CONTRACT SUPPORT.—The Secretary of Homeland Security may contract with commercial vendors to test prototypes for electronic handheld or vehicle-mounted
computers capable of meeting the requirements under subsection (a).

(c) Rule of Construction.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data entry process used for issuing charging documents and detainers referred to in that subsection.

(d) Report.—Not later than 1 year after the date on which the pilot program described in subsection (a) commences, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on the Judiciary of the House of Representatives a report that includes—

(1) the results of the pilot program; and

(2) recommendations for using the technology described in subsection (a) on a nationwide basis.

SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

(a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

“(5) Parole Authority.—

“(A) Definitions.—In this paragraph:
“(i) Public interest.—With respect to a reason for parole, the term ‘public interest’ means the alien has assisted the United States Government in a significant matter, such as an important criminal investigation, espionage, or other similar law enforcement or national security activity, or that involves law enforcement functions related to international extradition or mutual legal assistance activities, and either the alien’s presence in the United States is required by the Government or the alien’s life would be threatened if the alien were not permitted to come to the United States.

“(ii) Urgent humanitarian reason defined.—With respect to an alien, the term ‘urgent humanitarian reason’ means—

“(I) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient time
for the alien to be admitted through the normal visa process;

“(II) the alien is needed in the United States in order to donate an organ or other tissue for transplant into a close family member;

“(III) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process;

“(IV) the alien is a lawful applicant for adjustment of status under section 245; or

“(V) the alien was lawfully granted status under section 208 or lawfully admitted under section 207.

“(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section 214(f), the Secretary may, in his or her sole and unreviewable discretion, temporarily parole into the United States any alien applying for admission to the United States, under such condi-
tions as the Secretary may prescribe, including
requiring the posting of a bond, but only on a
case-by-case basis and not according to eligi-
bility criteria describing an entire class of po-
tential parole recipients, for an urgent humani-
tarian reason or a reason deemed strictly in the
public interest.

“(C) PAROLE NOT AN ADMISSION.—In ac-
cordance with section 101(a)(13)(B), parole of
an alien under subparagraph (B) shall not be
regarded as an admission of the alien to the
United States. When the purposes of the parole
of an alien have been served, as determined by
the Secretary, the alien shall immediately re-
turn to his or her country of citizenship, nation-
ality, or origin. If the alien was paroled from
custody, the alien shall be returned to the cus-
tody from which the alien was paroled and the
alien shall be considered for admission to the
United States on the same basis as other simi-
larly situated applicants for admission.

“(D) PROHIBITED USES OF PAROLE AU-
THORITY.—

“(i) IN GENERAL.—The Secretary
may not use the authority under subpara-
graph (B) to parole into the United States

generalized categories of aliens or classes

of aliens based solely on nationality, pres-

ence, or residence in the United States,

family relationships, or any other criteria

that would cover a broad group of foreign

nationals either inside or outside of the

United States.

“(ii) ALIENS WHO ARE NATIONAL SE-

CURITY OR PUBLIC SAFETY THREATS.—

“(I) DEFINITION OF EXTREME

EXIGENT CIRCUMSTANCES.—In this

clause, the term ‘extreme exigent cir-

cumstances’ means circumstances

under which—

“(aa) the failure to parole

the alien would result in the im-

mediate significant risk of loss of

life or bodily function due to a

medical emergency;

“(bb) the failure to parole

the alien would conflict with

medical advice as to the health or

safety of the individual, detention
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facility staff, or other detainees;

or

“(cc) there is an urgent
need for the alien’s presence for
a law enforcement purpose, in-
cluding for a prosecution or to
serve a sentence or securing the
alien’s presence to appear as a
material witness, or a national
security purpose.

“(II) PROHIBITION ON PA-
ROLE.—The Secretary shall not parole
in any alien whom the Secretary, in
the Secretary’s sole and unreviewable
discretion, determines to be a threat
to national security or public safety,
except in extreme exigent cir-
cumstances.

“(E) LIMITATION ON THE USE OF PAROLE
AUTHORITY.—The Secretary may not use the
parole authority under this paragraph to permit
to come to the United States aliens who have
applied for and have been found to be ineligible
for refugee status or any alien to whom the pro-
visions of this paragraph do not apply.
“(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of parole of an alien has been served and, upon such determination—

“(i) the alien’s case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States; and

“(ii) if the alien was previously detained, the alien shall be returned to the custody from which the alien was paroled.

“(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

“(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term ‘advance parole’ means advance approval for an alien who is lawfully present in the United States and is applying for admission to the United States to request at a port of entry in the United States, a pre-inspection station, or a designated field office of the Department of Homeland Security, to be paroled into the United States under subparagraph (B).
“(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary, in the Secretary’s discretion, may grant an application for advance parole. Approval of an application for advance parole shall not constitute a grant of parole under subparagraph (B). A grant of parole into the United States based on an approved application for advance parole shall not be considered a parole for purposes of qualifying for adjustment of status to lawful permanent resident status in the United States under section 245 or 245A.

“(iii) REVOCATION OF ADVANCE PAROLE.—The Secretary may revoke a grant of advance parole to an alien at any time. Such revocation shall not be subject to administrative appeal or judicial review.

“(iv) TEMPORARY DEPARTURE.—An alien who leaves the United States temporarily pursuant to a grant of advance parole makes a departure from the United States pursuant to the immigration laws.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first
SEC. 1508. REPORTS TO CONGRESS ON PAROLE.

(a) Report on Number and Category of Aliens Paroled Into the United States.—Not later than 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that, with respect to the most recently completed fiscal year—

(1) describes the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act; and

(2) contains information and data concerning—

(A) the number and categories of aliens paroled;

(B) the duration of parole granted to aliens referred to in subparagraph (A); and

(C) the current immigration status of the aliens referred to in subparagraph (A).

(b) Report on Parole Procedures.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Attorney General and the Secretary of Homeland Security shall jointly—
(1) conduct a review regarding the effectiveness of parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts; and

(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report based on the results of such review, that includes—

(A) an analysis of—

(i) the rate at which release from detention (including release on parole) is granted to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts throughout the United States; and

(ii) any disparity that exists between locations or geographical areas, including an explanation of the reasons for this disparity and what actions are being taken to have consistent and uniform application of the standards for granting parole;
(B) an analysis of the effect of the procedures and policies applied with respect to parole and custody determinations by the Attorney General and by the Secretary of Homeland Security on the alien’s pursuit of an asylum claim before an immigration court;

(C) an analysis of the effectiveness of the procedures and policies applied with respect to parole and custody determinations by the Attorney General and by the Secretary of Homeland Security in securing the alien’s presence at the immigration court proceedings;

(D) recommendations with respect to whether the existing parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination by the immigration courts with respect to asylum claims—

(i) respect the interests of the aliens;

and

(ii) ensure the presence of the aliens at the immigration court proceedings; and
(E) an assessment on corresponding failure
to appear rates, in absentia orders, and ab-
seonders.

SEC. 1509. REINSTATEMENT OF THE SECURE COMMUNITIES

PROGRAM.

(a) REINSTATEMENT.—The Secretary shall reinstate
and operate the Secure Communities immigration enforce-
ment program administered by U.S. Immigration and
Customs Enforcement between 2008 and 2014.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to be appropriated $150,000,000 to carry out
this section.

SEC. 1510. ENSURING THAT LOCAL AND FEDERAL LAW EN-
FORCEMENT OFFICERS MAY COOPERATE TO

SAFEGUARD OUR COMMUNITIES.

(a) AUTHORITY TO Cooperate With FEDERAL Of-
FICIALS.—A State, a political subdivision of a State, or
an officer, employee, or agent of such State or political
subdivision that complies with a detainer issued by the De-
partment of Homeland Security under section 236 or 287
of the Immigration and Nationality Act (8 U.S.C. 1226
and 1357)—

(1) shall be deemed to be acting as an agent of
the Department of Homeland Security; and
(2) with regard to actions taken to comply with the detainer, shall have all authority available to officers and employees of the Department of Homeland Security.

(b) LEGAL PROCEEDINGS.—In any legal proceeding brought against a State, a political subdivision of State, or an officer, employee, or agent of such State or political subdivision which challenges the legality of the seizure or detention of an individual pursuant to a detainer issued by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357)—

(1) no liability shall lie against the State or political subdivision of a State for actions taken in compliance with the detainer; and

(2) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the detainer—

(A) the officer, employee, or agent shall be deemed—

(i) to be an employee of the Federal Government and an investigative or law enforcement officer; and

(ii) to have been acting within the scope of his or her employment under sec-
tion 1346(b) and chapter 171 of title 28, United States Code;

(B) section 1346(b) of title 28, United States Code, shall provide the exclusive remedy for the plaintiff; and

(C) the United States shall be substituted as defendant in the proceeding.

(c) Rule of Construction.—Nothing in this section may be construed to provide immunity to any person who knowingly violates the civil or constitutional rights of an individual.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

SEC. 1520. SHORT TITLE.

This chapter may be cited as the “Protecting Children and America’s Homeland Act of 2018”.

SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

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

(1) in paragraph (2)—
(A) by amending the paragraph heading to read as follows: “RULES FOR UNACCOMPANIED ALIEN CHILDREN.—”; 

(B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a national or habitual resident of a country that is contiguous with the United States shall be treated in accordance with subparagraph (B)” and inserting “shall be treated in accordance with subparagraph (B) or subsection (b), as appropriate”; and

(C) in subparagraph (C)—

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

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

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(3) inserting after paragraph (2) the following:
“(3) MANDATORY EXPEDITED REMOVAL OF CRIMINALS AND GANG MEMBERS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall place an unaccompanied alien child in a proceeding in accordance with section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) if, the Secretary determines or has reason to believe that the alien—

“(A) has been convicted of any offense carrying a maximum term of imprisonment of more than 180 days;

“(B) has been convicted of, or found to be a juvenile offender based on, an offense that involved—

“(i) the use or attempted use of physical force, or threatened use of a deadly weapon;

“(ii) the purchase, sale, offering for sale, exchange, use, ownership, possession, or carrying, or, of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section
921(a) of title 18, United States Code) in violation of any law;

“(iii) child abuse and neglect (as defined in section 40002(a)(3) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)(3)));

“(iv) assault resulting in bodily injury (as defined in section 2266 of title 18, United States Code);

“(v) the violation of a protection order (as defined in section 2266 of title 18, United States Code);

“(vi) driving while intoxicated or driving under the influence (as such terms are defined in section 164 of title 23, United States Code); or

“(vii) any offense under foreign law (except a purely political offense) that, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));
“(C) has been convicted of, or found to be a juvenile offender based on, more than 1 criminal offense (other than minor traffic offenses);

“(D) has been convicted of, or found to be a juvenile offender based on a crime of violence or an offense under Federal, State, or Tribal law, that has, as an element, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon;

“(E) has engaged in, is engaged in, or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))), or intends to participate or has participated in the activities of a foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

“(F) has engaged in, is engaged in, or any time after a prior admission engages in activity described in section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4));

“(G) is or was a member of a criminal gang (as defined in section 101(a)(53) of the
Immigration and Nationality Act (8 U.S.C. 1101(a)(53)));

“(H) provided materially false, fictitious, or fraudulent information regarding age or identity to the United States Government with the intent to inaccurately classified as an unaccompanied alien child; or

“(I) has entered the United States more than once in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was unlawful.”.

SEC. 1522. CHILD WELFARE AND LAW ENFORCEMENT INFORMATION SHARING.

Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b)) is amended by adding at the end the following:

“(5) INFORMATION SHARING.—

“(A) IMMIGRATION STATUS.—If the Secretary of Health and Human Services considers placement of an unaccompanied alien child with a potential sponsor, the Secretary of Homeland Security shall provide to the Secretary of Health and Human Services the immigration
status of such potential sponsor before the
placement of the unaccompanied alien child.

“(B) OTHER INFORMATION.—The Sec-
retary of Health and Human Services shall pro-
vide to the Secretary of Homeland Security and
the Attorney General, upon request, any rel-
evant information related to an unaccompanied
alien child who is or has been in the custody of
the Secretary of Health and Human Services,
including the location of the child and any per-
son to whom custody of the child has been
transferred, for any legitimate law enforcement
objective, including the enforcement of the im-
migration laws.”.

SEC. 1523. ACCOUNTABILITY FOR CHILDREN AND TAX-
PAYERs.

Section 235(b) of the William Wilberforce Trafficking
Victims Protection Reauthorization Act of 2008 (8 U.S.C.
1232(b)) (as amended by section 1522 of this Act) is
amended by adding at the end the following:

“(6) INSPECTION OF FACILITIES.—The Inspec-
tor General of the Department of Health and
Human Services shall conduct regular inspections of
facilities utilized by the Secretary of Health and
Human Services to provide care and custody of un-
accompanied alien children who are in the immediate
custody of the Secretary to ensure that such facili-
ties are operated in the most efficient manner prac-
ticable.

“(7) FACILITY OPERATIONS COSTS.—The Sec-
retary of Health and Human Services shall ensure
that facilities utilized to provide care and custody of
unaccompanied alien children are operated efficiently
and at a rate of cost that is not greater than $500
per day for each child housed or detained at such fa-
cility, unless the Secretary certifies that compliance
with this requirement is temporarily impossible due
to emergency circumstances.”.

SEC. 1524. CUSTODY OF UNACCOMPANIED ALIEN CHIL-
DREN IN FORMAL REMOVAL PROCEEDING.

(a) IN GENERAL.—Section 235(e)(2) of the William
Wilberforce Trafficking Victims Protection Reauthoriza-
tion Act of 2008 (8 U.S.C. 1232(e)(2)) is amended by
adding at the end the following:

“(C) CHILDREN IN FORMAL REMOVAL
PROCEEDINGS.—

“(i) LIMITATION ON PLACEMENT.—

Notwithstanding any settlement or consent
decree previously issued before the date of
the enactment of this subparagraph, and
section 236.3 of title 8, Code of Federal Regulations, or a similar successor regulation, an unaccompanied alien child who has been placed in a proceeding under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) may not be placed in the custody of a nongovernmental sponsor or otherwise released from the immediate custody of the United States Government unless—

“(I) the nongovernmental sponsor is a biological or adoptive parent or legal guardian of the unaccompanied alien child;

“(II) the parent or legal guardian is legally present in the United States at the time of the placement;

“(III) the parent or legal guardian has undergone a mandatory biometric criminal history check;

“(IV) if the nongovernmental sponsor is the biological parent, the parent’s relationship to the alien child has been verified through DNA test-
ing conducted by the Secretary of Health and Human Services;

“(V) if the nongovernmental sponsor is the adoptive parent, the parent’s relationship to the alien child has been verified with the judicial court that issued the final legal adoption decree by the Secretary of Health and Human Services; and

“(VI) the Secretary of Health and Human Services has determined that the alien child is not a danger to self, a danger to the community, or at risk of flight.

“(ii) EXCEPTIONS.—If the Secretary of Health and Human Services determines that an unaccompanied alien child is a victim of severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), a child who has been a victim of physical or sexual abuse
under circumstances that indicate that the
child’s health or welfare has been signific-
antly harmed or threatened, or a child
with mental health needs that require on-
going assistance from a social welfare
agency, the alien child may be placed with
a grandparent or adult sibling if the
grandparent or adult sibling meets the re-
quirements under subclauses (II), (III),
and (IV) of clause (i).

“(iii) Failure to appear.—

“(I) Civil penalty.—If an un-
accompanied alien child is placed with
a sponsor and fails to appear in a
mandatory court appearance, the
sponsor shall be subject to a civil pen-
alty of $250 for each day until the
alien appears in court, up to a max-
imum of $5,000.

“(II) Burden of proof.—The
sponsor is not subject to the penalty
imposed under subclause (I) if the
sponsor—

“(aa) appears in person and

proves to the immigration court
that the failure to appear by the unaccompanied alien child was not the fault of the sponsor; and

“(bb) supplies the immigration court with documentary evidence that supports the assertion described in item (aa).

“(iv) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN TRAFFICKERS.—The Secretary of Health and Human Services may not place an unaccompanied alien child under this subparagraph in the custody of an individual who has been convicted of, or the Secretary has reason to believe was otherwise involved in the commission of—

“(I) a sex offense (as defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911));

“(II) a crime involving severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); or
“(III) an offense under Federal, State, or Tribal law that has, as an element of the offense, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

“(v) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—A biometric criminal history check required under clause (i)(III) shall be conducted using a set of fingerprints or other biometric identifier through—

“(I) the Federal Bureau of Investigation;

“(II) criminal history repositories of all States that the individual lists as current or former residences; and

“(III) any other State or Federal database or repository that the Secretary of Health and Human Services determines to be appropriate.”.

(b) DEFINITION OF SPECIAL IMMIGRANT JUVENILE.—Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)), is amended
by striking “1 or both of the immigrant’s parents” and inserting “either of the immigrant’s parents”.

(c) HOME STUDIES AND FOLLOW-UP SERVICES FOR UNACCOMPANIED ALIEN CHILDREN.—Section 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) HOME STUDIES.—

“(i) IN GENERAL.—Except as required under clause (ii), before placing a child with an individual, the Secretary of Health and Human Services shall determine whether a home study is necessary.

“(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

“(I) who is a victim of a severe form of trafficking in persons or is a special needs child with a disability (as defined in section 3 of the Ameri-
cans with Disabilities Act of 1990 (42
U.S.C. 12102);

“(II) who has been a victim of
physical or sexual abuse under cir-
cumstances that indicate that the
child’s health or welfare has been sig-
ificantly harmed or threatened;

“(III) whose proposed sponsor
presents a risk of abuse, maltreat-
ment, exploitation, or trafficking to
the child based on all available objec-
tive evidence) if more than 2 other
children are residing with the pro-
posed sponsor, or if such sponsor has
custody of at least 1 other unaccomp-
panied alien child; or

“(IV) if more than 2 other chil-

dren are residing with the proposed
sponsor, or if such sponsor has cus-
tody of at least 1 other unaccomp-
panied alien child.

“(C) FOLLOW-UP SERVICES AND ADDI-
TIONAL HOME STUDIES.—

“(i) PENDENCY OF REMOVAL PRO-
CEEDINGS.—Not less frequently than every
180 days until the date on which initial removal proceedings are completed and the immigration judge issues an order of removal, grants voluntary departure under section 240B, or grants the alien relief from removal, the Secretary of Health and Human Services shall conduct follow-up services for any child for whom a home study was conducted and who was placed with a nongovernmental sponsor.

“(ii) Children with mental health or other needs.—Not less frequently than every 180 days, until the date that is 2 years after the date on which a child is placed with a nongovernmental sponsor, the Secretary of Health and Human Services shall conduct follow-up services for any child with mental health needs or other needs who could benefit from ongoing assistance from a social welfare agency.

“(iii) Children at risk.—Not less frequently than every 90 days until the date that is 2 years after the date on which a child is placed with a nongovern-
mental sponsor, the Secretary of Health and Human Services shall conduct home studies and follow-up services, including partnering with local community programs that focus on early morning and after school programs for at-risk children who—

“(I) need a secure environment to engage in studying, training, and skills-building programs; and

“(II) are at risk for recruitment by criminal gangs or other transnational criminal organizations in the United States.”.

(d) DETENTION OF ACCOMPANIED MINORS.—

(1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reau-
thorization Act of 2008 (8 U.S.C. 1232) is further amended—

(A) by redesignating subsections (d) through (i) as subsections (e) through (j), re-
spectively; and

(B) by inserting after subsection (e) the following:
“(d) DETENTION OF ACCOMPANIED MINORS.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement—

“(1) the detention of any alien minor who is not described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231);

“(2) the decision whether to detain or release the alien minor shall be in the sole and unreviewable discretion of the Secretary of Homeland Security;

“(3) the release of an alien minor who is not described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) may not be presumed and an alien minor not described in such section may not be released by the Secretary to anyone other than a parent or legal guardian; and

“(4) the conditions of confinement applicable to alien minors who are not described in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be determined in the sole and unreviewable discretion of the Secretary of Homeland Security, and specific licensing requirements
may not be imposed other than requirements determined appropriate by the Secretary.”.

(2) **Funding Limitation.**—No appropriated funds may be used to implement the terms of the settlement agreement in Flores v. Reno, CV 85–4544–RJK, nor shall any appropriated funds be used for purposes of complying with any judicial order, decree, or judgment interpreting the terms of such settlement agreement.

(3) **Effective Date; Applicability.**—The amendments made by this subsection shall—

(A) take effect on the date of enactment of this Act; and

(B) apply regardless of the date on which the actions giving rise to removability or detention take place.

**SEC. 1525. Fraud in Connection with the Transfer of Custody of Unaccompanied Alien Children.**

(a) **In General.**—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:
§ 1041. Fraud in connection with the transfer of custody of unaccompanied alien children

(a) In General.—It shall be unlawful for a person to obtain custody of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))) by—

(1) making any materially false, fictitious, or fraudulent statement or representation; or

(2) making or using any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

(b) Penalties.—

(1) In General.—Any person who violates, or attempts or conspires to violate, this section shall be fined under this title and imprisoned for not less than 1 year.

(2) Enhanced Penalty for Trafficking.—If the primary purpose of the violation, attempted violation, or conspiracy to violate this section was to subject the child to sexually explicit activity or any other form of exploitation, the offender shall be fined under this title and imprisoned for not less than 15 years.”.

(b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code, is amended
by inserting after the item relating to section 1040 the following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

SEC. 1526. NOTIFICATION OF STATES AND FOREIGN GOVERNMENTS, REPORTING, AND MONITORING.

(a) NOTIFICATION.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1524(d)(1) of this Act) is further amended by adding at the end the following:

“(k) NOTIFICATION TO STATES.—

“(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of Health and Human Services shall notify the Governor of a State not later than 48 hours before the placement of an unaccompanied alien child in the custody of such Secretary into the care of a facility or sponsor in such State.

“(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this sub-section, the Secretary of Health and Human Services shall submit a report to the Governor of each State in which an unaccompanied alien child was discharged to a sponsor or placed in a facility while remaining in the legal custody of the Secretary dur-
ing the period beginning October 1, 2013 and ending on the date of enactment of this subsection.

“(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a monthly report to the Governor of each State in which, during the reporting period, an unaccompanied alien child was discharged to a sponsor or placed in a facility while remaining in the legal custody of the Secretary of Health and Human Services.

“(4) CONTENTS.—Each report required to be submitted to the Governor of a State under paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the State during the reporting period, disaggregated by—

“(A) the locality in which the aliens were placed; and

“(B) the age of such aliens.

“(l) NOTIFICATION OF FOREIGN COUNTRY.—The Secretary of Homeland Security shall provide information regarding each unaccompanied alien child to the government of the country of which the child is a national to assist such government with the identification and reunification of such child with their parent or other qualifying relative.
“(m) Monitoring Requirement.—The Secretary of Health and Human Services shall—

“(1) require all sponsors to agree—

“(A) to receive approval from the Secretary of Health and Human Services before changing the location in which the sponsor is housing an unaccompanied alien child placed in the sponsor’s custody; and

“(B) to provide a current address for the child and the reason for the change of address;

“(2) provide regular and frequent monitoring of the physical and emotional well-being of each unaccompanied alien child who has been discharged to a sponsor or remained in the legal custody of the Secretary until the child’s immigration case is resolved; and

“(3) not later than 60 days after the date of enactment of this subsection, submit a plan to Congress for implementing the requirements under paragraphs (1) and (2).”.

SEC. 1527. REPORTS TO CONGRESS.

(a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019, the Secretary of Health and Human Services shall submit to Congress and make publicly available a report that includes—
(1) a detailed summary of the contracts in effect to care for and house unaccompanied alien children, including the names and locations of contractors and the facilities being used;

(2) the cost per day to care for and house an unaccompanied alien child, including an explanation of such cost;

(3) the number of unaccompanied alien children who have been released to a sponsor, if any;

(4) a list of the States to which unaccompanied alien children have been released from the custody of the Secretary of Health and Human Services to the care of a sponsor or placement in a facility;

(5) the number of unaccompanied alien children who have been released to a sponsor who is not lawfully present in the United States, including the country of nationality or last habitual residence and age of such children;

(6) a determination of whether more than 1 unaccompanied alien child has been released to the same sponsor, including the number of children who were released to such sponsor;

(7) an assessment of the extent to which the Secretary of Health and Human Services is monitoring the release of unaccompanied alien children,
including home studies done and electronic monitoring devices used;

(8) an assessment of the extent to which the Secretary of Health and Human Services is making efforts—

(A) to educate unaccompanied alien children about their legal rights; and

(B) to provide unaccompanied alien children with access to pro bono counsel; and

(9) the extent of the public health issues of unaccompanied alien children, including contagious diseases, the benefits or medical services provided, and the outreach to States and localities about public health issues, that could affect the public.

(b) REPORTS ON REPATRIATION AGREEMENTS.—

Not later than September 30, 2019, the Secretary of State shall submit to Congress and make publicly available a report that—

(1) includes a copy of any repatriation agreement in effect for unaccompanied alien children;

(2) describes any such repatriation agreement that is being considered or negotiated; and

(3) describes the funding provided to the 20 countries that have the highest number of nationals
entering the United States as unaccompanied alien
children, including amounts provided—

(A) to deter the nationals of each country
from illegally entering the United States; and

(B) to care for or reintegrate repatriated
unaccompanied alien children in the country of
nationality or last habitual residence.

(c) REPORTS ON RETURNS TO COUNTRY OF NATION-
ALITY.—Not later than September 30, 2019, the Sec-
retary of Homeland Security shall submit to Congress and
make publicly available a report that describes—

(1) the number of unaccompanied alien children
who have voluntarily returned to their country of na-
tionality or habitual residence, disaggregated by—

(A) country of nationality or habitual resi-
dence; and

(B) age of the unaccompanied alien chil-
dren;

(2) the number of unaccompanied alien children
who have been returned to their country of nation-
ality or habitual residence, including the length of
time such children were present in the United
States;

(3) the number of unaccompanied alien children
who have not been returned to their country of na-
tionality or habitual residence pending travel documents or other requirements from such country, including how long they have been waiting to return; and

(4) the number of unaccompanied alien children who were granted relief in the United States, whether through asylum, any other immigration benefit or status, or deferred action.

(d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not later than September 30, 2019, and not less frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination with the Director of the Executive Office for Immigration Review, shall submit to Congress and make publicly available a report that describes—

(1) the number of unaccompanied alien children who, after proceedings under section 235B of the Immigration and Nationality Act were returned to their country of nationality or habitual residence, disaggregated by—

(A) country of nationality or residence; and

(B) age and gender of such aliens;

(2) the number of unaccompanied alien children who, after proceedings under section 235B of the Immigration and Nationality Act, prove a claim of
263
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 unaccomp-
9 anied 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
18 CHAPTER 3—COOPERATION WITH MEXICO
19 AND OTHER COUNTRIES ON ASYLUM
20 AND REFUGEE ISSUES
21
22 SEC. 1541. STRENGTHENING INTERNAL ASYLUM SYSTEMS
23 IN MEXICO AND OTHER COUNTRIES.
24 (a) In General.—The Secretary of State, in con-
25 sultation with the Secretary of Homeland Security, shall
26 work with international partners, including the United
27 Nations High Commissioner for Refugees, to support and
provide technical assistance to strengthen the domestic ca-
pacity of Mexico and other countries in the region to pro-
vide asylum to eligible children and families—

(1) by establishing and expanding temporary
and long-term in country reception centers and shel-
ter capacity to meet the humanitarian needs of those
seeking asylum or other forms of international pro-
tection;

(2) by improving the asylum registration system
to ensure that all individuals seeking asylum or
other humanitarian protection—

(A) are properly screened for security, in-
cluding biographic and biometric capture;

(B) receive due process and meaningful ac-
cess to existing legal protections; and

(C) receive proper documents in order to
prevent fraud and ensure freedom of movement
and access to basic social services;

(3) by creating or expanding a corps of trained
asylum officers capable of evaluating and deciding
individual asylum claims consistent with inter-
national law and obligations; and

(4) by developing the capacity to conduct best
interest determinations for unaccompanied alien chil-
dren to ensure that their needs are properly met,
which may include family reunification or resettlement based on international protection needs.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, 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—

(1) the Committee on Foreign Relations of the Senate;

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

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

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

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

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).
SEC. 1542. EXPANDING REFUGEE PROCESSING IN MEXICO AND CENTRAL AMERICA FOR THIRD COUNTRY RESETTLEMENT.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall coordinate with the United Nations High Commissioner for Refugees to support and provide technical assistance to the Government of Mexico and the governments of other countries in the region to increase access to global resettlement for eligible children and families with protection needs—

(1) by establishing and expanding in country refugee reception centers to meet the humanitarian needs of those seeking international protection;

(2) by improving the refugee registration system to ensure that all refugees—

(A) are properly screened for security, including biographic and biometric capture;

(B) receive due process and meaningful access to existing legal protections; and

(C) receive proper documents in order to prevent fraud and ensure freedom of movement and access to basic social services;

(3) by creating or expanding a corps of trained refugee officers capable of evaluating and deciding...
individual claims for protection, consistent with
international law and obligations; and

(4) by developing the capacity to conduct best
interest determinations for unaccompanied alien chil-
dren to ensure that—

(A) such children with international pro-
tection needs are properly registered; and

(B) the needs of such children are properly
met, which may include family reunification or
resettlement based on international protection
needs.

(b) REPORT.—Not later than 60 days after the date
of the enactment of this Act, the Secretary of State, in
consultation with the Secretary of Homeland Security,
shall submit a report to the committees listed in section
1541(b) that describes the plans of the Secretary of State
to assist in developing the refugee processing capabilities
described in subsection (a).

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

(a) CRIMINAL PENALTIES FOR HUMAN SMUGGLING AND TRAFFICKING.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by amending clause (ii) to read as follows:

“(ii) knowing, or in reckless disregard of the fact, that an alien has come to, entered into, or remains in the United States in violation of law—

“(I) transports, moves, or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

“(II) transports or moves the alien with the purpose of facilitating
the illegal entry of the alien into Canada or Mexico;”; and

(B) in subparagraph (B)—

(i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

(ii) in clause (vi), as redesignated, by inserting “for not less than 10 years and” before “not more than 20 years,”; and

(iii) by inserting after clause (ii) the following:

“(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) that is the third or subsequent violation committed by such person under this section, shall be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;

“(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) that recklessly, knowingly, or intentionally results in a victim being involuntarily forced into labor or prostitution, shall be fined under title 18, United States
Code, imprisoned for not less than 5 years and not more than 25 years, or both;

“(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) during and in relation to which any person is subjected to any illegal sexual act or sexual contact (as those terms are defined in section 2246 of title 18, United States Code), be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;”; and

(2) by adding at the end the following:

“(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to another or on the high seas, transports, moves, harbors, conceals, or shields from detection such alien outside of the United States for profit or gain when the alien is seeking to enter the United States without official permission or legal authority, shall for, each alien in respect to whom a violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not more than 10 years, or both.”.
(b) SEIZURE AND FORFEITURE.—Section 274(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(b)(1)) is amended to read as follows:

“(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the commission of a violation or attempted violation of subsection (a), the gross proceeds of such violation or attempted violation, and any property traceable to such property or proceeds, shall be seized and subject to forfeiture.”.

SEC. 1602. PUTTING THE BRAKES ON HUMAN SMUGGLING ACT.

(a) SHORT TITLE.—This section may be cited as the “Putting the Brakes on Human Smuggling Act”.

(b) FIRST VIOLATION.—Section 31310(b)(1) of title 49, United States Code, is amended—

(1) in subparagraph (D), by striking the “or” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal entry into the United States by transporting, guiding, directing, or attempting to assist the alien with the alien’s
entry in violation of section 275 of the Immigration
and Nationality Act (8 U.S.C. 1325), regardless of
whether the alien is ultimately fined or imprisoned
for an act in violation of such section; or

“(G) using a commercial motor vehicle in will-
fully aiding or abetting the transport of controlled
substances, monetary instruments, bulk cash, or
weapons by any individual departing the United
States.”.

(c) Second or Multiple Violations.—Section
31310(c)(1) of title 49, United States Code, is amended—
(1) in subparagraph (E), by striking the “or”
at the end;
(2) by redesignating subparagraph (F) as sub-
paragraph (H);
(3) in subparagraph (H), as redesignated, by
striking “(E)” and inserting “(G)”; and
(4) by inserting after subparagraph (E) the fol-
lowing:

“(F) using a commercial motor vehicle more
than once in willfully aiding or abetting an alien’s il-
legal entry into the United States by transporting,
guiding, directing and attempting to assist the alien
with the alien’s entry in violation of section 275 of
the Immigration and Nationality Act (8 U.S.C.
1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section;

“(G) using a commercial motor vehicle more than once in willfully aiding or abetting the transport of controlled substances, monetary instruments, bulk cash, or weapons by any individual departing the United States; or”.

(d) **LIFETIME DISQUALIFICATION.**—Section 31310(d) of title 49, United States Code, is amended to read as follows:

“(d) **LIFETIME DISQUALIFICATION.**—The Secretary shall permanently disqualify an individual from operating a commercial motor if the individual uses a commercial motor vehicle—

“(1) in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

“(2) in committing an act for which the individual is convicted under—

“(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

“(B) section 277 of such Act (8 U.S.C. 1327); or
“(3) in willfully aiding or abetting the transport of controlled substances, monetary instruments, bulk cash, and weapons by any individual departing the United States.”.

(e) REPORTING REQUIREMENTS.—

(1) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking “and” at the end;

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

(C) by adding at the end the following:

“(G) whether the operator was disqualified, either temporarily or permanently, from operating a commercial motor vehicle under section 31310, including under subsection (b)(1)(F), (c)(1)(F), or (d) of such section.”.

(2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is amended by inserting “including such a disqualification, revocation, suspension, or cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after “60 days,”.
SEC. 1603. DRUG TRAFFICKING AND CRIMES OF VIOLENCE COMMITTED BY ILLEGAL ALIENS.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 27 the following:

“CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF VIOLENCE COMMITTED BY ILLEGAL ALIENS

§ 581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

“(a) Offense.—Any alien unlawfully present in the United States, who commits, conspires to commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of which involves the use or attempted use of physical force or the threatened use of physical force or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under this title, imprisoned for not less than 5 years, or both.

“(b) Enhanced Penalties for Aliens Ordered Removed.—Any alien unlawfully present in the United States who violates subsection (a) and was ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the violation of subsection (a), shall be
fined under this title, imprisoned for not less than 15 years, or both.

“(c) **Requirement for Consecutive Sentences.**—Any term of imprisonment imposed under this section shall be consecutive to any term imposed for any other offense.”.

(b) **Clerical Amendment.**—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal aliens ................................................................. 581”.

**SEC. 1604. ESTABLISHING INADMISSIBILITY AND DEPORTABILITY.**

(a) **Inadmissible Aliens.**—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

“(iii) **Consideration of other evidence.**—If the statute of conviction or conviction records do not conclusively establish whether a crime does or does not constitute a crime involving moral turpitude, the Secretary, the Attorney General, or the consular officer, as applicable, may consider other documentary evidence re-
lated to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to determine whether the other evidence clearly establishes that the conduct in which the alien was engaged constitutes a crime involving moral turpitude.”.

(b) **Deportable Aliens.**—

(1) **General Crimes.**—Section 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)) is amended by—

(A) redesignating clause (vi) and clause (vii); and

(B) inserting after clause (v) the following:

“(vi) **Crimes Involving Moral Turpitude.**—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Secretary or the Attorney General may consider other documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to determine whether
the other evidence clearly establishes that
the conduct in which the alien was engaged
constitutes a crime involving moral turpi-
tude.”.

(2) DOMESTIC VIOLENCE.—Section
237(a)(2)(E) of Immigration and Nationality Act (8
U.S.C. 1227(a)(2)(E)) is amended—

(A) in clause (i), by striking “For purposes
of this clause” and inserting “For purposes of
this subparagraph”; and

(B) by adding at the end the following:

“(iii) CRIME OF VIOLENCE.—If the
conviction records do not conclusively es-
establish whether a conviction constitutes a
crime of domestic violence, the Secretary
or the Attorney General may consider
other documentary evidence related to the
conviction, including, but not limited to,
charging documents, plea agreements, plea
colloquies, jury instructions, and police re-
ports, that clearly establishes that the con-
duct in which the alien was engaged con-
stitutes a crime of domestic violence.”.

(c) EffectiE Date; Applicability.—The amend-
ments made by this section shall—
(1) take effect on the date of enactment of this Act; and

(2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

SEC. 1605. PENALTIES FOR ILLEGAL ENTRY; ENHANCED PENALTIES FOR ENTERING WITH INTENT TO AID, ABET, OR COMMIT TERRORISM.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by striking the section designation and heading and all that follows through “may be imposed.” in the undesignated matter following subsection (b)(2) and inserting the following:

“SEC. 275. ILLEGAL ENTRY.

“(a) IN GENERAL.—

“(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered
spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if the alien—

“(A) enters, crosses, or attempts to enter or cross the border into, the United States at any time or place other than as designated by immigration officers;

“(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including failing to stop at the command of such officer); or

“(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or willful concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.
“(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3) if the alien—

“(A) enters, crosses, or attempts to enter or cross the border into, the United States at any time or place other than as designated by immigration officers;

“(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including failing to stop at the command of such officer); or

“(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

“(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—
“(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

“(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

“(C) if the violation occurs after the alien has been convicted of 3 or more misdemeanors (at least 1 of which involves controlled substances, abuse of a minor, trafficking or smuggling, or any offense that may result in serious bodily harm or injury to another person), a significant misdemeanor, or a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

“(D) if the violation occurs after the alien has been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

“(E) if the violation occurs after the alien has been convicted of a felony for which the alien received a term of imprisonment of not
less than 60 months, such alien shall be fined
under such title, imprisoned not more than 20
years, or both.

“(4) PRIOR CONVICTIONS.—The prior convic-
tions described in subparagraphs (C) through (E) of
paragraph (3) are elements of the offenses described
in that paragraph and the penalties described in
such subparagraphs shall apply only in cases in
which the 1 or more convictions that form the basis
for the additional penalty are—

“(A) alleged in the indictment or informa-
tion; and

“(B) proven beyond a reasonable doubt at
trial; or

“(C) admitted by the defendant.

“(5) DURATION OF OFFENSES.—An offense
under this subsection continues until the alien is dis-
covered within the United States by an immigration,
customs, or agriculture officer.

“(6) ATTEMPT.—Any person who attempts to
commit any offense under this section shall be pun-
ished in the same manner as for a completion of
such offense.

“(b) IMPROPER TIME OR PLACE; CIVIL PEN-
ALTIES.—
“(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or crossing or attempting to cross the border to the United States at a time or place other than as designated by an immigration officer shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

“(A) not less than $50 but not more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

“(B) twice the amount described in subparagraph (A) if the alien had previously been subject to a civil penalty under this subsection.

“(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in place of, any criminal or other civil penalties that may be imposed.”.

(b) ENHANCED PENALTIES.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by adding at the end the following:

“(e) ENHANCED PENALTY FOR TERRORIST ALIENS.—Any alien who commits an offense described in subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime of terrorism (as
defined in section 2332b(g) of title 18, United States Code) shall be imprisoned for not less than 10 years and not more than 30 years.”.

(c) Clerical Amendment.—The table of contents in the first section of the Immigration and Nationality Act is amended by striking the item relating to section 275 and inserting the following:

“Sec. 275. Illegal entry.”.

(d) Application.—

(1) Prior convictions.—Section 275(a)(4) of the Immigration and Nationality Act shall apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on or after the date of enactment of this Act.

(2) Bars to immigration relief and benefits.—Section 275(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this Act and apply to any alien who, on or after that date of enactment—

(A) enters or crosses, or attempts to enter or cross, the border into the United States at any time or place other than as designated by immigration officers;

(B) eludes, at any time or place, examination or inspection by an authorized immigra-
tion, customs, or agriculture officer (including failing to stop at the command of such officer); or

(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

SEC. 1606. PENALTIES FOR REENTRY OF REMOVED ALIENS.

(a) SHORT TITLES.—This section may be cited as the “Stop Illegal Reentry Act” or “Kate’s Law”.

(b) INCREASED PENALTIES FOR REENTRY OF REMOVED ALIEN.—

(1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

“SEC. 276. REENTRY OF REMOVED ALIEN.

“(a) IN GENERAL.—

“(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deporta-
tion, or removal is outstanding shall be ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if, after such denial, exclusion, deportation, removal, or departure, the alien enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

“(A) if the alien is seeking admission more than 10 years after the date of the alien’s last departure from the United States, the Secretary, before the alien’s reembarkation at a place outside of the United States or the alien’s
application for admission from a foreign contiguous territory, has expressly consented to such alien’s reapplying for admission; or

“(B) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to obtain such advance consent under this Act or any other Act.

“(2) CRIMINAL OFFENSES.—Any alien who—

“(A) has been denied admission, deported, or removed or has departed the United States while an order of deportation, or removal is outstanding; and

“(B) after such denial, removal or departure, enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

“(i) if the alien is seeking admission more than 10 years after the date of the alien’s last departure from the United States, the Secretary, before the alien’s reembarkation at a place outside the United States or the alien’s application for admission from a foreign contiguous territory,
has expressly consented to such alien’s re-
applying for admission; or

“(ii) with respect to an alien pre-
viously denied admission and removed,
such alien establishes that the alien was
not required to obtain such advance con-
sent under this Act or any other Act,

“shall be fined under title 18, United States
Code, imprisoned not more than 5 years, or both.

“(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
TAin Removed Aliens.—

“(1) REENTRY AFTER REMOVAL.—Notwith-
standing the penalties under subsection (a)(2), and
except as provided in subsection (c)—

“(A) an alien described in subsection (a)
who has been excluded from the United States
pursuant to section 235(c) because the alien
was excludable under section 212(a)(3)(B) or
who has been removed from the United States
pursuant to the provisions of title V, and there-
after, without the permission of the Secretary,
enters the United States, or attempts to enter
the United States, shall be fined under title 18,
United States Code, and imprisoned for a pe-
period of 15 years, which sentence shall not run concurrently with any other sentence;

“(B) an alien described in subsection (a) who was removed from the United States pursuant to section 237(a)(4)(B) and thereafter, without the permission of the Secretary, enters, attempts to enter, or is at any time found in, the United States (unless the Secretary has expressly consented to such alien’s reentry) shall be fined under title 18, United States Code, imprisoned for not more than 15 years, or both; and

“(C) an alien described in subsection (a) who has been denied admission, excluded, deported, or removed 2 or more times for any reason and thereafter enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, shall be fined under title 18, United States Code, imprisoned not more than 15 years, or both.

“(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2), and except as provided in subsection (c)—
“(A) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of a significant misdemeanor shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(B) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of 2 or more misdemeanors involving drugs, crimes against the person, or both, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(C) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of 3 or more misdemeanors for which the alien was sentenced to a term of imprisonment of not less than 90 days for each offense, or 12 months in the aggregate, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(D) an alien described in subsection (a) who was convicted, on a date that is before the
date on which the alien was subject to removal
or departure, of a felony for which the alien
was sentenced to a term of imprisonment of not
less than 30 months shall be fined under such
title, imprisoned not more than 15 years, or
both;

“(E) an alien described in subsection (a)
who was convicted, on a date that is before the
date on which the alien was subject to removal
or departure, of a felony for which the alien
was sentenced to a term of imprisonment of not
less than 5 years shall be fined under such title,
imprisoned not more than 20 years, or both;

“(F) an alien described in subsection (a)
who was convicted of 3 or more felonies of any
kind shall be fined under such title, imprisoned
not more than 25 years, or both; and

“(G) an alien described in subsection (a)
who was convicted, on a date that is before the
date on which the alien was subject to removal
or departure or after such removal or depart-
ture, for murder, rape, kidnapping, or a felony
offense described in chapter 77 (relating to pe-
onage and slavery) or 113B (relating to ter-
rorism) of such title shall be fined under such
title, imprisoned not more than 25 years, or both.

“(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
standing the penalties under subsections (a) and (b), an alien described in subsection (a) shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be fined under title 18, United States Code, if the alien—

“(1) was convicted, on a date that is before the date on which the alien was subject to removal or departure, of an aggravated felony; or

“(2) was convicted at least twice of illegal re-
entry under this section on 1 or more dates that are before the date on which such removal or departure.

“(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b)(2) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the 1 or more convictions that form the basis for the addi-
tional penalty are—

“(1) alleged in the indictment or information;

and

“(2)(A) proven beyond a reasonable doubt at trial; or
“(B) admitted by the defendant.

“(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

“(1) on a date that is before the date of the alleged violation, the alien sought and received the express consent of the Secretary to reapply for admission into the United States; or

“(2) with respect to an alien previously denied admission and removed, the alien—

“(A) was not required to obtain such advance consent under this Act or any other Act; and

“(B) complied with all other laws and regulations governing the alien’s admission into the United States.

“(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of a removal order described in subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

“(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;
“(2) the removal or deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

“(3) the entry of the order was fundamentally unfair.

“(g) REENTRY OF ALIEN REMOVED BEFORE THE COMPLETION OF THE TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States—

“(1) shall be incarcerated for the remainder of the sentence of imprisonment that was pending at the time of deportation or removal without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary has expressly consented to the alien’s reentry (if a request for consent to reapply is authorized under this section); and

“(2) shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

“(h) DEFINITIONS.—In this section:
“(1) CROSS THE BORDER.—The term ‘cross the border’ refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

“(2) FELONY.—The term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(3) MISDEMEANOR.—The term ‘misdemeanor’ means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

“(4) REMOVAL.—The term ‘removal’ includes any denial of admission, deportation, or removal, or any agreement by which an alien stipulates or agrees to deportation, or removal.

“(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a misdemeanor crime that—

“(A) involves the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in
common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim;

“(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

“(C) involved the unlawful possession of a firearm (as defined in section 921 of title 18, United States Code);

“(D) is a crime of violence (as defined in section 16 of title 18, United States Code); or

“(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

“(6) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(e) EFFECTIVE DATE; APPLICABILITY.—Section 276(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1326(a)(1)) shall take effect on the date of enact-
ment of this Act and shall apply to any alien who, on or after that date of enactment—

(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

(2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

(A) if the alien is seeking admission more than 10 years after the date of the alien’s last departure from the United States, the Secretary of Homeland Security, before the alien’s reembarkation at a place outside the United States or the alien’s application for admission from a foreign contiguous territory, has expressly consented to such alien’s reapplying for admission; or

(B) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to obtain such advance consent under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.
SEC. 1607. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” after “section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),”.

SEC. 1608. FREEZING BANK ACCOUNTS OF INTERNATIONAL CRIMINAL ORGANIZATIONS AND MONEY LAUNDERERS.

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

“(5)(A) If a person is arrested or charged in connection with an offense described in subparagraph (C) involving the movement of funds into or out of the United States, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the arrest is made or where the charges are filed for an ex parte order restraining any account held by the person arrested or charged for not more than 30 days. Such 30-day period may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43 of the Federal Rules of Civil Procedure. The court may receive and consider evidence and information submitted by the Government that would be inadmissible under the Federal Rules of Evidence.
“(B) The application for a restraining order under subparagraph (A) shall—

“(i) identify the offense for which the person has been arrested or charged;

“(ii) identify the location and description of the accounts to be restrained; and

“(iii) state that the restraining order is needed to prevent the removal of the funds in the account by the person arrested or charged, or by others associated with such person, during the time needed by the Government to conduct such investigation as may be necessary to establish whether there is probable cause to believe that the funds in the accounts are subject to forfeiture in connection with the commission of any criminal offense.

“(C) An offense described in this subparagraph is any offense for which forfeiture is authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

“(D) For purposes of this section—

“(i) the term ‘account’ includes any safe deposit box and any account (as defined in paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial institution; and
“(ii) the term ‘account held by the person arrested or charged’ includes an account held in the name of such person, and any account over which such person has effective control as a signatory or otherwise.

“(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for purposes of section 983(a).

“(F) A restraining order issued under this paragraph may be executed in any district in which the subject account is found, or transmitted to the central authority of any foreign State for service in accordance with any treaty or other international agreement.”.

SEC. 1609. CRIMINAL PROCEEDS LAUNDERED THROUGH PREPAID ACCESS DEVICES, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.

(a) IN GENERAL.—

(1) DEFINITIONS.—

(A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:
“(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders, prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital currency;”.

(B) Addition of Prepaid Access Devices to the Definition of Monetary Instruments.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by inserting “prepaid access devices,” after “delivery,”.

(C) Prepaid Access Device.—Section 5312 of such title is amended—

(i) by redesignating paragraph (6) as paragraph (7); and

(ii) by inserting after paragraph (5) the following:

“(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future.”.

(2) GAO Report.—Not later than 18 months after the date of enactment of this Act, the Comp-
troller General of the United States shall submit a 
report to Congress that describes—

(A) the impact of amendments made by 
paragraph (1) on law enforcement, the prepaid 
access device industry, and consumers; and

(B) the implementation and enforcement 
by the Department of the Treasury of the final 
rule relating to “Bank Secrecy Act Regula-
tions—Definitions and Other Regulations Re-
lying to Prepaid Access” (76 Fed. Reg. 45403 
(July 29, 2011)).

(b) U.S. CUSTOMS AND BORDER PROTECTION
STRAtegy FOR PREPAID ACCESS DEVICES.—Not later 
than 18 months after the date of enactment of this Act, 
the Secretary of Homeland Security, in consultation with 
the Commissioner of U.S. Customs and Border Protection, 
shall submit to Congress a report that—

(1) details a strategy to interdict and detect 
prepaid access devices, digital currencies, or other 
similar instruments, at border crossings and other 
ports of entry for the United States; and

(2) includes an assessment of the infrastructure 
needed to carry out the strategy detailed pursuant 
to paragraph (1).
(c) Money Smuggling Through Blank Checks in Bearer Form.—Section 5316 of title 31, United States Code, is amended by adding at the end the following:

“(e) Monetary Instruments With Amount Left Blank.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank, such that the amount could be filled in by the bearer, shall be considered to have a value of more than $10,000 if the monetary instrument was drawn on an account that contained or was intended to contain more than $10,000 at the time the monetary instrument was—

“(1) transported; or

“(2) negotiated.”.

SEC. 1610. CLOSING THE LOOPOHOLE ON DRUG CARTEL ASSOCIATES ENGAGED IN MONEY LAUNDERING.

(a) Intent to Conceal or Disguise.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through “Federal law,” in clause (ii) and inserting the following:

“(B) knowing that the transaction—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location,
ownership, or control of the proceeds of some
form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a
transaction reporting requirement under State
or Federal law,”; and

(2) in paragraph (2)(B), by striking “(B) know-
ing that” and all that follows through “Federal
law,” in clause (ii) and inserting the following:

“(B) knowing that the monetary instrument or
funds involved in the transportation, transmission,
or transfer represent the proceeds of some form of
unlawful activity, and knowing that such transpor-
tation, transmission, or transfer—

“(i) conceals or disguises, or is intended to
conceal or disguise, the nature, source, location,
ownership, or control of the proceeds of some
form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a
transaction reporting requirement under State
or Federal law,”.

(b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
title 18, United States Code, is amended by inserting “,
and regardless of whether the person knew that the activ-
ity constituted a felony” before the semicolon at the end.
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.

(a) Definition of Engage in Terrorist Activity.—Section 212(a)(3)(B)(iv)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

“(I) to commit a terrorist activity or, under circumstances indicating an intention to cause death, serious bodily harm, or substantial damage to property, to incite another person to commit a terrorist activity;”.

(b) Definition of Terrorist Organization.—

Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C. 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

“(III) that is a group of 2 or more individuals, whether organized or not, which engages in, or has a subgroup that engages in, the activities described in subclauses (I) through (VI) of clause (iv), if the
group or subgroup presents a threat to the national security of the United States.”.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Applicability.—Section 212(a)(3) of the Immigration and Nationality Act, as amended by this section, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS OF INADMISSIBILITY.

(a) Security and Related Grounds.—Section 212(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

“(A) In general.—Any alien who a consular officer, the Attorney General, or the Secretary knows, or has reasonable ground to be-
lieve, seeks to enter the United States to engage solely, principally, or incidentally, in, or who is engaged in—

“(i) any activity—

“(I) to violate any law of the United States relating to espionage or sabotage; or

“(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;

“(ii) any other activity which would be unlawful if committed in the United States; or

“(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is inadmissible.”.

(b) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—
(1) in subclause (III), by inserting “or substantial damage to property” before “, incited terrorist activity”;

(2) in subclause (IV), by inserting “or has been” before “a representative”;

(3) in subclause (V), by inserting “or has been” before “a member”;

(4) in subclause (VI), by inserting “or has been” before “a member”;

(5) by amending subclause (VII) to read as follows:

“(VII) endorses or espouses, or has endorsed or espoused, terrorist activity or persuades or has persuaded others to endorse or espouse terrorist activity or support a terrorist organization;”;

(6) by amending subclause (IX) to read as follows:

“(IX) is the spouse or child of an alien who is inadmissible under this subparagraph if—

“(aa) the activity causing the alien to be found inadmissible
occurred within the last 10 years; and

“(bb)(AA) the spouse or child knew, or should reasonably have known, of the activity causing the alien to be found inadmissible under this section; and

“(BB) the consular officer or Attorney General does not have reasonable grounds to believe that the spouse or child has renounced the activity causing the alien to be found inadmissible under this section.”; and

(7) by striking the undesignated matter following subclause (IX).

(c) PALESTINE LIBERATION ORGANIZATION.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

“(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is con-
considered, for purposes of this Act, to be engaged in terrorist activity.”.

(d) Bars to Immigration Relief.—Any alien described in section 212(a)(3)(B) or 237(a)(4)(B) is not eligible and may not apply for any immigration benefits or relief available under this Act. Such aliens are only eligible to seek deferral of removal pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

SEC. 1703. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) In General.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended—

(1) in the section heading, by adding at the end the following: “or who are subject to terrorism-related grounds for removal”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “Attorney General” and inserting “Secretary, in the Secretary’s sole and unreviewable discretion,”;

and

(ii) by striking “set forth in this subsection or” and inserting “set forth in this
subsection, in lieu of removal proceedings under’’;

(B) in paragraphs (3) and (4), by striking “Attorney General” each place that term appears and inserting “Secretary”;

(C) in paragraph (5)—

(i) by striking “described in this section” and inserting “described in paragraph (1) or (2)”; and

(ii) by striking “the Attorney General may grant in the Attorney General’s discretion.” and inserting “the Secretary or the Attorney General may grant, in the sole and unreviewable discretion of the Secretary or the Attorney General, in any proceeding.”;

(D) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(E) by inserting after paragraph (2) the following:

“(3) The Secretary, in the exercise of discretion, may determine inadmissibility under section 212(a)(2) and issue an order of removal pursuant to the procedures set forth in this subsection, in lieu of
removal proceedings under section 240, with respect to an alien who—

“(A) has not been admitted or paroled;

“(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in 235(b)(1)(B); and

“(C) is not eligible for a waiver of inadmissibility or relief from removal.”;

(3) by redesignating the first subsection (c) as subsection (d); (4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–720), as subsection (e); and

(5) by inserting after subsection (b) the following:

“(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO TERRORISM-RELATED GROUNDS FOR REMOVAL.—

“(1) IN GENERAL.—The Secretary—

“(A) notwithstanding section 240, shall—

“(i) determine the inadmissibility of every alien under subclause (I), (II), or (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section
237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

“(ii) issue an order of removal pursuant to the procedures set forth in this subsection to every alien determined to be inadmissible or deportable on a ground described in clause (i); and

“(B) may—

“(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of section 212(a)(3) (other than subclauses (I), (II), and (III) of section 212(a)(3)(B)(i)), or the deportability of the alien under subparagraph (A) or (B) of section 237(a)(4) (as a consequence of being described in subclause (I), (II), or (III) of section 212(a)(3)(B)(i)); and

“(ii) issue an order of removal pursuant to the procedures set forth in this subsection to every alien determined to be inadmissible or deportable on a ground described in clause (i).

“(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1) until 30 days after the date on which such order was issued,
unless waived by the alien, to give the alien an opportunity to petition for judicial review under section 242.

“(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings under this subsection, which shall require that—

“(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

“(B) the alien has the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

“(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

“(D) a determination is made on the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;

“(E) a record is maintained for judicial review; and
“(F) the final order of removal is not adjudicated by the same person who issues the charges.

“(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall be eligible for any relief from removal that the Secretary may grant in the Secretary’s discretion.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 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.”.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of the enactment of this Act, but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such date of enactment.

SEC. 1704. DETENTION OF REMOVABLE ALIENS.

(a) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end the following:

“(j) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—
“(1) IN GENERAL.—The Secretary may enter
into a written agreement with a State, or with any
political subdivision of a State, to authorize the tem-
porary placement of 1 or more U.S. Customs and
Border Protection agents or officers or U.S. Immi-
gration and Customs Enforcement agents or inves-
tigators at a local police department or precinct—

“(A) to determine the immigration status
of any individual arrested by a State, county, or
local police, enforcement, or peace officer for
any criminal offense;

“(B) to issue charging documents and no-
tices related to the initiation of removal pro-
ceedings or reinstatement of prior removal or-
ders under section 241(a)(5);

“(C) to enter information directly into the
National Crime Information Center (NCIC)
database, Immigration Violator File, includ-
ing—

“(i) the alien’s address;

“(ii) the reason for the arrest;

“(iii) the legal cite of the State law
violated or for which the alien is charged;
“(iv) the alien’s driver’s license number and State of issuance, if the alien has a driver’s license;

“(v) any other identification document held by the alien and issuing entity for such identification documents; and

“(vi) any identifying marks, such as tattoos, birthmarks, and scars;

“(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of the alien and to enter such information into the Automated Biometric Identification System (IDENT) and any other Department of Homeland Security or law enforcement database authorized for storage of biometric information for aliens; and

“(E) to make advance arrangements for the immediate transfer from State to Federal custody of any criminal alien when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested and imprisoned again for the same offense.
“(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary duty assignment authorized under this subsection shall be 1 year. The temporary duty assignment may be extended for additional periods of time as agreed to by the Secretary and the State or political subdivision of the State to ensure continuity of operations, cooperation, and coverage.

“(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement agents, officers, and investigators on a temporary duty assignment under this subsection mobile access to Federal databases containing alien information, live scan technology for collection of biometrics, and video-conferencing capability for use at local police departments or precincts in remote locations.

“(4) REPORT.—Not later than 1 year after the date of the enactment of the SECURE and SUCCEED Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Com-
mittee on Homeland Security of the House of Representatives that identifies—

“(A) the number of States that have entered into an agreement under this subsection;

“(B) the number of criminal aliens processed by the U.S. Customs and Border Protection agent or officer or U.S. Immigration and Customs Enforcement agent or investigator during the temporary duty assignment; and

“(C) the number of criminal aliens transferred from State to Federal custody during the agreement period.”.

(b) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

(1) REMOVAL PERIOD.—

(A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(1)(A)) is amended by striking “Attorney General” and inserting “Secretary”.

(B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C. 1231(a)(1)(B)) is amended to read as follows:

“(B) BEGINNING OF PERIOD.—
“(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date that is the latest of the following:

“(I) If the alien is ordered removed, the date pursuant to an administratively final removal order and the Secretary takes the alien into custody for removal.

“(II) If the alien is detained or confined (except under an immigration process), the date on which the alien is released from detention or confinement.

“(ii) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If the Secretary transfers custody of the alien pursuant to law to another Federal agency or to an agency of a State or local government in connection with the official duties of such agency, the removal period for the alien—

“(I) shall be tolled; and

“(II) shall resume on the date on which the alien is returned to the custody of the Secretary.”.
(C) SUSPENSION OF PERIOD.—Section 241(a)(1)(C) of such Act (8 U.S.C. 1231(a)(1)(C)) is amended to read as follows:

“(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if—

“(i) the alien fails or refuses to make all reasonable efforts to comply with the order of removal or to fully cooperate with the efforts of the Secretary to establish the alien’s identity and carry out the order of removal, including making timely application in good faith for travel or other documents necessary to the alien’s departure;

“(ii) the alien conspires or acts to prevent the alien’s removal subject to an order of removal; or

“(iii) the court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien.”.

(2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(2)) is amended—
(A) by inserting “(A) IN GENERAL.—” before “During”;

(B) by striking “Attorney General” and inserting “Secretary”; and

(C) by adding at the end the following:

“(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an order of removal, the Secretary, in the Secretary’s sole and unreviewable exercise of discretion, and notwithstanding any provision of law, including section 2241 of title 28, United States Code, may detain the alien during the pendency of such stay of removal.”.

(3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

(A) in the matter preceding subparagraph (A), by striking “Attorney General” and inserting “Secretary”; and

(B) in subparagraph (C), by striking “Attorney General” and inserting “Secretary”; and

(C) by amending subparagraph (D) to read as follows:
“(D) to obey reasonable restrictions on the alien’s conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.”.

(4) Aliens Imprisoned, Arrested, or on Parole, Supervised Release, or Probation.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(4)) is amended—

(A) in subparagraph (A), by striking “Attorney General” and inserting “Secretary”; and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking “Attorney General” and inserting “Secretary”;

(ii) in clause (i), by striking “if the Attorney General” and inserting “if the Secretary”; and

(iii) in clause (ii)(III), by striking “Attorney General” and inserting “Secretary”.

(5) Reinstatement of Removal Orders Against Aliens Illegally Reentering.—
(A) In General.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

“(5) Reinstatement of Removal Orders Against Aliens Illegally Reentering.—If the Secretary determines that an alien has entered the United States illegally after having been removed, deported, or excluded, or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

“(A) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

“(B) the alien is not eligible and may not apply for any relief under this Act, regardless of the date on which an application or request for such relief may have been filed or made;

“(C) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry; and

“(D) reinstatement under subparagraph (A) shall not require proceedings under section
240 or other proceedings before an immigration judge.”.

(B) Judicial Review.—Section 242 of such Act (8 U.S.C. 1252) is amended by—

(i) in subsection (g), by inserting “grant, rescind, or deny any form of discretionary relief under this title, or to” before “commence”; and

(ii) by adding at the end the following:

“(h) Judicial Review of Decision to Reinstate Removal Order Under Section 241(a)(5).—

“(1) Review of decision to reinstate removal order.—Judicial review of determinations under section 241(a)(5) is available in an action under subsection (a).

“(2) No review of original order.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from,
or relating to, any challenge to the original order.”.

(C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated or after that date by the Secretary of Homeland Security (or by the Attorney General before March 1, 2003), regardless of the date of the original order.

(6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

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

(B) by striking “removal period and, if released,” and inserting “removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed.”.

(7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(A) in paragraph (7), by striking “Attorney General” and inserting “Secretary”;
(B) by redesignating paragraph (7) as paragraph (15); and

(C) by inserting after paragraph (6) the following:

“(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens subject to detention under section 236(e), 236A, or 238, if an alien who is detained is an applicant for admission, the Secretary, in the Secretary’s sole and unreviewable discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless the alien violates the conditions of such parole or the alien’s removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

“(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE PREVIOUSLY ADMITTED TO THE UNITED STATES.—

“(A) APPLICATION.—The procedures set out under this paragraph—

“(i) apply only to an alien who was previously admitted to the United States; and
“(ii) do not apply to any other alien, including an alien detained pursuant to paragraph (6).

“(B) Establishment of detention review process for aliens who fully cooperate with removal.—

“(i) Requirement to establish.—

If an alien has made all reasonable efforts to comply with a removal order and to cooperate fully with the efforts of the Secretary to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, and has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions.

“(ii) Determinations.—The Secretary shall—

“(I) make a determination whether to release an alien described
in clause (i) after the end of the alien’s removal period; and

“(II) in making a determination under subclause (I), consider any evidence submitted by the alien, and may consider any other evidence, including any information or assistance provided by the Department of State or other Federal agency and any other information available to the Secretary pertaining to the ability to remove the alien.

“(9) Authority to detain beyond the removal period.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C))—

“(A) until the alien is removed, if the Secretary determines that—

“(i) there is a significant likelihood that the alien will be removed in the reasonably foreseeable future;
“(ii) the alien would be removed in the reasonably foreseeable future, or would have been removed, but for the alien’s failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, or conspiracies or acts to prevent removal;

“(iii) the government of the foreign country of which the alien is a citizen, subject, national, or resident is denying or unreasonably delaying accepting the return of the alien after the Secretary asks whether the government will accept an alien under section 243(d); or

“(iv) the government of the foreign country of which the alien is a citizen, subject, national, or resident is refusing to issue any required travel or identity documents to allow the alien to return to that country;
“(B) until the alien is removed, if the Secretary certifies in writing—

“(i) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

“(ii) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

“(iii) based on information available to the Secretary (including classified, sensitive, or other information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

“(iv) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and eith—
“(I) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)), 1 or more crimes identified by the Secretary by regulation, or 1 or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, provided that the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or

“(II) the alien has committed 1 or more violent offenses (but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

“(v) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one ag-
gravated felony (as defined in section 101(a)(43)); and

“(C) pending a determination under subparagraph (B), if the Secretary has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period as provided in paragraph (1)(C)).

“(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

“(A) RENEWAL.—The Secretary may renew a certification under paragraph (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under paragraph (9)(B).

“(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification described in clause (ii), (iii), or (iv) of paragraph (9)(B) to an official below the level of the Di-
rector of U.S. Immigration and Customs Enforcement.

“(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be released from detention, the Secretary, in the exercise of discretion, may impose conditions on release as provided in paragraph (3).

“(12) REDETENTION.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release or to continue to satisfy the conditions described in paragraph (8), or if, upon reconsideration, the Secretary determines that the alien can be detained under paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

“(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States, but has not been lawfully admitted nor physically present in the United States continuously for the 2-year period immediately preceding the commence-
ment of removal proceedings under this Act against the alien, the Secretary, in the exercise of discretion, may decide not to apply paragraph (8) and detain the alien without any limitations except those which the Secretary shall adopt by regulation.

“(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision pursuant to paragraph (6) through (14) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.”.

(c) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following:

“(e) LENGTH OF DETENTION.—

“(1) IN GENERAL.—An alien may be detained under this section while proceedings are pending, without limitation, until the alien is subject to an administratively final order of removal or final grant of relief.
“(2) Effect on detention under section 241.—The length of detention under this section shall not affect the validity of any detention under section 241.

“(f) Judicial review.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.”.

(2) Conforming amendments.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(A) by redesignating subsection (e) as subsection (f);

(B) by inserting after subsection (d) the following new subsection (e):

“(e) Length of detention.—

“(1) In general.—An alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal or final grant of relief.
“(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this section shall not affect the validity of any detention under section 241.”; and

(C) in subsection (f), as so redesignated, by adding at the end the following: “Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and non-statutory) available to the alien as of right.”.

(d) ATTORNEY GENERAL’S DISCRETION IN DETERMINING COUNTRIES OF REMOVAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)(C)(iv), by striking the period at the end and inserting “, or the Attorney General decides that removing the alien to such country is prejudicial to the interests of the United States.”; and

(2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing the alien
to 1 or more of such countries is prejudicial to the
interests of the United States,” after “this subpara-
paragraph,”.

(e) EFFECTIVE DATES AND APPLICATION.—

(1) AMENDMENTS MADE BY SUBSECTION (B).—
The amendments made by subsection (b) shall take
effect on the date of the enactment of this Act. Sec-
tion 241 of the Immigration and Nationality Act, as
amended by subsection (b), shall apply to—

(A) all aliens subject to a final administra-
tive removal, deportation, or exclusion order
that was issued before, on, or after the date of
the enactment of this Act; and

(B) acts and conditions occurring or exist-
ing before, on, or after the date of the enact-
ment of this Act.

(2) AMENDMENTS MADE BY SUBSECTION (C).—
The amendments made by subsection (c) shall take
effect upon the date of the enactment of this Act.
Sections 235 and 236 of the Immigration and Na-
tionality Act, as amended by subsection (c), shall
apply to any alien in detention under provisions of
such sections on or after the date of the enactment
of this Act.
SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the deaths in custody of detainees held by the Department of Homeland Security, which shall include, with respect to any such deaths—

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

(2) whether Department practices and procedures were properly followed and obeyed;

(3) whether such practices and procedures are sufficient to protect the health and safety of such detainees; and

(4) whether reports of such deaths were made to the Deaths in Custody Reporting Program.

SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee
on Homeland Security of the House of Representatives a
report that describes—

(1) the total number of migrant deaths along
the southern border during the previous 7 years;

(2) the total number of unidentified deceased
migrants found along the southern border in the
previous 7 years;

(3) the level of cooperation between U.S. Cur-
toms and Border Protection, State and local law en-
forcement agencies, foreign diplomatic and consular
posts, nongovernmental organizations, and family
members to accurately identify deceased individuals;

(4) the use of DNA testing and sharing of such
data between U.S. Customs and Border Protection,
State and local law enforcement agencies, foreign
diplomatic and consular posts, and nongovernmental
organizations to accurately identify deceased individ-
uals;

(5) the comparison of DNA data with informa-
tion on Federal, State, and local missing person reg-
istries; and

(6) the procedures and processes U.S. Customs
and Border Protection has in place for notification
of relevant authorities or family members after miss-
ing persons are identified through DNA testing.
SEC. 1707. STATUTE OF LIMITATIONS FOR VISA, NATURALIZATION, AND OTHER FRAUD OFFENSES INVOLVING WAR CRIMES, CRIMES AGAINST HUMANITY, OR HUMAN RIGHTS VIOLATIONS.

(a) Statute of Limitations for Visa Fraud and Other Offenses.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

§3302. Fraud in connection with certain human rights violations, crimes against humanity, or war crimes

“(a) In General.—No person shall be prosecuted, tried, or punished for violation of any provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment, or fraudulent, fictitious, or false statement concerns the alleged offender’s—

“(1) participation, at any time, at any place, and irrespective of the nationality of the alleged offender or any victim, in a human rights violation, crime against humanity, or war crime; or

“(2) membership in, service in, or authority over a military, paramilitary, or law enforcement organization that participated in such conduct during any part of any period in which the alleged offender
was a member of, served in, or had authority over
the organization, unless the indictment is found or
the information is instituted within 20 years after
the commission of the offense.

“(b) DEFINITIONS.—In this section—

“(1) the term ‘extrajudicial killing under color
of law’ means conduct described in section
212(a)(3)(E)(iii) of the Immigration and Nationality
Act (8 U.S.C. 1182(a)(3)(E)(iii));

“(2) the term ‘female genital mutilation’ means
conduct described in section 116;

“(3) the term ‘genocide’ means conduct de-
scribed in section 1091(a);

“(4) the term ‘human rights violation or war
crime’ means genocide, incitement to genocide, war
crimes, torture, female genital mutilation,
extrajudicial killing under color of law, persecution,
particularly severe violations of religious freedom,
the use or recruitment of child soldiers, or other se-
rious violation of human rights;

“(5) the term ‘incitement to genocide’ means
conduct described in section 1091(c);

“(6) the term ‘particularly severe violation of
religious freedom’ means conduct described in sec-

“(7) the term ‘persecution’ means conduct that is a bar to relief under section 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));

“(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2340;

“(9) the term ‘use or recruitment of child soldiers’ means conduct described in subsections (a) and (d) of section 2442;

“(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section 2441; and


(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Fraud in connection with certain human rights violations, crimes against humanity, or war crimes.”.

(e) APPLICATION.—The amendments made by this section shall apply to fraudulent conduct, misrepresentations, concealments, and fraudulent, fictitious, or false
statements made or committed before, on, or after the
date of enactment of this Act.

SEC. 1708. CRIMINAL DETENTION OF ALIENS TO PROTECT
PUBLIC SAFETY.

(a) In General.—Section 3142(e) of title 18,
United States Code, is amended to read as follows:

“(e) Detention.—

“(1) In General.—If, after a hearing pursuant
to the provisions of subsection (f), the judicial
officer finds that no condition or combination of con-
ditions will reasonably assure the appearance of the
person as required and the safety of any other per-
son and the community, such judicial officer shall
order the detention of the person before trial.

“(2) Presumption arising from offenses
described in subsection (f)(1).—In a case de-
scribed in subsection (f)(1), a rebuttable presump-
tion arises that no condition or combination of con-
ditions will reasonably assure the safety of any other
person and the community if the judicial officer
finds that—

“(A) the person has been convicted of a
Federal offense that is described in subsection
(f)(1), or of a State or local offense that would
have been an offense described in subsection
(f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

“(B) the offense described in subparagraph (A) was committed while the person was on release pending trial for a Federal, State, or local offense; and

“(C) not more than 5 years has elapsed since the later of the date of conviction or the date of the release of the person from imprisonment for the offense described in subparagraph (A).

“(3) Presumption arising from other offenses involving illegal substances, firearms, violence, or minors.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed—

“(A) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances
Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

“(B) an offense under section 924(c), 956(a), or 2332b;

“(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or


“(4) Presumption arising from offenses relating to immigration law.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person is an alien and that the person—

“(A) has no lawful immigration status in the United States;
“(B) is the subject of a final order of removal; or

“(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015, 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328).”.

(b) Immigration Status as Factor in Determining Conditions of Release.—Section 3142(g)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end; and

(2) by adding at the end the following:

“(C) whether the person is in a lawful immigration status, has previously entered the United States illegally, has previously been removed from the United States, or has otherwise violated the conditions of his or her lawful immigration status; and”.

SEC. 1709. RECRUITMENT OF PERSONS TO PARTICIPATE IN TERRORISM.

(a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332b the following:
§ 2332c. Recruitment of persons to participate in terrorism

(a) Offenses.—

(1) In general.—It shall be unlawful for any person to employ, solicit, induce, command, or cause another person to commit an act of domestic terrorism or international terrorism or a Federal crime of terrorism, with the intent that the other person commit such act or crime of terrorism.

(2) Attempt and conspiracy.—It shall be unlawful for any person to attempt or conspire to commit an offense under paragraph (1).

(b) Penalties.—Any person who violates subsection (a)—

(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not more than 10 years, or both;

(2) if death of an individual results, shall be fined under this title, punished by death or imprisoned for any term of years or for life, or both;

(3) if serious bodily injury to any individual results, shall be fined under this title, imprisoned not less than 10 years nor more than 25 years, or both; and

(4) in any other case, shall be fined under this title, imprisoned not more than 10 years, or both.
“(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed or applied to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

“(d) LACK OF CONSUMMATED TERRORIST ACT NOT A DEFENSE.—It is not a defense under this section that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is the object of the employment, solicitation, inducement, commanding, or causing has not been carried out.

“(e) DEFINITIONS.—In this section—

“(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section 2332b; and

“(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h).”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332b the following:

“2332c. 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.

(a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMAN-
ity.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) by striking the subparagraph heading and inserting "PARTICIPANTS IN PERSECUTION (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—";

(2) in clause (iii)(II)—

(A) by striking "of any foreign nation" and inserting "(including acts taken as part of an armed group exercising de facto authority)";

and

(3) by adding after clause (iii) the following:

"(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—Any alien, including an alien who has or had superior responsibility, who committed, ordered, incited, assisted, or otherwise participated in a war crime (as defined in section 2441(c) of title 18, United States Code) or a crime against humanity, or in the persecution of any person on account of race, religion, nationality,
membership in a particular social group, or political opinion, is inadmissible.

“(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term ‘crime against humanity’ means conduct that is part of a widespread or systematic attack targeting any civilian population, with knowledge that the conduct was part of the attack or with the intent that the conduct be part of the attack—

“(I) that, if such conduct occurred in the United States or in the special maritime and territorial jurisdiction of the United States, would violate—

“(aa) section 1111 of title 18, United States Code (relating to murder);

“(bb) section 1201(a) of such title (relating to kidnapping);

“(cc) section 1203(a) of such title (relating to hostage taking), notwithstanding any ex-
ception under subsection (b) of such section 1203;

“(dd) section 1581(a) of such title (relating to peonage);

“(ee) section 1583(a)(1) of such title (relating to kidnapping or carrying away individuals for involuntary servitude or slavery);

“(ff) section 1584(a) of such title (relating to sale into involuntary servitude);

“(gg) section 1589(a) of such title (relating to forced labor);

“(hh) section 1590(a) of such title (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor);

“(ii) section 1591(a) of such title (relating to sex trafficking of children or by force, fraud, or coercion);
“(jj) section 2241(a) of such title (relating to aggravated sexual abuse by force or threat); or

“(kk) section 2242 of such title (relating to sexual abuse);

“(II) that would constitute torture (as defined in section 2340(1) of such title);

“(III) that would constitute cruel or inhuman treatment, as described in section 2441(d)(1)(B) of such title;

“(IV) that would constitute performing biological experiments, as described in section 2441(d)(1)(C) of such title;

“(V) that would constitute mutilation or maiming, as described in section 2441(d)(1)(E) of such title; or

“(VI) that would constitute intentionally causing serious bodily injury, as described in section 2441(d)(1)(F) of such title.

“(vi) DEFINITIONS.—In this subpar-
“(I) the term ‘superior responsibility’ means—

“(aa) a leader, a member of a military, or a person with effective control of military forces, or a person with de facto or de jure control of an armed group;

“(bb) who knew or should have known that a subordinate or someone under his or her de facto or de jure control is committing acts described in subsection (a), is about to commit such acts, or had committed such acts; and

“(cc) who fails to take the necessary and reasonable measures to prevent such acts or, for acts that have been committed, to punish the perpetrators of such acts;

“(II) the term ‘systematic’ means the commission of a series of acts following a regular pattern and occurr-
ring in an organized, non-random manner; and

“(III) the term ‘widespread’ means a single, large scale act or a series of acts directed against a substantial number of victims.”.

(b) REMOVAL OF PERSECUTORS.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) in the subparagraph heading, by striking “NAZI”; and

(2) by striking “or (iii)” and inserting “(iii), or (iv)”.

(e) SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—
Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G) is amended—

(1) in the subparagraph heading, by striking “FOREIGN GOVERNMENT OFFICIALS” and inserting “ANY PERSONS”; and

(2) by striking “, while serving as a foreign government official,”.

(d) BARRING PERSECUTORS FROM ESTABLISHING GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—
(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking “killings) or
212(a)(2)(G) (relating to severe violations of reli-
gious freedom).” and inserting “killings),
212(a)(2)(G) (relating to severe violations of reli-
gious freedom), or 212(a)(3)(G) (relating to recruit-
ment and use of child soldiers); or”; and

(3) by inserting after paragraph (9) the fol-
lowing:

“(10) one who at any time committed, ordered,
incited, assisted, or otherwise participated in a war
crime (as defined in section 2441(c) of title 18,
United States Code), a crime against humanity, or
the persecution of any person on account of race, re-
ligion, nationality, membership in a particular social
group, or political opinion.”.

(e) Increasing Criminal Penalties for Anyone
Who Aids and Abets the Entry of a Persecutor.—
Section 277 of the Immigration and Nationality Act (8
U.S.C. 1327) is amended by striking “(other than sub-
paragraph (E) thereof)”.

(f) Increasing Criminal Penalties for Female
Genital Mutilation.—Section 116 of title 18, United
States Code, is amended—
(1) in subsection (a), by striking “shall be fined under this title or imprisoned not more than 5 years, or both” and inserting “has engaged in a violent crime against children under section 3559(f)(3), shall be imprisoned for life or for 10 years or longer”; and

(2) in subsection (d), by striking “shall be fined under this title or imprisoned not more than 5 years, or both.” and inserting “shall be imprisoned for life or for 10 years or longer.”.

(g) Technical Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting “committed,” before “ordered”;

(2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting “committed,” before “ordered”; and


(h) Application.—The amendments made by this section shall apply to any offense committed before, on, or after the date of the enactment of this Act.
SEC. 1711. CHILD SOLDIER RECRUITMENT INELIGIBILITY

TECHNICAL CORRECTION.

Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is amended by striking “section 2442” and inserting “section 2442(a)”.

SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE.

(a) DEFINITION OF CRIMINAL GANG.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

“(53)(A) The term ‘criminal gang’ means any ongoing group, club, organization, or association, inside or outside the United States, of 2 or more persons that—

“(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal offenses described in subparagraph (B) and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses; or

“(ii) has been designated as a criminal gang by the Secretary, in consultation with the Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

“(B) The offenses described in this subparagraph, whether in violation of Federal or State law or the law
of a foreign country and regardless of whether the offenses occurred before, on, or after the date of the enactment of the SECURE and SUCCEED Act, are the following:

“(i) Any aggravated felony.

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

“(iii) Any criminal offense described in section 212 or 237.

“(iv) An offense involving illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code).

“(v) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

“(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the offense, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

“(vii) Any offense that has, as an element of the offense, the use, attempted use, or threatened
use of any physical object to inflict or cause (either directly or indirectly) serious bodily injury, including an injury that may ultimately result in the death of a person.

“(viii) An offense involving obstruction of justice or tampering with or retaliating against a witness, victim, or informant.

“(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

“(x) A conspiracy or attempt to commit an offense described in clauses (i) through (v).
“(C) Notwithstanding any other provision of law (including any effective date), a group, club, organization, or association shall be considered a criminal gang regardless of whether the conduct occurred before, on, or after the date of the enactment of the SECURE and SUCCEED Act.”.

(b) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

“(J) Aliens associated with criminal gangs.—

“(i) In general.—Any alien who a consular officer, the Secretary, or the Attorney General knows or has reasonable ground to believe—

“(I) to be or to have been a member of a criminal gang; or

“(II) to have participated in the activities of a criminal gang, knowing or having reason to know that such activities promoted or will promote, further, aid, or support the illegal activity of the criminal gang, is inadmissible.
“(ii) EXCEPTION.—Clause (i) shall not apply to an alien who did not know, or should not reasonably have known, of the activity causing the alien to be found inadmissible under this section.”.

(c) DESIGNATION OF CRIMINAL GANGS.—

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

“SEC. 220. DESIGNATION OF CRIMINAL GANGS.

“(a) IN GENERAL.—The Secretary, in consultation with the Attorney General, and the Secretary of State, may designate a group or association as a criminal gang if their conduct is described in section 101(a)(53) or if the group’s or association’s conduct poses a significant risk that threatens the security and the public safety of United States nationals or the national security, homeland security, or economy of the United States.

“(b) EFFECTIVE DATE.—A designation under subsection (a) shall remain in effect until the designation is revoked, after consultation between the Secretary, the Attorney General, and the Secretary of State, or is terminated in accordance with Federal law.”.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Na-
tionality Act is amended by inserting after the item relating to section 219 the following:

“220. Designation of criminal gangs.”

(d) **DEPORTABILITY.**—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(G) **ALIENS ASSOCIATED WITH CRIMINAL GANGS.**—

“(i) **IN GENERAL.**—Any alien who the Secretary or the Attorney General knows or has reason to believe—

“(I) is or has been a member of a criminal gang; or

“(II) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang,

is deportable.

“(ii) **EXCEPTION.**—Clause (i) shall not apply to an alien—

“(I) who did not know, or should not reasonably have known, of the activity causing the alien to be found deportable under this section; or
“(II) whom the Secretary or the Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found deportable under this section.”.

(e) CANCELLATION OF REMOVAL.—Section 240A(c) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

“(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating to participation in criminal gangs).”.

(f) VOLUNTARY DEPARTURE.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C. 1229c(e)) is amended to read as follows:

“(e) LIMITATION ON VOLUNTARY DEPARTURE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien—

“(1) was previously permitted to depart voluntarily after having been found inadmissible under section 212(a)(6)(A); or

“(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in criminal gangs).”.

(g) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—
(1) **Inapplicability of restriction on removal to certain countries.**—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended in the matter preceding clause (i) by inserting “who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) or who is” after “to an alien”.

(2) **Ineligibility for asylum.**—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

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

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

(C) by inserting after clause (v) the following:

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

(D) by amending clause (vii), as redesignated, to read as follows:

“(vii) the alien was firmly resettled in another country in any legal status prior to arriving in the United States.”.
(h) **Good Moral Character Bar for Criminal Gang Members.**—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d), and 1822(a) of this Act, is further amended by inserting after paragraph (10) the following:

“(11) is a member of 1 or more classes of persons described in section 212(a)(2)(J) or 237(a)(2)(G) and has been convicted of any offense described in section 101(a)(43), 212(a)(2), or 237(a)(2); or”.

(i) **Annual Report on Detention of Criminal Gang Members.**—Not later than March 1 of the first calendar year beginning at least 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security, after consultation with the heads of appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that identifies the number of aliens detained described in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as added by subsections (b) and (d).
(j) Effective Date and Application.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

SEC. 1713. BARRING AGGRAVATED FELONS, BORDER CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM ADMISSION TO THE UNITED STATES.

(a) Inadmissibility on Criminal and Related Grounds; Waivers.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)(i)—

(i) in subclause (I), by striking ‘‘, or’’ at the end and inserting a semicolon;

(ii) in subclause (II), by striking the comma at the end and inserting ‘‘; or’’; and

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

‘‘(III) a violation of (or a conspiracy or attempt to violate) any statute relating to section 208 of the Social Security Act (42 U.S.C. 408)
(relating to social security account
numbers or social security cards) or
section 1028 of title 18, United States
Code (relating to fraud and related
activity in connection with identification
documents, authentication fea-
tures, and information)”; and

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

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

“(M) CERTAIN FIREARM OFFENSES.—Any
alien who at any time has been convicted under
any law of, admits having committed, or admits
committing acts which constitute the essential
elements of, any law relating to, purchasing,
selling, offering for sale, exchanging, using,
owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law, is inadmissible. For purposes of this subparagraph the term ‘any law’ includes State laws that do not contain an exception for antique firearms. If the State law does not contain an exception for antique firearms, the Secretary or the Attorney General may consider documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to establish that the offense involved at least 1 firearm that is not an antique firearm.

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

"(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of section 758 of title 18, United States Code (relating to
high speed flight from an immigration check-
point) is inadmissible.

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

“(Q) CRIMES OF DOMESTIC VIOLENCE,
stalking, or violation of protection or-
ders; crimes against children.—

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

“(ii) VIOLATORS OF PROTECTION OR-
ders.—Except as provided in subsection
(v), any alien who at any time is or has
been enjoined under a protection order issued by a court and whom the court de-
termines has engaged in conduct that vio-
lates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmis-
sible. For purposes of this clause, the term ‘protection order’ has the meaning given the term in section 237(a)(2)(E)(ii).’;

(2) in subsection (h)—

(A) in paragraph (1)—

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

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

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

(C) in the matter preceding subparagraph (A), as redesignated and as amended by section 1713(e) of this Act—
(i) by inserting “(1)” before “The Attorney General”; and

(ii) by striking “, and (K)”, and inserting “(K), and (M)”;

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

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

“(2) A waiver may not be provided under this subsection to an alien—

“(A) who has been convicted of (or who has admitted committing acts that constitute)—

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

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

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

“(C) who has been lawfully admitted for permanent residence and who since the date of such admission has not lawfully resided continuously in the United States for at least 7 years immediately preceding the date on which proceedings were initiated to remove the alien from the United States.”; and

(ii) by striking “No court” and inserting the following:
“(3) No court”;

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

(4) by adding at the end the following:

“(v) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE.—

“(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship, upon a determination that—

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

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

or

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

“(i) that did not result in serious bodily injury; and
“(ii) where there was a connection between the crime and the alien’s having been battered or subjected to extreme cruelty.

“(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this subsection, the Secretary or the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary or the Attorney General.”.

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

“(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a conspiracy or attempt to violate) an offense relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relat-
ing to fraud and related activity in connection
with identification) is deportable.”.

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

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

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

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

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

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

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

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

(2) all aliens who are required to establish ad-
missibility on or after such date of enactment; and
(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date of enactment.

(e) Rule of Construction.—The amendments made by this section may not be construed to create eligibility for relief from removal under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if such eligibility did not exist before such date of enactment.

SEC. 1714. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) Immigrants.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

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

“(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense against a minor (as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20911(7))) unless the Secretary, in the Secretary’s sole and unreviewable discretion, determines that the citizen poses no risk to the
alien with respect to whom a petition described in clause
(i) is filed.’’; and

(2) in subparagraph (B)(i)—

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

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

“(II) Subclause (I) shall not apply to an alien law-
fully admitted for permanent residence who has been con-
victed of an offense described in subparagraph (A), (I),
or (K) of section 101(a)(43) or a specified offense against
a minor as defined in section 111(7) of the Adam Walsh
20911(7)) unless the Secretary, in the Secretary’s sole and
unreviewable discretion, determines that the alien lawfully
admitted for permanent residence poses no risk to the
alien with respect to whom a petition described in sub-
clause (I) is filed.’’.

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

c) EFFECTIVE DATE AND APPLICATION.—The
amendments made by this section shall take effect on the
date of the enactment of this Act and shall apply to petitions filed on or after such date.

SEC. 1715. ENHANCED CRIMINAL PENALTIES FOR HIGH SPEED FLIGHT.

(a) In general.—Section 758 of title 18, United States Code, is amended to read as follows:

"§ 758. Unlawful flight from immigration or customs controls

(a) Evading a checkpoint.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by the Department of Homeland Security or any other Federal law enforcement agency, and then knowingly or recklessly disregards or disobeys the lawful command of any law enforcement agent, shall be fined under this title, imprisoned not more than 5 years, or both.

(b) Failure to stop.—Any person who, while operating a motor vehicle, aircraft, or vessel, knowingly or recklessly disregards or disobeys the lawful command of an officer of the Department of Homeland Security engaged in the enforcement of the immigration, customs, or maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall be fined under this title, imprisoned not more than 2 years, or both.
“(c) Alternative Penalties.—Notwithstanding the penalties provided in subsection (a) or (b), any person who violates such subsection—

“(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the violation involved the operation of a motor vehicle, aircraft, or vessel—

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

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

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

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

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

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

“(d) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense under this
section shall be punished in the same manner as a person
who completes the offense.

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

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

“(g) DEFINITIONS.—For purposes of this section—
“(1) the term ‘checkpoint’ includes any customs
or immigration inspection at a port of entry or im-
migration inspection at a U.S. Border Patrol check-
point;
“(2) the term ‘law enforcement agent’ means—

“(A) any Federal, State, local or tribal official authorized to enforce criminal law; and

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

“(3) the term ‘lawful command’ includes a command to stop, decrease speed, alter course, or land, whether communicated orally, visually, by means of lights or sirens, or by radio, telephone, or other communication;

“(4) the term ‘motor vehicle’ means any motorized or self-propelled means of terrestrial transportation; and

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

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

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

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

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

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

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

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

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the Secretary or the Attorney General determines, in his or her sole and unreviewable discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;”.

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

(1) by striking “inadmissible under” and inserting “described in”; and
(2) by striking “deportable under” and inserting “described in”.

(c) Restriction on Removal.—

(1) In general.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(A)) is amended—

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

(B) by striking “Notwithstanding” and inserting the following:

“(i) In general.—Notwithstanding”;

and

(C) by adding at the end the following:

“(ii) Burden of proof.—The alien has the burden of proof to establish that the alien’s life or freedom would be threatened in such country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least 1 central reason for such threat.”.

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

(A) by inserting “or the Secretary” after “Attorney General” both places it appears;
(B) in clause (iii), striking “or” at the end;

(C) in clause (iv), striking the period at the end and inserting a semicolon;

(D) inserting after clause (iv) the following:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B), unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the Secretary or the Attorney General determines, in his or her sole and unreviewable discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

“(vi) the alien is convicted of an aggravated felony.”; and

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

(3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C) of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking “In determining whether an alien has demonstrated that the alien’s life or freedom would be threatened for a reason described in subparagraph
(A),” and inserting “For purposes of this para-

graph,”.

(4) Effective Date and Application.—The

amendments made by paragraphs (1) and (2) shall

take effect as if enacted on May 11, 2005, and shall

apply to applications for withholding of removal

made on or after such date.

(d) Effective Dates; Applications.—Except as

provided in subsection (c)(4), the amendments made by

this section shall take effect on the date of the enactment

of this Act and sections 208(b)(2)(A), 240A(c), and

241(b)(3) of the Immigration and Nationality Act, as

amended by this section, shall apply to—

(1) all aliens in removal, deportation, or exclu-

sion proceedings;

(2) all applications pending on, or filed after,

the date of the enactment of this Act; and

(3) with respect to aliens and applications de-

dcribed in paragraph (1) or (2), acts and conditions

constituting a ground for exclusion, deportation, or

removal occurring or existing before, on, or after the

date of the enactment of this Act.
SEC. 1717. AGGRAVATED FELONIES.

(a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

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

“(i) any offense punishable by a maximum term of imprisonment of not less than 2 years regardless of the term of imprisonment, if any, actually imposed;

“(ii) any offense for which the term of imprisonment imposed was not less than 1 year even if that term is suspended or probated;

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

“(iv) any offense not otherwise determined to be an aggravated felony offense under clauses (i) through (iii), regardless of the term of imprisonment imposed (unless otherwise indicated) or of the elements of the offense required for a conviction if the nature of the offense is described in 1 of the following subclauses:

“(I) Any crime of, or related to—
“(aa) murder, in any degree;

“(bb) voluntary or involuntary manslaughter;

“(cc) homicide (regardless of the required level of intent and including reckless or negligent homicide);

“(dd) sexual assault or battery;

“(ee) rape (including statutory rape);

“(ff) any offense for which the individual was required to register as a sex offender under Federal or state law;

“(gg) , or any other sex offense, including offenses related to the actual or attempted abuse of or contact with minors (defined as individuals under the age of 18 but including offenses in which the intended victim was actually a law enforcement officer), regardless of the reason and extent of the act.

“(II) Any drug trafficking crime (as defined in section 924(c) of title 18, United States Code).

“(III) Any other crime classified as a felony in the jurisdiction of conviction involving or related to a controlled substance that is classi-
As controlled in the jurisdiction of conviction, regardless of whether the substance is also classified as controlled by the Federal government and regardless of whether the crime would be classified as a felony under Federal law.

“(IV) Any offense relating to illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of such title).

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

“(VI) A crime of violence (or an offense relating to a crime of violence), including any crime labeled as assault or battery by the relevant jurisdiction of conviction, state or Federal, regardless of whether the crime also meets the definition in section 16 of title 18, United States Code, for which the term of imprisonment imposed is at least 9 months.

“(VII) A theft offense (or an offense relating to a theft offense), including any crime la-
beled as theft, shoplifting, burglary, or embez-

zlement by the relevant jurisdiction of convic-
tion, state or Federal, and regardless of the
method of the theft, and regardless of whether
any taking was temporary or permanent, for
which the term of imprisonment imposed is at
least 9 months.

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

“(aa) section 842 or 844 of title 18,
United States Code;
“(bb) section 922 or 924 of such title;
or
“(cc) section 5861 of the Internal

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

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

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

“(XII) Any offense relating to racketeer
influenced corrupt organizations, or relating to
transmission of wagering information (if it is a second or subsequent offense) or relating to illegal gambling business offenses.

“(XIII) Any offense relating to—

“(aa) the owning, controlling, managing, or supervising of a prostitution business;

“(bb) transportation for the purpose of prostitution, if committed for commercial advantage; or

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

“(XIV) Any offense relating to—

“(aa) gathering or transmitting national defense information, disclosure of classified information, sabotage or treason;

“(bb) protecting the identity of undercover intelligence agents; or

“(cc) protecting the identity of undercover agents; or

“(XV) Any offense—

“(aa) involving fraud or deceit in which the loss to the victim or victims exceeds $10,000; or
“(bb) relating to those described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $10,000.

“(XVI) Any offense relating to an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and no other individual) to violate a provision of this Act.

“(XVII) Any offense relating to offenses described in section 275(a) or 276 committed by an alien who was previously excluded, deported, or removed from the United States.

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

“(XIX) Any offense relating to a failure to appear by a defendant for service of sentence if
the underlying offense is punishable by imprisonment for a term of 3 years or more.

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

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

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

“(bb) A second or subsequent conviction for driving while intoxicated or impaired (as such terms are defined under the jurisdiction in which the conviction occurred), including a conviction for driving while under the influence of or impaired by alcohol or drugs) without regard
to whether the conviction is classified as a misdemeanor or felony under State law.

“(cc) A finding under this subclause does not require the Secretary or the Attorney General to prove the first conviction for driving while intoxicated or impaired (including a conviction for driving while under the influence of or impaired by alcohol or drugs) as a predicate offense.

“(dd) The Secretary or the Attorney General need only make a factual determination that the alien was previously convicted for driving while intoxicated or impaired (as such terms are defined under the jurisdiction in which the conviction occurred), including a conviction for driving while under the influence of or impaired by alcohol or drugs.

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

“(XXIV) A conviction for violating section 295.

“(XXV) Any offense relating to those described in chapter 50A (genocide), 113C (tor-
ture), or 118 (war crimes and recruitment or use of child soldiers) of title 18, United States Code, or section 116 of such title (female genital mutilation), or a felony conviction under chapter 35 of title 50, United States Code (relating to violations of International Emergency Economic Powers Act licenses, orders, regulations, or prohibitions) or under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

“(XXVI) An attempt, conspiracy, or solicitation to commit an offense described in subclauses I through XXV or any other inchoate form of an offense described in this clause.

“(B) Notwithstanding any other provision of law (including any effective date), the term ‘aggravated felony’ applies, regardless of whether the conviction was entered before, on, or after the effective date of the SECURE and SUCCEED Act, to—

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

“(ii) an offense described in subparagraph (A) in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.”.
(b) Definition of Conviction.—Section 101(a)(48) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(48)) is amended to read as follows:

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

“(i) a formal judgment of guilt of the alien entered by a court; or

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

“(I) a judge, jury, or other adjudicator has found the alien guilty or the alien has entered a plea of guilty, an Alford plea, or a plea of nolo contendere, or the alien has admitted sufficient facts to warrant a finding of guilt; and

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

“(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole
or in part, including a sentence of imprisonment that is probated.

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

“(D) Any reference to a term of imprisonment that is ‘punishable by’ shall include the maximum statutory term of imprisonment authorized by law for the most aggravated instance of the offense without regard to the individual circumstances of the defendant or the specific facts of the conviction, provided that for convictions under Federal law, the maximum statutory term of imprisonment shall not include a statutory sentence enhancement under title 18, United States Code, or the title IV of the Controlled Substances Act (21 U.S.C. 841 et seq.) unless the defendant’s record of conviction reflects that he was convicted or sentenced pursuant to such an enhancement.

“(E) Subject to subparagraphs (F) and (G), no order purporting to vacate a conviction, modify a sentence, or clarify a sentence shall have any effect under this Act unless all 4 of the following conditions are met:
“(i) The order was entered prior to the initiation of any proceeding to remove the alien from the United States.

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

“(iii) The court issuing the order had jurisdiction and authority to do so.

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

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

“(G) No reversal, vacatur, expungement, or modification of a conviction or sentence that was granted, solely or in part, to ameliorate the immigration consequences of the conviction or sentence or was granted, solely or in part, for rehabilitative purposes shall have any effect under the immigration laws. For purposes of this subparagraph, any reversal, vacatur, expungement, or modification of a conviction or sentence due to an alleged procedural or constitutional defect shall be insufficient to meet the alien’s burden of proof, even if the conditions in subparagraphs (E) and (F) are otherwise satisfied, unless the
record contains a clear statement of position from the prosecutor on the issue and a clear explanation in the relevant order of the alleged defect.

“(H) In all cases under the immigration laws, the alien shall bear the burden of establishing that all 4 conditions in subparagraph (E) have been met and that the limitations in subparagraph (F) and (G) do not apply.

“(I) Any order purporting to vacate a conviction, modify a sentence, or clarify a sentence shall not be given any effect for immigration purposes unless the requirements under this paragraph have been met. The fact that these requirements have been met shall not preclude a finding by the Attorney General or Secretary, in the exercise of discretion, that the conviction is still valid for immigration purposes. Notwithstanding any other provision of law (statutory or nonstatutory) and regardless of whether the determination is made in removal proceedings, no court shall have jurisdiction to review a determination by the Attorney General or Secretary of Homeland Security regarding whether such an order should be given any effect under the immigration laws.

“(J) All references to a criminal offense or criminal conviction in the immigration laws shall be deemed to include any attempt, conspiracy, or solicitation to commit the offense or any other inchoate form of the offense.
“(K) In making a determination of whether a criminal conviction is for an aggravated felony or a crime involving moral turpitude or for any other provision under the immigration laws, the Attorney General shall not be required to apply any single or particular methodology. In making such determinations, the Attorney General shall not be limited to applying a categorical or modified categorical approach (including determining if a statute of conviction is divisible), shall not limit his consideration to a single generic definition of a crime, and shall not consider any hypothetical criminal offense beyond the facts of the actual conviction at issue. In all cases, the Attorney General may look behind the record of conviction and consider all reliable evidence (including charging documents, plea agreements, plea colloquies, jury instructions, police reports, testimony during the removal hearing, and any prior statements by the respondent or any other person about the crime) of relevant facts (including the underlying conduct at issue, the actual type of firearm involved (if any), the amount of a controlled substance involved (if any), and the identity of the victim).”.

SEC. 1718. FAILURE TO OBEY REMOVAL ORDERS.

(a) In General.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended—

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

(B) by striking paragraph (3);

(2) by striking subsection (b); and

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

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

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

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

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

“(1) LISTING OF COUNTRIES.—Beginning on
the date that is 6 months after the date of the en-
actment of the SECURE and SUCCEED Act, and
every 6 months thereafter, the Secretary shall publish a report in the Federal Register that includes a list of—

"(A) countries that have refused or unreasonably delayed repatriation of an alien who is a national of that country since the date of enactment of this Act and the total number of such aliens, disaggregated by nationality;

"(B) countries that have an excessive repatriation failure rate; and

"(C) each country that was reported as noncompliant in the most recent reporting period.

"(2) EXEMPTION.—The Secretary, in the Secretary’s sole and unreviewable discretion, and in consultation with the Secretary of State, may exempt a country from inclusion on the list under paragraph (1) if there are significant foreign policy or security concerns that warrant such an exemption.

"(f) DISCONTINUING GRANTING OF VISAS TO NATIONALS OF COUNTRIES DENYING OR DELAYING ACCEPTING ALIEN.—

"(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action described in paragraph (2)(A), and may take an action de-
scribed in paragraph (2)(B), if the Secretary determines that—

“(A) an alien who is a national of a foreign country is inadmissible under section 212 or deportable under section 237, or has been ordered removed from the United States; and

“(B) the government of the foreign country referred to in subparagraph (A) is—

“(i) denying or unreasonably delaying accepting aliens who are citizens, subjects, nationals, or residents of that country after the Secretary asks whether the government will accept an alien under this section; or

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

“(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

“(A) Direct the Secretary of State to authorize consular officers in the foreign country referred to in paragraph (1) to deny visas under section 101(a)(15)(A)(iii) to attendants,
servants, personal employees, and members of
their immediate families, of the officials and
employees of that country who receive non-
immigrant status under clause (i) or (ii) of sec-

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

“(3) Resumption of visa issuance.—Cons-
sular officers in the foreign country that refused or
unreasonably delayed repatriation or refused to issue
required identity or travel documents may resume
visa issuance after the Secretary notifies the Sec-
retary of State that the country has accepted the
aliens.”.
SEC. 1720. ENHANCED PENALTIES FOR CONSTRUCTION AND USE OF BORDER TUNNELS.

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

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

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

SEC. 1721. ENHANCED PENALTIES FOR FRAUD AND MISUSE OF VISAS, PERMITS, AND OTHER DOCUMENTS.

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

(1) by striking “Commissioner of the Immigration and Naturalization Service” each place it appears and inserting “Secretary of Homeland Security”; and

(2) by striking “Shall be fined” and all that follows and inserting “Shall be fined under this title or imprisoned for not less than 12 years and not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331)), not less than 10 years and not more than 20 years (if the offense was committed to
facilitate a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more than 10 years (for the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or not less than 7 years and not more than 15 years (for any other offense), or both.”.

SEC. 1722. EXPANSION OF CRIMINAL ALIEN REPATRIATION PROGRAMS.

(a) EXPANSION OF CRIMINAL ALIEN REPATRIATION FLIGHTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall increase the number of criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not less than 15 percent compared to the number of such flights operated, and authorized to be operated, under existing appropriations and funding on the date of the enactment of this Act.

(b) U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AIR OPERATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive to expand U.S. Immigration and Customs Enforcement Air Operations
ICE Air Ops provides additional services with respect to aliens who are illegally present in the United States. Such expansion shall include—

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

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

(3) allowing a metropolitan area to trade or give some of seats allocated to such area under paragraph (2) for such aliens to other areas in the region of such area based on the transportation needs of each area.

(c) Authorization of Appropriations.—In addition to the amounts otherwise authorized to be appropriated, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2018 through 2022 to carry out this section.

SEC. 1723. PROHIBITION ON FLIGHT TRAINING AND NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK COUNTRIES.

(a) In General.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security may
not admit or parole into the United States, any alien who—

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

(2)(A)(i) is an applicant for a visa or for admission to the United States; and

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

(I) coursework at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the alien for a career in nuclear science, nuclear engineering, or a related field; or

(II) coursework or training or otherwise engage in aviation maintenance or flight operations;

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

(ii) the Secretary of Homeland Security determines is applying to change status to participate in coursework, training, or activities described in subparagraph (A)(ii); or
(C)(i) is lawfully present in the United States, either as a nonimmigrant student or otherwise authorized to study at an institution of higher education; and

(ii) the Secretary of Homeland Security determines is participating in coursework, training, or activities described in subparagraph (A)(ii) or seeks to change his or her field of study to participate in such coursework, training, or activities.

(b) TERMINATION OF STATUS.—The Secretary of Homeland Security shall terminate the nonimmigrant status or otherwise revoke the authorization to remain in the United States of any alien in the United States who is described in subsection (a).

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

CHAPTER 2—STRONG VISA INTEGRITY

SECURES AMERICA ACT

SEC. 1731. SHORT TITLE.

This chapter may be cited as the “Strong Visa Integrity Secures America Act”.
SEC. 1732. VISA SECURITY.

(a) VISA SECURITY UNITS AT HIGH RISK POSTS.—
Section 428(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(1)) is amended—

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

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

and

(2) by adding at the end the following:

“(B) RISK-BASED ASSIGNMENTS.—

“(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign employees of the Department to not fewer than 75 diplomatic and consular posts at which visas are issued. Assignments under this subparagraph shall be made—

“(I) in a risk-based manner;

“(II) after considering the criteria described in clause (iii); and

“(III) in accordance with Nationality Security Decision Directive 38, issued by President Reagan on June 2, 1982, or any superseding presi-
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dential directive concerning staffing at
diplomatic and consular posts.

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

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

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

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

“(III) information analyzing the
presence, activity, or movement of ter-
rorist organizations (as such term is
defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or through such country;

“(IV) the number of formal objections based on derogatory information issued by the Visa Security Advisory Opinion Unit pursuant to paragraph (10) regarding nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located;

“(V) the adequacy of the border and immigration control of such country; and

“(VI) any other criteria the Secretary determines appropriate.”.

(b) ACCOMMODATION OF VISA SECURITY UNITS.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

“(j) EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwithstanding any other provision of law, and the processes set
forth in National Security Defense Directive 38, issued by President Reagan on June 2, 1982, or any successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security has assigned personnel under subsection (e) or (i) shall ensure, not later than 1 year after the date on which the Secretary of Homeland Security communicates such assignment to the Secretary of State, that such personnel have been stationed and accommodated at post and are able to carry out their duties.”.

(c) FUNDING FOR THE VISA SECURITY PROGRAM.—

(1) IN GENERAL.—The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447) is amended, in the fourth paragraph under the heading “Diplomatic and Consular Programs”, by striking “Beginning” and all that follows and inserting the following: “Beginning in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the immigrant visa fees in effect on January 1, 2004: Provided, That funds collected pursuant to this authority shall be credited to the appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the fees were collected, and shall
be available until expended for the funding of the Visa Security Program established by the Secretary of Homeland Security under section 428(e) of the Homeland Security Act of 2002 (Public Law 107–296): Provided further, That such surcharges shall be 10 percent of the fee assessed on immigrant visa applications.”.

(2) Repayment of Appropriated Funds.—Of the amounts collected each fiscal year under the heading “Diplomatic and Consular Programs” in the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447), as amended by paragraph (1), 20 percent shall be deposited into the general fund of the Treasury.

(d) Counterterrorism Vetting and Screening.—Section 428(e)(2) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) Screen any such applications against the appropriate criminal, national security, and
terrorism databases maintained by the Federal Government.”.

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

(1) by striking “The Secretary shall ensure, to the extent possible, that any employees” and inserting “The Secretary, acting through the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide training to any employees”; and

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

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

“(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, assign employees of the Department to remotely perform the functions required
under paragraph (2) at not fewer than 50 of such posts.

“(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S. Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond to requests from the Secretary of State to conduct a visa security review using information maintained by the Department on visa applicants, including terrorism association, criminal history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

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

SEC. 1733. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

(a) IN GENERAL.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:
SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

(a) In General.—Not later than 1 year after the date of the enactment of the Strong Visa Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection shall—

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

(2) to the greatest extent practicable, utilize facial recognition technology or other biometric technology, as determined by the Commissioner, to inspect travelers at United States airports of entry.

(b) Applicability.—

(1) Electronic Passport Screening.—Subsection (a)(1) shall apply to passports belonging to individuals who are United States citizens, individuals who are nationals of a program country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), and individuals who are nationals of any other foreign country that issues electronic passports.

(2) Facial Recognition Matching.—Subsection (a)(2) shall apply, at a minimum, to individuals who are nationals of a program country pursuant to section 217 of such Act.
“(c) Annual Report.—

“(1) In General.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Chief Privacy Officer of the Department, shall submit an annual report, through fiscal year 2022, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that describes the utilization of facial recognition technology and other biometric technology pursuant to subsection (a)(2).

“(2) Report Contents.—Each report submitted pursuant to paragraph (1) shall include—

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

“(B) the number of individuals who were subject to inspection using either of such technologies at each airport of entry;

“(C) within the group of individuals subject to such inspection, the number of those individuals who were United States citizens and lawful permanent residents;

“(D) information on the disposition of data collected during the year covered by such report; and
“(E) information on protocols for the management of collected biometric data, including time frames and criteria for storing, erasing, destroying, or otherwise removing such data from databases utilized by the Department.

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

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

(b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 419 the following:

"Sec. 420. Electronic passport screening and biometric matching.
"Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

SEC. 1734. REPORTING VISA OVERSTAYS.

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

(1) in subsection (a)—
(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) by inserting “, and any additional information that the Secretary determines necessary for purposes of the report under subsection (b)” before the period at the end; and

(2) by amending subsection (b) to read as follows:

“(b) ANNUAL REPORT.—Not later than September 30, 2018, and annually thereafter, the Secretary of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical estimates (including information on the methodology utilized to develop such numerical estimates) of—

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

“(A) the total number of such aliens within all classes of nonimmigrant aliens described in
section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

“(B) the number of such aliens within each of the classes of nonimmigrant aliens, as well as the number of such aliens within each of the subclasses of such classes of nonimmigrant aliens, as applicable;

“(2) for each country, the percentage of the total number of aliens from the country who were present in the United States and were admitted to the United States as nonimmigrants who are described in subsection (a);

“(3) the number of aliens described in subsection (a) who arrived by land at a port of entry into the United States;

“(4) the number of aliens described in subsection (a) who entered the United States using a border crossing identification card (as defined in section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6)); and

“(5) the number of Canadian nationals who entered the United States without a visa and whose authorized period of stay in the United States terminated during the previous fiscal year, but who remained in the United States.”.
SEC. 1735. STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM VERIFICATION.

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

SEC. 1736. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.

(a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.), as amended by sections 1127 and 1131, is further amended by adding at the end the following:

"SEC. 436. SOCIAL MEDIA SCREENING."

"(a) In General.—Not later than 180 days after the date of the enactment of the Strong Visa Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk based manner and on an individualized basis, review the social media accounts of visa applicants who are citizens of, or who reside in, high risk countries, as determined by the Secretary based on the criteria described in subsection (b).
“(b) High-risk Criteria Described.—In determining whether a country is high-risk pursuant to subsection (a), the Secretary shall consider the following criteria:

“(1) The number of nationals of the country who were identified in United States Government databases related to the identities of known or suspected terrorists during the previous year.

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

“(3) Any other criteria the Secretary determines appropriate.

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

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

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

“(3) the heads of other appropriate Federal agencies, including the Secretary of State, the Direc-
tor of National Intelligence, and the Attorney General.

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

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

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

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

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

SEC. 437. OPEN SOURCE SCREENING.

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

(b) CLERICAL AMENDMENT.—The table of contents
in section 1(b) of the Homeland Security Act of 2002, as
amended by this Act, is further amended by inserting after
the item relating to section 435 the following:

"Sec. 436. Social media screening.
"Sec. 437. Open source screening."

CHAPTER 3—VISA CANCELLATION AND
REVOCATION

SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

(a) In General.—Section 222(g) of the Immigration
and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General,” and

inserting “Secretary,”; and

(B) by inserting “and any other non-

immigrant visa issued by the United States that

is in the possession of the alien” after “such

visa”; and

(2) in paragraph (2)(A), by adding “or foreign

residence” after “the alien’s nationality”.

(b) Effective Date and Application.—The

amendments made by subsection (a) shall take effect on

the date of the enactment of this Act and shall apply to

a visa issued before, on, or after such date.

SEC. 1742. VISA INFORMATION SHARING.

(a) In General.—Section 222(f) of the Immigration

and Nationality Act (8 U.S.C. 1202(f)) is amended—
(1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting “issuance, refusal, or revocation”; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “and on the basis of reciprocity” and all that follows and inserting “may provide to a foreign government information in a Department of State computerized visa database and, when necessary and appropriate, other records covered by this section related to information in such database”;

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

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

“(i) preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or
“(ii) determining a person’s removability or eligibility for a visa, admission, or other immigration benefit;”;
(C) in subparagraph (B)—
(i) by inserting “on basis of reciprocity,” before “with regard to”;
(ii) by striking “in the database” and inserting “such database”;
(iii) by striking “for the purposes” and inserting “for 1 of the purposes”; and
(iv) by striking “or to deny visas to persons who would be inadmissible to the United States.” and inserting “; or”; and
(D) by adding at the end the following:
“(C) with regard to any or all aliens in such database, specified data elements from each record, if the Secretary of State determines that it is required for national security or public safety or in the national interest to provide such information to a foreign government.”.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of the Act.
SEC. 1743. VISA INTERVIEWS.

(a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is amended—

(1) in paragraph (1)—

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

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

(C) by adding at the end the following:

“(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable discretion, determines, after reviewing the application, that an interview is unnecessary because the alien is ineligible for a visa; and”.

(2) in paragraph (2)—

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

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

(C) by adding at the end the following:

“(G) is an individual within a class of aliens that the Secretary of State, in his or her sole and unreviewable discretion, has determined may pose a threat to national security or public safety.”.
SEC. 1744. VISA REVOCATION AND LIMITS ON JUDICIAL REVIEW.

(a) In General.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended—

(1) by inserting “(1)” after “(i)”;

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

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(B) by striking “shall invalidate the visa or other documentation from the date of issuance:

Provided, That carriers” and inserting “of any visa or documentation shall take effect immediately. Carriers”; and

(C) by striking the last sentence and inserting the following:

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

“(3) A revocation under this subsection of a visa or other documentation from an alien shall
automatically cancel any other valid visa that is in
the alien’s possession.”.

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

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

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

CHAPTER 4—SECURE VISAS ACT

SEC. 1751. SHORT TITLE.

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

SEC. 1752. AUTHORITY OF THE SECRETARY OF HOMELAND
SECURITY AND THE SECRETARY OF STATE.

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

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

“(1) IN GENERAL.—Notwithstanding subsection
104(a) of the Immigration and Nationality Act (8
U.S.C. 1104(a)) and any other provision of law, and
except for the authority of the Secretary of State
under subparagraphs (A) and (G) of section
101(a)(15) of the Immigration and Nationality Act
(8 U.S.C. 1101(a)(15)), the Secretary—
“(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and

“(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or his or her designee, determines that such refusal or revocation is necessary or advisable in the security interests of the United States.

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

“(A) shall take effect immediately; and

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

“(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no United States court has jurisdiction to review a decision by the Secretary or a consular officer to refuse or revoke a visa.
“(c) Visa Refusal Authority of the Secretary of State.—

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

“(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary under subsection (b).”.

(b) Visa Revocation.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended by adding at the end the following:

“(j) Visa Revocation Information.—If the Secretary or the Secretary of State revokes a visa—

“(1) the relevant consular, law enforcement, and terrorist screening databases shall be immediately updated on the date of the revocation; and

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

(c) Conforming Amendment.—Section 104(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1104(a)(1)) is amended by inserting “and the power au-
CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2018

SEC. 1761. SHORT TITLE.
This chapter may be cited as the “Visa Fraud and Security Improvement Act of 2018”.

SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION AND DETECTION FEES.
Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking “at United States embassies and consulates abroad”;

(2) by amending clause (i) to read as follows: “(i) to increase the number of diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting visa fraud;”; and

(3) in clause (ii), by striking “, including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)”.
SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS AND DAUGHTERS OF TRAFFICKERS.

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

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

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

SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.

(a) DNA Testing for Visa Applicants.—Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by inserting after the second sentence the following: “If considered necessary by a consular officer to establish the bona fides of a family relationship, the immigrant shall provide DNA evidence of such relationship in accordance with procedures established for submitting such evidence. The Secretary of State may issue regulations to require the submission of DNA evidence to establish family relationship from applicants for certain visa classifications.”.

(b) Required Documentary Evidence and DNA Testing.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

“(n) Required Documentary Evidence and DNA Testing for Adjustment of Status.—
“(1) Required documentary evidence.—
Any alien applying for adjustment of status under
the immigration laws shall present a valid unexpired
passport or other suitable travel document, or docu-
ment of identity and nationality, if such documenta-
tion is required under regulations issued by the Sec-
retary of Homeland Security. The alien shall fur-
nish, with his or her application—

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

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

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

“(2) DNA testing.—If the Secretary or the
Attorney General determine that DNA evidence is
necessary to establish the bona fides of a family re-
lationship, the immigrant shall provide DNA evi-
dence of such relationship in accordance with proce-
dures established for submitting such evidence. The
Secretary may issue regulations to require the sub-
mission of DNA evidence to establish family relationship from applicants for certain visa classifications. If the alien establishes, to the satisfaction of the Secretary or the Attorney General, that any document or record required under this subsection is unobtainable, the Secretary or the Attorney General may permit the alien to submit, in lieu of such document or record, other satisfactory evidence of the fact to which such document or record, if obtainable, pertains.”.

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

Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting “, except for diplomatic visa applications for which only full biographical information is required” before the period at the end.

SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH REQUIREMENT FOR VISA APPLICATIONS.

Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by striking the first sentence and insert the following: “Each alien who applies for a visa shall be registered in connection with his or her
application and shall furnish copies of his or her photograph for such use as may be required by regulation.”

CHAPTER 6—OTHER MATTERS

SEC. 1771. REQUIREMENT FOR COMPLETION OF BACKGROUND CHECKS.

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

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

“(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, the Secretary and the Attorney General may not approve or grant to an alien any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws, including an adjustment of status to lawful permanent residence or a grant of United States citizenship or issue to the alien any documentation evidencing a status or grant of any status, relief, protection from removal, employment
authorizations, or other benefits under the immigration laws until—

“(A) all background and security checks required by statute or regulation or deemed necessary by the Secretary or the Attorney General, in his or her sole and unreviewable discretion, for the alien have been completed; and

“(B) the Secretary or the Attorney General has determined that the results of such checks do not preclude the approval or grant of any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws or approval, grant, or the issuance of any documentation evidencing such status, relief, protection, authorization, or benefit.

“(2) Prohibition on Judicial Action.—No court shall have authority to order the approval of, grant, mandate, or require any action in a certain time period, or award any relief for the Secretary’s or Attorney General’s failure to complete or delay in completing any action to provide any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws, including an adjustment of status to lawful permanent
residence, naturalization, or a grant of United
States citizenship for an alien until—

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

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

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

SEC. 1772. WITHHOLDING OF ADJUDICATION.

(a) IN GENERAL.—Section 103 of Immigration and
Nationality Act (8 U.S.C. 1103), as amended by section
1771 of this Act, is further amended by adding at the
end the following:
“(i) WITHHOLDING OF ADJUDICATION.—

“(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any other law, including sections 1361 and 1651 of title 28, United States Code, may be construed to require, and no court can order, the Secretary, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other application, approve any petition, or grant or continue any relief, protection from removal, employment authorization, or any other status or benefit under the immigration laws by, to, or on behalf of any alien with respect to whom a criminal proceeding or investigation is open or pending (including the issuance of an arrest warrant or indictment), if such proceeding or investigation is deemed by such official to be material to the alien’s eligibility for the status, relief, protection, or benefit sought.

“(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold adjudication any application, petition, request for relief, request for protection from removal, employment authorization, status or benefit
under the immigration laws pending final resolution
of the criminal or other proceeding or investigation.

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

“(4) WITHHOLDING OF REMOVAL AND TOR-
tURE CONVENTION.—This subsection does not limit
or modify the applicability of section 241(b)(3) or
the United Nations Convention Against Torture and
Other Cruel, Inhuman or Degrading Treatment or
Punishment, subject to any reservations, under-
standings, declarations and provisos contained in the
United States Senate resolution of ratification of the
Convention, as implemented by section 2242 of the
Foreign Affairs Reform and Restructuring Act of
1998 (Public Law 105–277) with respect to an alien
otherwise eligible for protection under such provi-
sions.”.
(b) **Effective Date and Application.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any application, petition, or request for any benefit or relief or any other case or matter under the immigration laws pending with or filed with the Secretary of Homeland Security on or after such date of enactment.

**SEC. 1773. Access to the National Crime Information Center Interstate Identification Index.**

(a) **Criminal Justice Activities.**—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended by adding at the end the following:

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(f) Notwithstanding any other provision of law, any Department of State personnel with authority to grant or refuse visas or passports may carry out activities that have a criminal justice purpose.’’.
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(b) **Liaison with Internal Security Officers; Data Exchange.**—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting the following:

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(b) Access to NCIC-III.—

‘‘(1) In General.—Notwithstanding any other provision of law, the Attorney General and the Director of the Federal Bureau of Investigation shall
provide to the Department of Homeland Security and the Department of State access to the criminal history record information contained in the National Crime Information Center’s Interstate Identification Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the National Crime Information Center for the purpose of determining whether an applicant or petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws, or any beneficiary of an application, petition, relief, or status under the immigration laws, has a criminal history record indexed in the file.

“(2) AUTHORIZED ACTIVITIES.—

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

“(i) shall have direct access, without any fee or charge, to the information described in paragraph (1) to conduct name-based searches, file number searches, and any other searches that any criminal justice or other law enforcement officials are entitled to conduct; and
“(ii) may contribute to the records maintained by the National Crime Information Center.

“(B) Secretary of Homeland Security.—The Secretary shall receive, upon request, access to the information described in paragraph (1) by means of extracts of the records for placement in the appropriate database without any fee or charge.

“(c) Criminal Justice and Law Enforcement Purposes.—Notwithstanding any other provision of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and other purposes relating to citizenship and immigration services, shall be considered to be criminal justice or law enforcement purposes with respect to access to or use of any information maintained by the National Crime Information Center or other criminal history information or records.”.

SEC. 1774. APPROPRIATE REMEDIES FOR IMMIGRATION LITIGATION.

(a) Limitation on Class Actions.—

(1) In general.—Except as provided in paragraph (2), no court may certify, or continue the certification of, a class under Rule 23 of the Federal Rules of Civil Procedure in any civil action that—
(A) is pending or filed on or after the date
of the enactment of this Act; and
(B) pertains to the administration or en-
forcement of the immigration laws.

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

(b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
spective Relief Against the Government.—

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

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

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

(C) minimize, to the greatest extent prac-
ticable, the adverse impact on national security,
border security, immigration administration and
enforcement, and public safety; and
(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) **Written Explanation.**—The requirements described in paragraph (1) shall be discussed and explained in writing in the order granting prospective relief and shall be sufficiently detailed to allow review by another court.

(3) **Expiration of Preliminary Injunctive Relief.**—Preliminary injunctive relief granted under paragraph (1) shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) finds that such relief meets the requirements described in subparagraphs (A) through (D) of paragraph (1) for the entry of permanent prospective relief; and

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

(c) **Procedure for Motion Affecting Order Granting Prospective Relief Against the Government.**—
(1) IN GENERAL.—A court shall promptly rule on a motion made by the United States Government to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws.

(2) AUTOMATIC STAYS.—

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

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.
(D) Orders blocking automatic stays.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C)—

(i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise terminate an injunction; and

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

(d) Settlements.—

(1) Consent decrees.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with the requirements under subsection (b)(1).

(2) Private settlement agreements.—Nothing in this subsection may be construed to preclude parties from entering into a private settlement agreement that does not comply with subsection (b)(1).
(c) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

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

(1) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(2) does not include private settlements.

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

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

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

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

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

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

...
(2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and inserting “Homeland Security”;

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

(4) inserting after subparagraph (B) the following:

“(C) AUTHORIZED DISCLOSURES.—

“(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.”.

“(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the Secretary’s discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.

“(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Sec-
retary may use the information furnished
under this section to adjudicate subsequent
applications, petitions, or requests for im-
migration benefits filed by the alien.

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

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

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

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

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

451
(2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and inserting “Homeland Security”; and

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

“(C) AUTHORIZED DISCLOSURES.—

“(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

“(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the Secretary’s discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.”.
SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

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

"§ 3291. Nationality, citizenship and passports

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

SEC. 1777. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other documents)” and inserting “sections 1541 through 1546 (relating to passports and visas)”.

SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.

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

"SEC. 296. VALIDITY OF SIGNATURES.

"(a) IN GENERAL.—In any proceeding, adjudication, or any other matter arising under the immigration laws, an individual’s hand written or electronic signature on any petition, application, or any other document executed or provided for any purpose under the immigration laws establishes a rebuttable presumption that the signature executed is that of the individual signing, that the individual is aware of the contents of the document, and intends to sign it."

"(b) RECORD INTEGRITY.—The Secretary shall establish procedures to ensure that when any electronic signature is captured for any petition, application, or other document submitted for purposes of obtaining an immigration benefit, the identity of the person is verified and authenticated, and the record of such identification and verification is preserved for litigation purposes.”.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item
relating to section 295, as added by section 1126(a)(2) of this Act, the following:

“Sec. 296. Validity of signatures.”.

(b) CRIMINAL CASES.—

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

“§ 3513. Signatures relating to immigration matters

“In a criminal proceeding in a court of the United States, if an individual’s handwritten or electronic signature appears on a petition, application, or other document executed or provided for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was signed by that individual, and that the individual knew the contents of the document and intended to sign the document.”.

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

“3513. Signatures relating to immigration matters.”.
Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States

CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS

SEC. 1801. LAWFUL PERMANENT RESIDENTS AS APPLICANTS FOR ADMISSION.

Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

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

(2) in clause (v), by striking the “, or” and inserting a semicolon;

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

(4) by adding at the end the following:

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

SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF ADJUSTMENT OF STATUS.

(a) APPLICANTS FOR ADMISSION.—Section 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  
8 (b) ELIGIBILITY TO BE REMOVED FOR A CRIME INVOLVING 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 ad-
12 mission;”.
13  
14 SEC. 1803. PRECLUDING ASYLEE AND REFUGEE ADJUST-
15 MENT OF STATUS FOR CERTAIN GROUNDS OF
16 INADMISSIBILITY AND DEPORTABILITY.
17  
18 (a) GROUNDS OF INADMISSIBILITY.—Section 209(c)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1159(c)) is amended by striking “(other than paragraph
21 (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph
22 (3))”, and inserting “(other than subparagraph (C) or (G)
23 of paragraph (2) or subparagraph (A), (B), (C), (E), (F),
24 or (G) of paragraph (3))”.
25  
26 (b) GROUNDS OF DEPORTABILITY.—Section 209 of
27 such Act, as amended by subsection (a), is further amend-
28 ed by adding at the end the following:
“(d) An alien’s status may not be adjusted under this section if the alien is in removal proceedings under section 238 or 240 and is charged with any ground of deportability under paragraph (2), (3), (4), or (6) of section 237(a).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to—

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

(2) all aliens who are required to establish admissibility on or after such date in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 1804. REVOCATION OF LAWFUL PERMANENT RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

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

“(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through (E) shall apply to any alien placed in proceedings under this section who—
“(i) is outside of the United States;

“(ii) has been provided written notice

in accordance with section 239(a) (whether

the alien is within or outside the United

States); and

“(iii) is described in section

212(a)(2)(G) (persons who have committed

particularly severe violations of religious

freedom), 212(a)(3)(E) (Nazi and other

persecution, genocide, war crimes, crimes

against humanity, extrajudicial killing, tort-
ture, or specified human rights violations),
or 212(a)(3)(G) (recruitment or use of
child soldiers).”.

SEC. 1805. REMOVAL OF CONDITION ON LAWFUL PERMA-

NENT RESIDENT STATUS PRIOR TO NATU-

RALIZATION.

Chapter 2 of title II of the Immigration and Nation-

ality Act (8 U.S.C. 1181 et seq.) is amended—

(1) in section 216(e) (8 U.S.C. 1186a(e)), by

inserting “, if the alien has had the conditional basis

removed pursuant to this section” before the period

at the end; and

(2) in section 216A(e) (8 U.S.C. 1186b(e)), by

inserting “, if the alien has had the conditional basis
removed pursuant to this section” before the period at the end.

SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT OF STATUS.

(a) Application for Adjustment of Status in the United States.—

(1) In General.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by striking the section heading and subsection (a) and inserting the following:

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

“(a) In General.—

“(1) Eligibility for Adjustment.—The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty may be adjusted by the Secretary or by the Attorney General, in the discretion of the Secretary or the Attorney General, and under such regulations as
the Secretary or the Attorney General may pre-
scribe, to that of an alien lawfully admitted for per-
manent residence if—

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

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

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

“(2) Requirement to obtain an immigrant
visa outside of the United States.—Notwith-
standing any other provision of this section, if the
Secretary determines that an alien may be a threat
to national security or public safety or if the Sec-
retary determines that a favorable exercise of discre-
tion to allow an alien to seek to adjust his or her
status in the United States is not warranted, the
Secretary, in the Secretary’s sole and unreviewable
discretion, may deny the application for adjustment
of status. If the Secretary denies an application for
adjustment of status under this paragraph, the Sec-
retary shall notify the Attorney General of such decision and the Attorney General shall deny any application for adjustment of status filed by the alien in an immigration proceeding.”.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by striking the item relating to section 245 and inserting the following:

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

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

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

“(1) an alien crewman;

“(2) subject to subsection (k), any alien (other than an immediate relative (as defined in section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of section 101(a)(27))) who—
“(A) continues in or accepts unauthorized employment before filing an application for adjustment of status;

“(B) is in unlawful immigration status on the date he or she files an application for adjustment of status; or

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

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

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

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

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

“(7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status;
“(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; or

“(9) any alien who—

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

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

SEC. 1807. TREATMENT OF APPLICATIONS FOR ADJUSTMENT OF STATUS DURING PENDING DENATURALIZATION PROCEEDINGS.

(a) VISA ISSUANCE.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g)) is amended—

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

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

“(A) it appears”;

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

“(B) the application”;

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

(5) by striking “provision of law: Provided,

That a visa” and inserting the following: “provision
of law; or

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

“(2) A visa”; and

(6) by striking “section 213: Provided further,

That a visa” and inserting the following: “section
213.

“(3) A visa”.

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

“(o) An application for adjustment of status may not
be considered or approved by the Secretary or the Attor-
ney General, and no court may order the approval of an
application for adjustment of status if the approved peti-
tion for classification under section 204 that is the under-
lying basis for the application for adjustment of status was
filed by an individual who has a judicial proceeding pending against him or her that would result in the revocation of the individual’s naturalization under section 340.”.

**SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESCISSION OF PERMANENT RESIDENT STATUS.**

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

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”;

(B) by striking “within five years” and inserting “within 10 years”;

(C) by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(D) by adding at the end the following:

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

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

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

SEC. 1809. BARRING PERSECUTORS AND TERRORISTS FROM REGISTRY.

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

“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

“(a) IN GENERAL.—The Secretary, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of lawful admission for permanent residence in the case of any alien, if no such record is otherwise available and the alien—
“(1) entered the United States before January 1, 1972;

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

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

“(4) is not ineligible for citizenship;

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

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

“(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in attendance at a proceeding to determine the alien’s inadmissibility or deportability.

“(b) RECORDATION DATE OF PERMANENT RESIDENCE.—The record of an alien’s lawful admission for permanence residence shall be the date on which the Secretary approves the application for such status under this section.”.
CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES CITIZENSHIP

SEC. 1821. BARRING TERRORISTS FROM BECOMING NATURALIZED UNITED STATES CITIZENS.

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

"(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the Secretary determines, in the discretion of the Secretary, that the alien is described in section 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an application for naturalization.

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

"(i) the alien received an exemption under section 212(d)(3)(B)(i); and

"(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and would bar the alien from naturalization under this paragraph) are specifically covered by the exemption referred to in clause (i)."
“(2) A determination under paragraph (1) may be based upon any relevant information or evidence, including classified, sensitive, or national security information.”.

(b) APPLICABILITY TO CITIZENSHIP THROUGH NATURALIZATION OF PARENT OR SPOUSE.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is amended—

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

“(1) A person who claims United States citizenship through the naturalization of a parent or spouse shall be deemed to have lost his or her citizenship, and any right or privilege of citizenship which he or she may have acquired, or may hereafter acquire by virtue of the naturalization of such parent or spouse, if the order granting citizenship to such parent or spouse is revoked and set aside under the provisions of—

“(A) subsection (a) on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation; or

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

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

SEC. 1822. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) Definition of Good Moral Character.—

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

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

(2) by inserting after paragraph (11), the following:

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

“(A) may be based upon any relevant information or evidence, including classified, sensitive, or national security information; and

“(B) shall be binding upon any court regardless of the applicable standard of review.”;

and

(3) in the undesignated matter at the end, by striking the first sentence and inserting following:
“The fact that a person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant’s conduct and acts at any time. The Secretary or the Attorney General, in the unreviewable discretion of the Secretary or the Attorney General, may determine that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 15 years or longer before the date on which the person filed an application under this Act.”.

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

(e) Effective Dates; Application.—

(1) Subsection (a).—The amendments made by subsection (a) shall take effect on the date of the
enactment of this Act, shall apply to any act that oc-
curred before, on, or after such date of enactment, 
and shall apply to any application for naturalization 
or any other benefit or relief, or any other case or 
matter under the immigration laws pending on or 
filed after such date of enactment.

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

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

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

“SEC. 318. PREREQUISITE TO NATURALIZATION; BURDEN 
OF PROOF.

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

“(b) BURDEN OF PROOF.—A person described in 
subsection (a) shall have the burden of proof to show that
he or she entered the United States lawfully, and the time, place, and manner of such entry into the United States. In presenting such proof, the person is entitled to the production of his or her immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Secretary to be confidential, pertaining to such entry, in the custody of the Department.

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

“(1) a person may not be naturalized against whom there is outstanding a final finding of removal, exclusion, or deportation;

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

“(3) the findings of the Attorney General in terminating removal proceedings or in cancelling the removal of an alien pursuant to this Act may not be deemed binding in any way upon the Secretary with
respect to the question of whether such person has established his or her eligibility for naturalization under this Act.”.

SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGENCY HAS NOT MADE DECISION ON NATURALIZATION APPLICATION AND ON DENIALS.

(a) LIMITATION ON REVIEW OF PENDING NATURALIZATION APPLICATIONS.—Section 336 of the Immigration and Nationality Act (8 U.S.C. 1447) is amended—

(1) in subsection (a), by striking “If,” and inserting the following:

“(b) IN GENERAL.—If,”; and

(2) by amending subsection (b) to read as follows:

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

retary’s determination on the application.”.

(b) LIMITATIONS ON REVIEW OF DENIAL.—Section

310 of the Immigration and Nationality Act (8 U.S.C.

1421) is amended—

(1) by amending subsection (c) to read as fol-

lows:

“(c) JUDICIAL REVIEW.—

“(1) JUDICIAL REVIEW OF DENIAL.—A person

whose application for naturalization under this title

is denied may, not later than 120 days after the

date of the Secretary’s administratively final deter-

mination on the application and after a hearing be-

fore an immigration officer under section 336(a),

seek review of such denial before the United States

district court for the district in which such person

resides in accordance with chapter 7 of title 5,

United States Code.

“(2) BURDEN OF PROOF.—The petitioner shall

have burden of proof to show that the Secretary’s

denial of the application for naturalization was not

supported by facially legitimate and bona fide rea-

sons.

“(3) LIMITATIONS ON REVIEW.—Except in a

proceeding under section 340, and notwithstanding
any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, whether, for purposes of an application for naturalization, an alien—

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

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

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

(2) in subsection (d)—

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

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

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

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

(e) EFFECTIVE DATE; APPLICATION.—The amend-
(1) shall take effect on the date of the enactment of this Act;

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

(3) shall apply to any application for naturalization or any other case or matter under the immigration laws that is pending on, or filed after, such date of enactment.

SEC. 1825. CLARIFICATION OF DENATURALIZATION AUTHORITY.

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

(1) in subsection (a), by striking “United States attorneys for the respective districts” and inserting “Attorney General”; and

(2) by amending subsection (c) to read as follows:

“(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and convincing evidence, that an order granting citizenship to an alien should be revoked and a certificate of naturalization cancelled because such order and certificate were illegally procured or were procured by concealment of a material fact or by willful misrepresentation.”.
SEC. 1826. DENATURALIZATION OF TERRORISTS.

(a) DENATURALIZATION FOR TERRORISTS ACTIVITIES.—Section 340 of the Immigration and Nationality Act, as amended by section 1825, is further amended—

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

(2) by inserting after subsection (c) the following:

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

“(A) such act shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization; and

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

“(C) such revocation and setting aside of the order admitting such person to citizenship and such
canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

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

“(A) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means;

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

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

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

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur on or after such date.
SEC. 1827. TREATMENT OF PENDING APPLICATIONS DURING DENATURALIZATION PROCEEDINGS.

(a) In General.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended—

(1) by striking “After” and inserting “(1) Except as provided in paragraph (2), after”; and

(2) by adding at the end the following:

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

(A) such proceedings have concluded; and

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

(b) Withholding of Immigration Benefits.—

Section 340 of such Act (8 U.S.C. 1451), as amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as added by section 1826(a)(2), the following:

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

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

SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

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

“SEC. 345. NATURALIZATION DOCUMENT RETENTION.

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

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

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

“(2) any paper documents submitted in connec-
tion with an application for naturalization that is
filed electronically.”.
(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 344 the following:

“Sec. 345. 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.

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

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

SEC. 1832. PASSPORT REVOCATION ACT.

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

(b) REVOCATION OR DENIAL OF PASSPORTS AND PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILIATED WITH FOREIGN TERRORIST ORGANIZATIONS.—The Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.), which is commonly known as
the “Passport Act of 1926”, is amended by adding at the end the following:

“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND PASSPORT CARD.

“(a) INELIGIBILITY.—

“(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall refuse to issue a passport or a passport card to any individual—

“(A) who has been convicted of a violation of chapter 113B of title 18, United States Code; or

“(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated with an organization the Secretary has designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

“(ii) has aided, abetted, or provided material support to an organization described in clause (i).

“(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to any individual described in paragraph (1).

“(b) EXCEPTIONS.—
“(1) Emergency circumstances, humanitarian reasons, and law enforcement purposes.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to revoke, a passport of an individual described in such subsection in emergency circumstances, for humanitarian reasons, or for law enforcement purposes.

“(2) Limitation for return to United States.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

“(A) limit a previously issued passport for use only for return travel to the United States; or

“(B) issue a limited passport that only permits return travel to the United States.

“(c) Right of review.—Any individual who, in accordance with this section, is denied issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise limited by the Secretary of State, may request a hearing before the Secretary of State not later than 60 days after receiving notice of such denial, revocation, or limitation.

“(d) Report.—If the Secretary of State denies, issues, limits, or declines to revoke a passport or passport card under subsection (b), the Secretary, not later than
30 days after such denial, issuance, limitation, or revocation, shall submit a report to Congress that describes such denial, issuance, limitation, or revocation, as appropriate.”.

TITLE II—PERMANENT REAUTHORIZATION OF VOLUNTARY E–VERIFY

SEC. 2001. PERMANENT REAUTHORIZATION.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking “Unless the Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program on September 30, 2015.”.

SEC. 2002. PREEMPTION; LIABILITY.

Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following:

“(g) LIMITATION ON STATE AUTHORITY.—

“(1) PREEMPTION.—A State or local government may not prohibit a person or other entity from verifying the employment authorization of new hires or current employees through E-Verify.

“(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held liable under
any Federal, State, or local law for any employment-related action taken with respect to the wrongful termination of an individual in good faith reliance on information provided through E-Verify.”.

SEC. 2003. INFORMATION SHARING.

The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary of the Treasury shall jointly establish a program to share information among their respective agencies that could lead to the identification of unauthorized aliens (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match letters and any information in the earnings suspense file.

SEC. 2004. SMALL BUSINESS DEMONSTRATION PROGRAM.

Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) SMALL BUSINESS DEMONSTRATION PROGRAM.—Not later than 9 months after the date of enactment of the SECURE and SUCCEED Act, the Director of U.S. Citizenship and Immigration Services shall estab-
lish a demonstration program that assists small businesses in rural areas or areas without internet capabilities to verify the employment eligibility of newly hired employees solely through the use of publicly accessible internet terminals.”

SEC. 2005. FRAUD PREVENTION.

(a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which Social Security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.

(b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a reliable, secure method by which victims of
identity fraud and other individuals may suspend or limit
the use of their Social Security account number or other
identifying information for purposes of the employment
eligibility verification system established under section
274A(d) of the Immigration and Nationality Act (8 U.S.C.
1324a(d)). The Secretary may implement the program on
a limited pilot program basis before making it fully avail-
able to all individuals.

(e) ALLOWING PARENTS TO PREVENT THEFT OF
THEIR CHILD’S IDENTITY.—The Secretary of Homeland
Security, in consultation with the Commissioner of Social
Security, shall establish a program that provides a reli-
able, secure method by which parents or legal guardians
may suspend or limit the use of the Social Security ac-
count number or other identifying information of a minor
under their care for the purposes of the employment eligi-
bility verification system established under 274A(d) of the
Immigration and Nationality Act (8 U.S.C. 1324a(d)).
The Secretary may implement the program on a limited
pilot program basis before making it fully available to all
individuals.

SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT ELI-
GIBILITY VERIFICATION PILOT PROGRAMS.

(a) IN GENERAL.—Not later than 2 years after the
date of the enactment of this Act, the Secretary of Home-
land Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish, by regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot programs (referred to in this section as the “Authentication Pilots”), each of which shall use a separate and distinct technology.

(b) PURPOSE.—The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees to any employer that elects to participate in an Authentication Pilot.

(c) CANCELLATION.—Any participating employer may cancel the employer’s participation in an Authentication Pilot after 1 year after electing to participate without prejudice to future participation.

(d) REPORT.—Not later than 12 months after commencement of the Authentication Pilots, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes the Secretary’s findings on the Authentication Pilots and the authentication technologies chosen.
TITLE III—SUCCEED ACT

SEC. 3001. SHORT TITLES.

This title may be cited as the “Solution for Undocumented Children through Careers, Employment, Education, and Defending our Nation Act” or the “SUCCEED Act”.

SEC. 3002. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title that is also used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional temporary resident that seeks to maintain or extend such status by complying with the requirements under this title relating to enlistment and service in the Armed Forces of the United States.

(3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a conditional temporary resident that seeks to maintain or extend such status by complying with the requirements under this title relating to enrollment in, and graduation from, an institution of higher education in the United States.
(4) CONDITIONAL TEMPORARY RESIDENT.—

(A) DEFINITION.—The term “conditional
temporary resident” means an alien described
in subparagraph (B) who is granted conditional
temporary resident status under this title.

(B) DESCRIPTION.—An alien granted con-
ditional temporary resident status under this
title—

(i) shall not be considered to be an
alien who is unlawfully present in the
United States for purposes of the immigra-
tion laws, including section 505 of the Ille-
gal Immigration Reform and Immigrant
1623);

(ii) shall not be permitted to apply for
adjustment of status under section 245(a)
of the Immigration and Nationality Act (8
U.S.C. 1255(a)) until the date on which
the alien is permitted to so apply under
section 3005;

(iii) has the intention to permanently
reside in the United States;
(iv) is not required to have a foreign residence which the alien has no intention of abandoning; and

(v) on the date on which the alien is eligible to apply for adjustment of status to that of an alien lawfully admitted for permanent residence under section 3005, the shall be considered to have been inspected and admitted for the purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)).

(5) FEDERAL PUBLIC BENEFIT.—The term “Federal public benefit” means—

(A) the American Opportunity Tax Credit authorized under section 25A(i) of the Internal Revenue Code of 1986;

(B) the Earned Income Tax Credit authorized under section 32 of the Internal Revenue Code of 1986;

(C) the Health Coverage Tax Credit authorized under section 35 of the Internal Revenue Code of 1986;

(D) Social Security benefits authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.);
(E) Medicare benefits authorized under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and


(6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include an institution of higher education outside of the United States.

(8) MILITARY-RELATED TERMS.—The terms “active duty”, “active service”, “active status”, and “armed forces” have the meanings given those terms in section 101 of title 10, United States Code.

(9) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability” means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on such taxes.
(10) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(11) **SIGNIFICANT MISDEMEANOR.**—The term “significant misdemeanor” means—

(A) a criminal offense involving—

(i) domestic violence;

(ii) sexual abuse or exploitation, including sexually explicit conduct involving minors (as such terms are defined in section 2256 of title 18, United States Code);

(iii) burglary;

(iv) unlawful possession or use of a firearm;

(v) drug distribution or trafficking; or

(vi) driving under the influence or driving while intoxicated; or

(B) any other misdemeanor for which the individual was sentenced to a term of imprisonment of not less than 90 days (excluding a suspended sentence).
SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN
LONG-TERM RESIDENTS WHO ENTERED THE
UNITED STATES AS CHILDREN.

(a) Special Rule for Certain Long-term Residents Who Entered the United States as Children.—

(1) In General.—Notwithstanding any other provision of law and except as otherwise provided in this title, the Secretary may cancel the removal of an alien who is inadmissible or deportable from the United States and grant the alien conditional temporary resident status under this title, if—

(A) the alien has been physically present in the United States for a continuous period since June 15, 2012;

(B) the alien was younger than 16 years of age on the date on which the alien initially entered the United States;

(C) on June 15, 2012, the alien—

(i) was younger than 31 years of age;

and

(ii) had no lawful status in the United States;

(D) in the case of an alien who is 18 years of age or older on the date of enactment of this Act, the alien—
(i) meets the other requirements of this section; and

(ii)(I) has, while in the United States, earned a high school diploma, obtained a general education development certificate recognized under State law, or received a high school equivalency diploma;

(II) has been admitted to an institution of higher education in the United States; or

(III) has served, is serving, or has enlisted in the Armed Forces of the United States;

(E) in the case of an alien who is younger than 18 years of age on the date of enactment of this Act, the alien—

(i) meets the other requirements of this section; and

(ii)(I) is attending, or has enrolled in, a primary or secondary school; or

(II) is attending, or has enrolled in, a postsecondary school;

(F) the alien has been a person of good moral character (as defined in section 101(f) of the Immigration and Nationality Act (8 U.S.C.
1101(f))) since the date on which the alien initially entered the United States;

(G) the alien has paid any applicable Federal tax liability or has agreed to cure such liability through a payment installment plan that has been approved by the Internal Revenue Service; and

(H) the alien, subject to paragraph (2)—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8), (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of such Act (unless the Secretary determines that the sole basis for the alien’s removal under such subparagraph was unlawful presence under subparagraph (B) or (C) of such section 212(a)(9));

(ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) has not ordered, incited, assisted, or otherwise participated in the persecution
of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

    (iv) does not, in the sole and unreviewable discretion of the Secretary, pose a threat to national security or public safety;

    (v) is not a person who the Secretary knows, or has reason to believe—

    (I) is a member of a criminal gang; or

    (II) has participated in an activity of a criminal gang, knowing or having reason to believe that the activity promoted, furthered, aided, or supported, or will promote, further, aid, or support, the illegal activity of the criminal gang; and

    (vi) has not been convicted of—

    (I) a felony under Federal or State law, regardless of the sentence imposed;

    (II) any combination of offenses under Federal or State law for which
the alien was sentenced to imprisonment for at least 1 year;

(III) a significant misdemeanor;

and

(IV) 3 or more misdemeanors;

and

(I) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such final order was issued; or

(ii) received the final order before attaining 18 years of age.

(2) WAIVER.—

(A) IN GENERAL.—The Secretary, in the discretion of the Secretary, may waive, on a case-by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and a ground of deportability under paragraph (A), (B), (C), or (E) of section 237(a)(1) of such Act (8 U.S.C. 1227(a)(1)) for humanitarian purposes or if such waiver is otherwise in the public interest.
(B) Quarterly report.—Not later than 180 days after the date of the enactment of this Act, and quarterly thereafter, the Secretary shall submit a report to Congress that identifies—

(i) the number of waivers under this paragraph that were requested by aliens during the preceding quarter;

(ii) the number of such requests that were granted; and

(iii) the number of such requests that were denied.

(C) Judicial review.—Notwithstanding any other provision of law (statutory or non-statutory), including sections 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a court shall not have jurisdiction to review a determination made by the Secretary under subparagraph (A).

(3) Procedures.—

(A) Application for affirmative relief.—

(i) Regulations.—
(I) IN GENERAL.—The Secretary shall issue regulations that provide a procedure for eligible individuals to affirmatively apply for the relief available under this subsection without being placed in removal proceedings.

(II) REQUIREMENTS.—The regulations issued under subclause (I)—

(aa) shall establish a date after which an alien may not seek relief under this title; and

(bb) shall not allow an affidavit or a sworn statement to be considered sufficient evidence to establish any claim under this title.

(ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an application for relief under this title that includes all supporting documentation, in accordance with the regulations issued under clause (i).

(iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including sections
2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a court shall not have jurisdiction to review a determination by the Secretary with respect to an application under this subsection.

(iv) DEADLINE FOR APPLICATION.—

An alien shall submit an application under this section not later than the later of—

(I) in the case of an alien who is 18 years of age or older, 1 year after the date on which the Secretary begins accepting applications; and

(II) 180 days after the date on which the alien attains 18 years of age.

(v) FEE.—With respect to an application under this subsection, the Secretary shall collect a fee in an amount that will ensure the recovery of the full costs of administering the application and adjudication process.

(B) ACKNOWLEDGMENT TO BARS TO RELIEF.—
(i) **Acknowledgment of Notification.**—The regulations issued pursuant to subparagraph (A) shall include a requirement that each alien applying for conditional temporary resident status under this title who is at least 18 years of age sign, under penalty of perjury, an acknowledgment confirming that the alien was notified and understands that he or she will be ineligible for any form of relief or immigration benefit under this title or other immigration laws other than withholding of removal under section 241(b)(3), or relief from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if the alien violates a term for conditional temporary resident status under this title.

(ii) **Exception.**—Notwithstanding an acknowledgment under clause (ii), the Secretary, in the discretion of the Secretary, may allow an alien who violated the terms of conditional temporary resident status
(other than a criminal alien or an alien deemed to be a national security or public safety risk) to seek relief from removal if the Secretary determines that such relief is warranted for humanitarian purposes or if otherwise in the public interest.

(iii) **Judicial review.**—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a determination by the Secretary under clause (ii).

(4) **Submission of biometric and biographic data.**—

(A) **In general.**—The Secretary may not cancel the removal of, or grant temporary permanent resident status to, an alien under this title before the date on which—

(i) the alien submits biometric and biographic data, in accordance with procedures established by the Secretary; and
(ii) the Secretary receives and reviews the results of the background and security checks of the alien under paragraph (5).

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any applicant who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical disability or impairment.

(5) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines to be appropriate, including information obtained pursuant to subparagraph (C)—

(i) to conduct security and law enforcement background checks of an alien seeking relief under this subsection; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such relief.

(B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
background checks required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary cancels the removal of an alien under this title.

(C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary of State, shall seek to obtain information about any criminal activity the alien engaged in, or for which the alien was convicted in his or her country of nationality, country of citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any other international or national law enforcement agency of the alien’s country of nationality, country of citizenship, or country of last habitual residence.

(6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection shall undergo a medical examination conducted by a designated civil surgeon pursuant to procedures established by the Secretary.

(7) INTERVIEW.—The Secretary may conduct an in-person interview of an applicant for conditional temporary resident status as part of a determination
with respect to whether the alien meets the eligibility requirements described in this section.

(8) **Military Selective Service.**—An alien applying for relief available under this subsection shall establish that the alien has registered for the Selective Service under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such registration requirement under such Act.

(9) **Treatment of Expunged Convictions.**—

(A) **In General.**—The Secretary shall evaluate expunged convictions on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, an alien may be eligible for—

(i) conditional temporary resident status under this title; or

(ii) adjustment to that of an alien lawfully admitted for permanent residence under section 3005.

(B) **Judicial Review.**—Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28,
United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a determination by the Secretary under subparagraph (A).

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under subsection (a) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(e) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a)(1)(A) if the alien has departed from the United States for—

(A) any period exceeding 90 days; or

(B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the periods described in paragraph (1) by 90 days if the
alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be not less compelling than the serious illness of the alien, or the death or serious illness of the alien’s parent, grandparent, sibling, or child.

(3) Exception for Military Service.—Any time spent outside of the United States that is due to the alien’s active service in the Armed Forces of the United States shall not be counted towards the time limits set forth in paragraph (1).

(d) Rulemaking.—

(1) Initial Publication.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish regulations implementing this section.

(2) Interim Regulations.—Notwithstanding section 553 of title 5, United States Code, the regulations required under paragraph (1) shall be effective, on an interim basis, immediately upon publication but may be subject to change and revision after public notice and opportunity for a period of public comment.
(3) Final regulations.—Within a reasonable time after publication of the interim regulations under paragraph (1), the Secretary shall publish final regulations implementing this section.

(e) Removal of alien.—The Secretary may not seek to remove an alien who establishes prima facie eligibility for cancellation of removal and conditional temporary resident status under this title until the alien has been provided with a reasonable opportunity to file an application for conditional temporary resident status under this title.

SEC. 3004. CONDITIONAL TEMPORARY RESIDENT STATUS.

(a) Initial length of status.—Conditional temporary resident status granted to an alien under this title shall be valid—

(1) for an initial period of 7 years, subject to termination under subsection (c), if applicable; and

(2) if the alien will not reach 18 years of age before the end of the period described in paragraph (1), until the alien reaches 18 years of age.

(b) Terms of conditional temporary resident status.—

(1) Employment.—A conditional temporary resident may—
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(A) be employed in the United States incident to conditional temporary resident status under this title; and

(B) enlist in the Armed Forces of the United States in accordance with section 504(b)(1)(D) of title 10, United States Code.

(2) TRAVEL.—A conditional temporary resident may travel outside the United States and may be admitted (if otherwise admissible) upon returning to the United States without having to obtain a visa if—

(A) the alien is the bearer of valid, unexpired documentary evidence of conditional temporary resident status under this title; and

(B) the alien’s absence from the United States—

(i) was not for a period of 180 days or longer, or for multiple periods exceeding 180 days in the aggregate; or

(ii) was due to active service in the Armed Forces of the United States.

(c) TERMINATION OF STATUS.—The Secretary shall immediately terminate the conditional temporary resident status of an alien under this title—
(1) in the case of an alien who is 18 years of age or older, if the Secretary determines that the alien is a postsecondary student who was admitted to an accredited institution of higher education in the United States, but failed to enroll in such institution within 1 year after the date on which the alien was granted conditional temporary resident status under this title or to remain so enrolled;

(2) in the case of an alien who is younger than 18 years of age, if the Secretary determines that the alien enrolled in a primary or secondary school as a full-time student, but has failed to attend such school for a period exceeding 1 year during the 7-year period beginning on the date on which the alien was granted conditional temporary resident status under this title;

(3) in the case of an alien who was granted conditional temporary resident status under this title as an enlistee, if the alien—

(A) failed to complete basic training and begin active duty service or service in Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United States within 1 year after the date on which the alien was
granted conditional temporary resident status under this title; or

(B) has received a dishonorable or other than honorable discharge from the Armed Forces of the United States;

(4) if the alien was granted conditional temporary resident status under this title as a result of fraud or misrepresentation;

(5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of section 3003(a)(1);

(6) if the alien violated a term or condition of his or her conditional resident status;

(7) if the alien has become a public charge;

(8) if the alien has not maintained employment in the United States for a period of at least 1 year since the alien was granted conditional temporary resident status under this title and while the alien was not enrolled as a student in a postsecondary school or institution of higher education or serving in the Armed Forces of the United States; or

(9) if the alien has not completed a combination of employment, military service, or postsecondary school totaling 62 months during the 7-year period beginning on the date on which the alien was grant-
ed conditional temporary resident status under this title.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—
The immigration status of an alien the conditional temporary resident status of whom is terminated under subsection (c) shall return to the immigration status of the alien on the day before the date on which the alien received conditional temporary resident status under this title.

(e) EXTENSION OF CONDITIONAL TEMPORARY RESIDENT STATUS.—The Secretary shall extend the conditional temporary resident status of an alien granted such status under this title for 1 additional 5-year period beyond the period specified in subsection (a) if the alien—

(1) has demonstrated good moral character during the entire period the alien has been a conditional temporary resident under this title;

(2) is in compliance with section 3003(a)(1);

(3) has not abandoned the alien’s residence in the United States by being absent from the United States for a period of 180 days, or multiple periods of at least 180 days, in the aggregate, during the period of conditional temporary resident status under this title, unless the absence of the alien was due to
active service in the Armed Forces of the United States;

(4) does not have any delinquent tax liabilities;

(5) has not received any Federal public benefit;

and

(6) while the alien has been a conditional temporary resident under this title—

(A) has graduated from an accredited institution of higher education in the United States;

(B) has attended an accredited institution of higher education in the United States on a full-time basis for not less than 8 semesters;

(C)(i) has served as a member of a regular or reserve component of the Armed Forces of the United States in an active duty status for at least 3 years; and

(ii) if discharged from such service, received an honorable discharge; or

(D) has, for a cumulative total of not less than 48 months—

(i) attended an accredited institution of higher education in the United States on a full-time basis;
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(ii)(I) honorably served in the Armed Forces of the United States; and
(II) maintained employment in the United States; or
(iii)(I) attended an accredited institution of higher education in the United States;
(II) honorably served in the Armed Forces of the United States; and
(III) otherwise maintained lawful employment in the United States.

(f) RETURN TO PREVIOUS STATUS.—The immigration status of an alien receiving an extension of conditional temporary resident status shall return to the immigration status of the alien on the day before the date on which the alien received conditional temporary resident status if the alien has not filed to adjust status to that of an alien lawfully admitted for permanent residence under section 3005 by the date on which the 5-year period referred to in subsection (e) ends.

SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR TEMPORARY RESIDENCE.

(a) IN GENERAL.—An alien who has been a conditional temporary resident under this title for at least 7 years may file an application with the Secretary, in ac-
cordance with subsection (c), to adjust status to that of an alien lawfully admitted for permanent residence. The application shall include the required fee and shall be filed in accordance with the procedures established by the Secretary.

(b) Adjudication of Application for Adjustment of Status.—

(1) Adjustment of status if favorable determination.—If the Secretary determines that an alien who filed an application under subsection (a) meets the requirements described in subsection (d), the Secretary shall—

(A) notify the alien of such determination; and

(B) adjust the alien’s status to that of an alien lawfully admitted for permanent residence.

(2) Termination if adverse determination.—If the Secretary determines that an alien who files an application under subsection (a) does not meet the requirements described in subsection (d), the Secretary shall—

(A) notify the alien of such determination; and

(B) terminate the conditional temporary status of the alien.
(c) **Time to File Application.**

(1) **In General.**—Applications for adjustment of status described in subsection (a) shall be filed during the period—

(A) beginning 180 days before the expiration of the 7-year period of conditional temporary resident status under this title; and

(B) ending—

(i) 7 years after the date on which conditional temporary resident status was initially granted to the alien under this title; or

(ii) after the conditional temporary resident status has been terminated.

(2) **Status during Pendency.**—An alien shall be deemed to be in conditional temporary resident status in the United States during the period in which an application filed by the alien under subsection (a) is pending.

(d) **Contents of Application.**

(1) **In General.**—Each application filed by an alien under subsection (a) shall contain information to permit the Secretary to determine whether the alien—
(A) has been a conditional temporary resident under this title for at least 7 years;

(B) has demonstrated good moral character during the entire period the alien has been a conditional temporary resident under this title;

(C) is in compliance with section 3003(a)(1); and

(D) has not abandoned the alien’s residence in the United States.

(2) Presumptions.—For purposes of paragraph (1)—

(A) the Secretary shall presume that an alien has abandoned the alien’s residence in the United States if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional temporary resident status under this title, unless the alien demonstrates that the alien has not abandoned the alien’s residence; and

(B) an alien who is absent from the United States due to active service in the Armed Forces of the United States has not abandoned the alien’s residence in the United States during the period of such service.
(c) Citizenship Requirement.—

(1) In general.—Except as provided in paragraph (2), an alien granted conditional temporary resident status under this title may not be adjusted to permanent resident status unless the alien demonstrates to the satisfaction of the Secretary that the alien satisfies the requirements under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

(2) Exception.—Paragraph (1) shall not apply to an alien whom the Secretary determines is unable because of a physical or developmental disability or mental impairment to meet the requirements of such paragraph. The Secretary, in coordination with the Secretary of Health and Human Services and the Surgeon General, shall establish procedures for making determinations under this subsection.

(f) Payment of Federal Taxes.—Not later than the date on which an application for adjustment of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability due and owing on such date, as determined and verified by the Commissioner of Internal Revenue, notwithstanding section 6103 of title 26, United States Code, or any other provision of law.
(g) Submission of Biometric and Biographic Data.—

(1) In general.—The Secretary may not adjust the status of an alien under this section unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.

(2) Alternative procedure.—The Secretary shall provide an alternative procedure for an applicant who is unable to provide the biometric or biographic data referred to in paragraph (1) due to a physical disability or impairment.

(h) Background Checks.—

(1) Requirement for background checks.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines to be appropriate—

(A) to conduct security and law enforcement background checks of an alien applying for adjustment of status under this section; and

(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such adjustment of status.
(2) COMPLETION OF BACKGROUND CHECKS.—

The security and law enforcement background checks required under paragraph (1) shall be completed with respect to an alien, to the satisfaction of the Secretary, before the date on which the Secretary makes a decision on the application for adjustment of status of the alien.

(i) EXEMPTION FROM NUMERICAL LIMITATIONS.—

Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status under this section.

(j) TREATMENT OF ALIENS MEETING REQUIREMENTS FOR EXTENSION OF CONDITIONAL TEMPORARY RESIDENT STATUS.—If an alien has satisfied all of the requirements under section 3003(a)(1) as of the date of enactment of this Act, the Secretary may cancel the removal of the alien and permit the alien to apply for conditional temporary resident status under this title. After the initial period of conditional temporary resident status described in section 3004(a), the Secretary shall extend such alien’s conditional temporary resident status and permit the alien to apply for adjustment of status in accordance with subsection (a) if the alien has met the requirements
under section 3004(e) during the entire period of conditionally temporary resident status under this title.

SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS GRANTED CONDITIONAL TEMPORARY RESIDENT STATUS.

Notwithstanding any other provision of law, a natural parent, prior adoptive parent, spouse, parent, child, or any other family member of an alien provided conditional temporary resident status or lawful permanent resident status under this title shall not thereafter be accorded, by virtue of parentage or familial relationship, any right, privilege, or status under the immigration laws.

SEC. 3007. EXCLUSIVE JURISDICTION.

(a) SECRETARY OF HOMELAND SECURITY.—Except as provided in subsection (b), the Secretary shall have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties delegated to the Secretary under this title. If a final order is entered before relief is granted under this title, the Attorney General shall terminate such order only after the alien has been granted conditional temporary resident status under this title.

(b) ATTORNEY GENERAL.—The Attorney General shall have exclusive jurisdiction to determine eligibility for
relief under this title for any alien who has been placed into deportation, exclusion, or removal proceedings, whether such placement occurred before or after the alien filed an application for cancellation of removal and conditional temporary resident status or adjustment of status under this title. Such exclusive jurisdiction shall continue until such proceedings are terminated.

SEC. 3008. CONFIDENTIALITY OF INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—The Secretary shall establish procedures to protect the confidentiality of information provided by an alien under this title.

(b) PROHIBITION.—Except as provided in subsection (c), an officer or employee of the United States may not—

(1) use the information provided by an individual pursuant to an application filed under this title as the sole basis to initiate removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against the parent or spouse of the individual;

(2) make any publication whereby the information provided by any particular individual pursuant to an application under this title can be identified; or
(3) permit anyone other than an officer or employee of the United States Government to examine such application filed under this title.

(c) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall disclose the information provided by an individual under this title and any other information derived from such information to—

(1) a Federal, State, Tribal, or local government agency, court, or grand jury in connection with an administrative, civil, or criminal investigation or prosecution;

(2) a background check conducted pursuant to the Brady Handgun Violence Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act;

(3) for homeland security or national security purposes;

(4) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime); or

(5) the Bureau of the Census in the same manner and circumstances as the information may be disclosed under section 8 of title 13, United States Code.
(d) Fraud in Application Process or Criminal Conduct.—Nothing in this section may be construed to prevent the disclosure and use of information provided by an alien under this title to determine whether an alien seeking relief under this title has engaged in fraud in an application for such relief or at any time committed a crime from being used or released for immigration enforcement, law enforcement, or national security purposes.

(e) Subsequent Applications for Immigration Benefits.—The Secretary may use the information provided by an individual pursuant to an application filed under this title to adjudicate an application, petition, or other request for an immigration benefit made by the individual on a date after the date on which the individual filed the application under this title.

(f) Penalty.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR CONDITIONAL TEMPORARY RESIDENTS.

An individual who has met the requirements under section 3005 for adjustment from conditional temporary resident status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year eligibility waiting period under sec-

SEC. 3010. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that sets forth—

(1) the number of aliens who were eligible for cancellation of removal and grant of conditional temporary resident status under section 3003(a);

(2) the number of aliens who applied for cancellation of removal and grant of conditional temporary resident status under section 3003(a);

(3) the number of aliens who were granted conditional temporary resident status under section 3003(a); and

(4) the number of aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence pursuant to section 3005.

SEC. 3011. MILITARY ENLISTMENT.

Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following:
“(D) An alien who is a conditional temporary resident (as defined in section 3002 of the SUCCEED Act).”.

SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years after such adjustment of status.

SEC. 3013. FUNDING.

(a) DEPARTMENT OF HOMELAND SECURITY IMMIGRATION REFORM IMPLEMENTATION ACCOUNT.—

(1) IN GENERAL.—There is established in the Treasury a separate account, which shall be known as the “Department of Homeland Security Immigration Reform Implementation Account” (referred to in this section as the “Implementation Account”).

(2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the Implementation Account, out of any funds in the Treasury not otherwise appropriated, $400,000,000, which shall remain available until September 30, 2022.
(3) Use of Appropriations.—The Secretary is authorized to use funds appropriated to the Implementation Account to pay for one-time and start-up costs necessary to implement this title, including, but not limited to—

(A) personnel required to process applications and petitions;

(B) equipment, information technology systems, infrastructure, and human resources;

(C) outreach to the public, including development and promulgation of any regulations, rules, or other public notice; and

(D) anti-fraud programs and actions related to implementation of this title.

(4) Reporting.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a plan to the Committee on Appropriations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives for spending the funds appropriated under paragraph (2) that describes how such funds will be obligated in each fiscal year, by program.

(b) Deposit and Use of Processing Fees.—
TITLE IV—ENSURING FAMILY REUNIFICATION

SEC. 4001. SHORT TITLE.

This title may be cited as the “Ensuring Family Reunification Act of 2018”.

SEC. 4002. FAMILY-SPONSORED IMMIGRATION PRIORITIES.

(a) REDEFINITION OF IMMEDIATE RELATIVE.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—
(1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking “under twenty-one years of age who” and inserting “who is younger than 18 years of age and”; and

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection (b)(2)(A)—

(i) in clause (i), by striking “children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.” and inserting “children and spouse of a citizen of the United States.”;

and

(ii) in clause (ii), by striking “such an immediate relative” and inserting “the immediate relative spouse of a United States citizen”;

(B) by amending subsection (c) to read as follows:

“(c) **Worldwide Level of Family-Sponsored Immigrants.**—(1) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000 minus the number computed under paragraph (2).
“(2) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year who—

“(A) did not depart from the United States (without advance parole) within 1 year; and

“(B)(i) did not acquire the status of an alien lawfully admitted to the United States for permanent residence during the 2 preceding fiscal years; or

“(ii) acquired such status during such period under a provision of law (other than subsection (b)) that exempts adjustment to such status from the numerical limitation on the worldwide level of immigration under this section.”; and

(C) in subsection (f)—

(i) in paragraph (2), by striking “section 203(a)(2)(A)” and inserting “section 203(a)”;

(ii) by striking paragraph (3);

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

(iv) in paragraph (3), as redesignated, by striking “(1) through (3)” and inserting “(1) and (2)”. 
(b) Family-Based Visa Preferences.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended to read as follows:

“(a) Spouses and Minor Children of Permanent Resident Aliens.—Family-sponsored immigrants described in this subsection are qualified immigrants who are the spouse or a child of an alien lawfully admitted for permanent residence.”.

e) Conforming Amendments.—

(1) Definition of V Nonimmigrant.—Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking “section 203(a)(2)(A)” each place such term appears and inserting “section 203(a)”.

(2) Numerical Limitation to Any Single Foreign State.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B) and inserting the following:

“(A) 75 percent of family-sponsored immigrants not subject to per country limitation.—Of the visa numbers made available under section 203(a) in any fiscal year, 75
percent shall be issued without regard to the numerical limitation under paragraph (2).

“(B) Treatment of remaining 25 percent for countries subject to subsection (e).—

“(i) In general.—Of the visa numbers made available under section 203(a) in any fiscal year, 25 percent shall be available, in the case of a foreign state or dependent area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or dependent area is less than the subsection (e) ceiling.

“(ii) Subsection (e) ceiling defined.—In clause (i), the term ‘subsection (e) ceiling’ means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area, consistent with subsection (e).”; and

(ii) by striking subparagraphs (C) and (D); and
(B) in subsection (e)—

   (i) in paragraph (1), by adding “and”

   at the end;

   (ii) by striking paragraph (2);

   (iii) by redesignating paragraph (3) as

   paragraph (2); and

   (iv) in the undesignated matter after

   paragraph (2), as redesignated, by striking

   “, respectively,” and all that follows and

   inserting a period.

(3) Rules for determining whether certain aliens are children.—Section 203(h) of the
Immigration and Nationality Act (8 U.S.C. 1153(h))
is amended by striking “(a)(2)(A)” each place such
term appears and inserting“(a)(2)”.

(4) Procedure for granting immigrant
status.—Section 204 of such Act (8 U.S.C. 1154)
is amended—

   (A) in subsection (a)(1)—

      (i) in subparagraph (A)(i), by striking

      “to classification by reason of a relation-

      ship described in paragraph (1), (3), or (4)

      of section 203(a) or”;}
(ii) in subparagraph (B), by striking “203(a)(2)(A)” each place such term appears and inserting “203(a)”;

(iii) in subparagraph (D)(i)(I), by striking “a petitioner” and all that follows through “(a)(1)(B)(iii)” and inserting “an individual younger than 18 years of age for purposes of adjudicating such petition and for purposes of admission as an immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant under section 203(a), as appropriate, notwithstanding the actual age of the individual.”;

(B) in subsection (f)(1), by striking “, 203(a)(1), or 203(a)(3), as appropriate”; and

(C) by striking subsection (k).

(5) Waivers of Inadmissibility.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section 203(a)”;

(B) in subsection (d)(11), by striking “(other than paragraph (4) thereof)”.

(6) Employment of V nonimmigrants.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C. 1184(q)(1)(B)(i)) is amended by striking "section 203(a)(2)(A)" each place such term appears and inserting "section 203(a)".

(7) Definition of alien spouse.—Section 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C)) is amended by striking "section 203(a)(2)" and inserting "section 203(a)".

(8) Classes of deportable aliens.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking "section 203(a)(2)" and inserting "section 203(a)".

(d) Creation of nonimmigrant classification for alien parents of adult United States citizens.—

(1) In general.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a semicolon; 

(B) in subparagraph (U)(iii), by striking “or” at the end;
(C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States, if the citizen is at least 21 years of age.”.

(2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

“(s)(1) The initial period of authorized admission for a nonimmigrant described in section 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still residing in the United States.

“(2) A nonimmigrant described in section 101(a)(15)(W)—

“(A) is not authorized to be employed in the United States; and

“(B) is not eligible for any Federal, State, or local public benefit.

“(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the United States citizen son or daughter who sponsored the nonimmigrant
parent shall be responsible for the nonimmigrant’s support while the nonimmigrant resides in the United States.

“(4) An alien is ineligible to receive a visa or to be admitted into the United States as a nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof that the United States citizen son or daughter has arranged for health insurance coverage for the alien, at no cost to the alien, during the anticipated period of the alien’s residence in the United States.”.

(c) Effective Date; Applicability.—

(1) Effective date.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) New petitions.—

(A) In general.—The Director of U. S. Citizenship and Immigration Services shall only accept new family-based petitions for spouses and minor children of United States citizens and lawful permanent residents under—

(i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)(A)); or

(ii) subsection (a) or (b) of section 203 of such Act (8 U.S.C. 1153).
(B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services may not accept any new family-based petition other than a petition described in subparagraph (A).

(3) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the termination by this title of the family-sponsored immigrant visa categories under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available to, any alien who has—

(A) an approved family-based petition that has not been terminated or revoked, or

(B) a properly-filed family-based petition that is—

(i) pending with U.S. Citizenship and Immigration Services; and

(ii) based on subsection (a) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this Act).

(4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall con-
continue to allocate a sufficient number of visas in family-sponsored immigrant visa categories until the date on which a visa has been made available, in conformance with the numeric and per country limitations in effect on the day before the date of enactment of this Act, to each beneficiary of an approved or pending petition described in subparagraph (A) or (B) of paragraph (3), if the beneficiary—

(A) indicates an intent to pursue the immigrant visa not later than 1 year after the date on which the Secretary of State notifies the beneficiary of the availability of the visa; and

(B) is otherwise qualified to receive a visa under this Act.

(f) TERMINATION OF REGISTRATION.—Section 203(g) of the Immigration and Nationality Act (8 U.S.C. 1153(g)) is amended—

(1) by striking the second sentence;

(2) by striking the subsection designation and heading and all that follows through “For purposes” in the first sentence and inserting the following:

“(g) LISTS.—

“(1) IN GENERAL.—For purposes”; and

(3) by adding at the end the following:

“(2) TERMINATION OF REGISTRATION.—
“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within the 1-year period beginning on the date on which the Secretary of State notifies the alien of the availability of the immigrant visa.

“(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an alien under subparagraph (A) if the alien demonstrates that the failure of the alien to apply for an immigrant visa during the period described in that subparagraph was due to an extenuating circumstance beyond the control of the alien.”.

SEC. 4003. ELIMINATION OF DIVERSITY VISA PROGRAM.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (d), (e), (f), and (g), respectively;

(3) in subsection (c), as redesignated, by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”;

(4) by striking subsection (d).

(5) by striking subsection (e) and technical corrections.
(4) in subsection (d), as redesignated—
   (A) by striking paragraph (2); and
   (B) by redesignating paragraph (3) as paragraph (2);
(5) in subsection (e), as redesignated, by striking “subsection (a), (b), or (c) of this section” and inserting “subsection (a) or (b)”;
(6) in subsection (f), as redesignated, by striking “subsections (a), (b), and (e)” and inserting “subsections (a) and (b)”;
(7) in subsection (g), as redesignated—
   (A) by striking “(d)” each place it appears and inserting “(c)”;
   (B) in paragraph (2)(B), by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—
The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—
(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking “section 203(d)” and inserting “section 203(e)”;
(2) in section 201 (8 U.S.C. 1151)—
   (A) in subsection (a)—
(i) in paragraph (1), by adding “and” at the end;
(ii) in paragraph (2), by striking “; and” and inserting a period; and
(iii) by striking paragraph (3);
(B) by striking subsection (e); and
(C) by redesignating subsection (f) as subsection (e);
(4) in section 204 (8 U.S.C. 1154)—
(A) in subsection (a)(1)—
(i) by striking subparagraph (I); and
(ii) by redesignating subparagraphs (J) through (L) as subparagraphs (I) through (K), respectively;
(B) in subsection (e), by striking “subsection (a), (b), or (e) of section 203” and inserting “subsection (a) or (b) of section 203”; and
(C) in subsection (l)(2)—
(i) in subparagraph (B), by striking “section 203 (a) or (d)” and inserting “subsection (a) or (c) of section 203”; and
(ii) in subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”;
(6) in section 216(h)(1) (8 U.S.C. 1186a(h)(1)), in the undesignated matter following subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”; and
(7) in section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)), by striking “section 203(d)” and inserting “section 203(c)”.
(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year beginning on or after the date of the enactment of this Act.
(d) REALLOCATION OF VISAS; GRANDFATHERED PETITIONS.—
(1) GRANDFATHERED PETITIONS AND VISAS.— Notwithstanding the elimination under this section of the diversity visa program described in sections
201(e) and 203(c) of the Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available, to any alien whom the Secretary of State has selected to participate in the diversity visa lottery for fiscal year 2018.

(2) REALLOCATION OF VISAS.—

(A) REALLOCATION.—

(i) In general.—Beginning in fiscal year 2019 and ending on the date on which the number of visas allocated for aliens who qualify for visas under the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make available the annual allocation of diversity visas as follows:

(I) 25,000 visas shall be made available to aliens who have an approved family-based petition based on section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or re-
voked as of the date of enactment of
this Act.

(II) 25,000 visas shall be made
available to qualified aliens who have
an approved employment-based peti-
tion based on paragraphs (1), (2), or
(3) of section 203(b) of the Immigra-
tion and Nationality Act (8 U.S.C.
1153) that has not been terminated or
revoked as of the date of enactment of
this Act.

(ii) NACARA VISAS.—On the exhaus-
tion of 5,000 visas made available under
the Nicaraguan Adjustment and Central
American Relief Act (Public Law 105–100;
8 U.S.C. 1153 note), the remainder of the
visas made available under that Act shall
be equally divided and added to the visas
provided under subclauses (I) and (II) of
clause (i).

(B) NOTIFICATION.—

(i) FEDERAL REGISTER.—The Sec-
retary of Homeland Security, in consulta-
tion with the Secretary of State, shall pub-
lish a notice in the Federal Register to notify affected aliens with respect to—

(I) the availability of visas under subparagraph (A);

(II) the manner in which the visas shall be allocated.

(ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the monthly visa bulletin of the Department of State with respect to—

(I) the availability of visas under subparagraph (A);

(II) the manner in which the visas shall be allocated.

TITLE V—OTHER MATTERS

SEC. 5001. OTHER IMMIGRATION AND NATIONALITY ACT AMENDMENTS.

(a) NOTICE OF ADDRESS CHANGE.—Section 265(a) of the Immigration and Nationality Act (8 U.S.C. 1305(a)) is amended to read as follows:

“(a) Each alien required to be registered under this Act who is physically present in the United States shall notify the Secretary of Homeland Security of each change of address and new address not later than 10 days after
the date of such change and shall furnish such notice in
the manner prescribed by the Secretary.”.

(b) Photographs for Naturalization Certificates.—Section 333 of the Immigration and Nationality
Act (8 U.S.C. 1444) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

(B) by inserting “(1)” after “(b)”); and

(C) by striking the undesignated matter at

the end and inserting the following:

“(2) Of the photographs furnished pursuant to para-

graph (1)—

“(A) 1 shall be affixed to each certificate issued

by the Attorney General; and

“(B) 1 shall be affixed to the copy of such cer-

tificate retained by the Department.”; and

(2) by adding at the end the following:

“(c) The Secretary may modify the technical require-
ments under this section in the Secretary’s discretion and
as the Secretary may consider necessary to provide for
photographs to be furnished and used in a manner that
is efficient, secure, and consistent with the latest develop-
ments in technology.”.
SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.

Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act” (5 U.S.C. 522)), and section 552a of such title (commonly known as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title 5, United States Code (commonly known as the “Administrative Procedures Act”), and any other law relating to rulemaking, information collection, or publication in the Federal Register, shall not apply to any action to implement this Act or the amendments made by this Act, to the extent the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that compliance with any such law would impede the expeditious implementation of this Act or the amendments made by this Act.

SEC. 5003. EXEMPTION FROM THE PAPERWORK REDUCTION ACT.

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, shall not apply to any action to implement this Act or the amendments made by this Act to the extent the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that compliance with any such law would impede the expeditious implementation of this Act or the amendments made by this Act.
pede the expeditious implementation of this Act or
the amendments made by this Act.

(2) SUNSET.—

(A) IN GENERAL.—The exemption pro-
vided under this section shall sunset not later
than 3 years after the date of enactment of this
Act.

(B) RULE OF CONSTRUCTION.—Subpara-
graph (A) does not impose any requirement on,
or affect the validity of, any rule issued or other
action taken by the Secretary under the exempt-
described in paragraph (1).

SEC. 5004. EXEMPTION FROM GOVERNMENT CONTRACTING
AND HIRING RULES.

(1) COMPETITION REQUIREMENTS.—

(A) IN GENERAL.—For purposes of imple-
menting this Act, the competition requirements
of section 253(a) of title 41, United States
Code, shall not apply.

(B) AGENCY DETERMINATION.—The deter-
mination of an agency under section 253(c) of
title 41, United States Code, shall not be sub-
ject to challenge by protest to—
(i) the Government Accountability Office, under sections 3551 through 3556 of title 31, United States Code; or

(ii) the Court of Federal Claims, under section 1491 of title 28, United States Code.

(C) NOTICE TO CONGRESS.—An agency shall immediately advise the Congress of the exercise of the authority granted under this paragraph.

(2) CONTRACTING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in advance of the receipt of any fees imposed on any beneficiary or petitioner for benefits under this Act, may enter into 1 or more contracts for the purpose of implementing the programs under this Act.

(B) LIMITATION.—With respect to a contract under subparagraph (A), the Secretary shall not enter into an obligation that exceeds the amount necessary to defray the cost of the programs under this Act.

(3) NOTICE TO CONGRESS.—The Secretary shall—
(A) immediately advise Congress of the exercise of authority granted in paragraph (2); and

(B) shall report quarterly on the estimated obligations incurred pursuant to that paragraph.

(4) APPOINTMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall have authority to make term, temporary limited, and part-time appointments without regard to—

(i) the number of such employees;

(ii) the ratio of such employees to permanent full-time employees; or

(iii) the duration of employment of such employees.

(B) RULE OF CONSTRUCTION.—Chapter 71 of title 5, United States Code, shall not affect the authority of any management official of the Department to hire term, temporary limited, or part-time employees under this paragraph.
SEC. 5005. ABILITY TO FILL AND RETAIN DEPARTMENT OF HOMELAND SECURITY POSITIONS IN UNITED STATES TERRITORIES.

(a) In general.—Section 530C of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by inserting “or the Department of Homeland Security” after “Department of Justice”; and

(B) by inserting “or the Secretary of Homeland Security” after “Attorney General”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or to the Secretary of Homeland Security” after “Attorney General”; and

(ii) in subparagraph (K)—

(I) in clause (i)—

(aa) by inserting “or within United States territories or commonwealths” after “outside United States”; and
(bb) by inserting “or the Secretary of Homeland Security” after “Attorney General”; 
(II) in clause (ii), by inserting “or the Secretary of Homeland Security” after “Attorney General”; 
(B) in paragraph (2)—
(i) in subparagraph (A), by striking “for the Drug Enforcement Administration, and for the Immigration and Naturalization Service” and inserting “and for the Drug Enforcement Administration”; and 
(ii) in subparagraph (B), in the matter preceding clause (i), by striking “the Immigration and Naturalization Service” and inserting “the Department of Homeland Security”; 
(C) in paragraph (5), by striking “IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General” and replacing with “DEPARTMENT OF HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security”; and 
(D) in paragraph (7)—
(i) by inserting “or the Secretary of Homeland Security” after “Attorney General”; and

(ii) by striking “the Immigration and Naturalization Service” and inserting “U.S. Immigration and Customs Enforcement”; and

(3) in subsection (d), by inserting “or the Department of Homeland Security” after “Department of Justice”.

SEC. 5006. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act and the application of the provision or amendment to any other person or circumstance shall not be affected.

SEC. 5007. FUNDING.

(a) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify—

(1) the appropriation accounts which have unobligated funds that could be rescinded and used to fund the provisions of this Act; and
(2) the amount of the rescission that shall be applied to each such account.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury a report that describes the accounts and amounts determined and identified for rescission pursuant to subsection (a).

(e) EXCEPTIONS.—This section shall not apply to unobligated funds of—

(1) the Department of Homeland Security;
(2) the Department of Defense; or
(3) the Department of Veterans Affairs.

TITLE VI—TECHNICAL AMENDMENTS

SEC. 6001. REFERENCES TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).
SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 101.—

(1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as follows:

“(8) The term ‘Department’ means the Department of Homeland Security.”.

(2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (F)(i)—

(i) by striking the term “Attorney General” each place that term appears and inserting “Secretary”; and

(ii) by striking “214(l)” and inserting “214(m)”;

(B) in subparagraph (H)(i)—

(i) in subclause (b), by striking “certifies to the Attorney General that the intending employer has filed with the Secretary” and inserting “certifies to the Secretary of Homeland Security that the intending employer has filed with the Secretary of Labor”; and

(ii) in subclause (e), by striking “certifies to the Attorney General” and insert-
ing “certifies to the Secretary of Homeland Security”; and

(C) in subparagraph (M)(i), by striking the term “Attorney General” each place that term appears and inserting “Secretary”.

(3) Immigration Officer.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by striking “Service or of the United States designated by the Attorney General,” and inserting “Department or of the United States designated by the Secretary,”.

(4) Secretary.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as follows:

“(34) The term ‘Secretary’ means the Secretary of Homeland Security, except as provided in section 219(d)(4).”.

(5) Special Immigrant.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is amended by adding “; or” at the end.

(6) Managerial Capacity; Executive Capacity.—Section 101(a)(44)(C) (8 U.S.C. 1101(a)(44)(C)) is amended by striking “Attorney General” and inserting “Secretary”. 
(7) **ORDER OF REMOVAL.**—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended to read as follows:

“(A) The term ‘order of removal’ means the order of the immigration judge, or other such administrative officer to whom the Attorney General or the Secretary has delegated the responsibility for determining whether an alien is removable, concluding that the alien is removable or ordering removal.”

(8) **TITLE I AND II DEFINITIONS.**—Section 101(b) (8 U.S.C. 1101(b)) is amended—

(A) in paragraph (1)(F)(i), by striking “Attorney General” and inserting “Secretary”; and

(B) in paragraph (4), by striking “Immigration and Naturalization Service.” and inserting “Department.”

(b) **SECTION 103.**—

(1) **IN GENERAL.**—Section 103 (8 U.S.C. 1103) is amended by striking the section heading and subsection (a)(1) and inserting the following:

“**SEC. 103. POWERS AND DUTIES.**

“(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of
aliens, except insofar as this Act or such laws relate to the powers, functions, and duties conferred upon the President, the Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers. A determination and ruling by the Attorney General with respect to all questions of law shall be controlling.”.

(2) Technical and Conforming Corrections.—Section 103 (8 U.S.C. 1103), as amended by paragraph (1), is further amended—

(A) in subsection (a)—

(i) in paragraph (2), by striking “He” and inserting “The Secretary”;

(ii) in paragraph (3)—

(I) by striking “He” and inserting “The Secretary”;

(II) by striking “he” and inserting “the Secretary”; and

(III) by striking “his authority” and inserting “the authority of the Secretary”;

(iii) in paragraph (4)—
(I) by striking “He” and inserting “The Secretary”; and

(II) by striking “Service or the Department of Justice” and insert the “Department”; 

(iv) in paragraph (5)—

(I) by striking “He” and inserting “The Secretary”;

(II) by striking “his discretion,” and inserting “the discretion of the Secretary,” and

(III) by striking “him” and inserting “the Secretary”;

(v) in paragraph (6)—

(I) by striking “He” and inserting “The Secretary”;

(II) by striking “Department” and inserting “agency, department,”;

and

(III) by striking “Service.” and inserting “Department or upon consular officers with respect to the granting or refusal of visas”; 

(vi) in paragraph (7)—
(I) by striking “He” and inserting “The Secretary”;

(II) by striking “countries;” and inserting “countries”;

(III) by striking “he” and inserting “the Secretary”; and

(IV) by striking “his judgment” and inserting “the judgment of the Secretary”;

(vii) in paragraph (8), by striking “Attorney General” and inserting “Secretary”;

(viii) in paragraph (10), by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(ix) in paragraph (11), by striking “Attorney General,” and inserting “Secretary,”;

(B) by amending subsection (c) to read as follows:

“(c) Secretary; Appointment.—The Secretary shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be charged with any and all responsibilities and authority in the adminis-
tration of the Department and of this Act. The Secretary may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “Commissioner” and inserting “Secretary”; and

(ii) in paragraph (2), by striking “Service” and inserting “U.S. Citizenship and Immigration Services”;

(D) in subsection (f)—

(i) by striking “Attorney General” and inserting “Secretary”;

(ii) by striking “Immigration and Naturalization Service” and inserting “Department”; and

(iii) by striking “Service,” and inserting “Department,”; and


(E)
(3) Clerical Amendment.—The table of contents in the first section is amended by striking the item relating to section 103 and inserting the following:

“Sec. 103. Powers and duties.”.

(c) Section 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking “Commissioner” each place that term appears and inserting “Secretary”.

SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting “the Secretary or” after “the authority of”.

(b) Section 203.—Section 203 (8 U.S.C. 1153) is amended—

(1) in subsection (b)(2)(B)(ii)—

(A) in subclause (II)—

(i) by inserting “the Secretary or” before “the Attorney General”; and

(ii) by moving such subclause 4 ems to the left; and

(B) by moving subclauses (III) and (IV) 4 ems to the left; and

(2) in subsection (f) (as redesignated by section 4003(a)(2))—
(A) by striking “Secretary’s” and inserting
“Secretary of State’s”; and
(B) by inserting “of State” after “but the
Secretary”.

(c) SECTION 204.—Section 204 (8 U.S.C. 1154) is
amended—

(1) in subsection (a)(1)(G)(ii), by inserting “of
State” after “by the Secretary”;
(2) in subsection (c), by inserting “the Sec-
retary or” before “the Attorney General” each place
that term appears; and
(3) in subsection (e), by inserting “to” after
“admitted”.

(d) SECTION 208.—Section 208 (8 U.S.C. 1158) is
amended—

(1) in subsection (a)(2)—
(A) by inserting “the Secretary or” before
“Attorney General” in subparagraph (A);
(B) by inserting “the Secretary or” before
“Attorney General” in subparagraph (D);
(2) in subsection (b)(2)—
(A) in subparagraph (B)(ii), by inserting
“the Secretary or” before “Attorney General”;
(B) in subparagraph (C), by inserting “the
Secretary or” before “Attorney General”; and
(C) in subparagraph (D), by inserting “the Secretary or” before “Attorney General”.  

(3) in subsection (e)—  

(A) in paragraph (1), by striking “the Attorney General” and inserting “the Secretary”;  

(B) in paragraphs (2) and (3), by inserting “the Secretary or” before “Attorney General” each place that term appears; and  

(4) in subsection (d)—  

(A) in paragraph (1), by inserting “the Secretary or” before “the Attorney General”,  

(B) in paragraph (2), by striking “Attorney General” and inserting “Secretary”;  

(C) in paragraph (3)—  

(i) by striking “Attorney General” each place that term appears and inserting “Secretary”; and  

(ii) by striking “Attorney General’s” and inserting “Secretary’s”; and  

(D) in paragraphs (4) through (6), by inserting “the Secretary or” before “the Attorney General”; and  

(e) Section 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking “Secretary of
Homeland Security or the Attorney General” each place that term appears and inserting “Secretary”.

(f) Section 212.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)—

(A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting “, the Secretary,” before “or the Attorney General” each place that term appears;

(B) in paragraph (3)—

(i) in subparagraph (B)(ii)(II), by inserting “, the Secretary,” before “or the Attorney General” each place that term appears; and

(ii) in subparagraph (D), by inserting “the Secretary or” before “the Attorney General” each place that term appears;

(C) in paragraph (4)—

(i) in subparagraph (A), by inserting “the Secretary or” before “the Attorney General”; and

(ii) in subparagraph (B), by inserting “, the Secretary,” before “or the Attorney General” each place that term appears;
(D) in paragraph (5)(C), by striking “or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General” and inserting “or, in the case of an adjustment of status, the Secretary or the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Secretary”;

(E) in paragraph (9)—

(i) in subparagraph (B)(v)—

(I) by inserting “or the Secretary” after “Attorney General” each place that term appears; and

(II) by striking “has sole discretion” and inserting “have discretion”;

and

(ii) in subparagraph (C)(iii), by inserting “or the Attorney General” after “Secretary of Homeland Security”; and
(F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking “Secretary’s” and inserting “Secretary of State’s”;

(2) in subsection (d), in paragraphs (11) and (12), by inserting “or the Secretary” after “Attorney General” each place that term appears;

(3) in subsection (e), by striking the first proviso and inserting the following: “Provided, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency (or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of the Secretary after the Secretary has determined that departure from the United States would impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his or her nationality or last residence because the alien would be subject to persecution on account of race, religion, or political opinion, the Secretary may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Secretary
to be in the public interest except that in the case of a waiver requested by a State Department of Public Health, or its equivalent, or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii), the waiver shall be subject to the requirements under section 214(l):’’;

(4) in subsections (g), (h), (i), and (k), by inserting ‘‘or the Secretary’’ after ‘‘Attorney General’’ each place that term appears;

(5) in subsection (m)(2)(E)(iv), by inserting ‘‘of Labor’’ after ‘‘Secretary’’ the second and third place that term appears;

(6) in subsection (n), by inserting ‘‘of Labor’’ after ‘‘Secretary’’ each place that term appears, except that this amendment shall not apply to references to the ‘‘Secretary of Labor’’; and

(7) in subsection (s), by inserting ‘‘, the Secretary,’’ before ‘‘or the Attorney General’’.

(g) Section 213A.—Section 213A (8 U.S.C. 1183a) is amended—

(1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting ‘‘, the Secretary,’’ after ‘‘the Attorney General’’; and
(2) in subsection (f)(6)(B), by inserting “the Secretary,” after “The Secretary of State,”.

(h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter preceding clause (i), by striking “before”.

(i) SECTION 217.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (e)(3)(A), by inserting a comma after “Regulations”; 

(2) in subsection (f)(2)(A), by striking “section (c)(2)(C),” and inserting “subsection (c)(2)(C),”; and

(3) in subsection (h)(3)(A), by striking “the alien” and inserting “an alien”.

(j) SECTION 218.—Section 218 (8 U.S.C. 1188) is amended—

(1) by inserting “of Labor” after “Secretary” each place that term appears, except that this amendment shall not apply to references to the “Secretary of Labor” or to the “Secretary of Agriculture”; 

(2) in subsection (e)(3)(B)(iii), by striking “Secretary’s” and inserting “Secretary of Labor’s”; and
(3) in subsection (g)(4), by striking “Secretary’s” and inserting “Secretary of Agriculture’s”.

(k) SECTION 219.—Section 219 (8 U.S.C. 1189) is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a close parenthesis after “section 212(a)(3)(B)”; and

(B) by striking the close parenthesis before the semicolon;

(2) in subsection (c)(3)(D), by striking “(2),” and inserting“(2);”;

and

(3) in subsection (d)(4), by striking “the Secretary of the Treasury” and inserting “the Secretary of Homeland Security, the Secretary of the Treasury,”.

(l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

(1) by inserting “or the Secretary” after “Secretary of State” each place that term appears; and

(2) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting “, the Department,” after “Department of State”; and

(B) in paragraph (2), by striking “Secretary’s” and inserting “their”.

(m) **SECTION 231.**—Section 231 (8 U.S.C. 1221) is amended—

(1) in subsection (c)(10), by striking “Attorney General,” and inserting “Secretary,”;

(2) in subsection (f), by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(3) in subsection (g)—

(A) by striking “Attorney General” each places that term appears and inserting “Secretary”; and

(B) by striking “Commissioner” each place that term appears and inserting “Secretary”;

(4) in subsection (h), by striking “Attorney General” each place that term appears and inserting “Secretary”.

(n) **SECTION 236.**—Section 236(e) (8 U.S.C. 1226(e)) is amended—

(1) by striking “review.” and inserting “review, other than administrative review by the Attorney General pursuant to the authority granted under section 103(g).”; and

(2) by inserting “the Secretary or” before “the Attorney General under”.
(o) SECTION 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking “Deputy Attorney General” both places that term appears and inserting “Deputy Secretary of Homeland Security”.

(p) SECTION 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting “following the initiation by the Secretary of removal proceedings” after “upon the order of the Attorney General”; and

(2) in paragraph (2)(E), in the subparagraph heading, by striking “, CRIMES AGAINST CHILDREN AND” and inserting “; CRIMES AGAINST CHILDREN”.

(q) SECTION 238.—Section 238 (8 U.S.C. 1228) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney General” each place that term appears; and

(2) in subsection (e) (as redesignated by section 1703(a)(4))—
(A) by striking “Commissioner” each place that term appears and inserting “Secretary”; (B) by striking “Attorney General” each place that term appears and inserting “Secretary”; and (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United States Attorney”.

(r) Section 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting “and the Secretary” after “Attorney General” each place that term appears.

(s) Section 240.—Section 240 (8 U.S.C. 1229a) is amended— (1) in subsection (b)— (A) in paragraph (1), by inserting “, with the concurrence of the Secretary with respect to employees of the Department” after “Attorney General”; and (B) in paragraph (5)(A), by inserting “the Secretary or” before “the Attorney General”; and (2) in subsection (c)— (A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before “to be confidential”; and
(B) in paragraph (7)(C)(iv)(I), by striking “240A(b)(2)” and inserting “section 240A(b)(2)”.

(t) SECTION 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—

(1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”; and

(2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”.

(u) SECTION 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3), by inserting “or the Secretary” after “Attorney General” each place that term appears.

(v) SECTION 241.—Section 241 (8 U.S.C. 1231) is amended—

(1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after “(L)”;

(2) in subsection (g)(2)—

(A) by striking the paragraph heading and inserting “DETENTION FACILITIES OF THE DEPARTMENT OF HOMELAND SECURITY.—”; and

(B) by striking “Service, the Commissioner” and inserting “Department, the Secretary”.
(w) **SECTION 242.**—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting “the Secretary or” before “the Attorney General”.

(x) **SECTION 243.**—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in subsection (b)(1)—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(2) by striking “Commissioner” each place that term appears and inserting “Secretary”.

(y) **SECTION 244.**—Section 244 (8 U.S.C. 1254a) is amended—

(1) in subsection (c)(2), by inserting “or the Secretary” after “Attorney General” each place the term appears; and

(2) in subsection (g), by inserting “or the Secretary” after “Attorney General”.

(z) **SECTION 245.**—Section 245 (8 U.S.C. 1255) is amended—

(1) by inserting “or the Secretary” after “Attorney General” each place that term appears except in subsections (j) (other than the first reference), (l), and (m);

(2) in subsection (k)(1), adding an “and” at the end; and
(3) in subsection (l)—

(A) in paragraph (1), by inserting a comma after “appropriate”; and

(B) in paragraph (2)—

(i) in the matter preceding paragraph (1), by striking “Attorney General’s” and inserting “Secretary’s”; and

(ii) in subparagraph (B), by striking “(10(E))” and inserting “(10)(E))”.

(aa) SECTION 245A.—Section 245A (8 U.S.C. 1255a) is amended—

(1) in subsection (c)(7), by striking subparagraph (C); and

(2) in subsection (h)—

(A) in paragraph (4)(C), by striking “The” and inserting “The”; and

(B) in paragraph (5), by striking “(Public Law 96–122),” and inserting “(8 U.S.C. 1522 note),”.

(bb) SECTION 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary”; and

(2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
(cc) Section 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking “Commissioner” each place that term appears and inserting “Secretary”.

(dd) Section 255.—Section 255 (8 U.S.C. 1285) is amended by striking “Commissioner” each place that term appears and inserting “Secretary”.

(ee) Section 256.—Section 256 (8 U.S.C. 1286) is amended—

(1) by striking “Commissioner” each place that term appears and inserting “Secretary”;

(2) in the first and second sentences, by striking “Attorney General” each place that term appears and inserting “Secretary”.

(ff) Section 258.—Section 258 (8 U.S.C. 1288) is amended—

(1) by inserting “of Labor” after “Secretary” each place that term appears (except for in subsection (e)(2)), except that this amendment shall not apply to references to the “Secretary of Labor”, “the Secretary of State”;

(2) in subsection (d)(2)(A), by striking “at” after “while”; and

(3) in subsection (e)(2), by striking “the Secretary shall” and inserting “the Secretary of State shall”.
Section 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking “Attorney General is” and inserting “Attorney General and the Secretary are”.

Section 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each place that term appears and inserting “Secretary”.

Section 273.—Section 273 (8 U.S.C. 1323) is amended—

(1) by striking “Commissioner” each place that term appears and inserting “Secretary”; and

(2) by striking “Attorney General” each place that term appears (except in subsection (e), in the matter preceding paragraph (1)) and inserting “Secretary”.

Section 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking “Secretary of the Treasury” and inserting “Secretary”.

Section 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking “subsection” and inserting “section”.

Section 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting “or the Secretary” after “subsection (a), the Attorney General”.


(mm) **SECTION 274D.**—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking “Commissioner” and inserting “Secretary”.

(nn) **SECTION 286.**—Section 286 (8 U.S.C. 1356) is amended—

(1) in subsection (q)(1)(B), by striking “, in consultation with the Secretary of the Treasury,”;

(2) in subsection (r)(2), by striking “section 245(i)(3)(b)” and inserting “section 245(i)(3)(B)”; and

(3) in subsection (s)(5)—

(A) by striking “5 percent” and inserting “USE OF FEES FOR DUTIES RELATING TO PETITIONS.—Five percent”; and

(B) by striking “paragraph (1) (C) or (D) of section 204” and inserting “subparagraph (C) or (D) of section 204(a)(1)”.

(oo) **SECTION 294.**—Section 294 (8 U.S.C. 1363a) is amended—

(1) in subsection (a), in the undesignated matter following paragraph (4), by striking “Commissioner, in consultation with the Deputy Attorney General,” and inserting “Secretary”; and

(2) in subsection (d), by striking “Deputy Attorney General” and inserting “Secretary”.
SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 316.—Section 316 (8 U.S.C. 1427) is amended—

(1) in subsection (d), by inserting “or by the Secretary” after “Attorney General”; and

(2) in subsection (f)(1), by striking “Intelligence, the Attorney General and the Commissioner of Immigration” and inserting “Intelligence and the Secretary”.

(b) Section 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

(1) by inserting “is” before “(or,”; and

(2) by striking “is” before “a citizen”.

(c) Section 342.—

(1) Section heading.—

(A) In general.—Section 342 (8 U.S.C. 1453) is amended by striking the section heading and inserting “CANCELLATION OF CERTIFICATES; ACTION NOT TO AFFECT CITIZENSHIP STATUS”.

(B) Clerical amendment.—The table of contents in the first section is amended by striking the item relating to section 342 and inserting the following:

“Sec. 342. Cancellation of certificates; action not to affect citizenship status.”.
(2) In general.—Section 342 (8 U.S.C. 1453) is amended—

(A) by striking “heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General”; and

(B) by striking “practiced upon, him or the Commissioner or a Deputy Commissioner;”.

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.

(a) Section 504.—Section 504 (8 U.S.C. 1534) is amended—

(1) in subsection (a)(1)(A), by striking “a” before “removal proceedings”; 

(2) in subsection (i), by striking “Attorney General” inserting “Government”; and

(3) in subsection (k)(2), by striking “by”.

(b) Section 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting “and the Secretary” after “Attorney General”. 
SEC. 6007. OTHER AMENDMENTS.

(a) Correction of Commissioner of Immigration and Naturalization.—

(1) In general.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as amended by this Act, is further amended by striking “Commissioner” and “Commissioner of Immigration and Naturalization” each place those terms appear and inserting “Secretary”.

(2) Exception for Commissioner of Social Security.—The amendment made by paragraph (1) shall not apply to any reference to the “Commissioner of Social Security”.

(b) Correction of Bureau of Citizenship and Immigration Services.—Section 451(a)(1) of the Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is amended by striking “a bureau to be known as the ‘Bureau of Citizenship and Immigration Services’” and inserting “an agency to be known as the ‘United States Citizenship and Immigration Services’, the headquarters of which shall be in the same State as the office of the Secretary.”.

(c) Correction of Immigration and Naturalization Service.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Service” and “Immigration and
Naturalization Service” each place those terms appear and inserting “Department”.

(d) CORRECTION OF DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Department of Justice” each place that term appears and inserting “Department”.

(2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

(A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

(B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

(C) title V (8 U.S.C. 1531 et seq.).

(e) CORRECTION OF ATTORNEY GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as amended by this Act, is further amended by striking “Attorney General” each place that term appears and inserting “Secretary”, except for in the following:

(1) Any joint references to the “Attorney General and the Secretary of Homeland Security” or “the Secretary of Homeland Security and the Attorney General”.

(2) Section 101(a)(5).
(3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

(4) Section 101(a)(47)(A).

(5) Section 101(b)(4).

(6) Subsections (a)(1) and (g) of section 103.

(7) Subsections (b)(1) and (c) of section 105.

(8) Section 204(e).

(9) Section 208.

(10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

(11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

(12) Section 212(a)(9)(C)(iii).

(13) Paragraphs (11) and (12) of section 212(d).

(14) Subsections (g), (h), (i), (k), and (s) of section 212.

(15) Subsections (a)(1) and (f)(6)(B) of section 213A.

(16) Section 216(d)(2)(e).

(17) Section 219(d)(4).


(19) The second sentence of section 236(e).

(20) Section 237.
(21) Paragraphs (1), (3), and (4)(A) of section 238(a).

(22) Paragraphs (1) and (5) of section 238(b).

(23) Section 238(c)(2)(D)(iv).

(24) Subsections (a) and (b) of section 239.

(25) Section 240.

(26) Section 240A.

(27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.


(29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the amendment shall apply).

(30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).

(31) Section 242(a)(2)(B).

(32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).

(33) Section 242(g).

(34) Subsections (a)(3)(C), (e)(2), (e), and (g) of section 244.

(35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first reference to the Attorney General in subsection 245(j)).
(36) Section 245A(a)(1)(A).
(37) Section 246(a).
(38) Section 249.
(39) Section 264(f).
(40) Section 274(e).
(41) Section 274A.
(42) Section 274B.
(43) Section 274C.
(44) Section 292.
(45) Subsections (d) and (f)(1) of section 316.
(46) Section 342.
(47) Section 412(f)(1)(A).
(48) Title V (except for subsections 506(a)(1) and 507(b), (e), and (d) (first reference), to which the amendment shall apply).

SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

(a) Repeals.—

(1) Immigration and Naturalization Service.—

(A) In general.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter 552; 8 U.S.C. 1551) is repealed.

(B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8 of
the United States Code shall be removed from
the compilation of such title 8.

(2) COMMISSIONER OF IMMIGRATION AND NAT-
URALIZATION; OFFICE.—

(A) IN GENERAL.—Section 7 of the Act of
March 3, 1891 (26 Stat. 1085, chapter 551; 8
U.S.C. 1552) is repealed.

(B) 8 U.S.C. 1552.—The language of the
compilers set out in section 1552 of title 8 of
the United States Code shall be removed from
the compilation of such title 8.

(3) ASSISTANT COMMISSIONERS AND DISTRICT
DIRECTOR; COMPENSATION AND SALARY GRADE.—
Title II of the Department of Justice Appropriation
1553) is amended, in the matter under the heading
“Immigration and Naturalization Service” and
under the subheading “SALARIES AND EX-
PENSES”, by striking “That the compensation of
the five assistant commissioners and one district di-
rector shall be at the rate of grade GS–16: Provided
further”.

(4) SPECIAL IMMIGRANT INSPECTORS AT WASH-
INGTON.—The Act of March 2, 1895 (28 Stat. 780,
chapter 177; 8 U.S.C. 1554) is amended in the mat-
ter following the heading “Bureau of Immigration:” by striking “That hereafter special immigrant inspectors, not to exceed three, may be detailed for duty in the Bureau at Washington: And provided further,”.

(b) Rule of Construction.—Nothing in this title may be construed to repeal or limit the applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and 552) with respect to any provision of law or matter not specifically addressed by the amendments made by this title.

SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.

Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by striking “Commissioner of Immigration” and inserting “Secretary of Homeland Security”.