H.R. 11

To amend the Immigration Services and Infrastructure Improvements Act of 2000 to provide for additional rules regarding processing of immigration applications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CÁRDENAS introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Immigration Services and Infrastructure Improvements Act of 2000 to provide for additional rules regarding processing of immigration applications, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Case Backlog and Transparency Act of 2020”.

1 2 3 4 5
SEC. 2. PURPOSES.

Section 202 of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1571) is amended—

(1) in paragraph (1)—

(A) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”;

(B) by striking “current backlog” and inserting “backlog”; and

(C) by striking “within 1 year after enactment of this Act”; and

(2) in paragraph (2), by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”.

SEC. 3. DEFINITIONS.

Section 203 of such Act (8 U.S.C. 1572) is amended to read as follows:

“SEC. 203. DEFINITIONS.

“In this title:

“(1) ACTIVE SUSPENSE.—The term ‘active suspense’ means circumstances in which the Department of Homeland Security cannot adjudicate an immigration benefit application due to factors outside of the Department’s control, including any circumstance in which a visa number is unavailable, or
circumstances in which the government is waiting
for a response from the applicant or a third govern-
ment agency.

“(2) BACKLOG.—The term ‘backlog’ means the
existence of a number of immigration benefit appli-
cations that are pending before the Department out-
side of applicable processing time goals, minus those
applications in an active suspense category. The De-
partment cannot assign a processing time goal that
is longer than a maximum processing timeframe set
forth in section 202 of the American Competitive-
‘Backlog’ may also be referred to as ‘net backlog’.

“(3) CASE COMPLETE PER HOUR RATE.—The
term ‘case completion per hour rate’ refers to the
average amount of adjudicative time, as measured in
hours, required to complete processing of a par-
ticular category of immigration benefit application.

“(4) GROSS BACKLOG.—The term ‘gross back-
log’ means the number of immigration benefit appli-
cations that are pending before the Department out-
side of applicable processing time goals, irrespective
of whether the applications are in an active suspense
category.
``(5) IMMIGRATION BENEFIT APPLICATION.—

The term ‘immigration benefit application’ means any application or petition to confer, certify, change, adjust, or extend any status authorized under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and any other application or petition for an immigration benefit.

``(6) PROCESSING TIME.—The term ‘processing time’ means the time from the filing of an immigration benefit application until the completed processing of that application.

``(7) PROCESSING TIME GOAL.—The term ‘processing time goal’ means the the goal for a processing time established by the Department as an appropriate processing time for an immigration benefit application form type. The Department cannot assign a processing time goal that is longer than a maximum processing timeframe set forth in section 202 of the American Competitiveness in the Twenty-first Century Act of 2000.”.

SEC. 4. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS ACCOUNT.

Section 204 of such Act (8 U.S.C. 1573) is amended—
(1) in subsection (a), by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; 

(2) in subsection (a)(1), by striking “not later than one year after the date of enactment of this Act”; 

(3) in subsection (a)(2), by striking “ensure that a backlog does not develop after such date” and inserting “prevent the recurrence of the backlog after its elimination”; and 

(4) in subsection (b)(1)—

(A) by striking “Department of Justice” and inserting “Department of Homeland Security”; and 

(B) by striking “Attorney General” and inserting “Secretary of Homeland Security”.

SEC. 5. REPORTS TO CONGRESS.

Section 205 of such Act (8 U.S.C. 1574) is amended to read as follows:

“SEC. 205. REPORTS TO CONGRESS.

“(a) QUARTERLY REPORT.—

“(1) IN GENERAL.—Not later than 90 days after each of the first three quarters of each fiscal year, the Secretary shall publish on the Department’s website and submit to the Committees on the
Judiciary, Appropriations, and Oversight and Government Reform of the House of Representatives, and to the Committees on the Judiciary, Appropriations, and Homeland Security and Governmental Affairs of the Senate, a report concerning the backlog in immigration benefit applications as of the end of that fiscal quarter.

“(2) REPORT ELEMENTS.—The report shall include—

“(A) the number of pending immigration benefit applications, the net backlog, and the gross backlog;

“(B) a description of the active suspense categories and the number of cases pending in each category; and

“(C) the average processing time for each benefit application form type and any change in that time relative to the end of the prior quarter.

“(b) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than 90 days after the end of each fiscal year the Secretary shall publish on its website and submit to the Committees on the Judiciary, Appropriations, and Oversight and Government Reform of the House of Representa-
tives, and to the Committees on the Judiciary, Appropriations, and Homeland Security and Governmental Affairs, a report concerning the status of—

“(A) the Immigration Services and Infrastructure Improvements Account as of the end of the fiscal year, including any unobligated balances of appropriations in the Account; and

“(B) the backlog in immigration benefit applications as of the end of the fiscal year.

“(2) Report elements.—The report shall include—

“(A) an analysis of factors contributing to the net and gross backlogs, including a detailed assessment of the impacts of Department policies on the net and gross backlogs;

“(B) a description of existing and planned processes for qualitatively and quantitatively assessing the impacts on the net and gross backlogs of Department policies both prior to and following implementation of those policies;

“(C) an assessment of adherence to processes referenced in subparagraph (B);

“(D) existing efforts to eliminate the net backlog and minimize the gross backlog;
“(E) a detailed plan to eliminate the net backlog, to prevent recurrence of the net backlog after elimination, and to minimize the gross backlog;

“(F) a description of existing and planned quality controls for ensuring fair, accurate, and consistent adjudication of immigration benefit applications;

“(G) information on Department funding, including—

“(i) an assessment of how and to what extent funding, both from fee accounts and appropriations, was allocated toward backlog elimination;

“(ii) the identification of any transfers of funds between fee accounts and between Department components;

“(iii) description of whether immigration-related fees were used consistent with legal requirements regarding such use; and

“(iv) an estimate of the amount of appropriated funds that would be necessary to eliminate the net backlog;

“(H) whether immigration-related questions conveyed by applicants, petitioners, bene-
ficiaries, or authorized representatives to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently;

“(I)(i) the information referenced under subsection (a)(2) as of the end of the fiscal year;

“(ii) a description of any changes to processing time goals made in the two years prior to the annual report and how those changes impact calculations of the net and gross backlogs;

“(iii) processing time goals for each benefit application form type and the percentage of cases for which the Department completed processing within each goal;

“(iv) State-by-State data on the number of naturalization applications, the number of adjustment of status applications, and the overall number of immigration benefit applications, pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

“(v) Cease completion rates per hour for each benefit application type;
“(vi) the number of all immigration benefit applications received, and processed, by the Department, both in the aggregate and as disaggregated by benefit application type; and

“(vii) the approval and denial rates associated with the processed cases referenced under subclause (iv), disaggregated by immigration benefit application type;

“(J) State-by-State data on—

“(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

“(ii) the average processing time for naturalization applications;

“(iii) estimated processing times adjudicating newly submitted naturalization applications; and

“(iv) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications; and

“(K) a status report on all other immigration benefit application form types, including—
“(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

“(ii) petitions for nonimmigrant visas under section 204;

“(iii) petitions filed under section 204 to classify aliens as immediate relatives or preference immigrants under section 1153 of this title;

“(iv) applications for asylum under section 208;

“(v) registrations for temporary protected status under section 244;

“(vi) applications for employment authorization under section 274A; and

“(vii) the additional resources and process changes needed to eliminate the backlog for all immigration benefit application form types under this subparagraph.

“(c) BIENNIAL REPORT.—

“(1) IN GENERAL.—Not later than one year after the date on which this section is enacted, and every two years thereafter, the Comptroller General of the United States shall publish on its website and submit to the Committees on the Judiciary, Appro
priations, and Oversight and Government Reform of the House of Representatives, and to the Commit-
tees on the Judiciary, Appropriations, and Homeland Security and Governmental Affairs of the Sen-
ate, a report concerning the backlog in immigration benefit applications.

“(2) REPORT ELEMENTS.—The report shall in-
clude—

“(A) a description of the status of the net backlog, of the gross backlog, and of the overall number of pending immigration benefit applic-
ations;

“(B) an assessment of factors contributing to the net and gross backlogs, including an analysis of the impacts of Department policies on the net and gross backlogs and an analysis of the Department’s formal processes for qual-
tatively and quantitatively assessing the impacts of its policies on the net and gross backlogs;

“(C) an assessment of existing and planned Department efforts to eliminate the net backlog, to prevent recurrence of the net back-
log after its elimination, and to minimize the gross backlog;
“(D) an assessment of existing and planned Department efforts to ensure fair, accurate, and consistent adjudication of immigration benefit applications; and

“(E) recommendations for more expeditiously processing immigration benefit applications while ensuring fairness, accuracy, and consistency in processing.”.

SEC. 6. IMMIGRATION FUNCTIONS.

(a) IN GENERAL.—Section 478 of the Homeland Security Act of 2002 (6 U.S.C. 298) is amended to read as follows:

“SEC. 478. SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.

“It is the sense of Congress that—

“(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect;

“(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date; and

“(3) the Secretary cannot assign a processing time goal that is longer than a maximum processing
timeframe set forth in section 202 of the American Competitiveness in the Twenty-first Century Act of 2000”.

(b) CLERICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended in the table of contents by striking the item relating to section 478 and inserting the following:

“Sec. 478. Sense of Congress regarding Immigration Services.”.