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AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for enhanced border security, including strong border security metrics and congressional votes on border security and for other purposes.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

AMENDMENT NO.	1200
By	Paul
To provide for	enhanced border security, including strong border security metrics and congressional votes on border security and for other purposes.
Referred to the	S. 744
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AMENDMENT intended to be proposed by Mr. PAUL

Viz:

1 At the appropriate place in title I, insert the fol-
2 lowing:

3 **CHAPTER ____—BORDER SECURITY**
4 **ENHANCEMENTS**

5 **SEC. 1 ____ 1. SHORT TITLE.**

6 This chapter may be cited as the “Trust But Verify
7 Act of 2013”

8 **SEC. 1 ____ 2. MEASURES USED TO EVALUATE BORDER SECU-**
9 **RITY.**

10 (a) BORDER SECURITY REVIEW.—

1 (1) IN GENERAL.—The Secretary shall conduct
2 an annual comprehensive review of the following:

3 (A) The security conditions in each of the
4 following 9 Border Patrol sectors along the
5 Southwest border:

6 (i) The Rio Grande Valley Sector.

7 (ii) The Laredo Sector.

8 (iii) The Del Rio Sector.

9 (iv) The Big Bend Sector.

10 (v) The El Paso Sector.

11 (vi) The Tucson Sector.

12 (vii) The Yuma Sector.

13 (viii) The El Centro Sector.

14 (ix) The San Diego Sector.

15 (B) Update on the new and existing double
16 layered fencing built and in place, broken down
17 on an annual basis since the date of the enact-
18 ment of the Secure Fence Act of 2006 (Public
19 Law 109–367), with the goal of completing the
20 fence not later than 5 years after the date of
21 the enactment of this Act.

22 (C) Progress towards the completion of an
23 effective exit and entry program at all points of
24 entry that tracks visa holders.

1 (D) Progress towards the goal of a 95 per-
2 cent apprehension or turn back rate.

3 (E) A 100 percent incarceration until trial
4 rate for newly captured illegal entrants and
5 overstays.

6 (F) Progress towards the goal ending of il-
7 legal immigration and undocumented presence,
8 as measured by census data and the Depart-
9 ment.

10 (2) REPORT.—Not later than July 1, 2014, and
11 annually thereafter, the Secretary shall submit a re-
12 port to Congress containing specific results of the
13 review conducted under paragraph (1).

14 (3) RULE OF CONSTRUCTION.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), nothing in paragraph (1)
17 may be construed as prohibiting the Secretary
18 from proposing—

19 (i) alterations to boundaries of the
20 Border Patrol sectors; or

21 (ii) a different number of sectors to be
22 operated on the Southern border.

23 (B) REPORTING.—The Secretary may not
24 make any alteration to the Border Patrol sec-
25 tors in operation or the boundaries of such sec-

tors as of the date of the enactment of this Act unless the Secretary submits, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, a written notification and description of the proposed change not later than 120 days before any such change would take effect.

(b) UNQUALIFIED OPINION.—

(1) IN GENERAL.—The Secretary shall submit a report to Congress that contains—

(A) an unqualified opinion of whether each of the sectors referred to in subsection (a)(1)(A) has achieved “total operational control” of the border within its jurisdiction; and

(B) the following criteria and goals of the Department:

(i) Transparent data relating to the success of border security and immigration enforcement policies.

(ii) Improved accountability to the people of the United States.

(iii) 100 percent surveillance capability on the border not later than 2 years after the date of the enactment of this Act.

1 (iv) An apprehension or turn back
2 rate of 95 percent or higher not later than
3 5 years after the date of the enactment of
4 this Act.

5 (v) Increasing annual targets for ap-
6 prehensions, which shall be adapted to the
7 unique conditions of each Border Patrol
8 sector.

9 (vi) Uniformity in data collection and
10 analysis for each Border Patrol sector.

11 (vii) An update on the new and exist-
12 ing double layered fencing built and in
13 place, broken down on an annual basis
14 since the date of the enactment of the Se-
15 cure Fence Act of 2006.

16 (2) TOTAL OPERATIONAL CONTROL DEFINED.—
17 In this chapter, the term “total operational control”,
18 with respect to a border sector, occurs if—

19 (A) the fence construction requirements re-
20 quired under this chapter have been completed;

21 (B) the infrastructure enhancements re-
22 quired under this chapter have been completed
23 and deployed;

1 (C) there have been verifiable increases in
2 personnel dedicated to patrols, inspections, and
3 interdiction;

4 (D) U.S. Customs and Border Protection
5 has achieved 100 percent surveillance capacity
6 and uninterrupted monitoring throughout the
7 entire sector;

8 (E) U.S. Customs and Border Protection
9 has achieved an apprehension rate of at least
10 95 percent for all attempted unauthorized
11 crossings;

12 (F) uniform data collection standards have
13 been adopted across all sectors; and

14 (G) U.S. Customs and Border Protection
15 is tracking the exits of 100 percent of outbound
16 aliens through all points of entry.

17 (3) METRICS DESCRIBED.—The Secretary shall
18 use specific metrics to assess the progress toward,
19 and maintenance of, total operational control of the
20 border in each Border Patrol sector, including—

21 (A) with respect to resources and infra-
22 structure—

23 (i) a description of the infrastructure
24 and resources deployed on the Southwest
25 border, including physical barriers and

1 fencing, surveillance cameras, motion and
2 other ground sensors, aerial platforms, and
3 unmanned aerial vehicles;

4 (ii) an assessment of the Border Pa-
5 trol's ability to perform uninterrupted sur-
6 veillance on the entirety of the border with-
7 in each sector;

8 (iii) an assessment of whether the De-
9 partment of Homeland Security has at-
10 tained a 100 percent surveillance capability
11 for each sector; and

12 (iv) a specific analysis detailing the
13 miles of fence built, including double-lay-
14 ered fencing, pursuant to the Secure Fence
15 Act of 2006 (Public Law 109-367), as
16 amended by this Act.

17 (B) with respect to illegal entries between
18 ports—

19 (i) the number of attempted illegal en-
20 tries, categorized by—

21 (I) number of apprehensions;

22 (II) people turned back to coun-
23 try of origin (turn-backs); and

24 (III) individuals who have es-
25 caped (got aways);

1 (ii) the number of apprehensions, in-
2 cluding data on unique apprehensions to
3 capture individuals who attempted to enter
4 multiple times;

5 (iii) the apprehension rate as a per-
6 centage of total attempted illegal entries;

7 (iv) an estimate of the total number
8 of successful illegal entries, based on reli-
9 able supporting evidence;

10 (v) the prevalence of drug and contra-
11 band smuggling, categorized by—

12 (I) the frequency of attempted
13 crossings;

14 (II) successful evasions of law en-
15 forcement;

16 (III) the value of smuggled con-
17 traband;

18 (IV) successful discoveries and
19 arrests; and

20 (V) arrest rate trends related to
21 violent criminals crossing the border;

22 (vi) physical evidence of crossings not
23 otherwise tied to a pursuit, including
24 fence-cuttings; and

1 (vii) transparent data that reports if
2 the numbers include actual physical cap-
3 ture or turn-backs witnessed by border en-
4 forcement and a segregation of data that
5 includes evidence of individuals going back,
6 including but not limited to footprints,
7 food and torn clothing;

8 (C) with respect to illegal entries at
9 ports—

10 (i) the number of attempted illegal en-
11 tries, categorized by the number of appre-
12 hensions, turn-backs, and got aways;

13 (ii) the number of apprehensions, in-
14 cluding data on unique apprehensions to
15 capture individuals who attempt to enter
16 multiple times;

17 (iii) the apprehension rate as a per-
18 centage of total attempted illegal entries;

19 (iv) an estimate of the number of suc-
20 cessful illegal entries, based on reliable
21 supporting evidence; and

22 (v) the prevalence of drug and contra-
23 band smuggling, categorized by—

24 (I) the frequency of attempted
25 entries;

1 (II) successful discovery methods;

2 (III) the use of falsified official

3 travel documents;

4 (IV) evolving evasion tactics; and

5 (V) arrest rate trends related to

6 persons apprehended attempting to

7 smuggle prohibited items;

8 (D) with respect to repeat offenders—

9 (i) data and analysis of recidivism

10 trends, including the prevalence of multiple

11 arrests and repeated attempts to enter un-

12 lawfully; and

13 (ii) updated information on U.S. Cus-

14 toms and Border Protection's Consequence

15 Delivery System;

16 (E) with respect to smuggling—

17 (i) progress made in creating uni-

18 formity in the punishment of unlawful bor-

19 der crossers relative to their crimes for the

20 purposes of deterring smuggling;

21 (ii) the percentage of unlawful immi-

22 grants and smugglers who are subject to a

23 uniform punishment; and

24 (iii) data breaking down the treatment

25 of, and consequences for, repeat offenders

1 to determine the extent to which the Con-
2 sequence Delivery System serves as an ef-
3 fective deterrent;

4 (F) with respect to visa overstays, data for
5 each year, categorized by—

6 (i) the type of visa issued to the alien;
7 and

8 (ii) the nationality of the alien;

9 (G) with respect to the unlawful presence
10 of aliens—

11 (i) the total number of individuals
12 present in the United States, which will be
13 correlated in future years with normaliza-
14 tion participants;

15 (ii) net migration into the United
16 States, including legal and illegal immi-
17 grants, categorized by—

18 (I) nationality; and

19 (II) country of origin, if different
20 from nationality;

21 (iii) deportation data, categorized by
22 country and the nature of apprehension;

23 (iv) individuals who have obtained or
24 who seek legal status; and

1 (v) individuals without legal status
2 who have died while in the United States;

3 (H) the number of Department agents de-
4 ployed to the border each year, categorized by
5 staffing assignment and security function;

6 (I) progress made on the implementation
7 of full exit tracking capabilities for land, sea,
8 and air points of entry;

9 (J) progress towards the goal of 100 per-
10 cent incarceration until trial date for newly cap-
11 tured illegal entrants and overstays;

12 (K) progress towards the goal of ending il-
13 legal immigration and undocumented presence,
14 as measured by data collected by the United
15 States Census Bureau and the Department;
16 and

17 (L) progress towards eliminating disputes
18 between Federal agencies in the use of public
19 lands to perform border enforcement oper-
20 ations.

21 **SEC. 1___3. REPORTS ON BORDER SECURITY.**

22 (a) DEPARTMENT OF HOMELAND SECURITY RE-
23 PORT.—

24 (1) IN GENERAL.—Not later than July 1, 2014,
25 and annually thereafter for 5 years, the Secretary

1 shall submit a report to Congress that contains a
2 comprehensive review of the security conditions in
3 each of the Border Patrol sectors along the South-
4 west border.

5 (2) PUBLIC HEARINGS FOR REPORT.—Congress
6 shall hold public hearings with the Secretary and
7 other individuals responsible for preparing the report
8 submitted under paragraph (1) to discuss the report
9 and educate the United States public on border se-
10 curity from the perspective of such officials. Con-
11 gress shall allow differing views on the conclusions
12 of the report to be expressed by outside groups and
13 interested parties for purposes of analyzing data
14 through a transparent and deliberative committee
15 process.

16 (b) INSPECTOR GENERAL'S REPORT.—

17 (1) IN GENERAL.—Not later than 30 days after
18 the issuance of each report under subsection (a), the
19 Inspector General of the Department shall submit a
20 report to Congress that provides an independent
21 analysis of the report submitted under subsection
22 (a)(1) to analyze—

23 (A) the accuracy of the report; and

24 (B) the validity of the data used by the
25 Department to issue the report.

1 (2) PARTICIPATION.—The Inspector General
2 should participate in any hearings relating to the as-
3 sessment of the border security report of the De-
4 partment.

5 (c) GOVERNORS REPORTS.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, and annually
8 thereafter for 5 years, the Governor of each of the
9 States along the Southern border may submit an
10 independent report to Congress that provides the
11 perspective of the Governor and other officials of
12 such State tasked to law enforcement on the security
13 conditions along that State's border with Mexico.

14 (2) PUBLIC HEARINGS FOR STATE REPORTS.—
15 Congress shall hold public hearings with the Gov-
16 ernor and other officials from each State that sub-
17 mits a report under paragraph (1) to discuss the re-
18 port and educate the United States public on border
19 security from the perspective of such officials.

20 (d) PUBLIC DISCLOSURE OF REPORTS.—Upon the
21 receipt of a report submitted under this section, the Sen-
22 ate and the House of Representatives shall—

23 (1) provide copies of the report to the Chair
24 and ranking member of each standing committee
25 with jurisdiction under the rules of such House, the

1 Speaker of the House of Representatives, the Minor-
2 ity Leader of the House of Representatives, the Ma-
3 jority Leader of the Senate, and the Minority Lead-
4 er of the Senate; and

5 (2) make the report available to the public.

6 **SEC. 1___4. CONGRESSIONAL APPROVAL PROCEDURES.**

7 (a) JOINT RESOLUTION DEFINED.—

8 (1) IN GENERAL.—In this subsection, the term
9 “joint resolution” means only a joint resolution of
10 the 2 Houses of Congress that only includes—

11 (A) the matter contained in the preamble
12 set forth in paragraph (2); and

13 (B) the matter after the resolving clause
14 set forth in paragraph (3).

15 (2) PREAMBLE.—The joint resolution shall in-
16 clude the following preamble:

17 “Whereas Congress passed and the President enacted
18 into law section 1___6 of the Trust But Verify Act of
19 2013, with the promise to the American people that the
20 border would be fully secure within 5 years;

21 “Whereas, one goal of comprehensive immigration re-
22 form was to verify that the United States Government is
23 capable of implementing operational control of the border;

24 “Whereas the prerequisite to reforming visa law and
25 the creation of new immigration and visa categories was

1 the implementation of full border security within a reason-
2 able amount of time; and

3 “Whereas the American people have been the subject
4 of broken promises in the past on border security: Now,
5 therefore, be it”.

6 (3) MATTER AFTER THE RESOLVING CLAUSE.—

7 The matter after the resolving clause in the joint
8 resolution shall read as follows: “It is the sense of
9 Congress that the United States border is secure be-
10 cause—

11 “(1) the double-layered fencing is on schedule
12 to be completed in 5 years and sufficient progress
13 has been made in the past year to complete such
14 fencing on the schedule promised to the American
15 people;

16 “(2) an effective exit-entry registration system
17 at all points of entry that tracks visa holders is ei-
18 ther completed or sufficiently completed to the satis-
19 faction of Congress;

20 “(3) the goal of a 95 percent effectiveness rate
21 for the capture of unauthorized immigrants has been
22 achieved, or is on pace to be achieved, not later than
23 5 years after the date of the enactment of the Trust
24 But Verify Act of 2013;

1 “(4) the security conditions in each of the 9
2 Border Patrol sectors along the Southwest border
3 have been achieved, or are on pace to be achieved
4 not later than 5 years after the date of the enact-
5 ment of the Trust But Verify Act of 2013, as deter-
6 mined by total operational control metric set forth in
7 section 1____2 of such Act;

8 “(5) a 100 percent incarceration rate until trial
9 for newly captured illegal entrants and overstayers
10 has been implemented;

11 “(6) progress towards the goal of ending illegal
12 immigration and undocumented presence has been
13 achieved, as measured by data collected by the
14 United States Census Bureau and the Department;
15 and

16 “(7) sections 245B of the Immigration and Na-
17 tionality Act, as added by section 2101 of the Bor-
18 der Security, Economic Opportunity, and Immigra-
19 tion Modernization Act, will not compromise border
20 security and shall remain in effect for at least 1
21 more year notwithstanding section 1____5 of the
22 Trust But Verify Act of 2013.”.

23 (b) PROCEDURES FOR CONSIDERING RESOLU-
24 TIONS.—

25 (1) INTRODUCTION.—A joint resolution—

1 (A) may be introduced in the Senate or in
2 the House of Representatives during the 30-day
3 calendar day period beginning on—

4 (i) July 1, 2014;

5 (ii) July 1 of any of the following 4
6 years; or

7 (iii) 30 days after date on which the
8 report is submitted under section
9 1____3(a) if such submission occurs before
10 July 1 of a calendar year;

11 (B) in the Senate, may be introduced by
12 any Member of the Senate;

13 (C) in the House of Representatives, may
14 be introduced by any Member of the House of
15 Representatives; and

16 (D) may not be amended.

17 (2) REFERRAL TO COMMITTEE.—A joint resolu-
18 tion introduced in the Senate shall be referred to the
19 Committee on Homeland Security and Governmental
20 Affairs of the Senate. A joint resolution introduced
21 in the House of Representatives shall be referred to
22 the Committee on Homeland Security of the House
23 of Representatives.

24 (3) DISCHARGE OF COMMITTEE.—If the con-
25 gressional committee to which a joint resolution is

1 referred has not discharged the resolution at the end
2 of 30th day after its introduction—

3 (A) such committee shall be discharged
4 from further consideration of such resolution;
5 and

6 (B) such resolution shall be placed on the
7 appropriate calendar of the House involved.

8 (4) FLOOR CONSIDERATION.—

9 (A) MOTION.—

10 (i) IN GENERAL.—After the com-
11 mittee to which a joint resolution is re-
12 ferred has reported, or has been discharged
13 pursuant to paragraph (3) from further
14 consideration of, the joint resolution—

15 (I) it is in order (even though a
16 previous motion to the same effect has
17 been disagreed to) for any Member of
18 the respective House to move to pro-
19 ceed to the consideration of the joint
20 resolution; and

21 (II) all points of order against
22 the joint resolution (and against con-
23 sideration of the joint resolution) are
24 waived;

1 (III) the motion described in sub-
2 clause (I) is highly privileged in the
3 House of Representatives and is privi-
4 leged in the Senate and is not debat-
5 able;

6 (IV) the motion described in sub-
7 clause (I) is not subject to amend-
8 ment, a motion to postpone, or a mo-
9 tion to proceed to the consideration of
10 other business; and

11 (V) a motion to reconsider the
12 vote by which the motion is agreed to
13 or disagreed to shall not be in order.

14 (ii) UNFINISHED BUSINESS.—If a mo-
15 tion to proceed to the consideration of the
16 joint resolution is agreed to, the resolution
17 shall remain the unfinished business of the
18 respective House until it has been dis-
19 posed.

20 (B) DEBATE.—Debate on the joint resolu-
21 tion, and on all debatable motions and appeals
22 in connection with such resolution, shall be lim-
23 ited to not more than 10 hours, which shall be
24 divided equally between those favoring and
25 those opposing the joint resolution. A motion

1 further to limit debate is in order and not de-
2 batable. An amendment to, or a motion to post-
3 pone, or a motion to proceed to the consider-
4 ation of other business, or a motion to recom-
5 mit the joint resolution is not in order. A mo-
6 tion to reconsider the vote by which the joint
7 resolution is agreed to or disagreed to is not in
8 order.

9 (C) VOTE ON FINAL PASSAGE.—Imme-
10 diately following the conclusion of the debate on
11 a joint resolution, and a single quorum call at
12 the conclusion of the debate if requested in ac-
13 cordance with the rules of the appropriate
14 House, the vote on final passage of the joint
15 resolution shall occur.

16 (D) RULINGS OF THE CHAIR ON PROCE-
17 DURE.—Appeals from the decisions of the Chair
18 relating to the application of the rules of the
19 Senate or the House of Representatives, as ap-
20 plicable, to the procedure relating to a joint res-
21 olution shall be decided without debate.

22 (5) COORDINATION WITH ACTION BY OTHER
23 HOUSE.—If 1 House receives a joint resolution from
24 the other House before the House passes a joint res-
25 olution—

1 (A) the joint resolution of the other House
2 shall not be referred to a committee; and

3 (B) with respect to a joint resolution of the
4 House receiving the resolution—

5 (i) the procedures in that House shall
6 be the same as if no joint resolution had
7 been received from the other House; except
8 that

9 (ii) the vote on final passage shall be
10 on the joint resolution of the other House.

11 (6) RULES OF HOUSE OF REPRESENTATIVES
12 AND SENATE.—This subsection is enacted by Con-
13 gress—

14 (A) as an exercise of the rulemaking power
15 of the Senate and House of Representatives, re-
16 spectively, and as such—

17 (i) it is deemed a part of the rules of
18 each House, respectively;

19 (ii) it is only applicable with respect
20 to the procedures to be followed in that
21 House in the case of a joint resolution; and

22 (iii) it supersedes other rules only to
23 the extent that it is inconsistent with such
24 rules; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change the rules
3 (so far as relating to the procedure of that
4 House) at any time, in the same manner, and
5 to the same extent as in the case of any other
6 rule of that House.

7 **SEC. 1___5. CONDITIONS.**

8 (a) YEAR 1.—Except as provide in section 1___6,
9 section 245B of the Immigration and Nationality Act, as
10 added by section 2101 of this Act, shall cease to have ef-
11 fect beginning on December 31, 2014, unless Congress en-
12 acts a joint resolution pursuant to section 1___4 during
13 the 1-year period ending on such date.

14 (b) YEAR 2.—Except as provided in section 1___6,
15 section 245B of the Immigration and Nationality Act, as
16 added by section 2101 of this Act, shall cease to have ef-
17 fect beginning on December 31, 2015, unless Congress en-
18 acts a joint resolution pursuant to section 1___4 during
19 the 1-year period ending on such date.

20 (c) YEAR 3.—Except as provided in section 1___6,
21 section 245B of the Immigration and Nationality Act, as
22 added by section 2101 of this Act, shall cease to have ef-
23 fect beginning on December 31, 2016, unless Congress en-
24 acts a joint resolution pursuant to section 1___4 during
25 the 1-year period ending on such date.

1 (d) YEAR 4.—Except as provided in section 1____6,
2 section 245B of the Immigration and Nationality Act, as
3 added by section 2101 of this Act, shall cease to have ef-
4 fect beginning on December 31, 2017, unless Congress en-
5 acts a joint resolution pursuant to section 1____4 during
6 the 1-year period ending on such date.

7 (e) YEAR 5.—Except as provided in section 1____6,
8 section 245B of the Immigration and Nationality Act, as
9 added by section 2101 of this Act, shall cease to have ef-
10 fect beginning on December 31, 2018, unless Congress en-
11 acts a joint resolution pursuant to section 1____4 during
12 the 1-year period ending on such date.

13 (f) STATUS OF REGISTERED PROVISIONAL IMMI-
14 GRANTS.—If section 245B of the Immigration and Na-
15 tionality Act ceases to be effective pursuant to this sec-
16 tion—

17 (1) any alien who was granted registered provi-
18 sional immigrant status before the date such section
19 ceases to be effective shall remain in such status;
20 and

21 (2) any alien whose application for registered
22 provisional immigrant status is pending may not be
23 granted such status until such section is reinstated.

1 (g) RULES OF CONSTRUCTION.—Except as provided
2 in subsection (g), no provision of this section may be con-
3 strued—

4 (1) to limit the authority of the Secretary to re-
5 view and process applications for registered provi-
6 sional immigrant status under section 245B of the
7 Immigration and Nationality Act, as added by sec-
8 tion 2101 of this Act; or

9 (2) to repeal or limit the application of section
10 245B(c) of such Act.

11 (h) SUNSET.—Paragraphs (1) and (2) shall cease to
12 have effect on December 31, 2018, unless Congress enacts
13 a joint resolution pursuant to section 1____4 during 2018.

14 **SEC. 1____6. TRIGGERS BASED ON CONGRESSIONAL AP-**
15 **PROVAL.**

16 (a) YEAR 1.—If a joint resolution is enacted pursu-
17 ant to section 1____4 during 2014, the sunset provision
18 set forth in section 1____5(a) shall have no further force
19 or effect.

20 (b) YEAR 2.—If a joint resolution is enacted pursu-
21 ant to section 1____4 during 2015, the sunset provision
22 set forth in section 1____5(b) shall have no further force
23 or effect.

24 (c) YEAR 3.—If a joint resolution is enacted pursuant
25 to section 1____4 during 2016, the sunset provision set

1 forth in section 1____5(e) shall have no further force or
2 effect.

3 (d) YEAR 4.—If a joint resolution is enacted pursu-
4 ant to section 1____4 during 2017, the sunset provision
5 set forth in section 1____5(d) shall have no further force
6 or effect.

7 (e) YEAR 5.—If a joint resolution is enacted pursuant
8 to section 1____4 during 2018, the sunset provision set
9 forth in section 1____5(e) shall have no further force or
10 effect.

11 **SEC. 1____7. REQUIREMENT FOR PHYSICAL BORDER FENCE**
12 **CONSTRUCTION.**

13 (a) CONSTRUCTION OF BORDER FENCING.—

14 (1) FIRST YEAR.—Except as provided in sub-
15 section (d), during the 1-year period beginning on
16 the date of the enactment of this Act, the Secretary
17 shall construct not fewer than 100 miles of double-
18 layer fencing on the Southern border.

19 (2) SUBSEQUENT YEARS.—During each of the
20 first 4 1-year periods immediately following the 1-
21 year period described in paragraph (1), the Sec-
22 retary shall construct not fewer than 150 miles of
23 double-layer fencing on the Southern border.

24 (b) CERTIFICATION.—Except as provided in sub-
25 section (d), not later than 1 year after the date of the

1 enactment of this Act, and annually thereafter, the Sec-
2 retary shall submit a written certification that construc-
3 tion of the double-layer fencing required under subsection
4 (a) has been completed during the preceding year to—

5 (1) the Committee on the Judiciary of the Sen-
6 ate;

7 (2) the Committee on Homeland Security and
8 Governmental Affairs of the Senate;

9 (3) the Committee on the Judiciary of the
10 House of Representatives; and

11 (4) the Committee on Homeland Security of the
12 House of Representatives.

13 (c) DETERMINATION OF MILES OF FENCING CON-
14 STRUCTED.—

15 (1) INCLUDED ITEMS.—In determining the
16 number of fencing miles constructed in the preceding
17 year, the Secretary may apply, toward the require-
18 ment under subsection (a), the number of miles of—

19 (A) new double-layer fencing that have
20 been completed; and

21 (B) a second fencing layer that has been
22 added to an existing, single-layered fence.

23 (2) EXCLUDED ITEMS.—In determining the
24 number of fencing miles constructed in the preceding

1 year, the Secretary may not apply, toward the re-
2 quirement in subsection (a)—

3 (A) vehicle barriers;

4 (B) ground sensors;

5 (C) motion detectors;

6 (D) radar-based surveillance;

7 (E) thermal imaging;

8 (F) aerial surveillance platforms;

9 (G) observation towers;

10 (H) motorized or nonmotorized ground pa-
11 trols;

12 (I) existing single-layer fencing; or

13 (J) new construction of single-layer fenc-
14 ing.

15 (d) SUNSET.—The Secretary shall no longer be re-
16 quired to comply with the requirements under subsection
17 (a) and (b) on the earliest of—

18 (1) the date on which the Secretary submits the
19 5th affirmative certification pursuant to subsection
20 (b); or

21 (2) the date on which the Secretary certifies the
22 completion of not fewer than 700 miles of double-
23 layer fencing on the Southern border.

24 (e) CONFORMING AMENDMENT.—Section 102(b)(1)
25 of the Illegal Immigration Reform and Immigrant Respon-

1 sibility Act of 1996 (8 U.S.C. 1103 note) is amended by
2 striking subparagraph (D).

3 **SEC. 1__ 8. ONE HUNDRED PERCENT EXIT TRACKING FOR**
4 **ALL UNITED STATES VISITORS.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Consistent with the Illegal Immigration Re-
8 form and Immigrant Responsibility Act of 1996, the
9 United States will continue its progress toward full
10 biometric entry-exit capture capability at land, air,
11 and sea points of entry.

12 (2) No capability exists to fully track whether
13 non-United States persons in the United States on
14 a temporary basis have exited the country consistent
15 with the terms of their visa, whether by land, sea,
16 or air.

17 (3) No program exists along the Southwest bor-
18 der to track land exits from the United States into
19 Mexico.

20 (4) Without the ability to capture the full cycle
21 of an alien's trip into and out of the United States,
22 it is possible for persons to remain in the United
23 States unlawfully for years without detection by U.S.
24 Immigration and Customs Enforcement.

1 (5) Because there is no exit tracking capability,
2 there is insufficient data for an official assessment
3 of the number of persons who have overstayed a visa
4 and that remain in the United States. Studies have
5 estimated that as many as 40 percent of all persons
6 in the United States without lawful immigration sta-
7 tus entered the country legally and did not return to
8 their country of origin or follow the terms of their
9 entry.

10 (6) Despite a legal mandate to track alien exits,
11 more than a decade without any significant capa-
12 bility to do so has—

13 (A) degraded the Federal Government's
14 ability to enforce immigration laws;

15 (B) placed a greater strain on law enforce-
16 ment resources; and

17 (C) undermined the legal immigration
18 process in the United States.

19 (b) REQUIREMENT FOR OUTBOUND TRAVEL DOCU-
20 MENT CAPTURE AT LAND POINTS OF ENTRY.—

21 (1) OUTBOUND TRAVEL DOCUMENT CAPTURE
22 AT FOOT CROSSINGS.—

23 (A) IN GENERAL.—Not later than 1 year
24 after the date of the enactment of this Act, the
25 Secretary shall establish a mandatory exit data

1 system for all outbound lanes at each land point
2 of entry along the Southern border that is only
3 accessible to individuals on foot or by non-
4 motorized means.

5 (B) DATA COLLECTION REQUIREMENTS.—

6 The system established under subparagraph (A)
7 shall require the collection of data from ma-
8 chine-readable visas, passports, and other travel
9 and entry documents for all categories of aliens
10 who are exiting the United States through an
11 outbound lane described in subparagraph (A).

12 (2) OUTBOUND TRAVEL DOCUMENT CAPTURE
13 AT ALL OTHER LAND POINTS OF ENTRY.—

14 (A) IN GENERAL.—Not later than 2 years
15 after the date of the enactment of this Act, the
16 Secretary shall establish a mandatory exit data
17 system at all outbound lanes not subject to
18 paragraph (1) at each land point of entry along
19 the Southern border.

20 (B) DATA COLLECTION REQUIREMENTS.—

21 The system established under subparagraph (A)
22 shall require the collection of data from ma-
23 chine-readable visas, passports, and other travel
24 and entry documents for all categories of aliens

1 who are exiting the United States through an
2 outbound lane described in subparagraph (A).

3 (3) INFORMATION REQUIRED FOR COLLEC-
4 TION.—While collecting information under para-
5 graphs (1) and (2), the Secretary shall collect iden-
6 tity-theft resistant departure information from the
7 machine-readable visas, passports, and other travel
8 and entry documents.

9 (4) RECORDING OF EXITS AND CORRELATION
10 TO ENTRY DATA.—The Secretary shall integrate the
11 records collected under paragraphs (1) and (2) into
12 the interoperable data system established under sec-
13 tion 3303(b) and any other database necessary to
14 correlate an alien's entry and exit data.

15 (5) PROCESSING OF RECORDS.—Before the de-
16 parture of outbound aliens at each point of entry,
17 the Secretary shall provide for cross-reference capa-
18 bility between databases designated by the Secretary
19 under paragraph (4) to determine and record wheth-
20 er an outbound alien has been in the United States
21 without lawful immigration status.

22 (6) RECORDS INCLUSION REQUIREMENTS.—The
23 Secretary shall maintain readily accessible entry-exit
24 data records for immigration and other law enforce-
25 ment and improve immigration control and enforce-

1 ment by including information necessary to deter-
2 mine whether an outbound alien without lawful pres-
3 ence in the United States entered the country
4 through—

5 (A) unauthorized entry between points of
6 entry;

7 (B) visa or other temporary authorized
8 status;

9 (C) fraudulent travel documents;

10 (D) misrepresentation of identity; or

11 (E) any other method of entry.

12 (7) PROHIBITION ON COLLECTING EXIT
13 RECORDS FOR UNITED STATES CITIZENS.—

14 (A) PROHIBITION.—While documenting
15 the departure of outbound individuals at each
16 point of entry along the Southern border, the
17 Secretary may not—

18 (i) process travel documents of United
19 States citizens;

20 (ii) log, store, or transfer exit data for
21 United States citizens;

22 (iii) create, maintain, operate, access,
23 or support any database containing infor-
24 mation collected through outbound proc-
25 essing at a point of entry under paragraph

1 (1) or (2) that contains records identifiable
2 to an individual United States citizen.

3 (B) EXCEPTION.—The prohibition set
4 forth in subparagraph (A) does not apply to the
5 records of an individual if an officer processing
6 travel documentation in the outbound lanes at
7 a point of entry along the Southern border—

8 (i) has a strong suspicion that the in-
9 dividual has engaged in criminal or other
10 prohibited activities; or

11 (ii) needs to verify an individual's
12 identity because the individual is attempt-
13 ing to exit the United States without travel
14 documentation.

15 (C) VERIFICATION OF TRAVEL DOCU-
16 MENTS.—Subject to the prohibition set forth in
17 subparagraph (A), the Secretary may provide
18 for the confirmation of a United States citizen's
19 travel documentation validity in the outbound
20 lanes at a point of entry along the Southern
21 border.

22 (c) INFRASTRUCTURE IMPROVEMENTS AT LAND
23 POINTS OF ENTRY.—

24 (1) FACILITATION OF LAND EXIT TRACKING.—
25 The Secretary may improve the infrastructure at, or

1 adjacent to, land points of entry, as necessary, to
2 implement the requirements under paragraphs (1)
3 and (2) of subsection (b), by—

4 (A) expanding or reconfiguring outbound
5 road or bridge lanes within a point of entry;

6 (B) improving or reconfiguring public
7 roads or other transportation infrastructure
8 leading into, or adjacent to, the outbound lanes
9 at a point of entry if—

10 (i) there has been a demonstrated
11 negative impact on transportation in the
12 area adjacent to a point of entry as a re-
13 sult of projects carried out under this sec-
14 tion; or

15 (ii) the Secretary, in consultation with
16 State, local, or tribal officials responsible
17 for transportation adjacent to a point of
18 entry, has submitted a report to the Com-
19 mittee on Homeland Security and Govern-
20 mental Affairs of the Senate and the Com-
21 mittee on Homeland Security of the House
22 of Representatives that projects proposed
23 under this section will have a significant
24 negative impact on transportation adjacent

1 to a point of entry without such transpor-
2 tation infrastructure improvements; and

3 (iii) the total of funds obligated in any
4 year to improve infrastructure outside a
5 point of entry under subsection (c)(1) shall
6 not exceed 25 percent of the total funds
7 obligated to meet the requirements under
8 paragraphs (1) and (2) of subsection (b) in
9 the same year;

10 (C) constructing, expanding, or improving
11 access to secondary inspection areas, where fea-
12 sible;

13 (D) physical structures to accommodate in-
14 spections and processing travel documents de-
15 scribed in subsection (b)(3) for outbound aliens,
16 including booths or kiosks at exit lanes;

17 (E) transfer, installation, use, and mainte-
18 nance of computers, software or other network
19 infrastructure to facilitate capture and proc-
20 essing of travel documents described in sub-
21 section (b)(3) for all outbound aliens; and

22 (F) performance of outbound inspections
23 outside of secondary inspection areas at a point
24 of entry to detect suspicious activity or contra-
25 band.

1 (2) REPORT ON INFRASTRUCTURE REQUIRE-
2 MENTS TO CARRY OUT 100 PERCENT LAND EXIT
3 TRACKING.—Not later than 45 days after the date
4 of the enactment of this Act, the Secretary shall
5 submit, to the Committee on Homeland Security and
6 Governmental Affairs of the Senate and the Com-
7 mittee on Homeland Security of the House of Rep-
8 resentatives, a report that assesses the infrastruc-
9 ture needs for each point of entry along the South-
10 ern border to fulfill the requirements under sub-
11 section (b), including—

12 (A) a description of anticipated infrastruc-
13 ture needs within each point of entry;

14 (B) a description of anticipated infrastruc-
15 ture needs adjacent to each point of entry;

16 (C) an assessment of the availability of
17 secondary inspection areas at each point of
18 entry;

19 (D) an assessment of space available at or
20 adjacent to a point of entry to perform proc-
21 essing of outbound aliens;

22 (E) an assessment of the infrastructure de-
23 mands relative to the volume of outbound cross-
24 ings for each point of entry; and

1 (F) anticipated wait times for outbound in-
2 dividuals during processing of travel documents
3 at each point of entry, relative to possible im-
4 provements at the point of entry.

5 (d) PROCEDURES FOR EXIT PROCESSING AND IN-
6 SPECTION.—

7 (1) INDIVIDUALS SUBJECT TO OUTBOUND SEC-
8 ONDARY INSPECTION.—Officers performing out-
9 bound inspection or processing travel documents
10 may send an outbound individual to a secondary in-
11 spection area for further inspection and processing
12 if the individual is—

13 (A) determined or suspected to have been
14 in the United States without lawful status dur-
15 ing processing under subsection (b) or at an-
16 other point during the exit process;

17 (B) found to be subject to an outstanding
18 arrest warrant;

19 (C) suspected of engaging in prohibited ac-
20 tivities at the point of entry;

21 (D) traveling without travel documenta-
22 tion; or

23 (E) subject to any random outbound in-
24 spection procedures, as determined by the Sec-
25 retary.

1 (2) LIMITATIONS ON OUTBOUND SECONDARY
2 INSPECTIONS.—The Secretary may not designate an
3 outbound United States citizen for secondary inspec-
4 tion or collect biometric information from a United
5 States citizen under outbound inspection procedures
6 unless criminal or other prohibited activity has been
7 detected or is strongly suspected.

8 (3) OUTBOUND PROCESSING OF PERSONS IN
9 THE UNITED STATES WITHOUT LAWFUL PRES-
10 ENCE.—

11 (A) PROCESS FOR RECORDING UNLAWFUL
12 PRESENCE.—If the Secretary determines, at a
13 point of entry along the Southern border, that
14 an outbound alien has been in the United
15 States without lawful presence, the Secretary
16 shall—

17 (i) collect and record biometric data
18 from the individual;

19 (ii) combine data related to the indi-
20 vidual's unlawful presence with any other
21 information related to the individual in the
22 interoperable database, in accordance with
23 paragraphs (4) and (5) of subsection (b);
24 and

1 (iii) except as provided in subpara-
2 graph (B), permit the individual to exit the
3 United States.

4 (B) EXCEPTION.—An individual shall not
5 be permitted to leave the United States if, dur-
6 ing outbound inspection, the Secretary detects
7 previous unresolved criminal activity by the in-
8 dividual.

9 **SEC. 1__9. RULE OF CONSTRUCTION.**

10 Nothing in this Act, or amendments made by this
11 Act, may be construed as replacing or repealing the re-
12 quirements for biometric entry-exit capture required under
13 the Illegal Immigration Reform and Immigrant Responsi-
14 bility Act of 1996 (division C of Public Law 104–208).

15 **SEC. 1__10. STUDENT VISA NATIONAL SECURITY REG-**
16 **ISTRATION SYSTEM.**

17 (a) ESTABLISHMENT.—The Secretary shall establish
18 a Student Visa National Security Registration System (re-
19 ferred to in this section as the “System”).

20 (b) COUNTRIES REPRESENTED.—The System shall
21 include information about each alien in the United States
22 on a student visa from 1 of the following countries:

23 (1) Afghanistan.

24 (2) Algeria.

25 (3) Bahrain.

- 1 (4) Bangladesh.
- 2 (5) Egypt.
- 3 (6) Eritrea.
- 4 (7) Indonesia.
- 5 (8) Iran.
- 6 (9) Iraq.
- 7 (10) Jordan.
- 8 (11) Kuwait.
- 9 (12) Lebanon.
- 10 (13) Libya.
- 11 (14) Morocco.
- 12 (15) Nigeria.
- 13 (16) North Korea.
- 14 (17) Oman.
- 15 (18) Pakistan.
- 16 (19) Qatar.
- 17 (20) Russia.
- 18 (21) Saudi Arabia.
- 19 (22) Somalia.
- 20 (23) Sudan.
- 21 (24) Syria.
- 22 (25) Tunisia.
- 23 (26) United Arab Emirates.
- 24 (27) Yemen.

1 (c) REGISTRATION.—The Secretary shall notify each
2 alien from 1 of the countries listed under subsection (b)
3 who is seeking a student visa under subparagraph (F) or
4 (J) of section 101(a)(15) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1101(a)(15)) that the alien, not later
6 than 30 days after receiving a student visa, shall—

7 (1) register with the System, as part of the visa
8 application process; and

9 (2) be interviewed and fingerprinted by a De-
10 partment official.

11 (d) BACKGROUND CHECK.—The Secretary shall per-
12 form a background check on all aliens described in sub-
13 section (c) to ensure that such individuals do not present
14 a national security risk to the United States.

15 (e) MONITORING.—The Secretary shall establish a
16 procedure for monitoring the status of all alien students
17 in the United States on student visas.

18 (f) REPORTS.—

19 (1) INSPECTOR GENERAL.—The Secretary shall
20 submit an annual report to Congress that—

21 (A) describes the effectiveness with which
22 the Department is screening student visa appli-
23 cants through the System; and

24 (B) indicates whether the System has been
25 implemented in a manner that is overbroad or

1 results in the deportation of individuals with no
2 reasonable link to a national security threat or
3 perceived threat.

4 (2) CERTIFICATION AND NATIONAL SECURITY
5 REPORT.—

6 (A) IN GENERAL.—Not later than 180
7 days after the date of the enactment of this
8 Act, the Secretary shall submit a report to Con-
9 gress that—

10 (i) certifies that the System has been
11 implemented; and

12 (ii) describes the specific steps that
13 have been taken to prevent national secu-
14 rity failures in screening out terrorists
15 from using student visas to gain entry into
16 the United States.

17 (B) EFFECT OF NONCOMPLIANCE.—Begin-
18 ning on the date that is 181 days after the date
19 of the enactment of this Act, the Secretary shall
20 suspend the issuance of visas under subpara-
21 graphs (F) and (J) of section 101(a)(15) of the
22 Immigration and Nationality Act until the Sec-
23 retary has submitted the report described in
24 subparagraph (A).

1 (3) ANNUAL REPORT.—The Secretary shall
2 submit an annual report to Congress that contains—

3 (A) the number of students screened and
4 registered under the System during the past
5 year, broken down by country of origin; and

6 (B) the number of students deported dur-
7 ing the past year as a result of information
8 gathered during the interviews and background
9 checks conducted pursuant to subsections (c)(2)
10 and (d), broken down by country of origin.

11 **SEC. 1 ____ . 11. ASYLUM AND REFUGEE REFORM.**

12 (a) REGISTRATION.—The Secretary shall notify each
13 alien who is admitted as a refugee under section 207 of
14 the Immigration and Nationality Act (8 U.S.C. 1157) or
15 granted asylum under section 208 of such Act (8 U.S.C.
16 1158) that the alien, not later than 30 days after being
17 admitted as a refugee or granted asylum—

18 (1) shall register with the Department as part
19 of application process; and

20 (2) shall be interviewed and fingerprinted by an
21 official of the Department.

22 (b) BACKGROUND CHECK.—The Secretary shall
23 screen and perform a background check on all individuals
24 seeking asylum or refugee status under section 207 or 208
25 of the Immigration and Nationality Act to ensure that

1 such individuals do not present a national security risk
2 to the United States.

3 (c) MONITORING.—The Secretary shall monitor indi-
4 viduals granted asylum or admitted as refugees for indica-
5 tions of terrorism.

6 (d) REPORTS.—

7 (1) SECRETARY OF HOMELAND SECURITY.—
8 The Secretary shall submit an annual report to Con-
9 gress that—

10 (A) describes the effectiveness with which
11 the Department is screening applicants for asy-
12 lum and refugee status; and

13 (B) indicates whether the System has been
14 implemented in a manner that is overbroad or
15 results in the deportation of individuals with no
16 reasonable link to a national security threat or
17 perceived threat.

18 (2) CERTIFICATION AND NATIONAL SECURITY
19 REPORT.—

20 (A) IN GENERAL.—Not later than 180
21 days after the date of the enactment of this
22 Act, the Secretary shall submit a report to Con-
23 gress that—

1 (i) certifies that the requirements de-
2 scribed in subsections (a) through (c) have
3 been implemented; and

4 (ii) describes the specific steps that
5 have been taken to prevent national secu-
6 rity failures in screening out terrorists
7 from using asylum and refugee status to
8 gain entry into the United States.

9 (B) EFFECT OF NONCOMPLIANCE.—Begin-
10 ning on the date that is 181 days after the date
11 of the enactment of this Act, the Secretary shall
12 suspend the granting of asylum and refugee
13 status under sections 207 and 208 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1157 and
15 1158) until the Secretary has submitted the re-
16 port described in subparagraph (A).

17 (3) ANNUAL REPORT.—The Secretary shall
18 submit an annual report to Congress that contains—

19 (A) the number of aliens seeking asylum or
20 refugee status who were screened and registered
21 during the past year, broken down by country
22 of origin; and

23 (B) the number of aliens seeking asylum or
24 refugee status who were deported as a result of
25 information gathered during interviews and

1 background checks under subsections (a)(2)
2 and (b), broken down by country of origin.

3 **SEC. 1___12. RESOLUTION OF PUBLIC LAND USE DISPUTES**
4 **IMPEDING BORDER SECURITY AND EN-**
5 **FORCEMENT.**

6 (a) PROHIBITION.—The Secretary of Interior and the
7 Secretary of Agriculture may not impede, prohibit, re-
8 strict, or delay activities of the Secretary on land under
9 the jurisdiction of the Secretary of the Interior or the Sec-
10 retary of Agriculture to achieve total operational control
11 of the Southern border.

12 (b) AUTHORIZED ACTIVITIES.—The Secretary shall
13 be granted immediate access to land under the jurisdiction
14 of the Secretary of Interior or the Secretary of Agriculture
15 for purposes of conducting the following activities on such
16 land in accordance with the requirements under this Act:

17 (1) Installing and using ground and motion
18 sensors.

19 (2) Installing and using of surveillance equip-
20 ment, including—

21 (A) video or other recording devices;

22 (B) radar and infrared technology; and

23 (C) infrastructure to enhance border en-
24 forcement line-of-sight.

1 (3) Using aircraft and securing landing rights,
2 where appropriate, as determined by the Secretary.

3 (4) Using motorized vehicles to conduct routine
4 patrols and pursuits as required, including trucks
5 and all-terrain vehicles.

6 (5) Accessing roads.

7 (6) Constructing and maintaining roads.

8 (7) Constructing and maintaining fences or
9 other physical barriers.

10 (8) Constructing and maintaining communica-
11 tions infrastructure.

12 (9) Constructing and maintaining operations
13 centers.

14 (10) Setting up any other temporary tactical in-
15 frastructure.

16 (c) CLARIFICATION OF WAIVER AUTHORITY.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law (including any termination date re-
19 lating to the waivers referred to in this subsection),
20 the waiver by the Secretary on April 1, 2008, pursu-
21 ant to section 102(c)(1) of the Illegal Immigration
22 Reform and Immigrant Responsibility Act of 1996
23 (8 U.S.C. 1103 note; Public Law 104–208) of the
24 laws described in paragraph (2) with respect to cer-
25 tain sections of the Southern border shall be consid-

1 ered to apply to all land under the jurisdiction of the
2 Secretary of Interior or the Secretary of Agriculture
3 that is located within 100 miles of the Southern bor-
4 der for all activities of the Secretary described in
5 subsection (b).

6 (2) DESCRIPTION OF LAWS SUBJECT TO
7 WAIVED.—The laws referred to in paragraph (1)
8 are—

9 (A) the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4321 et seq.);

11 (B) the Endangered Species Act of 1973
12 (16 U.S.C. 1531 et seq.);

13 (C) the Federal Water Pollution Control
14 Act (33 U.S.C. 1251 et seq.);

15 (D) the National Historic Preservation Act
16 (16 U.S.C. 470 et seq.);

17 (E) the Migratory Bird Treaty Act (16
18 U.S.C. 703 et seq.);

19 (F) the Clean Air Act (42 U.S.C. 7401 et
20 seq.);

21 (G) the Archaeological Resources Protec-
22 tion Act of 1979 (16 U.S.C. 470aa et seq.);

23 (H) the Safe Drinking Water Act (42
24 U.S.C. 300f et seq.);

1 (I) the Noise Control Act of 1972 (42
2 U.S.C. 4901 et seq.);

3 (J) the Solid Waste Disposal Act (42
4 U.S.C. 6901 et seq.);

5 (K) the Comprehensive Environmental Re-
6 sponse, Compensation, and Liability Act of
7 1980 (42 U.S.C. 9601 et seq.);

8 (L) Public Law 86-523 (16 U.S.C. 469 et
9 seq.);

10 (M) the Act of June 8, 1906 (16 U.S.C.
11 431 et seq.) (commonly known as the "Antiq-
12 uities Act of 1906") ;

13 (N) the Act of August 21, 1935 (16
14 U.S.C. 461 et seq.);

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

17 (P) the Farmland Protection Policy Act (7
18 U.S.C. 4201 et seq.);

19 (Q) the Coastal Zone Management Act of
20 1972 (16 U.S.C. 1451 et seq.);

21 (R) the Wilderness Act (16 U.S.C. 1131 et
22 seq.);

23 (S) the Federal Land Policy and Manage-
24 ment Act of 1976 (43 U.S.C. 1701 et seq.);

1 (T) the National Wildlife Refuge System
2 Administration Act of 1966 (16 U.S.C. 668dd
3 et seq.);

4 (U) the Fish and Wildlife Act of 1956 (16
5 U.S.C. 742a et seq.);

6 (V) the Fish and Wildlife Coordination Act
7 (16 U.S.C. 661 et seq.);

8 (W) subchapter II of chapter 5, and chap-
9 ter 7, of title 5, United States Code (commonly
10 known as the "Administrative Procedure Act");

11 (X) the Otay Mountain Wilderness Act of
12 1999 (Public Law 106-145, 113 Stat. 1711);

13 (Y) sections 102(29) and 103 of California
14 Desert Protection Act of 1994 (16 U.S.C.
15 410aaa et seq.);

16 (Z) the National Park Service Organic Act
17 (16 U.S.C. 1 et seq.);

18 (AA) Public Law 91-383 (16 U.S.C. 1a-1
19 et seq.);

20 (BB) sections 401(7), 403, and 404 of the
21 National Parks and Recreation Act of 1978
22 (Public Law 95-625, 92 Stat. 3467);

23 (CC) the Arizona Desert Wilderness Act of
24 1990 (16 U.S.C. 1132 note; Public Law 101-
25 628);

1 (DD) section 10 of the Act of March 3,
2 1899 (33 U.S.C. 403);

3 (EE) the Act of June 8, 1940 (16 U.S.C.
4 668 et seq.) (commonly known as the “Bald
5 Eagle Protection Act of 1940)”;

6 (FF) the Native American Graves Protec-
7 tion and Repatriation Act (25 U.S.C. 3001 et
8 seq.);

9 (GG) Public Law 95-341 (42 U.S.C.
10 1996);

11 (HH) Public Law 103-141 (42 U.S.C.
12 2000bb et seq.);

13 (II) the Forest and Rangeland Renewable
14 Resources Planning Act of 1974 (16 U.S.C.
15 1600 et seq.);

16 (JJ) the Multiple-Use Sustained-Yield Act
17 of 1960 (16 U.S.C. 528 et seq.);

18 (KK) the Mineral Leasing Act (30 U.S.C.
19 181, et seq.);

20 (LL) the Materials Act of 1947 (30 U.S.C.
21 601 et seq.); and

22 (MM) the General Mining Act of 1872 (30
23 U.S.C. 22 note).

24 (d) NOTIFICATION REQUIREMENTS.—The Secretary
25 shall submit a monthly report to the Committee on Home-

1 land Security and Governmental Affairs of the Senate and
2 the Committee on Homeland Security of the House of
3 Representatives that—

4 (1) describes any public land use dispute raised
5 by another Federal agency;

6 (2) describes any other land conflict subject to
7 subsection (a) relating to border security operations
8 on public lands; and

9 (3) explains whether the waiver authority under
10 subsection (c) was exercised in regards to such dis-
11 pute or conflict.

12 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion may be construed to authorize—

14 (1) the restriction of legal land uses, including
15 hunting, grazing, and mining; or

16 (2) additional restriction on legal access to such
17 land.

18 **SEC. 1___13. SAVINGS AND OFFSETS.**

19 (a) USE OF FUNDS.—The Secretary may use
20 amounts from the Comprehensive Immigration Reform
21 Trust Fund made available under subparagraphs (A)(ii)
22 and (D) of section 6(a)(3)—

23 (1) to fulfill the requirement under section
24 1___8 for 100 percent exit tracking of outbound
25 aliens at land points of entry;

1 (2) to establish and maintain the Student Visa
2 National Security Registration System described in
3 section 1____10; and

4 (3) to reform the processing of applications for
5 asylum and refugee status pursuant to section
6 1____11.

7 (b) PROHIBITION.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), no funds may be obligated or expended
10 for the construction of a new headquarters for the
11 Department.

12 (2) EXCEPTION.—The prohibition under para-
13 graph (1) shall not apply if the Secretary certifies to
14 Congress that—

15 (A) total operational control of the South-
16 ern border has been achieved;

17 (B) 100 percent exit tracking for all
18 United States visitors at air, sea, and land
19 points of entry has been achieved;

20 (C) the Student Visa National Security
21 Visa Registration System is fully operational;
22 and

23 (D) reforms to asylum and refugee proc-
24 essing set forth in section 1____11 have been
25 fully implemented.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated \$1,000,000,000 to carry out
3 paragraphs (1) through (3) of subsection (a).

4 (d) RESCISSION OF CERTAIN UNOBLIGATED
5 FUNDS.—From discretionary funds appropriated to the
6 Department, but not obligated as of the date of the enact-
7 ment of this Act, \$1,000,000,000 is hereby rescinded.

8 **SEC. 1 ____ 14. IMMIGRATION LAW ENHANCEMENTS.**

9 (a) TRANSITION OF EXECUTIVE OFFICE FOR IMMI-
10 GRATION REVIEW.—

11 (1) ESTABLISHMENT OF COURT OF IMMIGRA-
12 TION REVIEW.—Title 28, United States Code, is
13 amended by inserting after chapter 7 the following:

14 **“CHAPTER 9—COURT OF IMMIGRATION**
15 **REVIEW**

16 **“§ 211. Establishment and appointment of judges**

17 “(a) ESTABLISHMENT.—There is established, under
18 article I of the Constitution of the United States, a court
19 of record, which shall be known as the United States
20 Court of Immigration Review.

21 “(b) JURISDICTION.—The Court of Immigration Re-
22 view shall have original, but not exclusive, jurisdiction over
23 all civil proceedings arising under the Immigration and
24 Nationality Act (8 U.S.C. 1101 et seq.) and is authorized

1 to implement orders issued by the Court, in cooperation
2 with the Department of Justice.

3 “(c) APPOINTMENT OF JUDGES.—The President
4 shall appoint, by and with the advice and consent of the
5 Senate, such judges as may be necessary to carry out the
6 duties of the Court of Immigration Review.

7 **“§ 212. Tenure and salaries of judges**

8 “(a) TENURE.—Each judge of the United States
9 Court of Immigration Review shall be appointed for a term
10 of 10 years.

11 “(b) SALARY.—Each judge shall receive a salary at
12 an annual rate determined in accordance with section 225
13 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.),
14 as adjusted by section 461 of this title.

15 **“§ 213. Times and places of holding court**

16 “The United States Court of Immigration Review
17 may hold court at such times and such places as it may
18 fix by rule of court.”.

19 (2) CONFORMING AMENDMENT TO HOMELAND
20 SECURITY ACT OF 2002.—Subtitle A of title XI of
21 the Homeland Security Act of 2002 (6 U.S.C. 521
22 et seq.) is amended—

23 (A) by striking the subtitle heading and in-
24 serting the following:

1 **“Subtitle A—United States Court of**
2 **Immigration Review”; and**

3 (B) by amending section 1101 (6 U.S.C.
4 521) to read as follows:

5 **“SEC. 1101. RESPONSIBILITIES OF UNITED STATES COURT**
6 **OF IMMIGRATION REVIEW.**

7 “The United States Court of Immigration Review, es-
8 tablished under chapter 9 of title 28, United States Code,
9 shall be responsible for interpreting and administering
10 Federal immigration laws by conducting immigration
11 court proceedings and appellate reviews of such pro-
12 ceedings, in cooperation with the Department of Justice.”.

13 (3) CONFORMING AMENDMENTS TO IMMIGRA-
14 TION AND NATIONALITY ACT.—Section 103 (8
15 U.S.C. 1103) is amended—

16 (A) in subsection (a)—

17 (i) by striking “He” each place it ap-
18 pears and inserting “The Secretary”;

19 (ii) by striking “the Service” each
20 place it appears and inserting “the Depart-
21 ment of Homeland Security”;

22 (B) in subsection (c)—

23 (i) by striking “The Commissioner
24 shall” and inserting “The Director, U.S.

1 Citizenship and Immigration Services,
2 shall”;

3 (ii) by striking “He” and inserting
4 “The Director”;

5 (iii) by striking “the Service” each
6 place it appears and inserting “U.S. Citi-
7 zenship and Immigration Services”; and

8 (iv) by striking “The Commissioner
9 may” and inserting “The Director may”;

10 (C) in subsections (d) and (e), by striking
11 “The Commissioner” and inserting “The Direc-
12 tor, U.S. Citizenship and Immigration Serv-
13 ices”;

14 (D) in subsection (e), by striking “the
15 Service” and inserting “U.S. Citizenship and
16 Immigration Services”; and

17 (E) in subsection (g), by amending para-
18 graph (1) to read as follows:

19 “(1) IN GENERAL.—The Attorney General shall
20 assist the Secretary of Homeland Security in enforc-
21 ing the provisions of this Act, in cooperation with
22 the United States Court of Immigration Review, es-
23 tablished under chapter 9 of title 28, United States
24 Code.”.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the immigration judges serving in the Executive
3 Office for Immigration Review on the day before the date
4 of the enactment of this Act, absent misconduct or other
5 compelling circumstances, should be—

6 (1) appointed by the President to serve on the
7 United States Court of Immigration Review, estab-
8 lished under chapter 29 of title 28, United States
9 Code; and

10 (2) confirmed by the Senate as soon as prac-
11 ticable, but in no case later than 1 year after such
12 date of enactment.

13 (c) CONTINUITY PROVISION.—All officers and em-
14 ployees of the Executive Office for Immigration Review
15 on the day before the date of the enactment of this Act,
16 absent misconduct or other compelling circumstances,
17 shall remain in their respective positions during the Of-
18 fice's transition to the United States Court of Immigration
19 Review.

20 (d) ENDING OF CAPTURE AND RELEASE.—The Sec-
21 retary may not release any individual arrested by the De-
22 partment for the violation of any immigration law before
23 the individual is duly tried by the United States Court
24 of Immigration Review unless the Secretary determines
25 that such arrests were made in error. Individuals arrested

1 or detained by the Department have the right to an expe-
2 dited proceeding to ensure that they are not detained with-
3 out a hearing for an excessive period of time.

4 **SEC. 1___15. PROTECTING THE PRIVACY OF AMERICAN**
5 **CITIZENS.**

6 (a) IN GENERAL.—Nothing in this Act, the amend-
7 ments made by this Act, or any other provision of law may
8 be construed as authorizing, directly or indirectly, the
9 issuance, use, or establishment of a national identification
10 card or system.

11 (b) LIMITATIONS ON IDENTIFICATION OF UNITED
12 STATES CITIZENS.—

13 (1) BIOMETRIC INFORMATION.—United States
14 citizens shall not be subject to any Federal or State
15 law, mandate, or requirement that they provide pho-
16 tographs or biometric information without prior
17 cause.

18 (2) PHOTO TOOL.—As used in this Act, the
19 term “Photo Tool” may not be construed to allow
20 the Federal Government to require United States
21 citizens to provide a photograph to the Federal Gov-
22 ernment, other than photographs for Federal em-
23 ployment identification documents and United
24 States passports.

1 (3) BIOMETRIC SOCIAL SECURITY CARDS.—Not-
2 withstanding section 3102, any other provision of
3 this Act, the amendments made by this Act, or any
4 other provision of law, the Federal Government may
5 not require United States citizens to carry, or to be
6 issued, a biometric social security card.

7 (4) CITIZEN REGISTRY.—Notwithstanding any
8 provision of this Act, the amendments made by this
9 Act, or any other law, the Federal Government is
10 not authorized to create a de facto national registry
11 of citizens.

12 (c) IDENTIFICATION OF NONCITIZENS.—The Federal
13 Government is authorized to require noncitizens, for iden-
14 tification purposes, to provide biometric identification, in-
15 cluding fingerprints, DNA, and Iris scans, and non-
16 biometric information, including photographs.

17 **SEC. 1__16. NUMERICAL LIMITATION ON REGISTERED**
18 **PROVISIONAL IMMIGRANTS.**

19 Notwithstanding any other provision of law, the Sec-
20 retary may not grant registered provisional immigrant sta-
21 tus under section 245B of the Immigration and Nation-
22 ality Act, as added by section 2101 of this Act, to more
23 than 2,000,000 applicants for such status in any calendar
24 year.