SA 1981. Ms. DUCKWORTH (for herself and Mr. MARKLEY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1982. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1899 proposed by Mr. GRAVEL, Mr. RICHARDSON, Mr. LANKFORD, Mr. COTTON, Mr. PERDUE, Mr. CORNYN, Mr. ALEXANDER, and Mr. ISAKSON to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1983. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1984. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1985. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1986. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1987. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1988. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1989. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1990. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1991. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1992. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1993. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1994. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1995. Ms. HETTKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1996. Ms. HETTKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1997. Ms. HETTKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1998. Ms. HETTKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 1999. Ms. HETTKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2000. Ms. KOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2001. Ms. KOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2002. Mr. MARKNEY submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2003. Mr. MARKNEY submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2004. Mrs. SHAHEEN (for herself and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2005. Mrs. SHAHEEN (for herself, Mr. LEAHY, and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra, which was ordered to lie on the table.

SA 2007. Mrs. MURRAY (for herself, Ms. CORTEZ MASTO, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra, which was ordered to lie on the table.

SA 2008. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2009. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2010. Mr. ROUNDS (for himself, Mr. KING, Mr. COLLINS, Mr. MANCEIN, Mr. GRAHAM, Mr. KAINE, Mr. COONS, Mr. GARDNER, Ms. HETTKAMP, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. ALEXANDER, Ms. KOBCHAR, Mr. ISAKSON, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra, which was ordered to lie on the table.

SA 2011. Mr. HEINRICH (for himself and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2012. Mr. HEINRICH (for himself, Mr. Udall, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2013. Mr. HEINRICH (for himself and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2014. Mr. HEINRICH (for himself and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2015. Mr. HEINRICH (for himself, Ms. HETTKAMP, and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2016. Mr. HEINRICH (for himself and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SA 2017. Mr. FLAKE (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1995. Mr. FLAKE (for himself and Ms. HETTKAMP) submitted an amendment intended to be proposed by him to the bill H.R. 2579, supra; which was ordered to lie on the table.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Three-Year DACA Extension Act".

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

1. Authorization of appropriations.

2. Tataile of contents...
Homeland Security and the Secretary of State pursuant to subsections (b) and (c), the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide for the transfer of amounts in the Fund for each fiscal year to eligible aliens under this section, including—

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

(2) for any of the technologies described in subsection (b).

(e) USE OF FUND.—If the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives provides for the transfer of amounts in the Fund to accounts within the Department of Homeland Security for eligible activities under this section, including not less than the amounts specified in subsection (c) for the purpose of constructing, replacing, or planning for physical barriers along the United States land border.

(Budget Request.—A request for the transfer of amounts in the Fund under this section—

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

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

(g) ENFORCEMENT REQUIREMENT.—At the beginning of fiscal year 2019, and annually thereafter until the funding made available under this title has expended, 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 describes—

(1) the border security in the United States; and

(2) the amount planned to be expended on border security during the upcoming fiscal year, by program, project, and activity.

TITLE II—DACA EXTENSION

SEC. 201. PROVISIONAL PROTECTED PRESENCE FOR YOUNG INDIVIDUALS.

(a) In General.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by adding at the end the following:

"SEC. 244A. PROVISIONAL PROTECTED PRESENCE.

"(a) Definitions.—In this section—

"(1) DACA recipient means an alien who is in deferred action status on the date of the enactment of this section pursuant to the Deferred Action for Childhood Arrivals (DACA) Program announced on June 15, 2012.

"(2) FEIOLY.—The term 'feioly' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) punishable by imprisonment for a term exceeding 1 year.

"(3) Immigrant means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) punishable by imprisonment for a term exceeding 5 days and not greater than 1 year; and

"(4) Secretary.—The term 'Secretary' means the Secretary of Homeland Security.

"(b) Eligibility Criteria.—An alien is eligible for provisional protected presence under this section if the alien—

"(1) was born after June 15, 1981;

"(2) entered the United States before reaching 18 years of age;

"(3) continuously resided in the United States between June 15, 2007, and the date on which the alien files an application under this section;

"(4) was physically present in the United States on June 15, 2012, and on the date on which the alien files an application under this section;

"(5) was unlawfully present in the United States on June 15, 2012;

"(6) on the date on which the alien files an application for provisional protected presence;

"(7) has not been convicted of—

"(A) a felony;

"(B) a significant misdemeanor; or

"(C) 3 or more misdemeanors not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct; and

"(8) does not otherwise pose a threat to national security or a threat to public safety.

"(c) Duration of Provisional Protected Presence and Employment Authorization.—Provisional protected presence and the employment authorization provided under this section shall be effective until the date that is 3 years after the date of the enactment of this section.

"(d) Status During Period of Provisional Protected Presence.—

"(1) In General.—An alien granted provisional protected presence is considered to be unlawfully present in the United States during the period beginning on the date such status is granted and ending on the date described in subsection (d).

"(2) Status Outside Period.—The granting of provisional protected presence under this section does not excuse previous or subsequent periods of unlawful presence.

"(e) Application.—

"(1) Age Requirement.—In General.—An alien who has never been in removal proceedings, or whose proceedings have been terminated before making a request for provisional protected presence, shall be at least 15 years old on the date on which the alien submits an application under this section.

"(2) Exception.—The age requirement set forth in subparagraph (A) shall not apply to an alien who, on the date on which the alien applies for provisional protected presence, is in removal proceedings, has a final removal order, or has a voluntary departure order.

"(f) Application Fee.—

"(1) In General.—The Secretary may require aliens applying for provisional protected presence and employment authorization under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

"(2) Exception.—An alien may be exempted from paying the fee required under subparagraph (A) if the alien—

"(I) is younger than 18 years of age;

"(II) received total income during the 12-month period immediately preceding the date on which the alien files an application under this section that is less than 150 percent of the United States poverty level; and

"(III) is in foster care or otherwise lacking any parental or other familial support;

"(j) is younger than 18 years of age and is homeless;

"(k) cannot care for himself or herself because of a serious, chronic disability; and

"(l) received total income during the 12-month period immediately preceding the date on which the alien files an application under this section that is less than 150 percent of the United States poverty level; or

"(m) is an immediate family member of the alien; and

"(n) received total income during the 12-month period immediately preceding the date on which the alien files an application under this section that is less than 150 percent of the United States poverty level.

"(g) Removal Stayed While Application Pending.—If the Secretary determines that an alien from the United States who appears prima facie eligible for provisional protected
presence while the alien’s application for provisional protected presence is pending.

(4) ALIENS NOT IN IMMIGRATION DETENTION.—An alien who is not in immigration detention, but who is in removal proceedings, is the subject of a final removal order, or is the subject of a voluntary departure order, may apply for provisional protected presence under this section if the alien appears prima facie eligible for provisional protected presence.

(5) ALIENS IN IMMIGRATION DETENTION.—The Secretary shall provide any alien in immigration detention, including any alien who is in removal proceedings, is the subject of a final removal order, or is the subject of a voluntary departure order, who applies for provisional protected presence, upon request, with a reasonable opportunity to apply for provisional protected presence under this section.

(6) CONFIDENTIALITY.—

(A) IN GENERAL.—The Secretary shall protect information provided in applications for provisional protected presence under this section and in requests for consideration of DACA from disclosure to U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection for the purpose of immigration enforcement proceedings.

(B) REFERRALS PROHIBITED.—The Secretary may not refer individuals whose cases have been deferred pursuant to DACA or who have been granted provisional protected presence under this section to U.S. Immigration and Customs Enforcement.

(C) LIMITED EXCEPTION.—The information submitted in applications for provisional protected presence under this section and in requests for consideration of DACA may be shared with national security and law enforcement agencies—

(i) for assistance in the consideration of the application for provisional protected presence;

(ii) to identify or prevent fraudulent claims;

(iii) for national security purposes; and

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

(7) ACCEPTANCE OF APPLICATIONS.—Not later than 60 days after the date of the enactment of this section, the Secretary shall begin accepting applications for provisional protected presence and employment authorization.

(g) RESCISSION OF PROVISIONAL PROTECTED PRESENCE.—(1) The Secretary may rescind an alien’s provisional protected presence or employment authorization granted under this section unless the Secretary determines that the alien—

(A) has been convicted of—

(a) a felony;

(b) a significant misdemeanor; or

(c) 3 or more misdemeanors not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct;

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

(3) has traveled outside of the United States without authorization from the Secretary; or

(4) has been convicted of a significant misdemeanor or 3 or more misdemeanors not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct.

(2) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of subsections (c) and (g), an expunged conviction shall not automatically be treated as a disqualifying felony, significant misdemeanor, or misdemeanor.

(3) EFFECT OF APPLICATION.—If a DACA recipient files an application for provisional protected presence under this section not later than the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application, the alien should be eligible for provisional protected presence under this section.

(j) EFFECT OF DEFERRED ACTION UNDER DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—(1) PROVISIONAL PROTECTED PRESENCE.—A DACA recipient is deemed to have provisional protected presence under this section through the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application.

(2) EMPLOYMENT AUTHORIZATION.—If a DACA recipient has been granted employment authorization by the Secretary in addition to deferred action, the employment authorization shall continue through the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application.

(3) EFFECT OF APPLICATION.—If a DACA recipient files an application for provisional protected presence under this section not later than the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application, the alien’s provisional protected presence, and any employment authorization, shall remain in effect pending the adjudication of such application.

(b) CLEARKY AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

"Sec. 24A. Provisional protected presence."

SA 1958. Mr. SCHUMER (for himself, Mr. ROUNDs, Mr. KING, Ms. COLLINS, Mr. MANCHIN, Mr. GRAHAM, Mr. KAINe, Mr. FLAKE, Mr. COons, Mr. GARDNER, Ms. HEITKAMP, Ms. MURKOWSKI, Mrs. SHARER, Mr. ALEXANDER, Ms. KLOUCHAR, Mr. ISAKSON, and Mr. WARNER) proposed an amendment to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; as follows:

(Purpose: In the nature of a substitute)

In lieu of the matter proposed to be stricken, insert the following:

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Improving the American Dream Act of 2018".

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

Sec. 1. Short title; table of contents.

TITLe I—BDReeK SECURItY

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

Sec. 101. Operations and support.

Sec. 102. Procurement, construction, and improvements.

Sec. 103. Administration of this title.

Subtitle B—Improving Border Safety and Security

Sec. 111. Border access roads.

Sec. 112. Flexibility in employment authori-

ties.

Sec. 113. Distress beacons.

Sec. 114. Southern border region emergency

improvements.

Sec. 115. Office of Professional Responsi-

bility.

Subtitle C—Body-Worn Cameras With

Privacy Protections

Sec. 121. Short title.

Sec. 122. Pilot program on use of body-worn

cameras.

Sec. 123. Development of policies with re-
spect to body-worn cameras.

Sec. 124. Consultations; public comment.

Sec. 125. Implementation plan.

Sec. 126. Submission to congressional

appropriations committees.

Sec. 113. Distress beacons.

Sec. 114. Southern border region emergency

improvements.

Sec. 115. Office of Professional Responsi-

bility.

Subtitle C—Body-Worn Cameras With

Privacy Protections

Sec. 121. Short title.

Sec. 122. Pilot program on use of body-worn

cameras.

Sec. 123. Development of policies with re-
spect to body-worn cameras.

Sec. 124. Consultations; public comment.

Sec. 125. Implementation plan.

Sec. 126. Submission to congressional

appropriations committees.
(3) $251,000,000 for 14 miles of secondary fencing in the San Diego Sector, California.

(4) $444,000,000 for border security technologies, marine vessels, aircraft unmanned aerial systems, and equipment.

(5) $38,239,000 to prepare the reports required under subsections (b) and (c) of section 103.

(6) $100,000 for chemical screening devices (as defined in section 2 of the INTERDICT Act [Public Law 115–112]).

SEC. 103. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.—Amounts appropriated under paragraph (3) of section 102 shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

(b) INTERIM REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit an interim report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations of the House of Representatives.

(c) GAO EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits each report described in paragraphs (b) and (c), the Comptroller General of the United States shall submit a report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, and the Comptroller General of the United States to facilitate safe and swift access for U.S. Customs and Border Protection personnel to access the border for purposes of patrol and apprehension.

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

"§ 9702. U.S. Customs and Border Protection employment authorities

(A) DEFINITIONS.—In this section—

(i) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection;

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

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

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

(B) POLICY GUIDANCE.—The Secretary of Homeland Security shall—

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of paragraphs (1) and (2) of section 102, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) aerial systems, facilities, and equipment.

(2) PRIORITIZATION OF HIRING VETERANS.—If the Secretary determines sufficient.

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

(4) assess the feasibility of options for addressing the maintenance of non-Federal public roads, including any data needs relating to such maintenance.

SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORITY.

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

"§ 9702. U.S. Customs and Border Protection employment authorities

(A) DEFINITIONS.—In this section—

(i) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection;

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

(3) T YPES OF ROADS.—The roads constructed under paragraph (1) shall include—

(A) access roads;

(B) bay roads;

(C) patrol roads; and

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

(b) MAINTENANCE.—The Secretary of Homeland Security, in partnership with local stakeholders, shall maintain roads used for patrol and apprehension.

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

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of paragraphs (1) and (2) of section 102, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) aerial systems, facilities, and equipment.

(2) PRIORITIZATION OF HIRING VETERANS.—If the Secretary determines sufficient.

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

(4) assess the feasibility of options for addressing the maintenance of non-Federal public roads, including any data needs relating to such maintenance.

SEC. 111. BORDER ACCESS ROADS.

(a) CONSTRUCTION.—

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

(b) TYPES OF ROADS.—The roads constructed under paragraph (1) shall include—

(1) all necessary land acquisitions;

(2) the total number of necessary condemnation actions; and

(3) the precise number of landowners that will be impacted by the construction of such physical barriers;

(4) contains a comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to such physical barriers;

(a) provides, after consultation with the Secretary of Homeland Security and the Administrator of the Environmental Protection Agency, a comprehensive analysis of the environmental impacts of the construction and placement of such physical barriers along the Southwest border, including barriers in the Santa Ana National Wildlife Refuge; and

(c) includes, for each barrier segment described in paragraphs (1) through (3) of section 102, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(1) all necessary land acquisitions;

(2) the total number of necessary condemnation actions; and

(3) the precise number of landowners that will be impacted by the construction of such physical barriers;

(4) contains a comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to such physical barriers;

(5) the deployment of additional border personnel.

(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report containing the information described in subsection (a) to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, and the Comptroller General of the United States to facilitate safe and swift access for U.S. Customs and Border Protection personnel to access the border for purposes of patrol and apprehension.

(2) T YPES OF ROADS.—The roads constructed under paragraph (1) shall include—

(A) access roads;

(B) border roads;

(C) patrol roads; and

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

(b) MAINTENANCE.—The Secretary of Homeland Security, in partnership with local stakeholders, shall maintain roads used for patrol and apprehension.

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

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of paragraphs (1) and (2) of section 102, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) aerial systems, facilities, and equipment.

(2) PRIORITIZATION OF HIRING VETERANS.—If the Secretary determines sufficient.

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

(4) assess the feasibility of options for addressing the maintenance of non-Federal public roads, including any data needs relating to such maintenance.

SEC. 111. BORDER ACCESS ROADS.

(a) CONSTRUCTION.—

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

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

(A) access roads;

(B) border roads;

(C) patrol roads; and

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

(b) MAINTENANCE.—The Secretary of Homeland Security, in partnership with local stakeholders, shall maintain roads used for patrol and apprehension.

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

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of paragraphs (1) and (2) of section 102, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) aerial systems, facilities, and equipment.

(2) PRIORITIZATION OF HIRING VETERANS.—If the Secretary determines sufficient.

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

(4) assess the feasibility of options for addressing the maintenance of non-Federal public roads, including any data needs relating to such maintenance.

SEC. 111. BORDER ACCESS ROADS.

(a) CONSTRUCTION.—

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

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

(A) access roads;

(B) border roads;

(C) patrol roads; and

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

(b) MAINTENANCE.—The Secretary of Homeland Security, in partnership with local stakeholders, shall maintain roads used for patrol and apprehension.
“(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

(aa) the 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).

(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee under—

(aa) a CMIP agreement in which the bonus is payable, subject to the requirements of this subsection, including—

(II) the Federal service or another position in the Federal government in regions that could assist in filling positions in rural or remote areas.

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

(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee of not less than 2 years; and

(b) to complete a period of employment as a CBP employee in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(II) difficulty in the recruitment and retention of CBP employees in the area; and

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

(b) OVERSIGHT.—The Commissioner may delegate any authorities under subsection (a) to fill mission-critical positions in rural or remote areas; and

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

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

(I) paragraph (2) may not exceed 100 percent of the annual rate of basic pay of the employee as of the second pay period of the applicable service period; and

(II) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the second pay period of the applicable service period.

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

(5) OPM OVERSIGHT.—The Director shall, to the extent practicable—

(A) not make any determination of the Secretary under this subsection if the Director finds that the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in rural or remote areas are not effective or are likely to become, significantly handicapped because the positions are located in a rural or remote area; and

(B) oversee the compliance of the Secretary with this subsection.

(d) FEEDBACK FROM EMPLOYEES.—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 if the Director finds that the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in rural or remote areas are not effective or are likely to become, significantly handicapped because the positions are located in a rural or remote area.

(2) Consideration.—In conducting the review under paragraph (1), the Secretary shall consider—

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

(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) DIRECTION.—The Secretary shall submit to Congress a report on each review required under paragraph (1).
United States and Mexico where migrant deaths are occurring due to climatic and environmental conditions; and

(2) deploy up to 1,000 beacon stations in the areas identified pursuant to subparagraph (A).

(2) FEATURES.—Beacon stations deployed pursuant to paragraph (1) should—

(A) include a powering mechanism, such as a solar-powered radio button, to signal U.S. Border Patrol personnel or other emergency response personnel that a person at that location is in distress;

(B) include a self-powering cellular phone relay limited to 911 calls to allow persons in distress in the area who are unable to get to the beacon to signal their location and access emergency personnel; and

(C) be movable to allow U.S. Border Patrol to relocate them as needed—

(i) to mitigate migrant deaths;

(ii) to facilitate access to emergency personnel; and

(iii) to address any use of the beacons for nonemergency purposes.

SEC. 114. SOUTHERN BORDER REGION EMERGENCY COMMUNICATIONS GRANTS.

(a) In General.—The Secretary of Homeland Security, in consultation with the governors of the States located on the international border between the United States and Mexico, shall establish a 2-year program to improve emergency communications in the Southern border region.

(b) Eligibility for Grants.—An individual or entity eligible under this section if the individual demonstrates that he or she—

(1) regularly resides or works in a State that shares a land border with Mexico; and

(2) is at greater risk of border violence due to a lack of cellular and LTE network service at the individual’s residence or business and the individual’s proximity to the Southern border.

(c) Use of Grants.—Grants awarded under this section may be used to purchase satellite telephone communications systems and services that—

(1) can provide access to 9-1-1 service; and

(2) are equipped with receivers for the Global Positioning System.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY.

Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient Border Protection officers and agents to the Office of Professional Responsibility to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

Subtitle C—Body-Worn Cameras With Privacy Protections

SEC. 121. SHORT TITLE.

This subtitle may be cited as the “CBP Body-Worn Camera Act of 2018.”

SEC. 122. PILOT PROGRAM ON USE OF BODY-WORN CAMERAS.

(a) In General.—The Secretary of Homeland Security, through the Commissioner of U.S. Customs and Border Protection, shall establish a pilot program to test and evaluate the use of body-worn cameras by officers and agents of U.S. Customs and Border Protection.

(b) Requirements for Pilot Program at U.S. Customs and Border Protection.—

(1) Duration.—The pilot program required under subsection (a)—

(A) shall be implemented not later than 60 days after the date of the enactment of this Act; and

(B) shall terminate on the date that is 11 months after such date of enactment.

(2) Deployment.—In carrying out the pilot program under this section, the Secretary shall ensure that—

(A) no fewer than 500 body-worn cameras are deployed to agents of U.S. Customs and Border Protection;

(B) no fewer than ¼ of such cameras are deployed to agents of U.S. Border Patrol; and

(C) no fewer than ¼ of such cameras are deployed along the international border between the United States and Mexico.

(3) Report.—Not later than 60 days after the pilot program is terminated pursuant to subsection (b)(1)(B), the Secretary shall submit a report to Congress that includes—

(A) a detailed description of incidences of the use of force recorded using body-worn cameras under the pilot program, disaggregated by the race, ethnicity, gender, and age of the individual involved;

(B) a description of incidences of the use of force in which a body-worn camera was not used, disaggregated by the race, ethnicity, gender, and age of the individuals involved;

(C) the number of complaints filed against officers or agents relating to the use of body-worn cameras under the pilot program;

(D) the number of complaints filed related to an incident in which a body-worn camera was worn by an officer or agent but under which the body-worn camera was not activated;

(E) the disposition of complaints described in paragraphs (3)(A) and (3)(B); and

(F) an assessment of the effect of the use of body-worn cameras under the pilot program on the accountability and transparency of the use of force, including an assessment of—

(i) with respect to body-worn cameras in a manner that makes activating the camera impossible or dangerous, the officer or agent shall activate the body-worn camera including—

(A) the efficacy of body-worn cameras in deterring the use of excessive force by officers and agents; and

(B) the effect of the use of body-worn cameras on responses to and adjudications of complaints;

(ii) an assessment of the effect of body-worn cameras on the personal privacy of members of the public and officers and agents of U.S. Customs and Border Protection, and whether the use of pinpoint redaction technology may have assisted in protecting personal privacy;

(iii) a description of issues that arose under the pilot program relating to the security, handling, and destruction of recordings from body-worn cameras;

(iv) a description of issues that arose under the pilot program relating to the secure storage, handling, and destruction of recordings from body-worn cameras;

(4) DEPLOYMENT.—In carrying out the pilot program under this section, the Secretary shall—

(A) ensure that an officer or agent does not have the ability to edit or delete a recording taken by a body-worn camera;

(B) ensure the secure storage, handling, and destruction of recordings from body-worn cameras; and

(C) ensure that an officer or agent acting in good faith under circumstances that make activating the body-worn camera impractical or impossible shall not be found to have committed an offense under section 123(b)(1)(E).

(5) Security.—In developing policies with respect to body-worn cameras and the use of force recorded using body-worn cameras under the pilot program, the Secretary shall ensure that—

(A) the policies provide for the secure storage, handling, and destruction of recordings from body-worn cameras; and

(B) establish a system to store recordings collected by body-worn cameras in a manner that—

(i) requires the logging of all viewing, modification, and deletion of such recordings; and

(ii) to the greatest extent practicable, unauthorized access to and unauthorized disclosure of such recordings;

(6) Training.—In training officers and agents to wear body-worn cameras, the Secretary shall ensure that—

(A) provide for necessary privacy protections for officers and agents wearing body-worn cameras and members of the public with whom such officers and agents interact, including the use of public safety technology to protect personal privacy in a manner that does not interfere with the ability to protect the public to recordings from body-worn cameras; and

(B) prevent and address issues relating to tampering with, or deleting or copying, such recordings; and

(C) ensure that an officer or agent who is wearing a body-worn camera shall provide an explanation if an activity that is required to be recorded by a body-worn camera is not recorded;

(7) Data Collection.—The Secretary shall—

(A) identify the minimum and maximum lengths of time for which such recordings shall be retained;

(B) develop a way to provide for the secure storage, handling, and destruction of recordings from body-worn cameras; and

(C) establish a way to prevent and address issues relating to tampering with, or deleting or copying, such recordings; and

(D) establish a system to store recordings collected by body-worn cameras in a manner that—

(i) requires the logging of all viewing, modification, and deletion of such recordings; and

(ii) to the greatest extent practicable, unauthorized access to and unauthorized disclosure of such recordings;

(8) Other Matters.—The pilot program developed under section 123(b)(1)(E); and

(9) Civil Service.—The pilot program relating to the access of the public to recordings from body-worn cameras; and

(10) Access.—The pilot program relating to the secure storage, handling, and destruction of recordings from body-worn cameras; and

(11) a description of issues that arose under the pilot program relating to the security, handling, and destruction of recordings from body-worn cameras;

(12) a description of issues that arose under the pilot program relating to the secure storage, handling, and destruction of recordings from body-worn cameras;

(13) a description of issues that arose under the pilot program relating to the secure storage, handling, and destruction of recordings from body-worn cameras;

(14) a description of issues that arose under the pilot program relating to the secure storage, handling, and destruction of recordings from body-worn cameras;

(15) the total number of hours body-worn cameras were activated under the pilot program, disaggregated by region;

(16) an accounting of who accessed any body-worn camera recordings, disaggregated by classified position title and region;

(17) an accounting and description of the total number of instances an activity that was required to be recorded by a body-worn camera was not recorded as described in section 123(b)(1)(E); and

(18) any other matters relating to the pilot program that the Secretary considers appropriate.

SEC. 123. DEVELOPMENT OF POLICIES WITH RESPECT TO BODY-WORN CAMERAS.

(a) In General.—The Secretary of Homeland Security shall develop draft policies with respect to the use of body-worn cameras under the use of force policies developed under section 123(b)(1)(E); and

(b) Elements.—The draft policies developed under subsection (a) shall—

(1) with respect to when a body-worn camera is activated or deactivated in the course of duty:

(A) specify under what circumstances a body-worn camera is required to be activated, including that such cameras shall be activated, at a minimum, at the inception of an encounter, such as a face-to-face encounter, pedestrian stops, pedestrian stops, foot pursuits, witness and victim interviews, in-custody transports, and use of force, except that any threat to an officer’s or agent’s life or safety makes activating the camera impossible or dangerous, the officer or agent shall activate the camera at the first reasonable opportunity to do so;

(B) include policies with respect to the use of body-worn cameras in use of force incidents, such as a shooting involving an officer or agent, or in critical incidents, including such an incident that results in an in-custody death;

(C) specify at what point a body-worn camera is required to be deactivated, which may be no earlier than when an encounter described in subparagraph (A) has fully concluded;

(D) ensure that an officer or agent does not have the ability to edit or delete a recording taken by a body-worn camera;

(E) specify that an officer or agent wearing a body-worn camera shall provide an explanation if an activity that is required to be recorded by a body-worn camera is not recorded;

(2) with respect to the storage and maintenance of recordings from body-worn cameras:

(A) define the minimum and maximum lengths of time for which such recordings shall be retained;

(B) provide for the secure storage, handling, and destruction of recordings from body-worn cameras; and

(C) prevent and address issues relating to tampering with, or deleting or copying, such recordings; and

(D) establish a system to store recordings collected by body-worn cameras in a manner that—

(i) requires the logging of all viewing, modification, and deletion of such recordings; and

(ii) to the greatest extent practicable, unauthorized access to and unauthorized disclosure of such recordings; and

(3) with respect to privacy protections—

(A) provide for necessary privacy protections for officers and agents wearing body-worn cameras and members of the public with whom such officers and agents interact, including the use of public safety technology to protect personal privacy in a manner that does not interfere with the ability to protect the public to recordings from body-worn cameras;
to fully and accurately ascertain the events that transpired;
(B) require the consent of victims of and witnesses to a crime before recording interviews or the crime may be recorded;
(C) require that an officer or agent who is wearing a body-worn camera notify an individual who is the subject of a recording that the image is being recorded as close to the inception of the encounter as reasonably possible;
(D) require that, before entering a residence without a warrant or in nonexigent circumstances, an officer or agent obtain consent from the occupant of the residence to continue the use of a body-worn camera; and
(E) ensure that recordings unrelated to law enforcement purposes are minimized to the greatest extent practicable;
(4) with respect to access to recordings from body-worn cameras—
(A) ensure that any officer or agent wearing a body-worn camera is prohibited from accessing a recording on the camera without an authorized purpose;
(B) clearly describe the circumstances in which officers and agents and their supervisors may view recordings from body-worn cameras;
(C) permit supervisors to view recordings from body-worn cameras only for training purposes (and not for use in any disciplinary action against an agent or officer) or when there is a complaint filed against an agent or officer or a use of force incident; and
(D) establish—
(i) under what circumstances a recording from a body-worn camera will be released to the subject of the recording or to another law enforcement or intelligence agency or to the public; and
(ii) protocols for such release;
(5) establish under what circumstances records from body-worn cameras will be used to investigate potential misconduct of officers or agents or for other law enforcement purposes;
(6) establish disciplinary procedures for violations of body-worn camera policies by agency personnel, including agents, officers and supervisors; and
(7) ensure that training—
(A) is required and provided to all officers and agents who use body-worn cameras and any personnel involved in the management, storage, or use of body-worn camera data; and
(B) is provided before the use of any body-worn camera by such an officer or agent or the involvement of such agency personnel in the direct management, storage, or use of body-worn camera data.

SEC. 124. CONSULTATIONS; PUBLIC COMMENT.
In developing the pilot program under section 123, the Secretary of Homeland Security shall—
(1) consult with
(A) the Director for Civil Rights and Civil Liberties of the Department of Homeland Security;
(b) the Chief Privacy Officer of the Department of Homeland Security;
(c) the Director of the Office of Privacy and Civil Liberties of the Department of Justice; and
(d) any labor organizations representing employees of the Department of Homeland Security who are involved with the use of body-worn cameras;
(2) provide an opportunity for public comment; and
(3) compile a report, which shall be posted on a publicly available website of the Department of Homeland Security, that—
(A) summarizes the comments received pursuant to paragraph (2); and

(b) describes the final policies adopted under section 123 and the rationale for each such policy.

SEC. 125. IMPLEMENTATION PLAN.
(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a plan to Congress for the permanent implementation of the use of body-worn cameras by employees of U.S. Customs and Border Protection.

(b) Elements.—The plan required under subsection (a) shall include—
(1) a description of the draft policies developed under section 123;
(2) an identification of—
(A) the number of body-worn cameras to be purchased and issued to officers and agents on the border; and
(B) operational requirements for body-worn cameras, including systems and support staff;
(3) the locations where body-worn cameras will be used;
(4) costs associated with the use of body-worn cameras; and
(5) a description of the cost-benefit analysis used to determine the number, placement, and location of body-worn cameras specified in the plan.

SEC. 126. DEPLOYMENT.
Not later than 6 months after the date on which the implementation plan is submitted under section 125, the Secretary of Homeland Security shall, to the greatest extent practicable—
(A) ensure that any officer or agent wearing a body-worn camera will be able to purchase and wear the body-worn camera purchased and deployed;
(B) require the consent of victims of and witnesses to a crime before recording interviews or the crime may be recorded as close to the inception of the encounter as reasonably possible;
(C) require that, before entering a residence without a warrant or in nonexigent circumstances, an officer or agent obtain consent from the occupant of the residence to continue the use of a body-worn camera; and
(D) establish—
(i) under what circumstances a recording from a body-worn camera will be released to the subject of the recording or to another law enforcement or intelligence agency or to the public; and
(ii) protocols for such release;
(5) establish under what circumstances records from body-worn cameras will be used to investigate potential misconduct of officers or agents or for other law enforcement purposes;
(6) establish disciplinary procedures for violations of body-worn camera policies by agency personnel, including agents, officers and supervisors; and
(7) ensure that training—
(A) is required and provided to all officers and agents who use body-worn cameras and any personnel involved in the management, storage, or use of body-worn camera data; and
(B) is provided before the use of any body-worn camera by such an officer or agent or the involvement of such agency personnel in the direct management, storage, or use of body-worn camera data.

SEC. 127. ANALYSIS OF DEATHS IN CUSTODY.
Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States 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 Committee on Homeland Security of the House of Representatives that includes—
(1) the total number of migrant deaths along the international border between the United States and Mexico during the most recent 5-year period;
(2) the number of unidentified deceased migrants found along such border during such period;
(3) the level of cooperation between U.S. Customs and Border Protection, local and State law enforcement, 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, foreign diplomatic and consular posts, and nongovernmental organizations to accurately identify deceased individuals;
(5) the comparison of DNA data with information on Federal, State, and local missing person registries; and
(6) the procedures and processes used by U.S. Customs and Border Protection for notifying relevant authorities or family members after missing persons are identified through DNA testing.

TITLE II—DREAM ACT AND PROVISIONAL PROTECTED PRESENCE
Subtitle A—Dream Act
SEC. 201. SHORT TITLE.
This subtitle may be cited as the “Dream Act of 2018”.

SEC. 202. DEFINITIONS.
In this subtitle—
(1) In general.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall mean the meaning given the term in the immigration laws.

SEC. 203. DREAM ACT PROVISIONAL PROTECTED PRESENCE
Subtitle A—Dream Act
SEC. 201. SHORT TITLE.
This subtitle may be cited as the “Dream Act of 2018”.

SEC. 202. DEFINITIONS.
In this subtitle—
(1) In general.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall mean the meaning given the term in the immigration laws.

SEC. 203. DREAM ACT PROVISIONAL PROTECTED PRESENCE
Subtitle A—Dream Act
SEC. 201. SHORT TITLE.
This subtitle may be cited as the “Dream Act of 2018”.

SEC. 202. DEFINITIONS.
In this subtitle—
(1) In general.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall mean the meaning given the term in the immigration laws.

SEC. 203. DREAM ACT PROVISIONAL PROTECTED PRESENCE
Subtitle A—Dream Act
SEC. 201. SHORT TITLE.
This subtitle may be cited as the “Dream Act of 2018”.

SEC. 202. DEFINITIONS.
In this subtitle—
(1) In general.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall mean the meaning given the term in the immigration laws.

SEC. 203. DREAM ACT PROVISIONAL PROTECTED PRESENCE
Subtitle A—Dream Act
SEC. 201. SHORT TITLE.
This subtitle may be cited as the “Dream Act of 2018”.

SEC. 202. DEFINITIONS.
In this subtitle—
(1) In general.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall mean the meaning given the term in the immigration laws.

(7) FELONY.—The term ‘‘felony’’ means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien’s immigration status) punishable by imprisonment for a term exceeding 1 year.

(8) IMMIGRATION LAW.—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)).

(9) INSTITUTION OF HIGHER EDUCATION.—The term ‘‘institution of higher education’’—

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

(B) does not include an institution of higher education outside of the United States.

(10) MISDEMEANOR.—

(A) IN GENERAL.—The term ‘‘misdemeanor’’ means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element is the alien’s immigration status, a significant misdemeanor, and a minor traffic offense) for which—

(i) the maximum term of imprisonment is greater than 5 days and not greater than 1 year; and

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

(B) IN GENERAL.—Notwithstanding any other provision of law, an alien who obtains the status of an alien lawfully admitted for permanent residence on a conditional basis under section 101(a)(27)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(i) has not been convicted of—

(I) a felony;

(II) a significant misdemeanor; or

(III) 3 or more misdemeanors—

(aa) not occurring on the same date; and

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

(D) the alien—

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

(ii) has earned a high school diploma or a comparable alternative award from a public or private high school, or has obtained a general education development certificate recognized under State law or a high school equivalency diploma in the United States;

(III) is enrolled in secondary school or in an education program for school-age students in

(I) obtaining a regular high school diploma or the recognized equivalent of a regular high school diploma under State law; or

(ii) passing a general educational development exam, a high school equivalency diploma examination, or other similar State-authorized exam, or

(IV) during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; or

(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(A) IN GENERAL.—The Secretary may not grant an alien permanent resident status on a conditional basis unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.

(7) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECK.—The Secretary shall provide an alternative procedure for any alien who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical impairment.
(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for permanent resident status on a conditional basis.

(B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks of an alien required under subparagraph (A) shall be completed to the satisfaction of the Secretary, before the date on which the Secretary grants the alien permanent resident status on a conditional basis.

(C) CRIMINAL RECORDS REQUESTS.—With respect to an alien seeking permanent resident status on a conditional basis, the Secretary, in consultation with the Attorney General, shall seek to obtain from INTERPOL, EUROPOL, or any other international or national law enforcement agency of the country of nationality, country of citizenship, or country of last habitual residence of the alien, information about any criminal activity

(i) in which the alien engaged in the country of nationality, country of citizenship, or country of last habitual residence of the alien; or

(ii) for which the alien was convicted in the country of nationality, country of citizenship, or country of last habitual residence of the alien.

(5) MEDICAL EXAMINATION.—(A) REQUIREMENT.—An alien applying for permanent resident status on a conditional basis shall undergo a medical examination.

(B) EXEMPTION FROM NUMERICAL LIMITATION.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination under subparagraph (A).

(9) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under that Act.

(c) DETERMINATION OF CONTINUOUS PRESENCE.—

(1) TERMINATION OF CONTINUOUS PERIOD.—Any prior continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis shall not terminate on the date on which the alien—

(A) is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)); or

(B) is discharged from the Uniformed Services, has begun a period of study or training at a postsecondary educational institution, has received a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor’s degree or higher degree in the United States; or

(C) is employed for periods totaling 90 days or more in a fiscal year under subpart (c) of section 292(b) of the Immigration and Nationality Act (8 U.S.C. 1232(b)).

(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period greater than 90 days or for any periods, in the aggregate, of less than 90 days.

(B) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in subparagraph (A) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the control of the alien, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(C) TRAVEL AUTHORIZED BY THE SECRETARY.—期间的旅行 outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States prescribed in subparagraph (A).

(d) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

(I) IN GENERAL.—The Secretary or the Attorney General may not remove an alien who appears prima facie eligible for relief under this section.

(II) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order denied and who is returned to the United States, the alien shall not be removed if the alien meets such requirements of this section as the Secretary or Attorney General determines are appropriate to allow for the alien to apply for relief under this section.

(III) CIRCUMSTANCES.—The Attorney General shall not remove an alien who—

(A) meets all the requirements under subparagraphs (A), (B), and (C) of section 245(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) and (D) lift of stay. The Attorney General may not remove an alien who

(i) is at least 65 years of age; and

(ii) is an alien who—

(A) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis; and

(B) has not been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(2) HARDSHIP EXCEPTION.—Subject to paragraph (2), the Secretary may not remove the alien under paragraph (1) if the alien—

(A) is described in subsection (d)(1)(C) of section 245(b) and (D) lift of stay. The Secretary or Attorney General may not remove an alien who

(i) is at least 65 years of age; and

(ii) has a qualified family relationship to an individual who

(A) is a national of the United States; or

(B) is an individual who

(i) has been granted permanent resident status on a conditional basis; and

(ii) is the beneficiary of a petition for removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order.

(iii) meets such requirements of this section as the Secretary or Attorney General determines are appropriate to allow the alien to apply for relief under this section.

(3) CERTAIN ALIENS ENROLLED IN ELEMENTARY OR SECONDARY SCHOOL.—

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

(i) has been granted permanent resident status on a conditional basis;

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis; and

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

(B) COMMENCEMENT OF REMOVAL PROCEEDINGS.—The Secretary may not commence removal proceedings for an alien described in subparagraph (A) unless the alien

(i) is at least 65 years of age; and

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(4) TIES TO UNITED STATES.—

(A) PROVISIONAL GREEN CARDS.—The Secretary or Attorney General may not remove an alien who

(i) has been granted permanent resident status on a conditional basis; and

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(B) TIES TO UNITED STATES.—The Secretary or Attorney General may not remove an alien who

(i) has been granted permanent resident status on a conditional basis; and

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(C) ALIENS WITH TIES TO UNITED STATES.—The Secretary or Attorney General may not remove an alien who

(i) has been granted permanent resident status on a conditional basis; and

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(D) ALIENS WITH TIES TO UNITED STATES.—The Secretary or Attorney General may not remove an alien who

(i) has been granted permanent resident status on a conditional basis; and

(ii) has been granted permanent resident status on a conditional basis on which the Secretary grants the alien permanent resident status on a conditional basis.

(5) MEDICAL EXAMINATION.—

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

(B) EXEMPTION FROM NUMERICAL LIMITATION.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination under subparagraph (A).

(6) MILITARY SERVICE.—An alien applying for permanent resident status on a conditional basis shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under that Act.

(c) DETERMINATION OF CONTINUOUS PRESENCE.—

(1) TERMINATION OF CONTINUOUS PERIOD.—Any prior continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis shall not terminate on the date on which the alien—

(A) is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)); or

(B) is discharged from the Uniformed Services, has begun a period of study or training at a postsecondary educational institution, has received a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor’s degree or higher degree in the United States; or

(C) is employed for periods totaling 90 days or more in a fiscal year under subpart (c) of section 292(b) of the Immigration and Nationality Act (8 U.S.C. 1232(b)).

(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period greater than 90 days or for any periods, in the aggregate, of less than 90 days.

(B) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in subparagraph (A) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the control of the alien, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(C) TRAVEL AUTHORIZED BY THE SECRETARY.—期间的旅行 outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States prescribed in subparagraph (A).

(d) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—
(i) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);
(ii) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and
(iii) demonstrates that—
(I) the alien has a disability;
(II) the alien is a full-time caregiver of a minor child; or
(III) the removal of the alien from the United States would result in extreme hardship to the alien’s spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(2) REQUIREMENT FOR BACKGROUND CHECKS.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the permanent resident status of an alien cannot be granted on a conditional basis until the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1432(a)) due to disability.

(4) APPLICATION FEE.—
(A) IN GENERAL.—The Secretary may require an alien applying for lawful permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) only if the alien—
(I) is younger than 18 years of age;
(II) receives the total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; or
(III) is in foster care or otherwise lacking any parental or other familial support; and
(IV) is younger than 18 years of age and is homeless;

(B) 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 physical impairment.

(6) BACKGROUND CHECKS.—
(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—
(i) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the permanent resident status of the alien; and
(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of the conditional basis of the permanent resident status of the alien.

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

(2) LIMITATIONS ON APPLICATION FOR NATURALIZATION.
(I) IN GENERAL.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and to be present in the United States, as an alien lawfully admitted for permanent resident.

(2) LIMITATIONS ON APPLICATION FOR NATURALIZATION.
(I) IN GENERAL.—An alien may not be naturalized—
(i) on any date on which the alien is in permanent resident status on a conditional basis; or
(ii) before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

(B) REDUCTION IN PERIOD.—
(I) IN GENERAL.—Subject to clause (ii), the 12-year period referred to in subparagraph (A)(ii) shall be reduced by the number of days that the alien was a DACA recipient.

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

(C) ADVANCED FILING DATE.—With respect to an alien granted permanent resident status on a conditional basis, the alien may file an application for naturalization not more than 90 days before the date on which the applicant meets the requirements for naturalization under paragraph (A).

SEC. 206. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—
An alien’s application for permanent resident status on a conditional basis may include, as proof of identity:

(1) a passport or national identity document from the alien’s country of origin that includes the alien’s name and the alien’s photograph or fingerprint;

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

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

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

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

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

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously present in the United States, as required under section 203(a)(1)(A), or to establish that an alien has not abandoned residence in the United States, as required under section 203(b)(1)(A), the alien may submit documents to the Secretary, including—

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

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

(3) any document from the Department of Justice or the Department of Homeland Security stating the alien’s date of entry into the United States;

(4) unto or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization;

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

(6) employment records that include the employer’s name and contact information;

(7) official records from a religious entity confirming the alien’s participation in a religious ceremony;

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

(9) automobile license receipts or registration;

(10) travel records;

(11) copies of money order receipts sent in or out of the country;

(12) dated bank transactions;

(13) remittance records; and

(14) insurance policies.

(d) DOCUMENTS ESTABLISHING ADMISSION TO ANY INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has been admitted to an institution of higher education, the alien shall submit to the Secretary a document from the institution of higher education certifying that the alien—

(I) has been admitted to the institution; or
DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien shall submit to the Secretary a diploma or other document from the institution stating that the alien has acquired such a degree.

IN AN EDUCATIONAL PROGRAM.—To establish that an alien has satisfied 1 of the criteria for the hardship exemption described in section 205(a)(2)(A)(iii), the alien shall submit to the Secretary at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

1. the name, address, and telephone number of the affiant; and
2. the nature and duration of the relationship between the affiant and the alien.

EDUCATION.—To establish that an alien has received a degree from an institution of higher education in the United States, the alien shall submit to the Secretary—

1. a high school diploma, certificate of completion, or other alternate award; and
2. a high school equivalency diploma or certificate recognized under State law.

State-authorized exam, including the general education development certificate recognized under State law or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate that contain—

1. the name, address, and telephone number of the affiant; and
2. the nature and duration of the relationship between the affiant and the alien.

DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and Record of Service form 22; to a Department of Defense form DD-214; to a National Guard Report of Separation and Record of Service form 22; personnel records for service from the appropriate Uniformed Service; a high school diploma, general education development certificate recognized under State law or a high school equivalency diploma in the United States, the alien shall submit to the Secretary—

1. an application filed under this subtitle; or
2. a request for DACA.

AFFIRMATIVE APPLICATION.—The regulations published under paragraph (1) shall allow any eligible individual to immediately apply affirmatively for the relief available under section 203 without being placed in removal proceedings.

INTERNATIONAL REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to subsection (a)(1) shall be effective, on an interim basis, immediately on publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a period of public comment.

Final Regulations.—Not later than 180 days after the date on which interim regulations are published under this section, the Secretary shall publish final regulations implementing this subtitle.

SECTION 208. CONFIDENTIALITY OF INFORMATION.

IN GENERAL.—The Secretary may not disclose or use for the purpose of immigration enforcement any information provided in—

1. an application filed under this subtitle; or
2. a request for DACA.

LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for permanent resident status on a conditional basis or for DACA may be shared with a Federal security agency or any designee of U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and Customs Enforcement and Border Protection any individual who—

1. has been granted permanent resident status on a conditional basis; or
2. was granted DACA.

IN GENERAL.—An alien may satisfy the employment requirement under section 205(a)(1)(C)(iii) by submitting records that—

1. establish compliance with such employment requirement; and
2. have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

OTHER DOCUMENTS.—An alien who is unable to submit the records described in paragraph (1) may satisfy the employment requirement by submitting at least 2 types of reliable documents that provide evidence of employment, including—

A. bank records;
B. business records;
C. employer records;
D. records of a labor union, day labor center, or organization that assists workers in employment;
E. sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—

1. the name, address, and telephone number of the affiant; and
2. the nature and duration of the relationship between the affiant and the alien.

(3) TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, lacks parental or familial support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that—

A. state that the alien is in foster care, otherwise lacks any parental or other familial support, is homeless, or has a serious, chronic disability, as appropriate;
B. the name, address, and telephone number of the affiant; and
C. the nature and duration of the relationship between the affiant and the alien.

DOCUMENTS.—To establish that the alien has incurred unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

A. bear the provider’s name and address; and
B. bear the name of the individual receiving treatment; and
C. document that the alien has accumulated $10,000 in medical expenses incurred by the alien or an immediate family member of the alien.

DOCUMENTS.—To establish that the alien satisfies 1 of the criteria for the hardship exemption described in section 205(a)(2)(A)(iii), the alien shall submit to the Secretary at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

1. the name, address, and telephone number of the affiant; and
2. the nature and duration of the relationship between the affiant and the alien.

SEC. 209. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

EFFECTIVE DATE.—The repeal under subsection (a) shall apply affirmatively to any individual included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-546).

SA 1959. MR. GRASSLEY (for himself, Mr. Ernst, Mr. Tillis, Mr. Lee, Mr. Cornyn, Mr. Portman, Mr. Perdue, Mr. Corker, Mr. Alexander, and Mr. Isakson) proposed an amendment to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the
Sec. 1001. Short title.

SUBTITLE A—Border Security

Sec. 1127. Integrated Border Enforcement Teams.

Sec. 1125. Amendments to U.S. Customs and Border Protection Act.

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. Temporary and permanent scheduling of schedule A substances.

Sec. 1126. False labeling of schedule A controlled substances.

Sec. 1127. Registration requirements for handlers of schedule A substances.

Sec. 1128. Additional conforming amendments.

Sec. 1129. Clarification of the definition of controlled substances as analogues under the Analogue Enforcement Act.

Sec. 1130. Rules of construction.

Sec. 1131. Foreign migration assistance.

CHAPTER 2—Personnel

Sec. 1101. Definitions.

Sec. 1102. Establishment of Schedule A.

Sec. 1103. Increase in immigration detention capacity.

Sec. 1104. Collection of DNA from criminal and detained aliens.

Sec. 1105. Collection, use, and storage of biometric data.

Sec. 1106. Pilot program for electronic field processing.

Sec. 1107. Ending abuse of parole authority.

Sec. 1108. Pilot and upgrade of license plate readers at ports of entry.

Sec. 1109. Biometric technology.

Sec. 1110. Nonintrusive inspection operational demonstration project.

Sec. 1111. Biometric exit data system.

Sec. 1112. Sense of Congress on cooperation between agencies.

Subtitle B—Border Security Enforcement Fund

Sec. 1132. Small Claims Court for U.S. Customs and Border Protection.

Sec. 1133. Flexibility for development of port facilities.

Sec. 1134. Authorization of appropriations for off-highway vehicles.

Sec. 1135. Land and water resources for border enforcement and inspection.

Sec. 1136. Dockside facilities for enforcement.

Sec. 1137. Border security capacity.

Sec. 1138. Agent and officer technology use.

Sec. 1139. Integrated Border Enforcement Teams.

Sec. 1140. Land use or acquisition.

Sec. 1141. Tunnel Task Forces.

Sec. 1142. Pilot program on use of electromagnetic spectrum in support of border security operations.

Sec. 1143. Landowner and rancher security enhancement.

Sec. 1144. Limitation on land owner’s liability.

Sec. 1145. Eradication of carrizo cane and salt cedar.

Sec. 1146. Prevention, detection, control, and eradication of diseases and pests.

Sec. 1147. Operation Phalanx.

Sec. 1148. Merida Initiative.

Sec. 1149. Judicial resources for border security.

Sec. 1150. Reimbursement to State and local governments, reporting, and monitoring.

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. Temporary and permanent scheduling of schedule A substances.

Sec. 1403. False labeling of schedule A controlled substances.

Sec. 1404. Registration requirements for handlers of schedule A substances.

Sec. 1405. Additional conforming amendments.

Sec. 1406. Clarification of the definition of controlled substances as analogues under the Analogue Enforcement Act.

Sec. 1407. 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. Reimstatement of the Secure Communities Program.

Sec. 1510. Ensuring that local and Federal law enforcement officers may cooperate, safeguard our communities.

Sec. 1511. Additional U.S. Customs and Border Protection agents and officers.

Sec. 1512. Fair labor standards for border patrol agents.

Sec. 1513. U.S. Customs and Border Protection retention incentives.

Sec. 1514. Rate of pay for U.S. Immigration and Customs Enforcement officers and agents.

Sec. 1515. Anti-Border Corruption Reauthorization Act.

Sec. 1516. Training for officers and agents of U.S. Customs and Border Protection.

Sec. 1517. Additional U.S. Immigration and Customs Enforcement personnel.

Sec. 1518. Other immigration and law enforcement personnel.

Sec. 1519. Judicial resources for border security.

Sec. 1520. Reimbursement to State and local prosecutors for federally initiated immigration-related criminal cases.

CHAPTER 3—Grants

Sec. 1521. State Criminal Alien Assistance Program.

Sec. 1522. Southern border security assistance grants.

Sec. 1523. Operation Stonegarden.

Sec. 1524. Custody of unaccompanied alien children.

Sec. 1525. Fraud in connection with the apprehension of unaccompanied alien children.

Sec. 1526. Child welfare and law enforcement cooperation.

Sec. 1527. Repatriation of unaccompanied alien children.

Sec. 1528. Accountability for children and taxpayers.

Sec. 1529. Child protection for aliens and detained aliens.

Sec. 1530. GAO study on deaths in custody.

Sec. 1531. Temporary and permanent scheduling of schedule A substances.

Sec. 1532. False labeling of schedule A controlled substances.

Sec. 1533. Registration requirements for handlers of schedule A substances.

Sec. 1534. Additional conforming amendments.

Sec. 1535. Clarification of the definition of controlled substances as analogues under the Analogue Enforcement Act.

Sec. 1536. Rules of construction.

Subtitle F—Punishment for Smuggling. Drug Trafficking, Human Smuggling, 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 ineffectiveness through repatriation.

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 terrorism.

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 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.

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Sec. 1731. Short title.
Sec. 1732. Visa security.
Sec. 1733. Electronic passport screening and biometric matching.
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CHAPTER 3—VISA CANCELLATION AND REVOCATION
Sec. 1741. Cancellation of additional visas.
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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
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Sec. 1763. Inadmissibility of spouses and sons and daughters of traffickers.
Sec. 1764. DNA testing and criminal history.
Sec. 1765. Access to NCIC criminal history database for diplomatic visas.
Sec. 1766. Elimination of signed photograph requirement for visa applications.

CHAPTER 6—OTHER MATTERS
Sec. 1771. Requirement for completion of background checks.
Sec. 1772. Withholding of adjudication.
Sec. 1773. Access to the National Crime Information Center Interstate Identification Index.
Sec. 1774. Appropriate remedies for immigration litigation.
Sec. 1775. Use of 1986 IRCA legalization information for national security purposes.
Sec. 1776. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
Sec. 1777. Conforming amendment to the definition of racketeering activity.
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Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States
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Sec. 1801. Lawful permanent resident 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 alien 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 consular and terrorists from registry.

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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.
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Sec. 5001. Other Immigration and Nationality Act amendments.
Sec. 5002. Exemption from the Administrative Procedure Act.
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TITLE VI—TECHNICAL AMENDMENTS
Sec. 6001. References to the Immigration and Nationality Act.
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Sec. 6005. Technical amendment to title IV of the Immigration and Nationality Act.
Sec. 6006. Technical amendments to title V of the Immigration and Nationality Act.
Sec. 6007. Other amendments.
Sec. 6008. Repeals; rule of construction.
Sec. 6009. Miscellaneous technical corrections.

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(a)(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 102(2)(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 subsection (d)(2) 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. 229(a)(17); 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" 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 to achieve situational awareness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas;";

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) by striking subparagraph (A)—

(1) by striking "subsection (a)" and inserting "this section";

(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

(iv) 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 include areas and regions of 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) 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, and 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 Commerce, Science, and Transportation of the Senate of the type of physical barriers, tactical infrastructure, or technology the Secretary has determined to be most practical and effective to achieve situational awareness and operational control in a specific area and the other alternatives the Secretary considered before making such a determination."; and

(iv) by striking subparagraph (D) to read as follows:

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

(vi) in paragraph (2)—

(i) by striking "Attorney General" and inserting "Secretary of Homeland Security";

(ii) by striking "construction of fences" and inserting "construction of physical barriers"; and

(iii) by striking 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 consultation with the Commissioner of Customs and Border Protection, the Secretary of the Interior, and the Secretary of State, are necessary to maximize the safety and effectiveness of officers of the United States border patrol; 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.";

(vii) 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 laws that the Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious design, testing, construction, installation, deployment, 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

(viii) 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 expeditious expediency 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 (6 U.S.C. 1761 note; Public Law 109–367).

(3) PHYSICAL BARRIERS.—The term ‘physical barriers’ includes reinforced fencing, a barrier wall system, and other barrier 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, lightweight multi-sensor surveillance equipment;

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

(D) 3-dimensional, seismic acoustic detection and ranging border tunneling detection 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, and Air Operations may use, unmanned aircraft 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 of 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 Administration 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. 231(c)(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) deployable, lighter-than-air surface surveillance equipment.

SEC. 1113. Capability Deployment to Specific Sectors 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 additional capabilities:
(i) Deployable, lighter-than-air 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.
(vi) Ultralight aircraft detection capabilities.
(vii) Improved agent communications capabilities.
(viii) Maritime signals intelligence capabilities.
(ix) Improved agent communications capabilities.
(x) Deployable, lighter-than-air ground surveillance equipment.
(xi) Improved agent communications capabilities.
(xii) Man-portable unmanned aerial vehicles.
(xiii) Mobile vehicle-mounted and man-portable surveillance capabilities.
(xiv) Improved agent communications capabilities.
(xv) Man-portable unmanned aerial vehicles.
(xvi) Mobile vehicle-mounted and man-portable surveillance capabilities.
(xvii) Improved agent communications capabilities.
(xviii) Deployable, lighter-than-air ground surveillance equipment.
(xix) Improved agent communications capabilities.

SEC. 1114. Authorization of Appropriations.
There are authorized to be appropriated
(1) $1,500,000,000 for the Department of Homeland Security for the following:
(2) In General.—Of the amount authorized to be appropriated under this section, the Secretary of Homeland Security may reserve $500,000,000 for emergency response operations and requirements of this Act.

SEC. 1115. Reports on Activities.
(a) In General.—Not later than December 15, 2023, the Secretary shall submit to Congress a report describing the implementation of this Act.

SEC. 1116. Technical and Other Corrections.
(a) In General.—Subtitle B of the Homeland Security Act of 2002 is amended by inserting after section 102 the following:
(b) Technical Correction.—Section 501(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended—
(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) Improved agent communications systems.
(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications capabilities.

(1) 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) Advanced unattended surveillance sensors.
(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) 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.

(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.

(12) HAVER 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.

(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.

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

(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;
(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).

(2) TRANSIT ZONE.—
(A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is 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 Committee shall notify the Secretary that such change...

(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 provided 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 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.

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.
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 section 103 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.

SEC. 1116. MERIDA INITIATIVE.

(a) Sense of Congress.—It is the sense of Congress that the United States and Mexico should continue to implement the Merida Initiative in order to—

(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, drug trafficking, and cross-border criminal activities on Mexico’s northern and southern borders;

(3) to significantly reduce illegal migration, drug trafficking, and cross-border criminal activities on Mexico’s northern and southern borders;

(4) to improve the transparency and accountability of Mexican Federal police forces and working with Mexican State and municipal authorities to implement the Merida Initiative and working with Mexican Federal police forces and working with Mexican State and municipal authorities to improve the transparency and accountability of Mexican State and municipal police forces.

(b) Matters to Include.—The report required under paragraph (1) shall include a description of—

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

(2) any relevant assessments by civil society and non-governmental organizations in Mexico relating to such matters; and

(3) any instances in which the Senate determines that the actions taken by the Government of Mexico are inadequate to address such matters.

(c) Congressional Committees Specified.—The congressional committees specified in this paragraph are—

(1) the Committee on Appropriations 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 Relations of the Senate;

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

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

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

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

(d) Notifications.—Any assistance made available by the Secretary of Defense under this section shall be subject to—

(1) the notification requirements set forth in section 68A 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 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 Defense shall transmit to the Congress a detailed long-term plan for assistance to Mexico under this section, which shall include a strategy, developed after consultation with relevant authorities of the Government of Mexico, for—

(1) combating drug trafficking and related violence and organized crime; and

(2) providing assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern border.
SEC. 1116. PROHIBITIONS ON ACTIONS THAT IMPED BORDER SECURITY ON CERTAIN TERRITORY.

(a) PROHIBITION ON INTERFERENCE WITH U.S. CUSTOMS AND BORDER PROTECTION.—

(1) IN GENERAL.—The Secretary concerned shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on covered Federal land to carry out the activities described in paragraph (b) 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.

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

(1) IN GENERAL.—U.S. Customs and Border Protection shall have immediate access to covered Federal land to conduct the activities described in paragraph (b) 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 paragraph (b)(1) 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, and operation of physical barriers, tactical infrastructure, and technology pursuant to section 102 of the Illegal Immigration Reform and Immigrant Rights Act of 2006, 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) 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. 30001 et seq.) (formerly known as the “National Historic Preservation Act”).

(E) Title I of Public Law 80–404 (16 U.S.C. 1451 et seq.).

(F) The Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

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


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


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


(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 Oatman Mountain Wilderness Act of 1999 (Public Law 106–145).


(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).


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


(KK) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in paragraph (2) was repealed and incorporated into the waiver applied to that provision of law, subparagraph (2) may provide, through the Secretary, recommendations to Congress.

(3) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the authority to restrict legal access to such land.

(d) PROTECTION OF LEGAL USES.—Nothing in this section shall 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) EFFECTIVE 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, repeal, annul, 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 1082 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) may advise, consult with, report to, and make recommendations to the National Border Security Advisory Committee; and

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

“(2) INDEMNITY FOR ACTIONS OF LAW ENFORCEMENT OFFICERS.—

“(d) DEFINITIONS.—In this subsection—

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

“(2) the term ‘owner’ includes the possessor of a fee interest, a tenant, a lessee, an occupant, the possessor of any other interest that is attached to real property; 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 or within the outer continental 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 the federal or State court in any tort litigation; and

"(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 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 a law enforcement officer of the Department of Homeland Security, acting in their official capacity, on the owner’s land.

"(3) Exceptions.—Nothing in this subsection is intended to require the Secretary to reimburse a landowner under paragraph (2) for any adverse final tort judgment for negligence or to limit landowner 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, an 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 execution of an arrest warrant for a violation of any immigration law.

"(4) Savings Provision.—Nothing in this subsection may be construed to affect any right of any alien pursuant to section 235(b)(1) of the Act (8 U.S.C. 1225(b)(1)).

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 domesticated animals.

"(5) Means of conveyance.—The term ‘means of conveyance’ means any personal property used for, or intended for use, for the movement of 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 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, pollen, spore, virus, bulblet, 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 any pest or disease of livestock or plant that threatens any segment of agriculture.

"(2) Compensations.—(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 plants, animals, or means of conveyance 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 Secretary of Agriculture or a designee of the Secretary of Agriculture.

(d) Cooperation.—(1) In General.—In carrying out this section, the Secretary of Agriculture may cooperate with other Federal agencies, States, State agencies, political subdivisions of States, national and local governments of foreign countries, domestic and international organizations, and other persons.

(2) Reimbursement.—The person or other entity cooperating with the Secretary of Agriculture shall be responsible for the authority necessary to carry out operations or measures under this section.

"(A) on all land and property within a foreign 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 determined by the Secretary of Agriculture.

(e) Funding.—For fiscal year 2018, and for each subsequent fiscal year, the Secretary of Agriculture shall use such amounts from the Federal Emergency Management Agency, the Department of Homeland Security, the Department of Agriculture, and any other Federal agency, 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.

(f) Reimbursement.—The Secretary of Agriculture shall reimburse any Federal agency, State, State agency, political subdivision of a State, national or local government of a foreign country, domestic or international organization, or association, domestic non-profit corporation, Indian tribe, or other person for specified costs, as prescribed by the Secretary of Agriculture, in the discretion of the Secretary of Agriculture, that result from cooperation with the Secretary of Agriculture in carrying out operations and measures under this section.

SEC. 1123. TRANSNATIONAL CRIMINAL ORGANIZATION ILLICIT SPOTTER PREVENTION AND DETECTION.

(a) Bringing in and Aiding Certain Aliens.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

"(1) by striking subsection (a)(2), in the matter preceding subparagraph (A), by striking ‘‘brings to’ or attempts to bring to’’ and inserting ‘‘brings to or attempts or conspires to bring to’’; and

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

"(b) Aiding or Assisting Certain Aliens to Enter the United States.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

"(1) by inserting ‘‘or attempts to aid or assist’’ after ‘‘knowingly aids or assists’’; and

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

"(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:

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

"(3) by striking ‘‘if the damage’’ after ‘‘both’’ and inserting the following:

"(d) The sentence otherwise provided for a person convicted of an offense under this section may be increased by up to 10 years if the person, at the time of the offense, possessed a firearm or who, in furtherance of any such crime, possessed a firearm.

"(e) 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:

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

"(3) by striking ‘‘if the damage’’ after ‘‘both’’ and inserting the following:

"(f) By a person convicted of an offense under this section who—

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

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

"(3) by striking ‘‘if the damage’’ after ‘‘both’’ and inserting the following:

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

"(g) If the damage or attempted damage 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, exca- vate, cause to move, or otherwise was 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 deprivation 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 crime, 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) 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:

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

‘‘(a) ILLICIT SPOTTING.—Any person who knowingly and without lawful authorization destroys, alters, or tampered with, any fence, barrier, roadway, 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.

‘‘(b) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Any person who knowingly and without lawful authorization destroys, alters, or tampered with, any fence, barrier, roadway, 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.

‘‘(d) THREAT ANALYSIS.—The analysis submitted under paragraph (1) shall include an assessment of:

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

‘‘(I) to unlawfully enter the United States through the northern border; or

‘‘(II) to exploit security vulnerabilities along the southern border;

‘‘(2) improvements needed at and between ports of entry; and

‘‘(3) the term ‘crime of violence’ means a felony offense that—

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

‘‘(B) 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


‘‘(f) STATUTE OF LIMITATIONS.—Section 3296 of title 18, United States Code, is amended by inserting ‘‘, or 295’’ after ‘‘274(a)’’.

SEC. 1124. SOUTHERN BORDER THREAT ANALYSIS.

(a) THREAT ANALYSIS.—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.

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

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

‘‘(I) to unlawfully enter the United States through the northern border; or

‘‘(II) to exploit security vulnerabilities along the southern border;

‘‘(2) improvements needed at and between ports of entry; and

‘‘(3) the term ‘crime of violence’ means a felony offense that—

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

‘‘(B) 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


(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 public information technology developed 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 illegal border drug transport 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 efforts (such as by the Department of Homeland Security); and

‘‘(H) any technology required to maintain, support, and enhance security and facilitate the effective use of ports of entry, including but not limited to—

‘‘(i) technology that the Secretary determines to be necessary;

‘‘(ii) 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 Plaintiff;

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

‘‘(L) border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the northern or southern border, or in the maritime environment, and from border crossers and stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives of businesses 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 security at 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 operational procedures affect border crossing times.

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

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

(1) in paragraph (18), by striking “and” and inserting “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 striking the period at the end of the following: “to achieve,” and inserting “; and”;

(c) IMPLEMENTATION PLAN.—Subparagraph (A) of section 411(e)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 4301 et seq.), as amended by paragraphs (1) and (2) of section 3(a) of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 40101 note), is amended—

(1) by striking “VIII of the Trade Facilitation and Trade Enforcement Act of 2015;” and

(2) by adding at the end the following: “the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4301 et seq.) is amended by adding at the end the following: “VIII of the Trade Facilitation and Trade Enforcement Act of 2015;”;

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

(1) in paragraph (1), by striking “and” and inserting “; and”;

(II) in paragraph (2), by striking “a point” and inserting “a point”;

(3) in paragraph (3), by striking “and” and inserting “; and”;

(e) 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 IBETs, stakeholder agencies and radio interoperability to improve active use of 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.

SEC. 1126. AGENT AND OFFICER TECHNOLOGY USE.

(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 IBET Program shall permit 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

(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) 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.

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: “Sec. 434. Integrated Border Enforcement Security Task Force established under section 432.

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

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

(2) 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 purpose of securing the maritime borders of the United States, in accordance with subsection (c)(1)(C).

(c) 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.

SEC. 1129. INTEGRATED CROSS-BORDER LAW ENFORCEMENT OPERATIONS.

SEC. 1130. LAND USE OR ACQUISITION.
SEC. 1129. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnels For preventing the passage of drugs, weapons, and other resources needed to maintain the health and well-being of the horses that serve in the horseback units.

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 establish a pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and Border Protection in support of border security operations through:

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

(2) automated spectrum management to enable identification 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 to the Committee on Homeland Security and Governmental Affairs of the Senate, 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, and the following:

"(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.—For purposes of section 3322 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.”

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 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 train and assign K-9 canines at the primary inspection lanes at land ports of entry and checkpoints.

(e) U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient K-9 search and rescue trauma and rescue activities along the southern border.

(f) U.S. CUSTOMS AND BORDER PROTECTION TUNNEL DETECTION AND TECHNOLOGY PROGRAM.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of agents assisting task forces and activities related to deployment and operation of border tunnel detection technology and apprehensions of individuals using such tunnels for crossing into the United States, drug trafficking, or human smuggling.

(g) AGRICULTURAL SPECIALISTS.—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 specialists.

(h) 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:

“(8) 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 5555(a) of title 5, United States Code) if, during a work period of 14 consecutive days, the border patrol agent receives compensation at a rate 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 addition to any payments made under section 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitation 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 by inserting “and” before the following:

“(d) EMPLOYMENT AS A BORDER PATROL AGENT.”

February 14, 2018

CONGRESSIONAL RECORD—SENATE S991
SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION UNIT EMPLOYMENT INCENTIVES.

(a) In General.—Chapter 9 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 AUTHORITY.

(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; and

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

(b) The term ‘Director’ means the Director of the Office of Personnel Management;

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

(d) the term ‘appropository 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 Relocation Bonuses; Retention Bonuses.

(1) Statement of Purpose and Limitation.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expediently 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.

(c) 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 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 5755(b)(2) 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 under 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).

(d) 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;

"(II) for a different position in the Federal service, including a position in another agency or component of the Department of Homeland Security; 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 under 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).

(e) OPM Oversight.—In addition to the provisions under subsection (c), the Director shall submit written notice to the Secretary and the appropriate congressional committees stating that the Director has submitted written notice to the Secretary and the appropriate congressional committees under subsection (b), or provide CBP employees with further special rates of pay, until the Director has submitted written notice to the Secretary and the appropriate congressional committees that the Director has satisfied that safeguards are in place to prevent further inappropriate use.

(f) Improving CBP Hiring and Retention.

(1) Education of CBP Hiring Officials.—Not later than 180 days after the date of enactment 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 regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarter, field office, field office headquarter, or in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

(2) Elements.—Elements of the strategy developed under paragraph (1) shall include—

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

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

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 higher education institutions (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 counselors; and

(E) examination of existing agency programs to determine how to most effectively aid spouses and families of individuals who are candidates 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 these CBP employees and their families; and

(H) evaluation of Department of Homeland Security internship programs and the usefulness of those programs in 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 helped to fill positions in rural or remote areas;

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

(B) 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 hiring and retention ability of the Secretary; and

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

(4) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this section, and annually thereafter while the Secretary has not been dismissed from a law enforcement officer position; and

(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 or 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), or (D).

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 this Act.

(5) PROHIBITION.—The authority to issue 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, including in cases where such employee is a veteran, if the veteran served 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.

(6) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

(1) COMMISSIONER.—Section 3 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, including in cases where such employee is a veteran, if the veteran served 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.

(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 properly determine 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. 4. ANNUAL 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 subsequent reporting period:

(i) 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) TECHNICAL 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 subsection (a), and this section (l), is further amended by adding at the end the following:

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 8431(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, required when the polygraph examination required 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 policy and guidelines related to relevant subject matters.

(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the Homeland Security Act of 2002, 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 (1) 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) ENVIRONMENT AND REMOVAL OFFICERS.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall increase by not fewer than 100 the number of trained, full-time, active duty Homeland Security Investigations special agents and established under section 342 of the Homeland Security Act of 2002 (6 U.S.C. 240).

(b) BORDER SECURITY TASK FORCE.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall assign not fewer than 100 Homeland Security Investigations special agents to the Border Security Task Force, to be established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

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 increase by not fewer than 100 the number of Assistant United States Attorneys; and

(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 of Justice on such date of enactment, the Attorney General shall increase by not fewer than 50 the number of Special Assistant United States Attorneys in the United States Attorneys’ office who litigate denaturalization and other immigration cases in the Federal courts.

(b) IMMIGRATION JUDGES.—

(1) 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 on such date of enactment, the Attorney General shall increase by not fewer than 200 the number of trained full-time immigration judges.

(c) 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.—By not later than September 30, 2022, the Attorney General shall increase by not fewer than 50 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 attorney vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase by not fewer than 100 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 enactment, the Attorney General shall increase by not fewer than 100 the number of attorneys for the Office of Immigration Litigation.

(b) DEPARTMENT OF HOMELAND SECURITY.—

(1) FRAUD DETECTION AND NATIONAL SECURITY 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 Homeland Security on such date of enactment, the Director of U.S. Customs and Border Protection 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 enactment of this Act and any existing officer vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Immigration and Customs Enforcement shall increase by not fewer than 50 the number of trained full-time investigators}

SEC. 5. ADDITIONAL AUTHORITY.—
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 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. Attorneys, 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 at 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 contractor of U.S. Citizenship and Immigration Services or the Department of Homeland Security’s Administrative Appeals Office.

A) DEPARTMENT OF STATE.—

1. **JUDICIAL RESOURCES FOR BORDER SECURITY.**

   1.1 **BORDER CROSSING PROSECUTIONS; CRIMINAL CONSEQUENCE INITIATIVE.**

   **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 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) judicial 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 controversies 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 District of Arizona and the Central District of California authorized under section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 332 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 AMENDMENTS.**—The table contained in section 133(a) of title 28, United States Code, is amended—

   (A) by striking the item relating to the District 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 191(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) 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 Congress enacted after the date of the enactment of this Act.

SEC. 1150. REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR FEDERALLY INITIATED, IMMIGRATION-RELATED CRIMINAL CASES.
   (a) IN GENERAL.—The Attorney General shall reimburse the States, political subdivisions of States, local governments, and tribal 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), by inserting “AUTHORIZED.” before “If the chief”;
   (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, 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) 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 Attorney General shall make grants to eligible law enforcement agencies located in the relevant States to reimburse such agencies for costs associated with such incarceration.
   (d) 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. 1152. SOUTHERN BORDER SECURITY ASSISTANCE GRANTS.
   (a) AUTHORITY.—
      (1) IN GENERAL.—The Secretary, in consultation with the Commissioner of U.S. Customs and Border Protection, shall make grants to eligible law enforcement agencies located in the Southwest border region of the United States, as determined by the Secretary, to reimburse the agencies for the operational and maintenance costs associated with high performance aircraft, manned aircraft, cameras with night vision capabilities, and any other appropriate law enforcement equipment.
      (2) PERIOD OF PERFORMANCE.—The Secretary shall make grants under this section to reimburse the agencies for the operational and maintenance costs associated with such equipment for a period of not less than 5 years, as determined by the Secretary.
   (b) ELIGIBLE RECIPIENTS.—To be eligible for a grant under this section—
      (1) the recipient—
         (A) shall be a county that is located within 25 miles of the Southern border;
         (B) a State or territory with a maritime border or an active Border Patrol or Border Inspection Station;
         (C) a border-related nonimmigrant status in which the alien was admitted, has maintained, or she was taken into custody by the State officer computers, license plate readers, unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night vision capabilities, and any other appropriate law enforcement equipment;
      (2) AWARD OF FUNDS.—Subject to the availability of appropriations and coordination with the Commissioner of U.S. Customs and Border Protection, not later than 45 days after the date an application is approved under paragraph (1), the Secretary shall make grants to the applicants under this section for the operational and maintenance costs associated with such equipment; and
      (3) in paragraph (4), by inserting “and aliens with an unknown status” after “undocumented criminal aliens” each place that term appears;

SEC. 1153. 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, including any state or local law enforcement agency or agencies for the purposes permitted for Operation Stonegarden under the Department of Homeland Security’s most recent Homeland Security Grant Program Notice of Funding Opportunity; and
   (b) ELIGIBLE RECIPIENTS.—To be eligible for 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, major drug smuggling investigation that includes cooperation with the Commissioner of U.S. Customs and Border Protection.
   (c) PERMITTED USES.—The recipient of a grant under this section may use such grant for—
      (1) equipment, including maintenance and sustenance costs; and
      (2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities.
   (d) PERIOD OF PERFORMANCE.—The Secretary shall make grants under this section for the operational and maintenance costs associated with such equipment for a period of not less than 5 years unless terminated by the Secretary.
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 to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the expenditure of grants made under this section by each grant recipient.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are 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) CERIAL 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 2006 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 unidenti-

fied alien remains that have been trans-

ferred to an official medical examiner’s of-

fice 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 un-

identified persons.

SEC. 1155. GRANT ACCOUNTABILITY. (a) DEFINITIONS.—In this section:

(1) THE "AWARDING ENTITY" MEANS THE SECRETARY, THE ADMINIS-

TRATOR OF THE FEDERAL EMERGENCY MANAGE-

MENT AGENCY, THE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION, OR THE DEPUTY SECRETARY FOR HOMELAND SECURITY.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organiza-

tion that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax 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 Inspect-

or General of the Department of Home-

land 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 sub-

title shall be subject to the following ac-

countability requirements:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enact-

ment and each fiscal year thereafter, the Inspector General of the Depart-

ment of Homeland Security, or the In-

spect General for the National Science Foundation for grants awarded by the Direc-

tor of the National Science Foundation, shall conduct audits of recipients of grants under this subtitle to ensure that grant funds are used in accordance with this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such Inspectors General shall determine the appropriate number of audits to be conducted 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 begin-

ning after the end of the fiscal year in which such finding was made; and

(C) PRIORITIES.—In awarding a grant under this subtitle, the awarding entity shall give pri-
tority to eligible applicants that did not have an unresolved audit finding during the 3 fis-

cal years immediately preceding the date on which the entity submitted the application for such grant.

(D) REIMBURSEMENT.—If an entity is awarded a grant under this subtitle or any amendment made by this subtitle during the 2-year period when the entity is barred from 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;

(ii) seek to recover the costs of the repay-

ment under clause (i) from such entity.

(E) NONPROFIT ORGANIZATION REQUIRE-

MENTS.—

(A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or any amendment made by this subtitle to a non-profit 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 organiza-


tion that is awarded a grant under this sub-

title or any amendment made by this sub-

title and uses the procedures prescribed by Internal Revenue regulations to create a re-

structable presumption of reasonability for the compensation of its officers, directors, trustees, and employees, and shall disseminate such information to the awarding entity, in the application for the grant, the process for determining such compensation, and the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the data to the best of its knowledge; and upon receipt of the awarding entity shall make the informa-

tion disclosed under this subparagraph avail-

able for public inspection.

(2) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—Amounts authorized to be appropriated to the Department of Homeland Security or the National Science Foundation for grants awarded by the Director of the National Science Foundation or the Deputy Director of the National Science Foundation, or their designee, are available to be expended to host the confer-

ence.

(B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a writ-
ten estimate of all costs associated with the conference, including food, beverages, audio-visual equipment, honorar-

ia 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 includes all conference expenditures appro-

ved under this paragraph.

(4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of 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 In-

spect General under paragraph (1) have been com-

pleted and reviewed by the appropriate individuals;

(ii) all mandatory exclusions required under paragraph (1)(B) have been made; 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 pre-

vious year.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 1201. DEFINITIONS.

In this subtitle—

(A) APPROPRIATE CONGRESSIONAL COMMIT-

TEES.—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.

(B) THE "TERM "SECRETARY"" MENTIONED IN THIS TITLE.—Sec-

onded the term "Secretary" whenever such term is used in this title shall mean 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 Adminis-

trator 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 Sec-

retary shall consult with the Secretary of State, the Secretary of the Interior, the Sec-

retary of Agriculture, the Secretary of Transportation, the Administrator of Gen-

eral Services, and appropriate representa-

tives 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 para-

graph (1).

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

(c) EXPANSION AND MODERNIZATION OF HIGH-

VOLUME SOUTHERN BORDER PORTS OF ENTRY.—Not later than September 30, 2022, the Administrator of General Services, sub-

ject to section 3307 of title 40, United States Code, and in coordination with the Sec-

retary of Homeland Security, shall expand the high-pri-

ority ports of entry on the southern border, as determined by the Secretary, for the pur-

poses of reducing wait times and enhancing security.

(d) GRANTS FOR ENTRY PRIORITIZATION.—Prior to constructing any new ports of entry pursu-

ant 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.

SEC. 1209. PILOT AND UPGRADE OF LICENSE PLATE READERS 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 conduct a 2-year pilot program to deploy high-throughput nonintrusive license plate readers for 1 to 2 cargo lanes at the top 2 high-volume southern border land ports of entry and at the top 2 high-volume northern border land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait times for commercial traffic and tractor-trailers.

(b) PILOT PROGRAM.—When the system created or expanded under paragraph (1) is operational, 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, may use 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 Program and expand the international target detection system at land ports of entry along the southern border and the northern border.

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

SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READERS 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 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, may use a multi- or dual-band encrypted portable radio.

SEC. 1202. BIOMETRIC TECHNOLOGY.

(a) BIOMETRIC STORAGE.—

(1) CREATION 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, and voice prints, and any other biometric data of aliens that can be used by the Department of Homeland Security, other Federal agencies, and States and local Governments that 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 operational demonstration project 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. NONINFRINGEMENT 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 a port of entry along the United States-Mexico border.

(2) LOCATION.—The demonstration project established under paragraph (1) shall be located within the pre-primary traffic flow; and

(b) ADDITIONAL AUTHORITIES.—

(1) Pearson X-ray or other similar devices.

(2) By Far and Away.

(3) By Far and Away.

(4) By Far and Away.

SEC. 1206. BIOMETRIC ENTRY-EXIT.

(a) 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 each of the fiscal years 2018 through 2022, to carry out such section.

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) AUTHORIZATION.—The Secretary—

"(1) not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit an implementation plan to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security and Governmental Affairs 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 for establishing a land port of entry biometric system; and

(B) a determination of the percent of international air and sea travel that support the highest volume of passenger vehicles, as determined by available Federal data.

(2) A northern land border.—The Secretary shall, on the date of the enactment of this section, expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry.

(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 shall establish a pilot program to test the biometric exit data system referred to in subsection (a)(2) on nonpedestrian outbound traffic at not fewer than 3 land ports of entry with significant cross-border traffic, and not fewer than 2 land ports of entry on the southern land border, and 1 land port of entry on the northern land border. Such pilot program may include a consideration of more than 1 biometric mode, and shall be implemented to determine—

(A) how a nationwide implementation of such biometric exit data system at land ports of entry will support the highest volume of international air and sea travel.

(B) the infrastructure required to carry out subparagraph (A);

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

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

(2) Exchange of data.—The Secretary 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 land ports of entry.

(4) Effects on air, sea, and land transportation.—The Secretary shall, on the date of the enactment of this section, terminate the pilot program entitled ‘Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Entry’.

(5) Northern land border.—The requirements under subsections (a)(2)(C) and (a)(3) may not apply to a 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.

(c) Full and open competition.—The Secretary shall conduct full and open competition for all categories of individuals who are required by the Secretary to provide biometric data under subsections (a)(2)(C) and (a)(3).
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 prohibited and psychoactive substances 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 of land 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 another certification process, whereby additional existing agents are authorized for additional hours to facilitate the crossing and trade of perishable agricultural products 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 one 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 “Fund”) to be administered through the Department of Homeland Security and, in fiscal year 2018 only, through the Department of State only with respect to section 1209 of the Reauthorization Act (50 U.S.C. 1605a note), which shall be available—

(1) to implement other border security provisions under titles I and II; or

(2) to cross designation for personnel who will assist more than one agency or department at land ports of entry.

(b) USE OF FUND.—If the Committee on Appropriations of the House of Representatives may provide, in an appropriation enacted in the fiscal year 2018, the Secretary shall transfer $200,000,000 to the Secretary of State pursuant to subsection (d), the amounts transferred by the Secretary to the Fund to the “U.S. Customs and Border Protection—Procurement, Construction and Improvements” account and remain available until expended.

(c) TRANSFER AUTHORITY.—In addition to the amounts transferred by the Secretary pursuant to subsection (b), the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may, in a subsequent appropriation, for the transfer of amounts in the Fund to the Department of Homeland Security to eligible activities under this section.

(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 (b), the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide, in a subsequent appropriation, 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 may provide, in a subsequent appropriation, for the transfer of funds pursuant to subsection (c) 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”; and

(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; or

“(B) predicted stimulant, depressant, or hallucinogenic effect.—For purposes 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, other relevant scientific information about the substance; and

“(ii) the current or relative potential for abuse of the substance; and

“(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)—

(A) in the matter preceding schedule I, by striking “IV, V, and” and inserting “IV, V, and A”;

and

(B) by adding at the end the following:

“(SCHEDULE A

“(a) Unless specifically exempted or unless listed in another schedule, any of the following substances, as scheduled in accordance with section 201(k)(5):

“(1) 4-fluorobutyrylfentanyl.

“(2) Valeryl fentanyl.

“(3) 4-methoxybutyrylfentanyl.

“(4) 4-ethylcinnamyl fentanyl.

“(5) 5-fluorofentanyl.

“(6) Ortho-fluorofentanyl.

“(7) Tetrahydrofuranfentanyl.

“(8) Oxfentanil.

“(9) 4-fluorobutyril fentanyl.

“(10) Methoxyacetylefentanyl.

“(11) Meta-fluorofentanyl.

“(12) 4-fluoroisobutyrylfentanyl.

“(13) Acryl fentanyl.

SEC. 1403. TEMPORARY AND PERMANENT SCHEDULED SUBSTANCES

Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end the following:

“(G) TEMPORARY AND PERMANENT SCHEDULED SUBSTANCES.—

“(1) The Attorney General may issue a temporary 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.

“A temporary order issued under paragraph (1) shall not take effect until 30 days after the date on which the
(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. 811(b)(1)), by adding at the end the following:

> "(9) By adding at the end the following:

> "(B) 

> "(A) In paragraph (9), by striking the period at the end and inserting "; or"; and

> "(B) 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

> "(2) in section 401 (21 U.S.C. 841), by inserting after subparagraph (b):

> "(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 100(b) of the Controlled Substances Import and Export Act (21 U.S.C. 956(b)) is amended by adding at the end the following:

> "(1) 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 $2,000,000 if this defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final for any of the purposes described in subsection (f), 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 $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 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 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 this defendant is other than an individual, or both.

(C) **Penalties**—Section 402 of the Controlled Substances Act (21 U.S.C. 823) is amended—

(1) in subsection (a)(16), by inserting "or A" after "schedule I";

> "(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 306 of the Controlled Substances Act (21 U.S.C. 833) is amended—

(1) in subsection (f), in the undesignated matter following paragraph (5)—

(A) by inserting "or A" after "schedule I";

(B) 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 purposes and with the authorization of the research protocol submitted by the practitioner registering 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) 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 substances or industrial or approved uses approved by the Attorney General; and

> "(B) the Attorney General determines that such registration is consistent with the public interest and with the other obligations under international treaties, conventions, or protocols in effect on the date of adoption of this Act.

> "(C) promotion of technical advances in the field 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) any other factors as may be relevant to and consistent with the public health and safety.

“(3) If an applicant is registered to manufacture specified substances in schedule I or II under subsection (a), the applicant shall not be required to apply for a separate registration under this subsection.

“(1)(i) 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) if 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 to other than legitimate medical, scientific, and industrial channels;

“(B) compliance with applicable State and local laws;

“(C) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of substances described in subparagraph (A); and

“(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 before the placement of the substance in schedule A shall register with the Attorney General.

“(2) In subsection 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 309(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 an application for registration to conduct research on a schedule A substance, the Attorney General shall grant or deny the application.

“(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Act (21 U.S.C. 801 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(c)’’ and inserting ‘‘schedule I(c), schedule A, and’’; and

“(B) in subsection (c), by striking ‘‘schedule I(c), and schedule A, and’’ and inserting ‘‘schedule I(c), schedule A, and’’; and

“(2) in section 1005 (21 U.S.C. 955), by striking ‘‘(c)’’ and inserting ‘‘(c)(1)’’; and

“(3) in section 1006 (21 U.S.C. 956), by striking ‘‘(c)’’ and inserting ‘‘(c)(1)’’.

“(c) C ONTROLLED 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’’; and

“(C) in section 1003 (21 U.S.C. 953)—

“(A) in subsection (c), in the matter preceding paragraph (1), by striking ‘‘schedule I(c) or II(c)’’ and inserting ‘‘schedule I(c), schedule A, and’’; and

“(B) in subsection (d), by striking ‘‘schedule I(c) or II(c)’’ and inserting ‘‘schedule I(c), schedule A, and’’.

“SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

“(a) CONTROLLED SUBSTANCES ACT.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

“(1) in section 308(c) (21 U.S.C. 822(c)—

“(A) by striking ‘‘subsections (a) and (b)’’ and inserting ‘‘subsections (a), (b), (k), or (l)’’; and

“(B) by striking ‘‘schedule I or II’’ and inserting ‘‘schedule I, II, and 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 ‘‘schedules 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 ‘‘schedules I and II’’ and inserting ‘‘schedules I, II, or A’’;

“(F) in subsection (f), by striking ‘‘schedules I and II’’ and inserting ‘‘schedules I, II, and A’’; and

“(G) in section 308(a) (21 U.S.C. 828(a)—

“(A) by striking ‘‘schedule I or II’’ and inserting ‘‘schedule I, II, or A’’;

“(B) in paragraph (2), by striking ‘‘schedule I or II’’ and inserting ‘‘schedule I, II, or A’’; and

“(C) in section 308(b) (21 U.S.C. 829(b)—

“(A) by striking ‘‘schedule I(c), schedule A, and’’; and

“(B) in paragraph (1)—

“(A) by striking ‘‘schedule I(c)’’ and inserting ‘‘schedules I, II, and A’’; and

“(B) by striking ‘‘schedule I(c), and schedule A, and’’ and inserting ‘‘schedules I, II, and A’’.

“(2) in paragraph (2)—

“(A) by striking ‘‘schedule I(c)’’ and and inserting ‘‘schedules I, II, and A’’; and

“(B) by striking ‘‘schedule I(c),’’ and inserting ‘‘schedules I, II, and A’’; and

“(C) by striking ‘‘(32)(A)’’ and all that follows through clause (iii) and inserting the following:

“(32)(A) Except as provided in subparagraph (b), the term ‘‘analogue’’ means a substance whose chemical structure 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 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.

“(2) Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

“(1) the prosecution of offenses involving controlled substances 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 238 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. 238. APPREHENSION AND DETENTION OF ALIENS.

“(a) ARREST, DETENTION, AND RELEASE.—

“(1) IN GENERAL.—The Attorney General, or in the event a warrant issued by the Secretary, may arrest 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 alien if the Secretary or the Attorney General 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 property or appear to fail to appear for any scheduled proceeding; and

“(B) may not provide the alien with work authorization (including an ‘employment authorization endorsement’ work permit) or advance parole to travel outside of the United States, unless the alien

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is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

(a) NONIMMIGRANTS.—Section 237(a)(4) of the Act is amended by inserting the words 'or parole authorized under subsection (a)' after the words 'admitted' in clause (A).

(b) IN GENERAL.—The terms and conditions of admission under subsection (a) and (b) of section 212(a)(2) shall be enforced and complied with.

(c) MANDATORY DETENTION OF CRIMINAL ALIENS.—The Secretary shall continue to detain the alien in the custody of the Secretary, at any time, may revoke bond or parole authorized under subsection (a), regardless of whether or not the alien is in the United States, for the same offenses and subject to the same conditions as the alien would have been subject to prior to the entry of the alien.

(d) SEC. 236. Apprehension and detention of aliens.—

SEC. 1502. DETERRING VISA OVERSTAYS.

(a) ADMISSION OF NONIMMIGRANTS.—Subsection 212(a)(4) of the Act is amended by inserting the words 'or parole authorized under subsection (a)' after the words 'admitted' in clause (A).

(b) SEC. 236. Apprehension and detention of aliens.—

(1) SEC. 237(a)(4).—The alien shall be placed in the custody of the Secretary, and the alien may be detained in the custody of the Secretary, at any time, may be returned to the United States, for the same offenses and subject to the same conditions as the alien would have been subject to prior to the entry of the alien.
“(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. 1225(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 entry as a 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, 245, 246, 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 a 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, or qualifies for a nonimmigrant visa as a NATO-1, 2, 3, 4, 5, or 6 non-immigrant, until the alien has waived any form of relief or protection from removal based on a claim under section 240B of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(2) Previously Admitted Individuals.—An alien previously granted temporary admission 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 nonimmigrant classification under section 248 of the Immigration and Nationality Act (8 U.S.C. 1225).”

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 expand the 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. 47092) is amended—

(1) in subsection (a)(1), by adding at the end the following:

“(E) 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 237(a)(1)(B)(i)(II)(V), 236, 236A, or 238 of such Act (8 U.S.C. 1225(b)(1)(B)(i)(II)(V), 1226, 1226A, and 1228); or

(ii) is the subject of a final order of removal under section 238(a) of such Act (8 U.S.C. 1228a) based on inadmissibility under section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) or deportability 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 an alien to provide, as a condition of admission, biometric information to the Department of Homeland Security or the Department of State an application, petition, or other request for 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, photographs, signature, voice print, iris scan, or DNA.

(b) Use.—The Secretary of Homeland Security and the Secretary of State may use any biometric information submitted under paragraph (1) for immigration, border, 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 Biographical 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 shall exchange appropriate biometric and biographical information to determine or confirm the identity of an individual and to assess whether the individual is a threat to national security or public safety.

(ii) USE OF DNA DATA.—Before the date of enactment of this Act, the Secretary of Homeland Security 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 intergovernmental 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.

(d) 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 an 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, in cooperation with the 10 U.S. Immigration and Customs Enforcement field offices or regions with the largest number of legal arrivals or legal departures, a pilot program to allow U.S. Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers to electronically flag, access, and serve charging documents, including notices to appear, while in the field;
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; or

(III) the alien is 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 is granted status under section 209 or lawfully admitted under section 207.

(4) PAROLE AUTHORIZED.—Except as provided in paragraphs (2) or (3), the Secretary, in his or her sole and unreviewable discretion, may parole in any alien whom the Secretary, in the Secretary's sole and unreviewable discretion, finds to have a public interest reason for parole, the term 'public interest' means the alien has assisted the United States in any activity, or national security activity, or that in the interest of espionage, or other similar law enforcement or public safety purpose.

(5) PROHIBITED USES OF PAROLE AUTHORIZATION.—

(i) GENERAL.—The Secretary may not parole the 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.

(ii) REVOCATION OF ADVANCE PAROLE.—

(1) 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 adjustment of status to lawful permanent resident status in the United States under section 245 or 245A.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the month following more than 60 days after the date of enactment of this Act.

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 includes—

(1) a description of aliens paroled into the United States based on the results of such review, and a report based on the results of such review, and a description of aliens paroled into the United States who were paroled under subparagraph (B) of section 245A of the Immigration and Nationality Act; and

(b) REPORT ON PAROLE PROCEDURES.—Not later than 180 days after 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 decision 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. Analysis—

(i) the rate at which release from detention (including release on parole) is granted to

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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; (ii) any disparity that exists between locations or geographical areas, including an explanation of the reasons for this disparity and the manner in which being taken to ensure 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 in securing the alien’s presence at the immigration court proceedings; (D) recommendations with respect to whether the existing parole and custody determination mechanisms 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) any other factors that may result in apparent rates, in absentia orders, and abductions.

SEC. 1509. REINSTATEMENT OF THE SECURE COMMUNITIES PROGRAM.

(a) REINSTATEMENT.—The Secretary shall reinstate and operate the Secure Communities program as administered by U.S. Immigration and Customs Enforcement between 2008 and 2014.

(b) Amendments.—There is authorized to be appropriated $150,000,000 to carry out this section.

SEC. 1510. ENSURING THAT LOCAL AND FEDERAL LAW ENFORCEMENT OFFICERS MAY COOPERATE TO SAFEGUARD OUR COMMUNITIES.

(a) AUTHORITY TO COOPERATE WITH FEDERAL OFFICIALS.—A State, a political subdivision of a State, or an officer, employee, or agent of such State or political subdivision to whom enforcement powers have been delegated by the Department of Homeland Security under sections 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 or 1257) may, with the consent of the Secretary of Homeland Security, suspend and hold in custody an alien for a period not to exceed 48 hours: (1) if the actions of the officer, employee, or agent of the State or political subdivision would interfere with any criminal investigation or prosecution; (2) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the law; and (3) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the law.

(b) LEGAL PROCEEDINGS.—In any legal proceeding brought against a State, a political subdivision of a State, or an officer, employee, or agent of such State or political subdivision to whom enforcement powers have been delegated by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 or 1257): (1) no liability shall lie against the State or political subdivision of a State or any of its officers or agents for actions taken in compliance with the law; and (2) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the law—

(1) 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 section 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 an alien 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 Security Act of 2009”.

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 to the United States” and inserting “who is a national or habitual resident of a country that is contiguous to the United States” (C) in subparagraph (B), inserting “be treated in accordance with subparagraph (B)” and inserting “shall be treated in accordance with subparagraph (B)” and (D) in subparagraph (C), by amending the subparagraph heading to read as follows: “AGREEMENTS WITH FOREIGN COUNTRIES.” (2) 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”; (3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and (4) inserting after paragraph (2) the following: “(B) 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 who is a convicted criminal or a member of a gang in the custody of the Secretary of Homeland Security in accordance with section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) if— (i) the alien has been convicted of, or found to be removable by reason of, or has engaged in, or is associated with, any criminal activity; (ii) the alien is convicted of, or found to be removable by reason of, or has engaged in, or is associated with, a substantial criminal activity; (iii) the alien has been convicted of, or found to be removable by reason of, or has engaged in, or is associated with, a terrorist activity; (iv) the alien has been convicted of a violent crime, or found to be removable by reason of, or has engaged in, or is associated with, a violent crime; (v) the alien has been convicted of, or found to be removable by reason of, or has engaged in, or is associated with, a serious criminal activity; (vi) the alien has been found to be removable by reason of, or has engaged in, or is associated with, an alien smuggling activity; (vii) the alien has been found to be removable by reason of, or has engaged in, or is associated with, a human trafficking activity; or (viii) the alien has been found to be removable by reason of, or has engaged in, or is associated with, a national security threat.

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:

“(A) IMMIGRATION STATUS.—If the Secretary of Homeland Security 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) CRIMINAL HISTORY INFORMATION.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security and the Attorney General, upon request, any information concerning 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 person to whom custody of the child has been transferred, for any legitimate law enforcement objective, including the enforcement of the immigration laws.”.

SEC. 1523. ACCOUNTABILITY FOR CHILDREN AND CRIMINAL TAXPAYERS.

Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b)) is amended by section 1522 of this Act is amended by adding at the end the following:

“(C) INSPECTION OF FACILITIES.—The Inspector 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 ensure that facilities utilized to provide care and custody of unaccompanied alien children are operated at a rate of cost per bed that is not greater than $500 per day for each child housed or detained at such facility, unless the Secretary certifies that compliance with this requirement is temporarily impossible due to emergency circumstances.

SEC. 1524. CUSTODY OF UNACCOMPANIED ALIEN CHILDREN IN FORMAL REMOVAL PROCEEDING.

(a) In General.—Section 229c(c)(2) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(2)) is amended by adding at the end thereof:

"(III) the Secretary of Health and Human Services shall conduct home studies and follow-up services for any child with mental health needs or other needs who could benefit from ongoing assistance from a social welfare agency;"

(b) Definition of Special Immigrant Juvenile.—Section 205(a)(2)(B) of the Immigration Act of 2002 (8 U.S.C. 1101(a)(2)(B)(ii)) is amended by striking "adoptive" and inserting "either of the immigrant's parents".

(c) Investigations.—(1) by redesignating subparagraph (C) as subparagraph (D); and

(d) Detention of Accompanied Minors.—(1) In General.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1223) is further amended—

(A) by redesignating subsections (d) through (j) as subsections (e) through (j), respectively; and

(B) by inserting after subsection (c) the following:

"(k) DETENTION OF ACCOMPANIED MINORS.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement—

"(I) 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 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231);"

"(2) FUNDING LIMITATION.—No appropriated funds may be used to implement the terms of the settlement agreement in Flores v. Reno,
CV 85–494–B.J.K, 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. 1255. DATA 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)))—
"(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) 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.

"(c) Criminal 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. 1256. NOTIFICATIONS 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. 1225) is amended by adding at the end the following:

"(k) Notification to States.—

"(1) Before Placement.—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 outside the custody of Secretary into the care of a facility or sponsor in such State.

"(2) Initial Reports.—Not later than 60 days after the date of enactment of this subsection, 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 during 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 each 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.

"(1) Notice to 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 this paragraph (2)."

SEC. 1257. REPORTS TO CONGRESS.

(a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2018, 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 Health and Human Services to the care of a sponsor or placement in a facility;
"(5) 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 habitual residence; and
"(B) age of the unaccompanied alien children;
"(6) 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 pending travel documents or other requirements from such country, including how long they have been waiting to return; and
"(7) 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.

(b) Reports on Immigration Procedures.—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 admissibility and are placed in proceedings under section 240 of that Act (8 U.S.C. 1229a);
"(3) the number of unaccompanied alien children who fail to appear at a removal hearing that such alien was required to attend;
"(4) the number of sponsors who were levied a penalty, including the amount and whether such alien was released after the failure of an unaccompanied alien child to appear at a removal hearing; and
(5) the number of aliens that are classified as unaccompanied alien children, the ages of countries of nationality of such children, and the orders issued by the immigration judge at any stage of proceedings under section 235B of the Immigration and Nationality Act for such children.

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

SEC. 1541. STRENGTHENING INTERNAL ASYLUM SYSTEMS IN MEXICO AND OTHER COUNTRIES THROUGH TECHNICAL ASSISTANCE AND PROFESSIONAL DEVELOPMENT

(a) In General.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall work with international partners, including the United Nations High Commissioner for Refugees, to support and provide technical assistance to strengthen the domestic capacity of Mexico and other countries in the region to provide asylum to eligible children and families—

(1) by establishing and expanding temporary and long-term in country reception centers and shelter capacity to meet the humanitarian needs of those seeking asylum or other forms of international protection;

(2) by improving the asylum registration system to properly screen eligible asylum or other humanitarian protection—

(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; and

(3) by creating or expanding a corps of trained asylum 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 children to ensure that—

(A) such children with international protection 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 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).
monetary instruments, bulk cash, or weapons by any individual departing the United States; or"

(d) LIFETIME DISQUALIFICATION.—Section 31310(b)(1), United States Code, is amended to read as follows:

"(d) LIFETIME DISQUALIFICATION.—The Secretary shall permanently disqualify an individual from obtaining a commercial motor vehicle operator license 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. 1328); 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, or weapons by any individual departing the United States.

(e) REPORTING REQUIREMENTS.—

(1) FEDERAL ROLE LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking "and at the time of application"; and

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) the operator was disqualified, either temporarily or permanently, from operating a commercial motor vehicle under section 31308, including under subsection (b)(1)(F), (c)(1)(F), or (d) of such section.";

(2) NOTIFICATION BY THE STATE.—Section 31311(a)(d) of title 49, United States Code, is amended by inserting "including such a disqualification, suspension, impeachment or disqualification made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of such section," after "60 days.

SEC. 1603. DRUG TRAFFICKING AND CRIMES OF VIOLANCE COMMITTED BY ILLEGAL ALIENS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 272 the following:

"CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF VIOLANCE COMMITTED BY ILLEGAL ALIENS

§ 851. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

§ 851. Enhanced penalties for drug trafficking and crimes committed by illegal aliens

"(a) OFFENSE.—Any alien unlawfully present in the United States, who commits, consents to, committing, or attempts to commit an offense under 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 firearm (as defined in section 924), shall be fined under this title, imprisoned not more than 10 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 alien who violates subsection (a) and was ordered removed 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. ENHANCED PENALTIES AND DEPORTABILITY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(A)) is amended by adding at the end the following:

"(vi) 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 turpitude;"

(b) DEPORTABLE ALIENS.—

(1) GENERAL PROVISIONS.—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 (v) and clause (vii); and

(B) inserting after clause (v) the following:

"(vii) 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 turpitude.";

(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 establish whether a crime constitutes a crime of domestic violence, 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, that clearly establishes that the conduct in which the alien was engaged constitutes a crime of domestic violence.

(c) EFFECTIVE DATE; APPLICABILITY.—The amendments 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.—

"(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(a), 240B, 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), 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 relief under section 240(b)(2), withholding of removal under section 240(b)(3), or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

"(2) A alien, 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, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

(b) 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 officers); 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, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

(c) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by engaging in conduct described in paragraph (A), (B), or (C) of that paragraph—

"(A) shall, for the first violation, be fined not more than $10,000; or

"(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined not more than $10,000, or imprisoned for 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 not more than $50,000, imprisoned for not more than 10 years, or both.

"(D) 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 not more than $10,000, imprisoned for not more than 2 years, or both;

"(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 convictions described in subparagraphs (C) through (E) of paragraph (3) are elements of the offenses described in that paragraph and the penalty increased under such subparagraph 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 information; 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 discovered 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 punished in the same manner as for a completion of such offense.

(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

(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 a civil authority 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) 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:

"(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, deportation, or removal is outstanding shall be ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240(b)(2), 240(b)(8), and 245(a)(1), other than as designated by an immigration officer.

(A) not less than $50 but not more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

(B) the amount described in subparagraph (A) if the alien had previously been subject to a civil penalty under this subsection.

(c) 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.

(1) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by adding at the end the following:

"Sec. 276. Reentry of Removed Alien.

(1) In General.—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. 276. Illegal entry."

(d) APPLICATION.—

(1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1325(a)(2)) 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)(1)) 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 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) SEC. 1606. PENALTIES FOR REENTRY OF REMOVED ALIENS.

(a) Short Title.—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:

"(a) PENALTIES FOR REENTRY OF REMOVED ALIENS.

(1) In General.—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. 276. Reentry of Removed Alien.

(1) In General.—The alien is discovered within the United States, unless—

(A) the alien was excludable under section 212(a)(3)(B) or has been removed from the United States pursuant to the provisions of such section, and thereafter 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 period of 15 years, which sentence shall not run concurrently with any other sentence; and

(B) an alien described in subsection (a) who was convicted, in 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, and 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 more than twice for any reason and thereafter 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 deportation, of a significant misdemeanor or a crime punishable by imprisonment for not less than 18 months, or both, 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 deportation, of 2 or more misdemeanors involving drugs, crimes against persons, 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 deportation, of 3 or more misdemeanors for which the alien was sentenced to a term of imprisonment of not less than 60 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 deportation, of a felony for which the alien was sentenced to a term of imprisonment for not less than 5 years, or both, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

"(2) CRIMINAL PENALTIES FOR REENTRY OF CERTAIN REMOVED ALIENS.

(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2), and except as provided in subsection (c),

(A) an alien described in subsection (a) who has been 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, and imprisoned for not more than 15 years, or both; and

(B) an alien described in subsection (a) who was convicted, in 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, and imprisoned for 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 deportation, of a significant misdemeanor or a crime punishable by imprisonment for not less than 18 months, or both, 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 deportation, of 2 or more misdemeanors involving drugs, crimes against persons, 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 deportation, of 3 or more misdemeanors for which the alien was sentenced to a term of imprisonment of not less than 60 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 deportation, of a felony for which the alien was sentenced to a term of imprisonment for not less than 5 years, or both, shall be fined under title 18, United States Code, imprisoned not more than 5 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), (b), or (b)(1), 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 deportation, or after such removal or deportation, for murder, rape, kidnapping, or a felony offense described in chapter 71 (relating to fraud and slavery) or 133 (relating to terrorism) of such title shall be fined under such title, imprisoned not more than 25 years, or both; and

'(C) CONVICTION.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, or is at any time found in, 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 reentry, 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 reentry for admission; or

'(B) with respect to an alien previously denied admission and removed, the alien—

'(A) is an offense under Federal, State, or Tribal law, that has, as an element, the use or threatened use of physical force or the use or threatened use of physical force or the threatened use of physical force or a deadly weapon.

'(B) complies with all other laws and regulations governing the alien's admission into the United States.

'(1) on a date that is before thedate of the alien's 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 UNDERWRITING REMOVAL ORDER.—In a criminal proceeding under this section, an order (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 a full and fair 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 against the alien 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 reentry 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) Crosses the border 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.

'(2) 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) Misdeemeanor.—The term 'misdeemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the 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 misdeemeanor.—The term 'significant misdeemeanor' means a misdeemeanor crime that—

'(A) involves the use or attempted use of physical force or the use or attempted 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 the victim as a spouse, parent, or guardian, or by a person similarly situated to a parent, 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. 12205)) by a current or former spouse, parent, or guardian of the victim.

'(C) involved the unlawful possession of a firearm (as defined in section 922 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.

'(c) EFFECTIVE DATE; APPLICABILITY.—Section 276a of the Immigration and Naturalization Act (8 U.S.C. 1256a) shall take effect on the date of enactment 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 and has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

'(2) after such denial, exclusion, deportation or removal, 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 reentry, 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 reentry 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 1956(c)(7)(D) relating to the movement of monetary instruments and the movement of cashiers of prepaid access devices and digital currencies, or other similar instruments.‘‘ in place of ‘‘section 1956(c)(7)(D) relating to the movement of currency, checks, and money orders or other instruments,‘‘.}

'SEC. 1608. FREEZING BANK ACCOUNTS OF INTERNATIONAL ORGANIZATIONS AND MONEY LAUNDERERS. Section 981(b)(1) of title 18, United States Code, is amended by adding at the end the following:

'(i) of title 18, United States Code, is amended by adding at the end the following:

'(a)(A) if a person is arrested or charged; and

'(B) requires 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—

'(iv) any act that is or was in violation of section 1956(c)(7)(D).

'(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for purposes of section 951 of title 18, United States Code.

'(F) A restraining order issued under this paragraph may be executed in any district in which the restraining order is or 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.

'(G) An order described in this subparagraph is any order for the restraint of monetary instruments or cashiers of prepaid access devices and digital currencies, or International Organizations and Money launderers.

'SEC. 1609. CRIMINAL PROCEEDS LAUNDERED THROUGH CRYPTOCURRENCY, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS. (a) IN GENERAL.—

'(A) ADDITION OF ISSUERS, REDEEMERS, AND CASHERS OF PREPAID ACCESS DEVICES AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section 951(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) A financial institution includes any person who

(i) is an issuer, redeemer, or cashier of prepaid access devices and digital currencies, or

(ii) is engaged in the business of providing financial services in a financial institution.

(b) CRIMINAL PROCEEDS LAUNDERED THROUGH CRYPTO-CURRENCY, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.—Section 951(a)(2)(A) of title 18, United States Code, is amended by inserting ‘‘section 951(a)(2)(A) relating to the movement of monetary instruments and the movement of cashiers of prepaid access devices and digital currencies, or other similar instruments.‘‘ in place of ‘‘section 951(a)(2)(A) relating to the movement of currency, checks, and money orders or other instruments.‘‘ .
“(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 currencies;”

“(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—

(1) by designating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

“(6) In 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 Comptroller 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 rules relating to “Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access” (76 Fed. Reg. 45603 (July 29, 2011)).

“(b) 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, following 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;

(2) includes an assessment of the infrastructure needed to carry out the strategy detailed pursuant to paragraph (1).

“(c) STRATEGY FOR CHECKING THROUGH BLANK CHECKS IN BEARER FORM.—Section 5316 of title 31, United States Code, is amended by adding at the end the following:

“(2) REGULATIONS—Sections 5315 of the Immigration and Nationality Act, as amended by this Act, shall apply as follows:

(A) an alien who is found inadmissible by the Attorney General for a violation under subsection (a)(3)(B) of the Act is subject to removal proceedings instituted under this section; and

(B) an alien who is found inadmissible under subsection (a)(3)(B) of the Act is subject to removal proceedings instituted under this section; and

(C) in paragraph (3)(B), in the section heading, by adding after “prepaid access device” the following—

“or a transaction reporting requirement under State or Federal law.”;

“(d) INCLUSION OF MONETARY INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by inserting “digital exchange transactions” after “transaction” and “digital exchanger” after “transferee” and adding at the end the following:

“(X) to the extent reasonable under the circumstances, knows, or has reasonable grounds to know, that such funds were or are intended to be used, or are in fact used, for the commission of an activity described in, or analogous to, paragraph (1), that would be unlawful if committed in the United States; and

“(ii) by striking “any activity” and inserting “any activity of which is the object of, or the control or overthrow of, the United States by force, violence, or other unlawful means, is inadmissible.”


(1) in subsection (B), by striking “(B) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;” and

(2) in subsection (C), by striking “(C) to the extent reasonable under the circumstances, knows, or has reasonable grounds to know, that such funds were or are intended to be used, or are in fact used, for the commission of an activity described in, or analogous to, paragraph (1), that would be unlawful if committed in the United States; and

“(f) BARS TO IMMIGRATION RELIEF.—Any alien who is otherwise admitted into the United States, and who is determined to be inadmissible under section 212(a)(3)(B) of the Act, is subject to removal proceedings pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

“(g) SEC. 1701. EXPEDITED REMOVAL FOR ALIENS IN-ADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in the section heading, by adding at the end the following:—

“or who are subject to terrorist-related grounds for removal”;

“(b) SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS FOR 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:

“(IV) an alien who is an officer, official, representative, or spokesman of the Palestinian Liberation Organization, is considered, for purposes of this Act, to be inadmissible.”;

“(c) INCLUSION OF MONETARY INSTRUMENTS.—Sections 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:

“or a transaction reporting requirement under State or Federal law.”;

“(f) SEC. 1703. EXPEDITED REMOVAL FOR ALIENS IN-ADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in the section heading, by adding at the end the following:—

“or who are subject to terrorist-related grounds for removal”;

“(b) SEC. 1704. EXPEDITED REMOVAL FOR ALIENS IN-ADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in the section heading, by adding at the end the following:—

“or who are subject to terrorist-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.”;

(ii) by striking “inadmissible.”

(3) in paragraph (3)—

(A) in paragraph (1)—

(i) by striking “inadmissible.”

(ii) by striking “inadmissible.”

(4) in paragraph (4)—

(A) in paragraph (1)—

(i) by striking “inadmissible.”

(ii) by striking “inadmissible.”

(5) in paragraph (5)—

(A) in paragraph (1)—

(i) by striking “inadmissible.”

(ii) by striking “inadmissible.”
(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 redesigning 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 to determine the inadmissibility of an alien 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); and

"(C) is not eligible for a waiver of inadmissibility or relief from removal;"

(b) by inserting the first subsection (c) as subsection (d);

(c) by redesigning 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

(d) 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 any alien under clause (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 subparagraph (A) or clause (B) of section 237(a)(4)(B)); 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) PROCEDURES.—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 a stay of removal that the Secretary may grant in the Secretary's discretion.

"(5) REPORT.—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 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.

SEC. 1704. DETENTION OF REMOVABLE ALIENS.

(a) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—Section 237 of the Immigration and Nationality Act (8 U.S.C. 1225a), as amended by section 1223, is amended by adding at the end of the section 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 temporary placement of 1 or more U.S. Customs and Border Protection agents or officers of U.S. Immigration and Customs Enforcement agents or investigators 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 notices of removal, or to fully cooperate with the enforcement of any individual arrested by a State, county, or local police department or precinct;

"(C) to issue an order of removal pursuant to section 237(a)(4)(B) of such Act (8 U.S.C. 1227(a)(4)(B)) and the contents of the Immigration and Nationality Act (8 U.S.C. 1252); and

"(D) to make advance arrangements for the temporary placement of 1 or more U.S. Customs and Border Protection agents and officers or U.S. Immigration and Customs Enforcement agents or investigators at a local police department or precinct to, in the exercise of discretion, may determine inadmissibility

"(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); and

"(C) is not eligible for a waiver of inadmissibility or relief from removal.'';

(b) TECHNOLOGY USAGE.—The Secretary may enter into information sharing, biometric, and video-conferencing capability for use at local police departments or precincts in removal locations.

"(4) REPORT.—Not later than 1 year after the date of the enactment of the SAFE and SUCCEED Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee 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.

SEC. 1705. MOVAL.—No alien described in this subsection.

"(b) DETERMINATIONS.—

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(1)(A)) is amended by striking "Attorney General" and inserting "Secretary".

"(B) BEGINNING OF PERIOD.—

"(1) 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 arrested and detained pending an immigration hearing, the date on which the alien is arrested and detained;

"(II) If the alien is detained or confined (whether in an immigration process, the date on which the alien is released from detention or confinement.

"(ii) SUSPENSION OF PERIOD.—If the alien 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.—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 verify the alien's identity and carry out the order of removal, including making timely application in good
(D) reinstatement under subparagraph (A) shall not require proceedings under section 240 or other proceedings before an immigration judge.

(B) JUDICIAL REVIEW.—Section 222 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 "come-"; and

(ii) by adding at the end the following:

"(B) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION 241A(A)(5).—

(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—If the Secretary determines that an alien has made 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;

(ii) the alien would be removed in the reasonably foreseeable future;

(iii) there is a significant likelihood that the alien will be removed in the reasonably foreseeable future;

(iv) 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

(v) 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; and

(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 on 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 214(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1313(a)(6)) is amended—

(A) by striking "Attorney General" and inserting "Secretary"; and

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

"(7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—

A determination under paragraph (6) shall—

(A) be made only if the alien has been removed, and not required to return to a country from which removal is not allowed;

(B) until the alien is removed, if the Secretary determines that the alien no longer poses a significant threat to public safety;

(C) be 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), and that there is reason to believe that the release of the alien would threaten the national security of the United States;

(D) that the alien has a history of one 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 crimes identified by the Secretary after the alien has been removed, and not required to return to a country from which removal is not allowed; and

(E) that the alien has a history of one or more crimes which provide a basis for removal.
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), because of the condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence that will imperil the safety of the community or any person, and the alien has been convicted of at least one aggravated felony (as defined in section 101(a)(43)); and

(III) the alien has 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 question the allegations in 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 (i), (iii), or (iv) of paragraph (9)(B) to an official below the level of the Director 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) REDETECTION.—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 specified in the order and to satisfy the conditions described in paragraph (8), or if, upon reconsideration, the Secretary determines that the alien can be detained under paragraph (8). Paragraphs (6) through (14) shall apply to the case of an alien who is released from custody under paragraph (12), as if the removal period terminated on the day of the re-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 commencement 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) LENGTH OF DETENTION.—

(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.

(3) 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); and

(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.

(3) 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.

(15) ADMINISTRATIVE REVIEW OF CERTIFICATIONS.—

(1) IN GENERAL.—The amendments made by subsection (b) and subsection (f) shall apply to any alien returned to custody or any person, and the alien has been convicted of at least one aggravated felony, in habeas corpus proceedings instituted in the place of confinement, judicial review of detention shall not affect the validity of any detention under section 241.

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

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (h) the following new subsection (g):

"(g) Length of detention.—The length of detention under this section shall not affect the validity of any detention under section 241.

(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.

(3) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (g) 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 246 of the Immigration and Nationality Act (8 U.S.C. 1236) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) 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.

(3) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (f) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia.

(16) REVIEW OF CERTIFICATIONS.—

(1) IN GENERAL.—The amendments made by subsection (b) and subsection (f) shall apply to any alien returned to custody or any person, and the alien has been convicted of at least one aggravated felony, in habeas corpus proceedings instituted in the place of confinement, judicial review of detention shall not affect the validity of any detention under section 241.

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

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (h) the following new subsection (g):

"(g) Length of detention.—The length of detention under this section shall not affect the validity of any detention under section 241.

(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.

(3) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (g) 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 246 of the Immigration and Nationality Act (8 U.S.C. 1236) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) 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.

(3) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (f) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia.
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 ‘interrogation, 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 serious violation of human rights’ means conduct described in section 1091(c);

(3) the term ‘incitement to genocide’ means conduct described in section 1091(c);

(4) the term ‘particularly severe violation of religious freedom’ means conduct described in section 1091(c);

(5) the term ‘use or recruitment of child soldiers’ means conduct described in subsection (a) and (b) of section 2441;

(6) the term ‘war crimes’ means conduct described in subsections (a) and (b) of section 24(1) and (2);


(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2430;

(9) the term ‘use or recruitment of child soldiers’ means conduct described in subsection (b) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));

(c) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

3392. Fraud in connection with certain human rights violations, crimes against humanity, or war crimes.

(c) APPLICATION.—The amendments made by this section shall apply to fraudulent conduct, misrepresentations, concealments, and frauds, or to similar acts 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:

(d) DEFENSE.—It shall be unlawful for any person to attempt or conspire to commit an offense under paragraph (1).

(1) the person has been convicted of a crime of terrorism that is the object of the employment, solicitation, inducement, command, or causing has not been carried out.

(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(b).

(b) PENALTIES.—Any person who violates subsection (a) shall be—

(1) in the case of an attempt or conspiracy, be fined under this title, imprisoned for any term of years or for life, or both.

(2) if death of an individual results, 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.

(4) 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, command, or causing has not been carried out.

(5) DEFINITIONS.—In this section—

(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section 2332b.

(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(b).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 131B 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, PARTICIPANTS IN CRIMES AGAINST HUMANITY FROM THE UNITED STATES.

(a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—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 (ii)(A)—

(A) removing of any foreign nation and inserting “including acts taken as part of an armed group exercising de facto authority”;

(b) by adding after clause (ii) the following:

(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—An 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)(1) of title 18, United States Code, or a crime against humanity, or in the persecution of any person on account of race, religious affiliation, national origin, membership in a particular social group, or political opinion, is inadmissible.

(c) CRIME AGAINST HUMANITY DEFINED.—In this paragraph, 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 and with the intent that the conduct be part of the attack.

(d) 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 exception 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 voluntary servitude or slavery);

(ff) section 1584(a) of such title (relating to sale into involuntary servitude);

(gg) section 1594(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 1991(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 and force);

(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 241(d)(1)(B) of such title;

(IV) that would constitute performing biological experiments, as described in section 241(d)(1)(C) of such title;

(V) that would constitute mutilation or maiming, as described in section 241(d)(1)(D) of such title;

(VI) that would constitute intentionally causing serious bodily injury, as described in section 241(d)(1)(E) of such title;

(VII) that would constitute intentionally causing serious bodily injury, as described in section 241(d)(1)(F) of such title;

(VIII) that would constitute intentionally causing serious bodily injury, as described in section 241(d)(1)(G) of such title;

(VII) Definitions.—In this subparagraph—

(i) the term ‘superior responsible authority’ 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) ‘term systematic’ means the commission of a series of acts following a regular pattern and occurring 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 Perpetrators.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended by inserting after the last period the following clause: “of criminal gangs, or of any other organization, association, or group included in the definition of a criminal gang under section 1844(c)(3)(B) of title 18, United States Code.”

(c) 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 “section” and inserting “sections”;

(2) by striking “or” and inserting “and”;

(3) by striking “who” and inserting “who is not”;

(4) by striking “the Attorney General, as meeting the criteria set forth in clause (i)” and inserting “the Attorney General, as meeting the criteria set forth in clauses (i) and (ii)”;

(5) by striking “and” and inserting “or”;

(6) by striking “who is a member of a criminal gang” and inserting “if he has, as an element of the offense, the use, attempted use, or threatened use of physical force or the threatened use of physical force or a deadly weapon.”

(d) Barrio Persecutors From Establishing Good Moral Character.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) is amended by adding at the end the following:

“Any perpetrator of a crime against a witness, victim, or informant.”

(e) Inadmissibility.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended by adding at the end the following:

(1) The term ‘criminal gang’ means any ongoing group, club, organization, or association, whether in violation of 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 this Act.

(2) The term ‘activity of the criminal gang’ means any activity 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.

(f) Designation of Criminal Gangs.—In general.—The attorney general shall, as soon as practicable, designate any criminal gang which the attorney general reasonably believes is associated with the activities described in subsection (d) or (e).
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)(33) or if the group’s or association’s conduct poses a significant risk that threatens the security and the prosperity 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) CEREMONIAL 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 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(c)) is amended to read as follows:

“(c) 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)(9)(A); or

(2) is described in section 212(a)(2)(J)(i) or section 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)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended in the matter preceding clause (i) by inserting “or who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating to participation in criminal gangs)”.

(2) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(A) IN CLAIMS FOR ASYLUM.—

(i) SUBSIDIARY CLAIMS.—(A) by redesignating clause (vi) as clause (vii);

(B) by inserting after clause (v) the following:

‘‘(vii) 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, and the Attorney General is satisfied that the alien would not be permitted to return under any legal status in that country.”

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

(C) by inserting after clause (v) the following:

‘‘(vii) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) and has been convicted of any offense described in section 101(a)(33), 212(a)(5), or 237(a)(2); or’’;

(i) ANNUAL REPORT ON DETENTION OF CRIMINAL GANG MEMBERS.—Not later than March 1 of the 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, and 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 amended (b) and (c).

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

(1) in subsection (A), by redesignating clause (K) as clause (L); and

(2) by inserting after clause (K) the following:

‘‘(L) CRIMINAL CONVICTION.—Any alien convicted of, or admitted admitting committing, any of the following offenses:

(A) child abuse, child neglect, or child abandonment;

(B) a crime of domestic violence, stalking, or terrorism;

(C) a crime involving the use or attempted use of physical force, or threatened use of a deadly weapon, a crime of domestic violence, stalking, or terrorism;

(D) a crime of domestic violence, stalking, or terrorism;

(E) a crime involving fraud and related activity in connection with identification documents, authentication features, and information; and

(F) any other crime of violence;

(G) an alien who has been convicted of a crime involving fraud and related activity in connection with identification documents, authentication features, and information;

(H) an alien who is described in section 1425(a) of title 18, United States Code (relating to the production of a false identification document or social security card) or section 2250 of title 18, United States Code, is inadmissible.

(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who has been convicted of a crime involving the use or attempted use of physical force, or threatened use of a deadly weapon, a crime of domestic violence, stalking, or terrorism;

(ii) a crime of domestic violence, stalking, or terrorism;

(iii) a violation of (or a conspiracy or attempt to violate) any statute relating to securing, selling, offering for sale, exporting, importing, manufacturing, purchasing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, own, possess, or carry, any weapon, part, or accessory of a firearm device (as defined in section 921(a) of title 18, United States Code) in violation of any law, is inadmissible.

(ii) VIOLATORS OF PROTECTION ORDERS.— Except as provided in subsection (v), any alien who at any time is or has been convicted of a crime involving the use or attempted use of physical force, or threatened use of a deadly weapon, a crime of domestic violence, stalking, or terrorism;

(iii) a crime involving fraud and related activity in connection with identification documents, authentication features, and information;

(iv) an alien who is described in section 1425(a) of title 18, United States Code, is inadmissible.

(iii) 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 involving the use or attempted use of physical force, or threatened use of a deadly weapon, a crime of domestic violence, stalking, or terrorism;

(iv) an alien who is described in section 1425(a) of title 18, United States Code, is inadmissible.

(B) by redesignating paragraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(ii) by redesignating paragraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(iii) by striking “and” and inserting “or”.

(B) by redesigning paragraphs (A) and (B), as redesignated by subsection (b), respectively.

(C) in the matter preceding paragraph (A), as redesignated, as amended by section 1713(e) of this Act—

(i) by inserting “(1)” before “The Attorney General”;

(ii) by striking “and” and inserting “or”;

(iii) by striking “(2)” and inserting “(2)”; and

(iv) by striking “(3)” and inserting “(3)”; and

(D) 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, kidnapping, or arson.

(b) who has been convicted of an aggravated felony;

(C) who has been lawfully admitted for permanent residence, and (D) who is not a judge or public official.

(2) if the alien is in the United States in violation of such admission.

(A) who has been lawfully admitted for permanent residence, and

(A) who has been lawfully admitted for permanent residence, and

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

(B) all other proceedings initiated to establish admissibility on or after such date of enactment;

(C) all removal, deportation, or exclusion proceedings that are filed, pending, or re-opened, on or after such date of enactment.

(f) RULE OF CONSTRUCTION.—The amendments made by this section may not be construed to preclude an alien 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 292(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 (I), or of section 101(a)(43) or a specified offense against a minor (as defined in section 1117 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 a risk to the alien with respect to whom a petition described in clause (i) is filed; and

(2) in subparagraph (B)—

(A) by redesigning 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 lawfully admitted for permanent residence who has been convicted of an offense described in subparagraph (I), (I), or (K) of section 101(a)(43) or a specified offense against a minor as defined in section 1117 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 alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.


(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*

(1) 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 discharges or disobeys the lawful command of any law enforcement agent, shall be fined under this title, imprisoned not more than 10 years, or both.

(b) FAILURE TO STOP.—Any person who, while operating a motor vehicle or vessel, knowingly or recklessly discharges 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 any other 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;

(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 offenses.

(e) FORFEITURE.—Any property, real or personal, constituting or traceable to the gross proceeds of the offense 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 PROCEEDINGS.—Forfeitures and forfeitures under this section shall be governed by the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that such duties as are imposed upon the Executive 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 Homeland Security to seize and forfeit motor vehicles, aircraft, or vessels and to prosecute under any law 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 immigration inspection at a U.S. Border Patrol checkpoint;

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

(A) any Federal, State, local or tribal official authorized to enforce criminal law; and

(B) a commissioned or sworn law enforcement officer; and

(C) any other person who, 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 2112(b).
"758. Unlawful flight from immigration or customs control."

(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) Temporary Protected Status.—Section 2802(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 "the Secretary," after "Attorney General," both places it appears;

(2) by striking "in the case of a foreign national," and

(3) by amending clause (v) to read as follows:

"(v) the alien is described in subparagraph (B)(i) or (F) of section 1182(a)(3), unless, in the case of an alien described in such subparagraph, the Attorney General determines, in his or her sole 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 inserted after", and

(2) by striking "deportable under and inserted describing", and

(c) EXCEPT.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1225(b)(3)(B)) is amended—

(1) by inserting "the Secretary," after "Attorney General," both places it appears;

(2) by striking "in the case of a foreign national," and

(3) 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 such subparagraph, the Attorney General determines, in his or her sole discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;"

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) 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 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 paragraphs;

(D) 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 paragraphs:

(1) 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 in section 1227(a)(2)(C)) involving, or for which the individual was required to register under Federal or state law, as in effect on the date of the enactment of this Act;

(II) any other crime classified as a felony in the jurisdiction of conviction involving or related to a controlled substance that is classified as controlled in the jurisdiction of conviction, regardless of the existence of the act and the reason and extent of the act.

(2) 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 classified as controlled in the jurisdiction of conviction, regardless of the existence of the act and the reason and extent of the act.

(2) by adding at the end the following:

"(XIV) Any offense relating to—

(aa) the owning, operating, transporting, or supervising of a prostitution business;

(bb) protection of the identity of undercover intelligence agents;

(cc) the protection of undercover intelligence agents; or

(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), 280A(c), and 241(b)(3)(B) of the Immigration and Nationality Act, as amended by this section, shall apply to—

(1) all aliens in removal, deportation, or exclusion 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 described in paragraph (1) or (2), acts and conditions constituting a ground for exclusion, deportation, or removal occurring or existing before, but after the date of the enactment of this Act.

SEC. 1718. EMISSION OF REGULATIONS.

(a) In General.—Notwithstanding any other provision of law, the Attorney General may promulgate such regulations as are necessary to implement this Act.

(b) Effect on Other Laws.—Nothing in this Act shall preclude the Attorney General from—

(1) publishing, proposing, or clarifying rules, regulations, or guidance implementing this Act; and

(2) amending or repealing any provision of Federal law, including any provision relating to immigration, nationality, or naturalization and the immigration status of an alien.
“(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 or any other person regarding to whether the conviction is classified as a misdemeanor or felony under State law.

“(cc) A finding under this subclause does not require a removal hearing. In establishing the requested by 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 minor person under chapter 113B of title 18, United States Code.

“(XXIV) A conviction for violating section 265.

“(XXV) Any offense relating to those described in chapter 50A (genocide), 113C (torture), or 118 (war crimes and recruitment or use of child soldiers) of title 18, United States Code, or the title IV of the Controlled Substances Act (21 U.S.C. 801 et seq.), or a finding under this subclause does not include a maximum statutory term of imprisonment under title 18, United States Code, or the title IV of the Controlled Substances Act (21 U.S.C. 801 et seq.) unless the fact of the arrest, indictment, conviction, or sentence is subsequently altered.

“(XXX) The maximum statutory term of imprisonment for a violation under chapter 113B of title 18, United States Code.

“(XXI) An attempt, conspiracy, or solicitation to commit an offense described in subclauses 1 through XXV or any other inchoate form of an offense described in this clause.

“(X) 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), where either 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 conviction was completed within the previous 15 years.

“(a) 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 after a trial or after a plea of guilty or nolo contendere; and

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

“(D) 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.

“(E) The term ‘sentence’—

“(i) if an order purporting to vacate a conviction, modify a sentence, or clarify a sentence was granted, solely or in part, to ameliorate immigration consequences of the conviction or sentence, the order was entered prior to the initiation of any proceeding to remove the alien from the United States;

“(ii) if the order was entered not later than 1 year after the date of the original order of conviction or sentencing;

“(iii) if the order was entered prior to the immigration consequences of the conviction or sentence, the order was entered prior to the date that is 6 months after the date of the enactment of the SECURE and SUCCEED Act, and every 6 months thereafter, the Attorney General shall publish a report in the Federal Register that—

“(A) states the purpose of the report in paragraphs (1) and (2) of section 1719 of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after such date of enactment.

“(B) in paragraph (1), in the matter preceding subparagraph (A), by inserting ‘212(a)’ or before ‘255(a);’; and

“(B) by striking paragraph (3); and

“(B) by redesigning paragraphs (2) and (3) as subsections (b) and (c), 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 248(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(a)(1)) that occur on or after such date of enactment.

“(c) LISTING OF COUNTRIES WHO DELAY REPATRIATION OF THEIR NATIONALS.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253), as amended by section 1720(a), is further amended by adding at the end the following:

“(d) LISTING OF COUNTRIES WHO DELAY REPATRIATION OF REMOVED ALIENS.—

“(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the enactment of the SECURE and SUCCEED Act, and every 6 months thereafter, the Attorney General shall publish a report in the Federal Register that—

“(A) states the purpose of the report in paragraphs (1) and (2) of section 1719 of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after such date of enactment.
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.

(3) AUTHORIZATION.—(A) No country referred to in subparagraph (A) is—

(i) denying or unreasonably delaying accepting aliens who are citizens, subjects, nationals, or residents of that country that are authorized by law.

(ii) imposing any other sanctions against such aliens who are citizens, subjects, nationals, or residents of that country in or through such country.

(iii) coursework or training or otherwise authorized to study at an institution of higher education;

(iv) the Secretary of Homeland Security determines seeks to deny a visa to, and the Secretary of Homeland Security shall terminate the authorization to remain in the United States of any alien in the United States, either as a nonimmigrant student or as a nonimmigrant worker, found not to be of high risk.

(v) the Secretary of Homeland Security determines is applying to change status to parolee of such aliens, disaggregated by national origin and other characteristics, if the Secretary determines is applying to change status to parolee of such aliens, disaggregated by national origin and other characteristics, if the Secretary determines.

(vi) the Secretary of Homeland Security determines is applying to change status to parolee of such aliens, disaggregated by national origin and other characteristics, if the Secretary determines.

(B) the government of the foreign country referred to in paragraph (1), or any entity or official thereof, or any official representative of such foreign country 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. 1721. EXPANSION OF CRIMINAL ALIEN REPATRIATION PROGRAMS.

(a) EXPANSION OF CRIMINAL ALIEN REPATRIATION PROGRAMS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall carry out the provisions of this section.

(b) TERRITORY.—The Secretary shall ensure that the provisions of this section are carried out in the territories of Guam, the Northern Mariana Islands, and the Virgin Islands.

SEC. 1722. PROHIBITION ON FLIGHT TRAINING AND NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK COUNTRIES.

(a) IN GENERAL.—The Secretary of Homeland Security shall 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

(B) 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)) to attend a course of instruction in nuclear science, nuclear engineering, or a related field; or

(ii) coursework or training or otherwise engaged in aviation maintenance or flight operations;

(III) information analyzing the presence, activity, or movement of terrorist 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 any country in which any of the diplomatic and consular posts referred to in clause (1) are located;
“(V) the adequacy of the border and immigration control of such country; and
“(VI) any other criteria the Secretary determines appropriate.”.

(b) FUNDING FOR THE VISA SECURITY PROGRAM.—Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and
(2) by inserting after such subparagraph the following:

“(C) Screen any such applications against the appropriate criminal, national security, and terrorism databases maintained by the Federal Government.”.

(e) TRAINING AND HIRING.—Section 428(e)(B)(A) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(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. Customs and Border 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, require that an employee designated by 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 IMBIOMETRIC 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 IMBIOMETRIC MATCHING.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall develop a system to electronically screen and biometrically match the electronic passports of individuals who are nationals of a party to a Visa Security Advisory Opinion Unit, through fiscal year 2022, to the Commission on Security and Cooperation in Europe, and the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives, and the Committee on Intelligence of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations 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) the total number of such aliens within each of the classes of nonimmigrants, as described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and
“(2) the number of such aliens within each of the subclasses of such 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; and
“(3) the number of aliens described in subsection (a) who arrived by land at a port of entry into the United States; and
“(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

“(6) in person 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. 1751. SHORT TITLE.

SEC. 1752. AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY AND THE SECRETARY OF STATE.

SEC. 1742. VISA INFORMATION SHARING.

(a) In General.—Section 22(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended—

(1) in the matter preceding paragraph (1), 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 practicable, other records covered by this section related to information in such database”;

(b) 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 purposes 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 striking “on basis of reciprocity,” before “with regard to”;

(ii) by striking “on the basis of a visa database” and inserting “such database”;

(iii) by striking “for the purposes and” 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 purposes, including [such an application, petition, or other request with the Department or the Department of State for—

(1) an immigration benefit or immigration status;

(2) other authorization, employment authorization, 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 practicable, and in a risk-based manner, conduct open source 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. 437. Open source screening.”.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

(a) In General.—If pursuant to section 22(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended—

(1) in paragraph (1), by striking “Attorney General,” and inserting “Secretary,”; and

(b) by inserting “and any other non-immigrant visa issued by the United States”.

SEC. 1743. VISA INTERVIEWS.

(a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1222(h)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “or ‘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 ‘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. 1221(i)) is amended—

(1) by inserting “(1)” after “(1)”;

and

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

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(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 render void that 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 208 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

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

“(1) IN GENERAL.—Notwithstanding section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) and any other provision of law, and except for the authority of the Secretary under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary 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 nationalities 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 foreign policy interests of the United States.

"(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 1961 and 1961 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 any alien if the Secretary determines that such refusal or revocation is necessary in the foreign policy interests of the United States.

"(2) LIMITATION.—No decision by the Secretary of State to refuse or revoke a visa may over ride a refusal or revocation by the Secretary under subsection (b)."

"(d) VISA REVOCATION.—Section 326 of the Homeland Security Act (6 U.S.C. 103) is amended by inserting after the first sentence the following:"

"(e) RENEWAL OF VISA.—Section 214(e) of the Immigration and Nationality Act (8 U.S.C. 1184A(e)) is amended by inserting after the first sentence the following:"

"(f) ACCESS TO NCIC CRIMINAL HISTORY DATABASE FOR IMMIGRATION DECISIONS.—Section 1361 of title 28, 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, naturalization, or a grant of United States citizenship for an alien unless:

"(G) 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 unrestrained discretion, for the alien have been completed; and

"(H) the Secretary of 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.

"(g) WITHHOLDING OF ADJUDICATION.—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 or the 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 unless:

"(H) all background and security checks for the alien have been completed; and

"(I) the Secretary or the Attorney General has determined that the results of such checks do not preclude the approval or grant of such status, relief, protection, authorization, or benefit, or the issuance of any documentation evidencing such status, relief, protection, authorization, or benefit.

"(h) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on the date of 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, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer on or after such date of enactment.
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 arrest warrant or other criminal proceeding or investigation), if such proceeding or investigation is deemed by such official to be material to the alien’s eligibility for the status, relief, or benefit sought.

(2) WITHHOLDING OF ADJUDICATION.—(a) The Secretary, the Attorney General, the Secretary of Labor, the Secretary of Homeland Security, or any other official of the Department of State, the Department of Justice, or the Department of Homeland Security, shall not order the preliminary relief described in paragraph (1) to any alien—

(A) who is convicted of, or found guilty of, or on a plea of nolo contendere to, or who admit to, any offense which is a felony under Federal law, or an offense described in section 1614 of title 21, United States Code, or section 1651 of title 28, United States Code, and is a continuing violation of such offense, or

(B) who is convicted of, or found guilty of, or on a plea of nolo contendere to, or who admit to, any offense described in section 3281 of title 46, United States Code, and is a continuing violation of such offense.

(b) The Secretary, the Attorney General, the Secretary of Labor, the Secretary of Homeland Security, or any other official of the Department of State, the Department of Justice, or the Department of Homeland Security, may not order the preliminary relief described in paragraph (1) to any alien—

(A) who is found to be a carcinogenic or otherwise dangerous alien by the Attorney General and is not eligible for any other form of relief;

(B) who is found to be a carcinogenic or otherwise dangerous alien by the Attorney General and is not eligible for any other form of relief; and

(C) who is found to be a carcinogenic or otherwise dangerous alien by the Attorney General and is not eligible for any other form of relief.

(c) IN GENERAL.—(1) Nothing in paragraph (1) shall be construed to affect any other provision of law for any other purpose or for any other reason.

(2) Nothing in paragraph (1) shall be construed to affect any other provision of law for any other purpose or for any other reason.

(3) Nothing in paragraph (1) shall be construed to affect any other provision of law for any other purpose or for any other reason.

(d) E X P E D I T E D P R O C E E D I N G S.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any case action or motion considered under this section.

(2) Private Settlement Agreements.—Nothing in this subsection shall preclude parties from entering into a private settlement agreement that does not comply with the requirements under subsection (b).
(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 Secretary may use the information furnished under this section to adjudicate subsequent applications, petitions, or requests for immigration benefits filed by the alien.
"(iv) ALIEN CONSENT.—The Secretary 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 furnished under this section for other purposes and in other circumstances in which disclosure of the information is not related to removal of the alien from the United States.

SEC. 1775. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.
Section 1961(1) of title 18, United States Code, as amended by striking "section 1952" 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. 1255 et seq.), as amended by section 2291(a)(2) 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 handwritten 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 reasonably 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.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting the item relating to section 296, as added by section 1126(a)(2) of this Act, the following:
"SEC. 296. Validity of signatures.

SEC. 1779. REASONABLE ASSUMPTION OF AUTHORITY.
"(a) GROUNDS OF INADMISSIBILITY.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by striking "other than paragraph (2)(C) or subparagraphs (A), (B), (C), (E), (F), or (G) of paragraph (3)" and inserting "other than subparagraph (C) or (G) of paragraph (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3)"

(b) GROUNDS OF DEPORTABILITY.—Section 229 of such Act, as amended by subsection (a), is further amended 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).

(c) 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. 1780. REINVOCATION OF LAWFUL PERMANENT RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.
Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(5)) is amended by adding at the end the following:—
"(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES WHO ARE NOT ASSOCIATED WITH UNLAWFUL 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 238(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, torture, or specified human rights violations), or 212(a)(3)(G) (including the intentional or use or support of an act that is described in paragraph (1)), respectively.

SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF ADJUSTMENT OF STATUS.
(a) APPLICANTS FOR ADMISSION.—Section 211(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(1)) is amended by striking the comma at the end of each clause and inserting "; or" and '(4) by adding at the end the following:—
"(vii) is described in section 212(a)(3) or 221(a)(4)."

SEC. 1803. PRECLUDING ASYLUE AND REFUGEE ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF INADMISSIBILITY AND DEPORTABILITY.
(a) GROUNDS OF INADMISSIBILITY.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by striking "other than paragraph (2)(C) or subparagraphs (A), (B), (C), (E), (F), or (G) of paragraph (3)" and inserting "other than subparagraph (C) or (G) of paragraph (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3)".

(b) GROUNDS OF DEPORTABILITY.—Section 229 of such Act, as amended by subsection (a), is further amended 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).

(c) 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. 1781. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PROCANE 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 48 (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, 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 information thereof 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 1952" 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)".
(1) in section 212(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 245(c) (8 U.S.C. 1255c), by inserting "", if the alien has had the conditional basis removed pursuant to this section" before the period at the end.

SEC. 1006. PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY ON ADJUSTMENT TO LEGAL RESIDENCE.

(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:

"(a) In General.—

"(1) ELIGIBILITY FOR ADJUSTMENT OF STATUS. —The Secretary of Homeland Security is authorized to adjust the status of an alien lawfully admitted for permanent residence if—

"(A) the alien is eligible to receive an immigrant visa, is admissible to the United States for permanent residence, and is not subject to exclusion, deportation, or removal from the United States; and

"(B) an immigrant visa is immediately available to the alien at the time the alien's application is filed.

"(2) REQUIREMENT TO OBTAIN AN IMMIGRANT VISAA.—The alien must obtain an immigrant visa before filing an application for adjustment of status. An application for adjustment of status that is filed without an immigrant visa is not treated as a valid application."

(b) PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY ON ADJUSTMENT TO LEGAL RESIDENCE. —

(1) SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.

(2) SEC. 1809. BARRING PERSECUTORS AND TERRORISTS FROM REGISTRY.

(3) SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

(4) SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESOLUTION OF TREATMENT OF PERMANENT RESIDENT STATUS.

(5) SEC. 250. BARRING PERSECUTORS AND TERRORISTS FROM REGISTRY.

(6) SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

(7) SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESOLUTION OF TREATMENT OF PERMANENT RESIDENT STATUS.
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 inserting at the end—

“(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) A person shall not apply to an alien described in section 212(a)(3)—

“(i) the alien received an exemption under section 212(d)(1)(A)(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 359(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 171(d), 171(b), and 171(d), is further amended—

(1) in paragraph (b), 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:

“(2) ‘by subsection (b) shall take effect as if included in the enactment of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 109-36).’

SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS FOR ALIENS IN REMOVAL PROCEEDINGS.

Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read—

“(1) A person may not be naturalized unless he or she has been lawfully admitted to the United States; or

“(2) an application for naturalization may not be considered 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) LIMITATIONS ON REVIEW.—Notwithstanding section 406(b), and except as provided in section 406(c),—

“(1) a person may not be naturalized against whom there is outstanding a final finding of removal, exclusion, or deportation; and

“(2) an application for naturalization may not be considered by the Secretary or 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 section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229c) are binding 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 AGENT OF THE INS 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 this Act on or 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 such person resides or is not barred from appearing in such court if there is pending against the applicant any removal proceeding or any other case or matter under the immigration laws pending on or filed after such date of enactment.

(c) EFFECTIVE DATES; APPLICATION.—

SEC. 1825. PROHIBITION ON JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS FOR ALIENS IN REMOVAL PROCEEDINGS.

(a) LIMITATION ON REVIEW OF DENIAL.—Section 318 of the Immigration and Nationality Act (8 U.S.C. 1421) is amended—

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

“(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 determination on the application and after a hearing before an immigration officer under subsection (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 reasons.

“(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and notwithstanding any other provision of law, if an alien is includi
SEC. 1825. CLARIFICATION OF DENATIONALIZATION AUTHORITY.

Section 340 of the Immigration and Nationality Act 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 canceled. Such order and certificate were illegally procured or were procured by concealment of a material fact or by willful misrepresentation.”

SEC. 1826. DENATIONALIZATION OF TERRORISTS.

(a) DENATIONALIZATION FOR TERRORISTS ACTIVITIES.—Section 340 of the Immigration and Nationality Act, as amended by section 1825, is further amended—
(1) by designating 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, or who is a citizen of the United States, during a 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 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 shall subject a person to a revocation and setting aside of such naturalization under paragraph (1)(B) 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); and

“(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(c)(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)(i)).

(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 DENATIONALIZATION PROCESS.

(a) IN GENERAL.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended—
(1) in paragraph ("After") and inserting “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 or other matter that would result in the individual’s denationalization 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 denationalization 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 Immigration 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 documents described in subsection (b) for a minimum of 7 years for law enforcement and national security investigations and for litigation purposes, regardless of whether such documents are scanned into U.S. Citizenship and Immigration Services’ electronic immigration system or stored in any electronic format.

“(b) DOCUMENTS RETAINED.—The documents described in this subsection are—

“(1) the original paper naturalization application 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 connection 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 shall be 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 588(a)(1) of title 18, United States Code, is amended by adding at the end the following:

“(1) 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 passport cards, and to impose penalties and provide for the revocation or denial of an individual in good faith reliance on information provided through E-Verify.”.

is amended by adding at the end the following:

“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND PASSPORT CARD.

“(a) IN GENERAL.—

“(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall refusing to issue a passport or a passport card to an individual in good faith reliance on information provided through E-Verify.”.

“(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 ON 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 whose petition for a passport is denied 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 AUTHORIZATION 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 the pilot program on September 30, 2015.”.

SEC. 2002. PREEMPTION; LIABILITY.

Section 402 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 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 work authorization of an individual in good faith reliance on information provided through E-Verify.”.
SEC. 2000. INFORMATION SHARING.

The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary of the Treasury shall jointly establish an information sharing program among their respective agencies that could lead to the identification of unauthorized aliens. The program established under section 274A(d)(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. 2001. SMALL BUSINESS DEMONSTRATION PROGRAM.

Section 406 of the Illegal Immigration Reform and 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 establish a demonstration program to assist 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. 2002. FRAUD PREVENTION.

(a) REGISTRATION OF 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 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 the 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 available to all individuals.

(c) 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 method by which parents or legal guardians may suspend or limit the use of the Social Security account number of their minor child for the 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 available to all individuals.

SEC. 2003. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish a system that has fewer than 2 Identity Authentication Employment Eligibility Verification pilot programs (referred to in this section as the “Authentication Pilots”), 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.—A 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 service, 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 referred to 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 specified, 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 an alien who 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 an alien described in subparagraph (B) who is granted conditional temporary resident status under this title.

(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 conditional temporary resident status under this title—

(i) shall be considered to be an alien who is lawfully present in the United States for purposes of the immigration laws, including section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1255a); and

(ii) shall not be required to have a foreign residence which the alien has no intention of abandoning; and

(iii) 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 alien 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; and

(B) the Earned Income Tax Credit authorized under section 32 of the Internal Revenue Code of 1986.

(6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given in the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).


(8) MILITARY-RELATED TERMS.—The terms “active duty”, “military service”, “active forces”, and “armed forces” have the meanings given those terms in title 10 of the 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) domestic abuse;

(iii) stalking;

(iv) sexual exploitation, including sexual conduct involving a minor (as such terms are defined in section 1912(f) of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386)

(v) violation of a domestic violence protection order;

(vi) driving under the influence or driving while intoxicated;

(B) a crime of violence;

(C) a drug trafficking offense;

(D) an offense involving a transportation of marijuana; and

(E) any other offense for which the alien is convicted of an offense under Federal law that is a crime of violence or a drug trafficking offense.

(12) SIGNIFICANT OFFENSE.—The term “significant offense” means any other offense for which the alien is convicted of an offense under Federal law that is a crime of violence or a drug trafficking offense.

(13) SIGNIFICANT Misdemeanor.—The term “significant misdemeanor” means—

(A) a criminal offense involving—

(i) domestic violence;

(ii) domestic abuse;

(iii) stalking;

(iv) sexual exploitation, including sexual conduct involving a minor (as such terms are defined in section 1912(f) of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386)

(v) violation of a domestic violence protection order;

(vi) driving under the influence or driving while intoxicated;

(B) a crime of violence;

(C) a drug trafficking offense;

(D) an offense involving a transportation of marijuana; and

(E) any other offense for which the alien is convicted of an offense under Federal law that is a crime of violence or a drug trafficking offense.

(14) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means—

(A) a criminal offense involving—

(i) domestic violence;

(ii) domestic abuse;

(iii) stalking;

(D) an offense involving a transportation of marijuana; and

(E) any other offense for which the alien is convicted of an offense under Federal law that is a crime of violence or a drug trafficking offense.

(15) SIGNIFICANT OFFENSE.—The term “significant offense” means any other offense for which the alien is convicted of an offense under Federal law that is a crime of violence or a drug trafficking offense.

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; and

(C) on June 15, 2012, the alien—

(i) was not a lawfully admitted permanent resident;

(ii) was in the United States as a lawful permanent resident or as an alien urgently needed in the United States; and

(iii) had legal permanent resident status at the time of removal.

(b) APPLICATION TO ALIENS ABANDONED ON OR AFTER JUNE 15, 2012.—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; and

(C) on June 15, 2012, the alien—

(i) was not a lawfully admitted permanent resident; and

(ii) has been abandoned since June 15, 2012.
(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) 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 or has obtained a tax credit in the United States (8 U.S.C. 1182(a)), and is not inadmissible under paragraph (A) 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 this inadmissibility for the alien’s removal under such subparagraph was unlawful prior to subparagraph (B) or (C) of such section 212(a)(9));
(H) 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;
(II) is attending, or has enrolled in, a postsecondary school;
(I) 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 this inadmissibility for the alien’s removal under such subparagraph was unlawful prior to 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, public safety, or public order;
(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, regarding, among others—
(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 the ineligibility requirements described in this section, on a case-by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or
(8) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this subsection shall establish that the alien has registered for 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—

(1) conditional temporary resident status under this section; or

(2) adjustment to that of an alien lawfully admitted for permanent residence under section 501.

(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 proceeding described in paragraph (1) by 60 days after the final determination reaffirming this section.

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—(1) IN GENERAL.—As excepted 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 60 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, sister, brother, 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) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish regulations implementing this section.

(2) PRELIMINARY 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 subsection.

(e) REMOVAL OF ALIEN.—The Secretary may not seek to remove an alien who established eligibility for cancelation 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 section shall be valid until—

(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—

(A) be employed in the United States incident to conditional temporary resident status under this title; and

(B) enroll in the Armed Forces of the United States in accordance with section 506(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, during a 5-year period.

(ii) was due to active service in the Armed Forces of the United States.

(3) TERMINATION OF STATUS.—The Secretary shall terminate the conditional temporary resident status of an alien under this title—

(A) if the alien—

(i) has 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.

(ii) is due to the alien’s active service in the Armed Forces of 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.

(iii) has failed to attend such school for a period of at least 3 years; and

(iv) has failed to reside in the United States in an active duty status or reserve component of the Armed Forces of 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.

(B) if the alien—

(i) in the case of an alien who is younger than 18 years of age, if the alien—

(I) has failed to reside in the United States in an active duty status or reserve component of the Armed Forces of the United States for a period of at least 3 years; and

(II) has been honorably discharged from the Armed Forces or the United States; or

(ii) in the case of a conditional temporary resident status under this title—

(1) has demonstrated good moral character during the entire period the alien was granted a conditional temporary resident status under this title;

(2) has not committed the alien to a public institution of higher education in the United States; or

(3) has not engaged in any occupation that would subject the alien to the immigration status of an alien 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.

(C) if the alien—

(i) the alien is due to the alien’s active service in the Armed Forces of the United States;

(ii) the alien was granted conditional temporary resident status under this title; and

(iii) 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; and

(ii) has not been honorably discharged from the Armed Forces of the United States for at least 3 years; and

(iii) has not attended any postsecondary school for at least 6 years after the date of discharge.

(D) the alien—

(i) has military service that was due to active service in the United States in an active duty status or reserve component of the Armed Forces of the United States; or

(ii) has not engaged in any occupation that would subject the alien to the immigration status of an alien 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.

(b) RETURN TO PREVIOUS IMMIGRATION STATUS.—The alien's immigration status under this section shall be terminated and the alien's presence in the United States under such registration requirement under such section shall establish that the alien has regained conditional temporary resident status under this title.

(c) RETURN TO PREVIOUS IMMIGRATION STATUS.—The immigration status of an alien the alien was granted conditional temporary resident status under this title and the alien was not enrolled as a student in a postsecondary school while serving in the Armed Forces of the United States; or

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—The immigration status of an alien the alien was granted conditional temporary resident status under this title and the alien was not enrolled as a student in a postsecondary school while serving in the Armed Forces of the United States. A14FE6.018

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applying for relief available under this title.

least 1 year since the alien was granted conditional temporary resident resident status under this title and the alien was not enrolled as a student in a postsecondary school while 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 granted conditional temporary resident status under this title.

The immigration status of an alien the alien was granted conditional temporary resident status under this title and the alien was not enrolled as a student in a postsecondary school while serving in the Armed Forces of the United States.
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 accordance 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) ADJUDICATION OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines that an alien who filed an application under subsection (a) is during the period in which an application 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—

(A) a description of the alien who filed the application; and
(B) an alien who has been a conditional temporary resident under this title for at least 7 years; and
(C) has demonstrated good moral character during the entire period the alien has been a conditional temporary resident under this title; 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 who 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 did not abandon the alien’s residence; and
(B) an alien who is absent from the United States at any time during the period of service of the Armed Forces of the United States has not abandoned the alien’s residence in the United States during the period of such service.

(e) GENERAL.—

(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—

(A) has resided continuously within the United States for at least 321(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1422(a)(1)).

(2) EXCEPTION.—Paragraph (1) shall not apply to an alien to 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 described in 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.

(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 provides biometric and biographic data, in accordance with procedures established by the Secretary.

(2) ALTERNATIVE PROCEDURE.—The Secretary shall prescribe an alternative procedure for an alien 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 required under paragraph (1) for 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.

(2) TREATMENT OF ALIENS MEETING REQUIREMENTS.—

(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 to examine such application filed under this title.

(2) BACKGROUND 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—

(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 108–193; 107 Stat. 1556) or an amendment made by that Act; and

(3) for homeland security or national security purposes.

(3) CRIMINAL CONDUCT.—Nothing in this section shall prohibit the Secretary from disclosing the information provided by an individual to the extent the Secretary determines is necessary to protect the national security, or is required by law, to prevent an act of or to protect against a potential act of intentional, violent, terrorist, or other criminal activity.
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 immigration benefits 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 section 463 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

### 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 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**

(1) **REPAYMENT OF STARTUP COSTS.—** Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be deposited monthly in the general fund of the Treasury until the funding provided by subsection (a)(2) has been repaid.

(2) **DEPOSIT IN THE IMMIGRATION EXAMINATION FEES ACCOUNT.—** Each fee paid pursuant to this title in excess of the amount referenced in paragraph (1) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(m) of such Act (8 U.S.C. 1356(m)).

### TITLE VII: FUNDING FAMILY REUNIFICATION

#### SEC. 4001. SHORT TITLE

This title may be cited as the “Ensuring Family Reunification Act of 2018.”

#### SEC. 4002. FAMILY-SUPPORTED IMMIGRATION PRIORITIES

(a) **DEFINITION 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” and inserting “who is younger than 18 years of age”; and

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection (b)(2), by striking “children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such parent shall be of at least twenty-one years of age,” and inserting “children and spouse of a citizen of the United States,”; and

(B) in clause (i), by striking “such an immediate relative” and inserting “the immediate relative spouse of a United States citizen.”

(b) **APPLICATIONS.—** By amending subsection (c) to read as follows:

(1) **WORLDWIDE LEVEL OF FAMILY-SUPPORTED IMMIGRANTS.—** (A) 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.

(3) **(B) did not depart from the United States** (without advance parole) within 1 year; and

(4) **(C) did not acquire the status of an alien lawfully admitted to the United States for permanent residence during the 2 preceding fiscal years; or**

(5) **(D) did not depart from the United States** (without advance parole) within 1 year; and

### SEC. 4010. GAO REPORT

The Comptroller General of the United States shall report to the Committee on the Judiciary of the Senate 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.

### SEC. 4011. TEMPORARY VISAS FOR IMMIGRANTS

Notwithstanding sections 212(c)(5), 244, and 245(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(c)(5), 1254a, and 1255(n)), 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. 1312 et seq.) not earlier than 7 years after such adjustment of status.

### SEC. 4012. FUNDING

(a) **DEPARTMENT OF HOMELAND SECURITY IMMIGRATION REIMBURSEMENT ACCOUNT.—**

(1) **IN GENERAL.—** There is established in the Treasury a separate account, which shall be known as the “Department of Homeland Security Immigration Reimbursement Account” (referred to in this section as the “Implementation Account”).

(2) **AUTHORIZATION AND APPROPRIATIONS.—** There is authorized to be 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, 2023.

(3) **USE OF APPROPRIATIONS.—** The Secretary is authorized to use funds appropriated to the Implementation Account to pay for one-time and startup 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 required to implement this title;

(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 report 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**

(1) **REPAYMENT OF STARTUP COSTS.—** Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be deposited monthly in the general fund of the Treasury until the funding provided by subsection (a)(2) has been repaid.

(2) **DEPOSIT IN THE IMMIGRATION EXAMINATION FEES ACCOUNT.—** Each fee paid pursuant to this title in excess of the amount referenced in paragraph (1) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(m) of such Act (8 U.S.C. 1356(m)).

### TITLE VIII: MEDICAL ELIGIBILITY FOR IMMIGRANTS

#### SEC. 4000. ELIGIBILITY FOR IMMIGRATION 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 section 463 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

#### SEC. 4010. 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 for spending the funds appropriated under paragraph (2) that describes how such funds will be obligated in each fiscal year, by program.
(A) in subsection (a)(1)—
(1) in subparagraph (A)(i), by striking “to classification by reason of a relationship de-
scribed in paragraph (1), (3), (4), or (6) of section 201(a)”.
(2) by redesigning subsections (b), (c), (d), (e), (f), and (g), respectively.
(3) in subsection (c), as redesignated, by striking “section 203(a)”.
(4) in subsection (d), as redesignated—
(A) by striking paragraph (2); and
(B) by redesigning paragraph (3) as paragraph (2);
(5) in subsection (e), as redesignated, by striking “section 203(a)”.
(6) by redesigning subsections (a), (b), and (c) of subsection (e) and inserting “section 203(a)”.
(7) in subsection (f), as redesignated, by striking “section 203(a)”.
(8) by redesigning paragraph (3) as paragraph (3).

(2) in section 201(b)(2)(A) and inserting “203(a)”;
(3) by striking subsection (B) and inserting “203(a)”;
(4) by redesigning paragraph (1) as paragraph (1); and
(5) by redesigning paragraph (2) as paragraph (2).

(2) A nonimmigrant described in section 201(b)(2)(A) shall be an alien who has not been terminated or revoked, or the alien of the availability of the immi-
grant visa.

(A) in subsection (a)(1)(W) of section 101(a) (other than paragraph (4) thereof) shall be 5 years, but may be extended at the end on which the Secretary of State notifies the beneficiary that is—

(3) the date of enactment of this Act.

(2) C ONDITIONS ON ADMISSION .—Section 214—
(A) in subsection (a)(1)—
(1) by striking the second sentence;
(2) by redesigning subsections (b), (c), (d), (e), and (f); and
(3) by redesigning paragraph (1) as paragraph (1); and
(D) by adding at the end the following:

(b) TECHNICAL AND CONFORMING AMEND-
(2) by redesigning subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;
(3) by redesigning subsections (a)(b) and (c) as subsections (a)(c), (b)(c), and (d) (c) of this section and inserting “subsection (a)(c)”;
(4) in paragraph (2), by striking “section 203(a)”;
(5) by redesigning paragraph (3) as paragraph (3); and
(6) by redesigning paragraph (4) as paragraph (4).

(3) GRANDFATHERED PETITIONS AND VISAS .—
(A) in subsection (a)(15)(V) of section 101(a)(15)(V), by striking “section 203(d)” and inserting “section 203(c)”;
(2) in section 201 (8 U.S.C. 1101) and inserting “section 203(c)”; and
(3) in section 203 (8 U.S.C. 1153) and inserting “section 203(c)”; and
(4) in section 204 (8 U.S.C. 1154) and inserting “subsection (c)”;
(5) in subsection (d), as redesignated—
(A) by striking paragraph (2); and
(B) by redesigning paragraph (3) as paragraph (2);
(6) in subsection (e), as redesignated, by striking paragraphs (a), (b), and (c) of subsection (f) and inserting paragraphs (a) and (b) and inserting “subsection (a)”;
(7) in subsection (g), as redesignated—
(A) by striking “section 203(a)” and inserting “section 203(a)”;
(8) in subsection (h), as redesignated—
(A) by striking “section 203(a)”;
(B) by redesigning paragraph (1) as paragraph (1); and
(C) by redesigning paragraph (2) as paragraph (2); and
(9) in subsection (i), as redesignated—
(A) by striking “section 203(a)”;
(B) by redesigning paragraph (1) as paragraph (1); and
(C) by redesigning paragraph (2) as paragraph (2).

(6) EMPLOYMENT OF V NONIMMIGRANTS .—
(7) DEFINITION OF ALIEN SPOUSE .—
(8) CLASSIFICATION OF NONIMMIGRANTS .—
(9) CREATION OF NONIMMIGRANT CLASSIFICA-
(10) EFFECTIVE DATE; APPLICABILITY.—

SEC. 4003. ELIMINATION OF DIVERSITY VISA PRO-
GRAM.

(A) in section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—
(1) by striking subsection (c); and
(2) by redesigning subsections (d), (e), and (f), and inserting paragraphs (e), (f), and (g), respectively.

(3) in subsections (a)(b), (c), and (d) of section 203(1), and inserting “section 203(a)”; and
(4) by redesigning paragraph (2) as paragraph (2); and
(5) by redesigning paragraph (3) as paragraph (3).

(4) GRANDFATHERED 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—

(1) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)(A)); and
(2) by redesigning paragraph (3) as paragraph (3).

(2) Exceptions.—The Secretary of State shall not terminate the registration of an alien under subsection (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; and

(3) GRANDFATHERED PETITIONS AND VISAS.—
(1) 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—

(1) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)(A));
(2) in the undesignated matter following subsection (a), by striking “clause (i)”;
(3) in section 202 (8 U.S.C. 1153) and inserting “subsection (a)”; and
(4) in section 204 (8 U.S.C. 1154) and inserting “subsection (c)”;
(5) in section 214(q)(1)(B)(i) of 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 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—

(1) (a)(1) or (b) or (c) of this section and inserting “subsection (a) or (b)”;
(2) in subsection (f), as redesignated, by striking paragraphs (a), (b), and (c) of this section and inserting paragraphs (a) and (b); and
(3) in subsection (g), as redesignated—
(A) by striking “section 203(a)” and inserting “section 203(a)”;
(B) by redesigning paragraph (1) as paragraph (1); and
(C) by redesigning paragraph (2) as paragraph (2); and
(4) by redesigning paragraph (3) as paragraph (3).

(3) GRANDFATHERED PETITIONS AND VISAS.—
Notwithstanding the termination by this title of the family-sponsored immigrant visa categories under section 203(a)(15) 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 terminate the registration under section shall not apply, and visas shall remain available to, any alien who has—

(1) pending with U.S. Citizenship and Immig-

(A) an approved family-based petition that has not been terminated or revoked, or
(B) a properly-filed family-based petition that is—

(1) IN GENERAL.—The Director of U.S.
(2) by redesigning paragraph (4) as paragraph (4).
Notwithstanding the elimination under this section of the diversity visa program described in sections 203(e) and 205(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 to any alien whom the Secretary of State has selected to participate in the diversity visa lottery for fiscal year 2018.

(2) REALLOCATION.—

(A) RELOCATION.—

(i) IN GENERAL.—Beginning in fiscal year 2019 and each fiscal year thereafter, the number of visas available to aliens who qualify for visas under the Nicaraguan Adjustment and Central American Relief Act (Public Law 103–182; 8 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make available the annual allocation of diversity visas as follows:

(1) 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 been terminated or revoked as of the date of enactment of this Act.

(2) 25,000 visas shall be made available to qualified aliens who have an approved employment-based petition based on paragraphs (1), (2), or (3) of section 203(b) of the Immigration 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 exhaustion of 5,000 visas made available under the Nicaraguan Adjustment and Central American Relief Act (Public Law 106–100; 8 U.S.C. 1153 note), the remainder of the visas made available under that Act shall be equally divided and made available to an alien who applied for subclauses (I) and (II) of clause (1).

(B) NOTIFICATION.—

(i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall publish 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 203(a) of the Immigration and Nationality Act (8 U.S.C. 1306(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 such change of address 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 “(h)”; and

(C) by striking the undesignated matter at the end and inserting the following:

“(2) Of the photographs furnished pursuant to paragraph (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 certificate retained by the Department.”; and

(2) by adding at the end the following:

“(c) The Secretary may modify the technical requirements under this section in the Secretary’s discretion and as the Secretary may determine to provide for photographs to be furnished and used in a manner that is efficient, secure, and consistent with the latest developments in technology.”.

SEC. 5002. ENFORCEMENT AND 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. 552)), 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 rule making, 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 such action is taken by the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that compliance with 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 such law would impede the expeditious implementation of this Act or the amendments made by this Act.

(2) SUNSET.—

(A) IN GENERAL.—The exemption provided under this section shall not later than 3 years after the date of enactment of this Act.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) does not impose any requirement on, or affect the validity of, any rule issued or other action taken by the Secretary under the exemption described in paragraph (1).

SEC. 5004. EXEMPTION FROM GOVERNMENT CONTRACTING AND HIRING RULES.

(1) COMPETITION REQUIREMENTS.—

(A) IN GENERAL.—For purposes of implementing this Act, the competition requirements of section 253(a) of title 41, United States Code, shall not apply.

(B) AGENCY DETERMINATION.—The determination of an agency under section 253(c) of title 41, United States Code, shall not be subject 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 29, 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 advice with the Drug Enforcement Administration, and for the Immigration and Naturalization Service and inserting “and for the Drug Enforcement Administration” and inserting “and for the Immigration and Naturalization Service” and inserting “and for the Drug Enforcement Administration” and

(B) in subparagraph (B), in the matter preceding clause (1), by striking “the Immigration and Naturalization Service” and inserting “the Department of Homeland Security”; and

(C) in paragraph (3), by adding at the end the following:

“Funds available to the Attorney General and replacing with “DEPARTMENT OF HOMELAND SECURITY”.

(D) in clause (ii), by striking “or the Secretary of Homeland Security” after “Attorney General”;

(ii) in clause (ii), by inserting “or the Secretary of Homeland Security” after “Attorney General”;

(iii) in clause (a), by striking “or the Secretary of Homeland Security” after “Attorney General”;

(3) SPECIALTY.

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 rescission of the provision or amendment to any other person or circumstance shall not be affected.

SEC. 5007. FUNDING.

(a) In general.—The Director of the Office of Management and Budget shall determine and identify—

(1) the appropriation accounts which have unobligated balances or unobligated balances which 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).

(c) EXCEPTIONS.—This section shall not apply to unobligated funds of—

(1) the Department of Homeland Security;

(2) the Department of Defense; and

(3) the Department of Veterans Affairs.

TITLE VI—TECHNICAL AMENDMENTS

SEC. 6001. REFERENCES TO THE IMMIGRATION AND NATIONALITY ACT.

Except as 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 (a), 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 (c), by striking ‘certifies to the Attorney General’ and inserting ‘certifies to the Secretary of Homeland Security’;

(C) in subparagraph (M)(1), 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).’’

(b) SECTION 201.—

(1) 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’.

(2) 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 removal issued by a foreign consular officer, or by the Attorney General or the Secretary, or by other such administrative officer to whom the Attorney General or the Secretary has delegated the responsibility for determining whether an alien is removable or ordering removal.’’

(c) TITLES 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) SECRETARY.—

(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 as the Act or its implementation has been transferred to the Attorney General or the Immigration and Naturalization Service. The powers, functions and duties of the Secretary, the Attorney General, the Immigration and Naturalization Service, the Commissioner of Social Security, the Secretary of State, the officers of the Department of State, 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), is further amended—

(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 ‘his authority and inserting ‘the authority of the Secretary’;

(III) in paragraph (4)—

(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 (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’;

(vi) 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’;

(vii) 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’;

(IV) by striking ‘his judgment’ and inserting ‘the judgment of the Secretary’;

(viii) in paragraph (8), by striking ‘Attorney General’ and inserting ‘Secretary’;

(ix) in paragraph (9), by striking ‘Attorney General’ each place that term appears and inserting ‘Secretary’; and

(x) in paragraph (10), by striking ‘Attorney General’ each place that term appears and inserting ‘Secretary’; and

(xi) 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 administration of the Department and of the Service. 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


(c) CLERICAL AMENDMENT.—The table of contents in the first section is amended by striking the item relating to section 103 and inserting the following:

‘‘103. Powers and duties.’’

(c) SECTION 204.—Section 204 (8 U.S.C. 1154) is amended by striking ‘Secretary’ and inserting ‘Secretary or’ 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 ‘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’ 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 294.—Section 294 (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 Secretary or before the Attorney General’ each place that term appears; and

(3) in subsection (e), by inserting ‘to’ after ‘admitted’.

(d) SECTION 298.—Section 298 (8 U.S.C. 1155) is amended—

(1) in subsection (a)(2)—

(A) by inserting ‘the Secretary or before’ before ‘Attorney General’ in paragraph (A); and

(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 in Attorney General’’.

(3) in subsection (c)—
   (A) in paragraph (1), by striking “the Attorney General” and inserting “the Secretary”;
   (B) in paragraphs (2) and (3), by inserting “the Secretaries or” before “Attorney General” each place that term appears; and
   (C) in paragraph (4), by inserting “the Secretary or” before “Attorney General’’.

(4) in paragraph (5), by striking “Attorney General” each place that term appears and inserting “Secretary’’.

(5) in paragraph (6), by striking “Secretary of State’’; and
   (A) in subparagraph (A), by striking “of State’’ and inserting “of Labor’’ after “Secretary’’;
   (B) in subparagraph (B), by inserting “Secretary or” before “Secretary General’’; and
   (C) in subparagraph (C), by inserting “Secretary General’’ before “the Attorney General’’.

(6) by striking “Secretary General’’ each place that term appears and inserting “Secretary’’.

(e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C. 1193a) 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 or’’ before “or the Attorney General’’ each place that term appears;
      (B) in paragraph (3)—
         (i) in subparagraph (B)(i)(II), by inserting “`the Secretary or’’ before “the Attorney General’’ each place that term appears; and
         (ii) in subparagraph (D), by inserting “the Secretary or” before “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 inserting “Secretary’’.
   (2) in subsection (b)(1)(B), by striking “Secretary General” each place that term appears and inserting “Secretary’’.
   (3) in subsection (c)(10), by striking “Attorney General” and inserting “Secretary’’.
   (h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C. 1187n) is amended—
   (1) in subsection (a)(1), the certificate from an equivalent independent credentialing organization approved by the Attorney General and inserting “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 of Homeland Security, or a certificate from an equivalent independent credentialing organization approved by the Secretary General’’.
   (2) in subsection (c)(2)(C), by striking “Secretary” before “or the Attorney General’’ each place that term appears;
   (3) in subsection (c)(3)(A), by striking “the” and inserting “an’’.
   (i) SECTION 215.—Section 215 (8 U.S.C. 1194) is amended—
   (1) in subsection (a), by inserting “Secretary General” each place that term appears and inserting “Secretary’’.
   (2) in subsection (b)(2), by striking “Secretary” and inserting “Secretary General’’.
   (3) in subsection (c)(9)(A), by striking “the State’’ and inserting “Secretary General’’.
   (j) SECTION 218.—Section 218 (8 U.S.C. 1188) is amended—
   (1) in subsection (a)(1)(B)—
      (A) by striking “Secretary or” before “Secretary General’’ each place that term appears; and
      (B) by striking “Secretary General’’ each place that term appears and inserting “Secretary General’’.
   (2) in subsection (c), by inserting “Secretary General” each place that term appears and inserting “Secretary General’’.
   (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 218(d)(1)”;
      (B) by striking the close parenthesis before the semicolon;
   (2) in subsection (c)(3)(D), by striking “(2),” and inserting “(2),’’;
   (3) in subsection (d)(4), by striking “the Secretary of the Treasury’’ and inserting “the Secretary of the Treasury, the Secretary of Homeland Security, the Secretary of the Army’’.
   (l) SECTION 222.—Section 222 (8 U.S.C. 1222) is amended—
   (1) by striking “inserting or “the Secretary or” after “Secretary of State’’ each place that term appears; and
   (2) in subsection (c), by inserting “the Secretary” before “Secretary of State’’.
   (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 (c), by striking “Attorney General’’ each place that term appears and inserting “Secretary’’;
   (3) in subsection (g)—
      (A) by striking “Attorney General” each place that term appears and inserting “Secretary’’;
      (B) by striking “Commissioner” each place that term appears and inserting “Secretary’’; and
      (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. 1226c(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 106(c)(4),’’;
   (2) by inserting “the Secretary’’ before “the Attorney General’’.
   (o) SECTION 236A.—Section 236a(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking “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 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’’;
      (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)), by striking “Commissioner’’ and inserting “Secretary’’.

   (r) SECTION 239.—Section 239 (8 U.S.C. 1229a) is amended—
   (1) by striking “Commissioner” each place that term appears and inserting “Secretary’’.
   (2) by striking “Attorney General” each place that term appears and inserting “Secretary’’.
   (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United States Attorney General’’.

   (s) SECTION 239.—Section 239 (8 U.S.C. 1229a) is amended—
   (1) by striking “Attorney General” each place that term appears and inserting “Secretary’’.

   (t) SECTION 240.—Section 240 (8 U.S.C. 1229a) is amended—
   (1) in subsection (a)—
      (A) in paragraph (1), by inserting “with the concurrence of the Secretary with respect to employees of the Department’’ after “after Attorney General’’; and
      (B) in paragraph (1), by inserting “the Secretary or” before “the Attorney General’’.
(2) In subsection (c)—
(A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before “to be confidential”;
(B) in paragraph (7)(A)(iv)(I), by striking “240A(b)(2)” and inserting “section 240A(b)(2)’’;
(b) SECTION 240A.—Section 240A(b)(8) (8 U.S.C. 1229b) is amended—
(1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”;
(2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”;
(u) SECTION 240B.—Section 240B(a) (8 U.S.C. 1229bb) is amended—
(1) in the first and second sentences, by striking “Attorney General” each place that term appears and inserting “Secretary”;
(2) in subsection (b), by striking “Secretary” and inserting “Secretary’s”;
(3) in subsection (e), by striking the “Secretary shall” and inserting the “Secretary of State shall”;
(gg) SECTION 264.—Section 264(f) (8 U.S.C. 1394f) is amended by striking “Attorney General” and inserting “Attorney General and the Secretary are’’;
(bb) SECTION 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each place that term appears and inserting “Secretary”;
(ii) SECTION 274.—Section 274(b)(2) (8 U.S.C. 1252(b)(2)) is amended by striking “Secretary of the Treasury” and inserting “Secretary”; and
(kk) SECTION 274B.—Section 274B(d)(2) (8 U.S.C. 1324b(d)(2)) is amended by striking “section ‘subsection’” and inserting “section”;
(l) 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. 1324a(a)(2)) is amended by striking “Commissioning” and inserting “Commission’’;
(nn) SECTION 286.—Section 286 (8 U.S.C. 1356) is amended—
(1) in subsection (a)(1)(B), by striking “in consultation with the Secretary of the Treasury’’;
(2) in subsection (r)(2), by striking “section 245(g)(10)(B)’’ and inserting “section 245(g)(10)(B)(1)”;
(3) in subsection (s)(5)—
(A) by striking “5 percent” and inserting “Use of fees for duties relating to petitions.‘’;
(B) by striking paragraph (1) (C) or (D) of section 204 and inserting “paragraph (C) or (D) of section 204’’;
(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 (g) and (d), by striking “Deputy Attorney General” and inserting “Secretary”;
SEC. 6004. TECHNICAL AMENDMENTS TO TITLE VI 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’’;
(2) in subsection (f)(1), by striking “Intel- ligence, the Attorney General and the Com- missioner 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.—Section 342 (8 U.S.C. 1442) is amended—
(1) in general, 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. 1442) is amended—
(A) by striking “heretofore issued or made by the Commissioner or a Deputy Commis- sioner 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. 1535e)(2) is amended by inserting “and the Secretary’’ after “Attorney General”;
SEC. 6007. OTHER AMENDMENTS.
(a) CORRECTION OF COMMISSIONER OF IMMIGRATION AND NATURALIZATION.—
(i) IN GENERAL.—The Immigration and Naturalization 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 that term appears and inserting “Secretary’’.
(ii) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by para- graph (1) shall not apply to any reference to the “Commissioner of Social Security”;
(b) CORRECTION OF BUREAU OF CIVILIAN 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 Secre- tary’’;
(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 that term appears and inserting “Department’’;
(d) CORRECTION OF DEPARTMENT OF JUSTICE.—
(1) IN GENERAL.—The Immigration and Na- tionality 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" in subsection section 212(a)(3).

(f) The term "Secretary"—
(A) in section 213A.

SEC. 6008. MISCELLANEOUS TECHNICAL CORRECTION.

Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403) is amended—
(A) to insert "as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))" and whose employer has not certified that the employer has filed or will file an Immigrant Petition on behalf of the alien, until the number of such aliens who are exempted from such numerical limitations during such year exceeds 20,000; and
(B) by adding at the end the following:

(ii) The period of validity of a visa described in clause (ii) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—
(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and
(II) such application or petition has not been denied in a final agency action.

(b) ANTI-ROASTING.—
In general.—Section 214(g)(10) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(10)) is amended—
(A) by inserting "(a)" before "The numerical limitations"; and
(B) by adding at the end the following:

(ii) The employer shall also subject to the penalties set forth in clause (i) if the employer withdraws the petition for an H-1B visa—

"(aa) as a result of an unexpected change in the need for the alien worker;
(bb) because the alien worker commences employment in the United States for which the employer under another lawful status; or
(cc) because the alien worker quit or was rehired after a period of unemployment of not more than 3 months that was not subject to the numerical limitations under paragraph (1)(A) shall be,
"(ii) The period of validity of a visa described in clause (ii) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—
(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and
(II) such application or petition has not been denied in a final agency action,

"(ii) The employer shall also subject to the penalties set forth in clause (i) if the employer withdraws the petition for an H-1B visa—

"(aa) as a result of an unexpected change in the need for the alien worker;
(bb) because the alien worker commences employment in the United States for which the employer under another lawful status; or
(cc) because the alien worker quit or was rehired after a period of unemployment of not more than 3 months that was not subject to the numerical limitations under paragraph (1)(A) shall be,
"(ii) The period of validity of a visa described in clause (ii) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—
(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and
(II) such application or petition has not been denied in a final agency action.

SA 1960. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

TITLED —EMPLOYMENT-BASED VISAS

Subtitle A—Employment-based Nonimmigrant Visas

SEC. 11. SECURING A SUPPLY OF HIGHLY SKILLED WORKERS.

(a) In general.—Section 214(g) of the Immigration and Naturalization Act (8 U.S.C. 1184(g)) is amended—
(A) by redesignating subparagraph (C) as subparagraph (D);
(B) by inserting after subparagraph (B) the following:
"(C) that has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of title 20) and whose employer has certified that it has filed or will file an Immigrant Petition on behalf of the alien; or;
"(C) by amending subparagraph (D), as redesignated, to read as follows:

"(D) that has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) and whose employer has not certified that the employer has filed or will file an Immigrant Petition on behalf of the alien, until the number of such aliens who are exempted from such numerical limitations during such year exceeds 20,000; and

"(II) The period of validity of a visa described in clause (ii) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—
(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and
(II) such application or petition has not been denied in a final agency action.

"(aa) as a result of an unexpected change in the need for the alien worker;
(bb) because the alien worker commences employment in the United States for which the employer under another lawful status; or
(cc) because the alien worker quit or was rehired after a period of unemployment of not more than 3 months that was not subject to the numerical limitations under paragraph (1)(A) shall be.
"(aa) as a result of an unexpected change in the need for the alien worker;
(bb) because the alien worker commences employment in the United States for which the employer under another lawful status; or
(cc) because the alien worker quit or was rehired after a period of unemployment of not more than 3 months that was not subject to the numerical limitations under paragraph (1)(A) shall be.
year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

(“BB”) the employer withdraws more than 20 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 10 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

(III)(i) The penalty for a violation of clause (i) shall be—

(‘‘aa’’) $10,000 for each petition described in such clause that was filed during the first fiscal year that a penalty is imposed; and

(bb) (AA) more than 50 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

(II)(i) A penalty under clause (III)(i) may not be reimbursed or indemnified by an H–1B nonimmigrant.

(III) An employer subject to a penalty under clause (i) in any 3 fiscal years shall be barred from filing for H–1B visas subject to the numerical limitation under paragraph (1)(A) for the fiscal year immediately following the third year of non-compliance.

(iv) Each employer that has 5 or more approved petitions for H–1B classification subject to the cap established under paragraph (1)(A) shall submit an annual report to the Secretary of Homeland Security that identifies—

(I) the date on which each such H–1B nonimmigrant applied during the most recent fiscal year began working for the employer in the United States; and

(II) the total period of employment in the first year of the work authorization for each such H–1B nonimmigrant during the most recent fiscal year.

(v) Penalties assessed under this subparagraph shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 286(s).”,

(2) EFFECTIVE DATE.—Section 214(g)(10)(B) of the Immigration and Nationality Act, as added by paragraph (1), shall take effect on the date that is 1 year after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—Section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1152(g)(4)) is amended by adding at the end the following:

“(A) in paragraph (1), by striking ‘‘(t)’’ and inserting ‘‘(y)’’; and

(B) by striking paragraph (4) and inserting—

“(1) in subsection (a), by striking ‘‘section 203(a)’’ and inserting ‘‘section 203(b)’’; and

(B) by striking paragraph (5) and inserting—

“(2) SPECIAL RULES FOR COUNTRIES AT CRISIS.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependents area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that state or area shall be allocated under section 203(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each paragraph (1) through (4) of section 203(a) is equal to the ratio of the number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).”.

(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking ‘‘subsection (e)’’ and inserting ‘‘subsection (d)’’; and

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 21. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

(a) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

“(2) PER COUNTRY LEVELS FOR FAMILY-SUPPORTED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.

(b) CONFORMING AMENDMENT.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking “both subsections (a) and (b) of section 203” and inserting “section 203(a)”; and

SEC. 23. SECURING A SUPPLY OF HIGHLY-SKILLED WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1154(g)) is amended—

(1) in paragraph (5)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by striking paragraph (5) and inserting the following:

“(2) EVIDENCE OF RES S.—If an applicant

(3) If the Secretary of State certifies to the Secretary of Homeland Security that the number of visas available for such alien under this section is less than the number necessary to meet the needs of the United States at the end of the fiscal year, the number of visas issued to such alien shall be increased, subject to the availability of funds, by the Secretary of Homeland Security to the extent necessary to fill the shortage.

(b) CONFORMING AMENDMENT.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking “both subsections (a) and (b) of section 203” and inserting “section 203(a)”; and

(B) by striking paragraph (5) and inserting—

“(2) EVIDENCE OF RES S.—If an applicant

(3) If the Secretary of State certifies to the Secretary of Homeland Security that the number of visas available for such alien under this section is less than the number necessary to meet the needs of the United States at the end of the fiscal year, the number of visas issued to such alien shall be increased, subject to the availability of funds, by the Secretary of Homeland Security to the extent necessary to fill the shortage.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on October 1, 2017, and shall apply to fiscal years beginning with fiscal year 2018.

SA 1961. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table.

At the appropriate place, insert the following:

SEC. 24. SECURING A SUPPLY OF HIGHLY-SKILLED WORKERS.
(D) has earned a master's or higher degree from an institution of higher education (as defined in section 212(n) of the Immigration and Nationality Act, as added by section 402(b)(2) of Public Law 108-77), the first level of wages shall be not less than the mean of the lowest 50 percent of the wages surveyed.
SEC. 1. PER-COUNTRY NUMERICAL LIMITATIONS AND ADJUSTMENT OF STATUS.

(a) MODIFICATION OF PER-COUNTRY NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended as follows:

“(2) PER COUNTRY LEVELS FOR FAMILY-SUPPORTED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available for natives of any single foreign state or dependent area under section 202(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.”.

(2) CONFORMING AMENDMENTS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking “both subsections (a) and (b) of section 202” and inserting “subsection (a)”;

(ii) by striking paragraph (5); and

(B) by amending subsection (e) to read as follows:

“(e) SPECIAL RULES FOR COUNTRIES AT CRITICAL.—If the total number of immigrant visas made available under section 202(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that foreign state or dependent area under section 202(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraph (1) through (4) of section 202(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 202(a).”.

(3) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(A) in subsection (a), by striking “subsection (e)” and inserting “subsection (d)”;

and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if enacted on October 1, 2017, and shall apply to fiscal years beginning with fiscal year 2018.

(b) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended by adding at the end the following:

“(c) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

“(1) Petition.—Any alien, and any eligible dependent of such alien, who has an approved petition for immigrant status, may file an application with the Secretary of Homeland Security for adjustment of status regardless of whether an immigrant visa is immediately available at the time the application is filed.

“(2) SUPPLEMENTAL FEE.—If a visa is not immediately available at the time an application is filed under paragraph (1), the beneficiary of such application shall pay a supplemental fee of $500, which shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 289(e). This fee shall not be collected from any dependent accompanying or following to join such beneficiary.

“(3) VISA AVAILABILITY.—An application filed under this subsection may not be approved until the date on which an immigrant visa becomes available.”.

SA 1964. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1896 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. EMPLOYMENT AND TRAINING OPPORTUNITIES FOR HIGHLY-SKILLED IMMIGRANTS AND THEIR FAMILIES.—

(a) EMPLOYMENT AUTHORIZATION FOR DEPENDENTS OF H–1B NONIMMIGRANTS.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184a(c)) is amended by inserting after the period at the end of paragraph (1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”;

and

(b) in paragraph (2), by adding at the end the following:

“(C)(i) If the principal alien has a pending or approved Application for Permanent Employment Certification or a pending or approved Immigrant Petition, the Secretary of Homeland Security shall—

“(A) authorize the alien spouse of such principal alien admitted under section 101(a)(15)(H)(i)(b) who is accompanying or following to join the principal alien to engage in employment in the United States; and

“(B) authorize the alien spouse of such principal alien admitted under section 101(a)(15)(L) who is accompanying or following to join the principal alien to engage in employment in the United States; and

“(II) such extension is requested before the expiration of the nonimmigrant’s period of authorized admission; and

“(C) no new nonimmigrant status shall be issued during such period;”.

(c) PRACTICAL TRAINING FOR F–1 NONIMMIGRANTS.—Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184a(m)) is amended by adding at the end the following:

“(3) A nonimmigrant admitted under clause (1) or (2) of section 101(a)(15)(F) may complete a course of study by engaging in optional post-completion practical training to gain experience directly related to the course of study if the participating employer—

“(a) confirms to the university that the employer is compensating the nonimmigrant and similarly situated United States workers; and

“(b) documents to the university that the nonimmigrant’s assignments will provide practical training to gain experience directly related to the course of study;”.

(d) EMPLOYMENT INCENTIVES FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184a(m)) is amended by adding the following:

“(10) An amended H–1B petition shall not be approved if—

“(A) the petitioning employer is involved in a corporation restructuring, including a spin-off, merger, acquisition, or consolidation; or

“(B) a new corporate entity succeeds to the petitioning employer for the specific employment in question to all other individuals with similar education, experience, and qualifications; or

“(C) the nonimmigrant worker begins working for a new employer for which the petitioner has secured a valid, certified Labor Condition Application before the nonimmigrant worker began working at such place of employment.”.

(e) DEFERENCE TO PRIOR APPROVALS.—Section 214(c) of the Immigration and Nationality Act, as amended by paragraph (1) and subsection (b) of section 244(a)(3)(B) of the Act, is amended by adding at the end the following:

“(f) If the Secretary of Homeland Security or the Secretary of State approves an alien described in subsection (a), is further amended by adding the following:

“(1) the Secretary of Homeland Security or the Secretary of State approves an alien described in subsection (a), is further amended by adding the following:

“(B) the Secretary of Homeland Security, or the Secretary of State, approves an application for admission involving the same employer and alien un-
him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

SEC. 2. FAIRNESS FOR HIGH-SKILLED IMMIGRANTS.

(a) SHORT TITLE.—This section may be cited as the “Fairness for High-Skilled Immigrants Act of 2018.”

(b) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows: “(2) PER COUNTRY LEVELS FOR FAMILY-SPOSRNED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2015 under such paragraphs.

(c) CONFORMING AMENDMENTS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) IN SUBSECTION (a).

(A) by striking “in paragraphs (1) and (2)” and

(B) by striking paragraphs (1) and (2) and

(2) by striking subsection (e) and

(3) by redesignating subsection (e) as subsection (d).

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on September 30, 2018, and shall apply to fiscal year 2019 and to each subsequent fiscal year.

(f) TRANSITION RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2019, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1152(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2015 under such paragraphs.

(B) For fiscal year 2020, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2016 under such paragraphs.

(C) For fiscal year 2021, 5 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2017 under such paragraphs.

(2) PER-COUNTRY LEVELS.

(A) Reserved Visas.—The number of visas reserved under each of subparagraphs (A) through (C) of paragraph (1) made available to natives of any single foreign state or dependent area that is not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2017 under such paragraphs.

(B) Unreserved Visas.—Not more than 85 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) and not reserved under paragraph (1), for each of the fiscal years 2017, 2018, and 2019, may be allotted to immigrants who are natives of any single foreign state.

(SPECIAL RULE TO PREVENT UNUSED VISAS.—If, with respect to fiscal year 2017, 2018, or 2019, the application of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).

(4) RULES FOR CHARGABILITY.—Section 202(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.

SA 1966. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

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Sec. 1. Table of contents.

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TITLE IV—LEGAL IMMIGRATION REFORM

Subtitle A—Immigrant Visa Allocations and Priorities

Sec. 1101. FAMILY SPONSORED IMMIGRATION PRIORITIES.

(a) IMMEDIATE RELATIVE REDEFINED.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (b)(2)(A)—

(A) 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 of a spouse and a citizen of the United States,’’; and

(B) in clause (ii), by striking ‘‘such an immediate relative and inserting ‘‘the immediate relative of a United States citizen’’;

(2) 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 87,934 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; and

(B)(i) did not acquire the status of an alien lawfully admitted to the United States for permanent residence during the two 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

(3) in subsection (f)—

(A) in paragraph (2), by striking ‘‘section 204(a)(2)(A)’’ and inserting ‘‘section 204(a)’’;

(B) by striking paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3); and

(D) 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) is amended to read as follows:

‘‘(a) SPOUSES AND MINOR CHILDREN OF PERMANENT RESIDENTS.—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 and shall be allocated visas in accordance with the number computed under section 204(c).’’

(c) AGING OUT.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking ‘‘(a)(2)(A)’’ each place such term appears and inserting ‘‘(a)(2)’’;

(2) by amending paragraph (1) to read as follows:

‘‘(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsections (a)(2)(A) and (D), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which a petition is filed with the Secretary of Homeland Security;’’

(3) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(4) by inserting after paragraph (1) the following:

‘‘(2) LIMITATION.—Notwithstanding the age of an alien on the date on which a petition is filed, an alien who marries or attains 25 years of age before being issued a visa pursuant to subsection (a)(2)(A) or (D), no longer satisfies the age requirement described in paragraph (1); and

(5) in paragraph (5), as redesignated, by striking ‘‘(3)’’ and inserting ‘‘(4)’’;

(d) CONFORMING AMENDMENTS.—

(1) DEFINITION OF V NONIMMIGRANT.—Section 201(b)(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)(3)’’.

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(3), by striking paragraphs (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 202(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 202(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, 75 percent of the maximum number of visas that may be made available under section 202(a) to immigrants who are natives of the state or area, consistent with subsection (e), and

(iii) by striking subparagraphs (C) and (D);

and

(B) in subsection (e)—

(1) in paragraph (1), by adding ‘‘and at the end;

(ii) by striking paragraph (2); and

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

(4) in the undesigned matter after paragraph (2), as redesignated, by striking ‘‘, respectively,’’ and all that follows and inserting a period.

(3) 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 relationship described in paragraph (1), (3), or (4) of section 203(a) or’’;

(ii) in subparagraph (B)—

(I) in clause (1), by redesigning the second subclause (I) as subclause (II); and

(II) by striking ‘‘203(a)(2)(A)’’ each place such terms appear and inserting ‘‘203(a)’’;

and

(iii) in subparagraph (D)(i)(I), by striking ‘‘a petitioner and’’ and all that follows through ‘‘section 204(a)(1)(B)(iii).’’ and inserting ‘‘an individual younger than 21 years of age for purposes of admission as an immediate relative subject to section 201(b)(2)(A) 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 (t).

(4) WAIVERS OF INADMISSIBILITY.—Section 212 of such Act (8 U.S.C. 1182) is amended—
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(A) in subsection (a)(6)(E)(ii), by striking "section 203(a)(2)" and inserting "section 203(a)"; and
(B) in subsection (d), by striking "other" and inserting "other than".

(5) 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)" and inserting "section 203(a)".

(6) DEFINITION OF ALIEN SPouse.—Section 215(b)(3)(B)(i) of such Act (8 U.S.C. 1184a(b)(3)(B)(i)) is amended by striking "section 203(a)(2)" and inserting "section 203(a)".

(7) 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)".

(e) 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. 1151(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)(ii), by striking "or" at the end; and

(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(e), an alien who is a parent of a citizen of the United States, if the citizen—

(i) is at least 21 years of age; and

(ii) has never received contingent nonimmigrant status under title IV of the Secretary of State Visa Waiver Program Act of 1998;"

(2) CONDITIONS ON ADMISSION.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(ii) until the 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.

(B) is not eligible for any Federal, State, or local public benefit.

(3) IN GENERAL.—The nonimmigrant status 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 WHO APPLIED TO ENTER INTO THE UNITED STATES AS A HUMANITARIAN.—Section 203(a)(2) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(A) by striking "section 203(a)(2)" and inserting "section 203(a)"; and

(B) by striking paragraph (2) before the semicolon at the end.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2016.

(2) IN GENERAL.—No person may file, and

(A) by striking "Secretary," and

(B) by inserting "and any other nonimmigrant visa issued by the United States that is in the possession of the alien after such visa;" and

(subtitle B—Visa Security

SEC. 1201. CANCELLATION OF ADDITIONAL VISAS.

(a) IN GENERAL.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1182(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(2)(B)(i)(IV), by striking "section 203(a)(2)" and inserting "section 203(a)"; and

(B) by inserting "subparagraph (a) or (b)"; and

(vi) in subsection (f), by striking "subparagraph (a) or (b)");

(II) in paragraph (2)(A), by striking "(2) in section 201(d)(1)(A), by striking "section 203(a) or (d)" and inserting "subsection (a) or (b) or (c)");

(III) in subsection (e), by striking "section 203(a) or (b) of such Act (8 U.S.C. 1153(a)); Any application for adjustment of status or an immigrant visa based on such a petition shall be invalid.

(II) IN GENERAL.—Notwithstanding the amendments made by this section, an alien with respect to whom a petition or application for status under paragraph (1), (2)(B), (3), or (4) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153a), as in effect on September 30, 2010, was approved prior to the date of the enactment of this section, may be issued a visa pursuant to that paragraph in accordance with the availability of visas under subparagraph (B).

(II) AVAILABILITY OF VISAS.—Visas may be issued to beneficiaries of approved petitions under each category described in subparagraph (A), but only until such time as the number of visas that would have been allocated to that category in fiscal year 2012, notwithstanding the amendments made by this section, has been issued. When the number of visas described in the previous sentence have been issued, any petition under section 204(a) of the Immigration and Nationality Act (8 U.S.C. 1153a), as in effect on September 30, 2018, was approved prior to the date of the enactment of this Act, may be issued a visa pursuant to that paragraph in accordance with the availability of visas under subparagraph (B).

(III) PROVISIONS OF IMMIGRATION AND NATIONALITY ACT.—Section 203(c) of such Act (8 U.S.C. 1153a(a)) is amended by striking paragraph (3).

(III) ELIMINATION OF DIVERSITY VISA PROGRAM.—

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking subsection (c).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) in section 101(a)(15)(V), by striking "section 203(d)" and inserting "section 203(e)";

(B) in section 201—

(i) in subsection (a)—

(I) in paragraph (1), by adding "and" at the end;

(II) by striking paragraph (3); and

(ii) by striking paragraph (4); and

(C) in section 203—

(i) in subsection (b)(2)(B), by striking "7.1 percent of such worldwide level" before the semicolon at the end.

(2) IN GENERAL.—Section 203 of such Act (8 U.S.C. 1153a) is amended—

(A) in section 201(d)(1)(A), by striking "140,000" and inserting "155,000";

(B) in section 203(b)—

(A) in paragraph (1), by striking "28.6 percent of such worldwide level" and inserting "58,374";

(B) in paragraphs (2) and (3), by striking "28.6 percent of such worldwide level" each place it appears and inserting "9,940";

(E) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2019, and shall apply to visas made available in fiscal year 2019 and subsequent fiscal years.

SEC. 1104. WAIVER OF RIGHTS BY B VISA NONIMMIGRANTS.

Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1151a(15)(B)) is amended by inserting "and who has waived any right to review or appeal of an immigration officer’s determination as to the admissibility of the alien at the port of entry into the United States, or to contest, other than on the basis of an application for asylum, any action for removal of the alien before the semicolon at the end.

B-Visa Security

SEC. 1201. CANCELLATION OF ADDITIONAL VISAS.

(a) IN GENERAL.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1182(g)) is amended—

(1) in paragraph (1)—

(A) by striking "Attorney General" and inserting "Secretary"; and

(B) by inserting "and any other nonimmigrant visa issued by the United States that is in the possession of the alien after such visa;" and

(g) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2019, and shall apply to visas made available in fiscal year 2019 and subsequent fiscal years.
country of the alien’s nationality” and inser-
ting “(other than a visa described in para-
graph (1)) issued in a consular office located in
the country of the alien’s national foreign govern-
ment.”
(b) EFFECTIVE DATE.—The amendment
made by subsection (a) shall take effect on
the date of the enactment of this Act and shall
apply to any visa issued before, on, or after such date.
SEC. 1202. VISA INFORMATION SHARING.
(a) IN GENERAL.—Section 221(i) of the Im-
migration and Nationality Act (8 U.S.C. 13202(i)(2)) is amended—
(1) by striking “issue refusal” and inser-
ting “issue, refusal, or revocation”;
(2) in paragraph (2), in the matter pre-
ceding subparagraph (A), by striking “and on
the basis of reciprocity” and all that follows and inser-
ting the following “may provide to a foreign government information in a De-
partment of State computerized visa data-
base and, when necessary and appropriate, other records covered by this section rela-
ted to information in such database”;
(3) in paragraph (2)(A)—
(A) by inserting at the beginning “on the
basis of reciprocity”;
(B) inserting “(i)” after “for the pur-
pose of”;
(C) by striking “illicit weapons; or” and in-
serting “illicit weapons, or”;
(D) by striking “or determining a
person’s deportability or eligibility for a
visa, admission, or other immigration ben-
efit;”;
(4) in paragraph (2)(B)—
(A) by inserting at the beginning “on the
basis of reciprocity”;
(B) by striking “in the database” and in-
serting “such database”;
(C) by striking “for the purposes” and in-
serting “for one of the purposes”;
and
(D) by striking “or to deny visas to persons
who would be inadmissible to the United
States”;
and
(5) in paragraph (2), by adding at the end the fol-
lowing:
“(C) with regard to any or all aliens in the
database specified data elements from each
record, if the Secretary of State determines
that it is in the national interest to provide
such information to a foreign govern-
ment.”
(b) TECHNICAL CORRECTIONS TO THE HOME-
LAND SECURITY ACT.—Section 428(a) of the Home-
land Security Act of 2002 (6 U.S.C. 236a) is amended
by striking “subsection, except in
connection with the granting of a visa or the admission
of an alien to the United States as an immi-
grant or as a non-
imigrant” and inserting—
“(1) the number of such denials; and
(2) a post-by-post breakdown of such deni-
als.
SEC. 1205. VISA REFUSAL AND REVOCATION.
(a) AUTHORITY OF THE SECRETARY OF HOME-
LAND SECURITY AND THE SECRETARY OF
STATE.—
(1) IN GENERAL.—Section 222(h)(1) of the Im-
migration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended by striking “is
determined by the Secretary of State to be ineligible for a visa based upon review of the appli-
cation or” after “unless”.
(b) GUIDANCE.—Not later than 90 days after the
date of the enactment of this Act, the Secretary of State shall issue guidance to con-
sular officers on the standards and proc-
esses for determining eligibility to deny visa applications without interview in cases
where the alien is determined by the Sec-
cretary of State to be ineligible for a visa based upon review of the application.
(c) REPORTS.—Not less frequently than
quarterly, the Secretary of State shall sub-
mit a report to Congress regarding the denial
of visa applications without interview, in-
cluding—
(1) the number of such denials; and
(2) a post-by-post breakdown of such deni-
als.
SEC. 1206. PETITION AND APPLICATION PRO-
CESSING FOR VISAS AND IMIGRATION
BENEFITS.
(a) IN GENERAL.—Chapter 2 of title II of the Im-
migration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after
section 211 the following:
“SEC. 211A. PETITION AND APPLICATION PRO-
CESSING.
“(a) SIGNATURE REQUIREMENT.—
“(1) IN GENERAL.—No petition or applica-
tion filed with the Secretary of Homeland
Security or with a consular officer relating to
the issuance of a visa or to the admission
of an alien to the United States shall be
approved unless the petition or application is signed
by each party required to sign such petition or application.
“(b) APPLICATIONS FOR IMMIGRANT VISAS.—
Except as may be otherwise prescribed by
regulations, each application for an immi-
grant visa shall be signed by the applicant in
the presence of the consular officer, and
verified by the oath of the applicant admin-
istered by the consular officer.
“(b) COMPLETION REQUIREMENT.—No peti-
tion or application filed with the Secretary of Homeland
Security or with a consular officer
relating to the issuance of a visa or to
the admission of an alien to the United
States as an immigrant or as a non-
imigrant may be approved unless each appli-
cable portion of the petition or applica-
tion has been completed.
“(d) REQUESTS FOR ADDITIONAL INFORM-
ATION.—If the Secretary of Homeland Security
or a consular officer requests any additional information relating to a petition or applica-
tion filed with the Secretary or consular offi-
cer relating to the issuance of a visa or to
the admission of an alien to the United
States as an immigrant or as a non-
imigrant, such petition or application may not be approved unless all of the additional
information requested has been provided on or before any reason-
ably established deadline included in the re-
quest; or
is necessary to establish a family relationship, the immigrant shall provide DNA evidence of such a relationship in accordance with procedures established for submitting DNA evidence, and the Secretary of Homeland Security, in consultation with the Secretary of State, may issue regulations to require DNA evidence for certain visa classifications to establish family relationships." after "by the consular officer.".

SEC. 1212. ADDITIONAL FRAUD DETECTION AND PREVENTION.
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)".

TITLE II—INTERIOR IMMIGRATION ENFORCEMENT

Subtitle A—New Illegal Deduction Eliminations

SEC. 2201. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.
(a) IN GENERAL.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:
"(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—
"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).
"(B) WAGES.—For the purposes of this paragraph, the term 'wages' means all remuneration for employment, including the cash value of all remuneration (including benefits paid in kind) from other than cash.
"(C) SAFE HARBOR.—If a person or other entity is participating in the E-Verify Program described in section 408(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.
"(D) BURDEN OF PROOF.—In the case of any examination of a return in connection with a deduction under this section the Secretary shall bear the burden of proving that such wages were paid to or on behalf of an unauthorized alien.

(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. 1209. DNA TESTING.
Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1159) is amended by inserting after the item relating to section 209 of such Act (8 U.S.C. 1158); section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—(A) 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. 1211. 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 inserting 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."

SEC. 1210. ACCESS TO NCIC CRIMINAL HISTORY DATABASE FOR DIPLOMATIC VISAS.
Subsection (a) of article V of section 217 of the National Criminal History Access and Child Protection Act (34 U.S.C. 40301(v)(a)) is amended by inserting before "except for diplo- matic visas for which only full biographical information is required" before the period at the end the following: "after the date of enactment of this Act."
(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2017.

SEC. 2102. MODIFICATION OF E-VERIFY PROGRAM

(a) MAKING PERMANENT.—Subsection (b) of section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking the last sentence.

(b) APPLICATION TO CURRENT EMPLOYEES.—(1) VOLUNTARY ELECTION.—The first sentence of section 402(a) of such Act is amended to read as follows: "Any person or other entity that conducts any hiring (or recruitment or referral) in one or more States or one or more place of hiring (or recruitment or referral); or to a hiring, recruitment or referral (and not to a hiring, recruitment or referral, in the case of inquiries made pursuant to paragraph (3) of subsection (c)), in one or more States or one or more place of hiring (or recruitment or referral), as the case may be; or (ii) to all its hiring (and all recruitment or referral) in one or more States or one or more place of hiring (or recruitment or referral, as the case may be); or (iv) to all its hiring (and all recruitment or referral and all individuals employed by the person or entity) in one or more States or one or more place of hiring (or recruitment or referral employment, as the case may be)."

(2) PROCEDURES FOR PARTICIPANTS IN E-VERIFY PROGRAM.—Subsection (a) of section 402(b) of such Act is amended by adding at the end the following: "(A) MAKING PERMANENT.—Any person or other entity that participates in the E-Verify Program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to individuals employed by the person or entity, the person or entity that has established a rebuttable presumption that the person or entity has not violated section 274A(a)(2) with respect to such individuals."

SEC. 2202. STATE NONCOMPLIANCE WITH ENFORCEMENT OF IMMIGRATION LAW

(a) IN GENERAL.—Section 462 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, official, or other personnel from undertaking any of the following law enforcement activities related to the enforcement of immigration laws:"

(2) by inserting the following after such subparagraph: ""(ii) to all its hiring (and all recruitment or referral) in one or more States or one or more place of hiring (or recruitment or referral, as the case may be); or"

(b) LAW ENFORCEMENT ACTIVITIES.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, official, or other personnel from undertaking any of the following law enforcement activities related to the enforcement of immigration laws:

(1) Making inquiries to any individual in order to obtain information regarding such individual or any other individuals.

(2) Notifying the Department of Homeland Security regarding the presence of individuals who are encountered by law enforcement officials or other personnel of a State or political subdivision of a State.

(3) Complying with requests for such information regarding the citizenship or immigration status, the admissibility, the deportability, or the custody status, of any individual:

(a) making inquiries to any individual in order to obtain information regarding such individual or any other individuals.

(b) notifying the Department of Homeland Security regarding the presence of individuals who are encountered by law enforcement officials or other personnel of a State or political subdivision of a State.

(c) complying with requests for such information regarding the citizenship or immigration status, the admissibility, the deportability, or the custody status, of any individual.

(c) JOB OFFER MAY BE MADE CONDITIONAL TO接受采访 or continued employment in a State or political subdivision of a State that is not in compliance with subsection (a) or (b);

(d) TRANSFER OF CUSTODY OF CERTAIN ALIENS PROHIBITED.—The Secretary may not transfer an alien with a final order of removal pursuant to paragraph (1) or (5) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) to a State or a political subdivision of a State that is not in compliance with subsection (a) or (b).

"(4) DETERMINATION.—The Secretary shall—

(A) determine, for each calendar year, which States or political subdivisions of a State are not in compliance with subsection (a) or (b); and

(B) report such determinations to Congress not later than March 1 of the succeeding calendar year.

"(5) REBUTTABLE PRESUMPTION.—Any jurisdic-

tion that is not in compliance with subsection (a) or (b) shall be ineligible to receive the Federal financial assistance described in paragraph (1) for at least 1 year.

"(C) CERTIFICATION.—Any jurisdiction subject to paragraph (1) is not eligible to receive the Federal financial assistance described in paragraph (1) until the Secretary of Homeland Security certifies that the jurisdiction has come into compliance with subsections (a) and (b).

"(D) REALLOCATION.—Any funds that are not allocated to a State or to a political subdivision of a State due to the failure of the State or of the political subdivision of the State to comply with subsections (a) and (b) shall be reallocated to States or to political subdivisions of States that comply with both such subsections.

"(E) CONSTRUCTION.—Nothing in this sec-

tion may be construed to require law enforcement officials from States, or from political subdivisions of States, to report or arrest victims or witnesses of a criminal offense.

"(F) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that section 462(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as added by subsection (a)(3), shall only apply to prohibited acts committed on or after such date of enactment.

SEC. 2203. CLARIFYING AUTHORITY OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINERS

(a) IN GENERAL.—Section 287(d) of the Immigration and Nationality Act (8 U.S.C. 1357(d)) is amended to read as follows:

"(d) DETAINERS OF INADMISSIBLE OR DEPOR-

TABLE ALIENS.—

"(1) IN GENERAL.—If an individual is ar-

rested by any Federal, State, or local law en-

forcement official or other personnel for the purposes of arrest or detention under Federal, State, or local law, the Secretary may issue a detainer regarding the individual to any Federal, State, or local law enforcement entity, official, or other personnel if the Secretary has probable cause to believe that the individual is an inadmissible or deportable alien.

"(2) PROBABLE CAUSE.—Probable cause is estab-

lished under paragraph (1) if—

(A) the individual who is the subject of the detainer—

(i) matches, pursuant to biometric con-

firmation or other Federal database records,

the identity of an alien who the Secretary has reasonable grounds to believe to be inadmissible or deportable;

(ii) is the subject of ongoing removal pro-

ceedings, including matters where a charging document has already been served;
“(iii) has previously been ordered removed from the United States and such an order is administratively final; or

(iv) has made voluntary statements or provides information that indicates that individual is an inadmissible or deportable alien; or

(B) the Secretary has reasonable grounds to believe that individual is the subject of the detainer and is an inadmissible or deportable alien.

(3) TRANSFER OF CUSTODY.—If the Federal, State, or local law enforcement entity, official, or other personnel to whom a detainer is issued complies with the detainer and detains for purposes of transfer of custody to the Department of Homeland Security the individual who is the subject of the detainer, the Department may take custody of the individual within 48 hours (excluding weekends and holidays), but in no instance more than 96 hours, following the date that the individual is otherwise to be released from the custody of the relevant Federal, State, or local law enforcement entity.”.

(b) IMMUNITY.—

(1) IN GENERAL.—A State or a political subdivision of a State (and the officials and personnel of such subdivision acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section who temporarily holds an alien in its custody pursuant to the terms of a detainer so that the alien may be taken into the custody of the Department of Homeland Security, shall be considered to be acting under color of Federal authority for purposes of determining their liability and shall be held harmless for their compliance with the detainer in any suit seeking any punitive, compensatory, or other monetary damages.

(2) FEDERAL GOVERNMENT AS DEFENDANT.—In any civil action arising out of the compliance with a Department of Homeland Security detainer by a State or political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, the United States Government shall be the proper party defendant in any suit seeking any punitive, compensatory, or other monetary damages.

(3) PROPER DEFENDANT.—If a State or a political subdivision has in effect a statute or other legal requirement prohibiting political entities within its jurisdiction from honoring a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), and, as a consequence of its statute or other legal requirement, the political subdivision declined to honor a detainer issued pursuant to such section, and as a consequence released the alien from custody before the commission of such crime or

(C) has in effect a statute, policy, or practice that prohibits it from complying with any or all Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) or from fully complying with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and a political entity declines to honor such a detainer against an alien described in paragraph (1) based on such statute or legal requirement before the alien commits a crime referred to in such paragraph,

(A) the State or political subdivision that enacted such statute or legal requirement shall be deemed to be the proper defendant in a cause of action under paragraph (1); and

(B) no such cause of action may be maintained against the political entity that declined to honor the detainer.

(4) ATTORNEY’S FEES AND OTHER COSTS.—In any action or proceeding under this subsection, the court shall award the prevailing plaintiff a reasonable attorneys’ fee as part of the costs, including expert fees.

(d) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State or political subdivision of a State that in effect a statute, policy, or practice that prohibits it from complying with any or all Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) shall not be eligible to receive—

(A) any of the funds that would otherwise be allocated to the State or political subdivision by the Immigration and Nationality Act (8 U.S.C. 1225(a)(3)), the “Cops on the Beat!” program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10301 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under part 1 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.); or

(B) any other grant administered by the Department of Justice that is substantially related to law enforcement, immigration, or naturalization or grant administered by the Department of Homeland Security that is substantially related to immigration, enforcement of the immigration laws, or naturalization.

(2) EXCEPTION.—A political entity described in subsection (c)(3) that declines to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) for the purpose of being required to comply with a statute or other legal requirement of a State or another political subdivision with jurisdiction over immigration matters (the alien is, or would have been, eligible to receive grant funds described in paragraph (1), but the State or political subdivision that enacted such statute or other legal requirement shall not be eligible to receive such funds.

SEC. 2204. SARAH AND GRANT’S LAW.

(a) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.

(1) CLERICAL AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(A) by striking “Attorney General” each place it appears (except in the second place that term appears in subsection (a)) and inserting “Secretary of Homeland Security”; and

(B) in subsection (a) (1) in the matter preceding paragraph (1), by inserting “the Secretary of Homeland Security or” before “the Attorney General”; and

(2) D ETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is amended—

(A) in subparagraph (A), by striking the commas before “Homeland Security” and inserting “Secretary of Homeland Security’s”;

(B) in subparagraph (B), by striking “Secretary of Homeland Security’s” and inserting “Secretary of Homeland Security’s”;

(C) in subparagraph (C), by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”;

(D) in subparagraph (D), by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”;

(E) in subparagraph (E), by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”;

(F) in subparagraph (F), by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”;

(3) PROPER DEFENDANT.—If a State or a political subdivision has in effect a statute or other legal requirement prohibiting political entities within its jurisdiction from honoring a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) or from fully complying with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and a political entity declines to honor such a detainer against an alien described in paragraph (1) based on such statute or legal requirement before the alien commits a crime referred to in such paragraph—

(A) the State or political subdivision that enacted such statute or legal requirement shall be deemed to be the proper defendant in a cause of action under paragraph (1); and

(B) no such cause of action may be maintained against the political entity that declined to honor the detainer.

(4) ATTORNEY’S FEES AND OTHER COSTS.—In any action or proceeding under this subsection the court shall award a prevailing plaintiff a reasonable attorneys’ fee as part of the costs, including expert fees.

(5) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—

(C) subparagraph (C), by striking “sentence” and inserting “sentence to a term of imprisonment of at least 1 year, or” and inserting “sentence to a term of imprisonment of at least 1 year,”; and

(D) in subparagraph (E), by striking the comma at the end and inserting a semicolon; and

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

“(E) is unlawfully present in the United States and has been convicted for driving while intoxicated (including a conviction for driving while under the influence or influence of alcohol or drugs) without regard to whether the alien is a lawful permanent resident of the United States and has been convicted for driving while under the influence or influence of alcohol or drugs, or whether the alien is a lawful permanent resident of the United States; or”; and

(F) by adding paragraph (5) after paragraph (4).

III. Dispositions by Congress

SEC. 2308. CONCLUSION OF PROCEEDINGS.

(A) DETERMINATION OF ELIGIBILITY.—If the court determines that a grant or assistance described in section 237(a) is not eligible for determination in accordance with section 237(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(d)(2)) the court shall enter an order declaring that grant or assistance is not eligible for determination in accordance with section 237(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(d)(2)).

(B) DETERMINATION OF ELIGIBILITY.—If the court determines that a grant or assistance described in section 237(a) is eligible for determination in accordance with section 237(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(d)(2)) the court shall enter an order declaring that grant or assistance is eligible for determination in accordance with section 237(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(d)(2)).
(3) LENGTH OF DETENTION; ADMINISTRATIVE REVIEW.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

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(4) if the violation occurred after the alien had 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 10 years, or both;
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(4) by striking the item relating to section 275 and striking the item relating to section 275 and

(5) by striking the item relating to section 275 and

(6) by inserting after paragraph (5), as re-designated, the following:

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(6) The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness and the Federal Law Enforcement Training Center or by means of teleconferencing, and videotape, or the digital video display training course or courses. Distance learning through a secure, encrypted, distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act and shall apply to any alien in detention under section 236 of the Immigration and Nationality Act, as amended, or otherwise subject to the provisions of such section, on or after such date.
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SEC. 2205. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 267(a) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) in general.—Notwithstanding any other provision of this section, an alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond if the alien—

(1) is in exclusion proceedings;

(2) is described in section 212(a)(3) or 237(a)(4); or

(3) is described in subsection (c).

(2) RELEASE ON BOND.—

(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. Bond may not be granted unless the alien establishes, by clear and convincing evidence, that the alien is not a flight risk or a danger to the community.

(2) CERTAIN ALIENS INELIGIBLE.—An alien detained under subsection (c) may not seek release on bond.

(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 any alien in detention under section 236 of the Immigration and Nationality Act, as amended, or otherwise subject to the provisions of such section, on or after such date.

SEC. 2206. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1525) is amended to read as follows:

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(1) ILLEGAL ENTRY OR PRESENCE.—An alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States 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 $200 nor more than $250 for each such entry, crossing, attempted entry, or attempted crossing or

(B) twice the amount specified in paragraph (1) if the alien had been subject to a civil penalty under this section.
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(b) CERIAL AMENDMENT.—The table of penalties for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by striking the item relating to section 275 and

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(1) CRIMINAL PENALTIES.—Section 275(a) of the Immigration and Nationality Act, as
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amended by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to acts, conditions, or violations described in such section that occur on or after such effective date.

(2) CIVIL PENALTIES.—Section 275(b) of such Act, as amended by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to acts described in such section 275(b) that occur before, on, or after such date.

Subtitle C—Criminal Aliens

SEC. 2301. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS CRIMES.

(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 paragraph (A)(1)—

(i) in subclause (I), by striking ‘‘or’’ and inserting ‘‘and’’;

(ii) in subparagraph (A), by striking ‘‘waiver is not available on a comparable basis with respect to section 237(a)(7) with respect to section 237(a)(7)’’ and inserting ‘‘waiver is not available on a comparable basis with respect to section 237(a)(7)’’;

(iii) in subparagraph (B), by striking ‘‘is inadmissible in this brief proceeding under the Immigration and Nationality Act. In this clause, the term ‘inadmissible’ means that the alien—’’ and inserting ‘‘is inadmissible in this brief proceeding under the Immigration and Nationality Act. In this clause, the term ‘inadmissible’ means that the alien—’’;

(iv) by striking ‘‘in this clause’’ and inserting ‘‘in this clause’’;

(B) by redesignating clause (v) as clause (vi); and

(c) EFFECTIVE DATE.—The amendments made by this section shall be applied to aliens admitted on or after the date of enactment of this Act.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended—

(1) in clause (i), by striking the comma at the end and inserting ‘‘; and’’;

(2) in the second section of this Act; and

(3) in clause (ii), by striking ‘‘an alien who was convicted of a crime of violence (as defined in section 16 of title 18, United States Code).’’ and inserting ‘‘an alien who was convicted of a crime of violence (as defined in section 16 of title 18, United States Code);’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall be applied to aliens admitted on or after the date of enactment of this Act.

(d) CONSTRUCTION.—The amendments made by this section shall be applied to aliens admitted on or after the date of enactment of this Act.

(e) 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, as in effect on the day before the date of the enactment of this Act, if such eligibility did not exist before the amendments made by subsection (a) became effective.

SEC. 2302. INCREASED PENALTIES BANNING THE ADMISSION OF ALIENS CONVICTED OF SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER


(B) DETERMINATION OF ELIGIBILITY.—If the Attorney General determines that an alien—

(1) is ineligible because of an alien who was convicted of, or who admits committing any crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General or the Secretary, waive the application of subparagraphs (A)(1), (B), (D), (E), (K), and (M) of subsection (a)(2);

(c) DEPORTABILITY.—Section 237(a)(2) of such Act, as amended by section 2301, is further amended by

(1) in subparagraph (A) (as redesignated by section 2301),

(A) by striking clause (v); and

(B) by redesignating clause (vi) as clause (v).

SEC. 2303. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

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

‘‘(53) The term ‘criminal gang’ means an ongoing group, club, organization, or association of 5 or more persons that has, as a primary purpose, the commission of 1 or more of the criminal offenses listed in subparagraphs (A) through (G), whether in violation of Federal or State law or foreign law and regardless of whether of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the Attorney General, as meeting such criteria.’’

(b) A felony drug offense (as defined in section 162 of the Controlled Substances Act (21 U.S.C. 802)).

(2) A felony offense involving firearms or explosives or in violation of section 931 of
title 18, United States Code (relating to pur-
chase, ownership, or possession of body armor by violent felons).

(C) An offense under section 274 (relating to bringing in or harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of aliens for immoral purposes).

"(D) A crime of violence (as defined in section 16 of title 18, United States Code).

"(E) A crime involving obstruction of justice, fraud, or deceit, or retaling against a witness, victim, or informant.

"(F) Any conduct punishable under sections 1028A and 1029 of title 18, United States Code (relating to aggravated identity theft or 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 1951 of such title (relating to influence with identification documents or access devices; section 1951 of such title (relating to interstate transportation in aid of racketeering enterprises), section 1956 of such title (relating to laundering of monetary instruments), section 2312 through 2315 of such title (relating to theft of government property and fraud in involving in monetary transactions in property derived from specified unlawful activity), or sections 2511 through 2513 of such title (relating to transportation in aid of racketeering enterprises); or

"(G) A conspiracy to commit an offense described in subparagraphs (A) through (F).

"(b) Inadmissibility.—Section 212(a)(3) of the Immigration and Nationality Act, as amended by sections 2201 and 2302, is further amended by adding at the end the following:

"(N) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

"(1) In General.—An alien is inadmissible if a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe that the alien—

"(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, or support the illegal activities of the criminal gang.

"(ii) Promotion or Conspiracy.—Any alien for whom a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General has reasonable grounds to believe has participated in, been a member of, promoted, or conspired with a criminal gang in the United States, or outside of the United States, is inadmissible.

"(iii) Intent of Entry.—Any alien for whom a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General has reasonable grounds to believe seeks to enter the United States or has entered the United States in furtherance of a criminal gang, either inside or outside of the United States, is inadmissible.

"(c) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act, as amended by sections 2301 and 2302, is further amended by adding at the end the following:

"(I) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

"(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, or support the illegal activity of the criminal gang.

"(d) Admission.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

"SEC. 220. DESIGNATION OF CRIMINAL GANG.

"(a) Designation.—

"(1) In General.—The Secretary of Homeland Security, in consultation with the Attorney General, may designate a group, club, organization, or association of 5 or more persons as a criminal gang if the Secretary determines that the activities of such entity is described in section 101(a)(53).

"(2) Procedure.—

"(A) Notification.—Not later than 7 days before making a designation under paragraph (1), the Secretary, through classified written communication, shall notify the Speaker and the Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, of the intent to designate a group, club, organization, or association of 5 or more persons as a criminal gang under paragraph (1) and the justification for such designation.

"(B) Publication in the Federal Register.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under subparagraph (A).

"(3) Record.—

"(A) General.—In making a designation under paragraph (1), the Secretary shall create an administrative record.

"(B) Classified information.—The Secretary may consider classified information in making a designation under paragraph (1). Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court or parte and in camera for purposes of judicial review under section 101(a)(53).

"(C) Period of Designation.—

"(1) In General.—A designation under paragraph (1) shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside under subsection (c).

"(2) Review of Designation upon Petition.—

"(1) In General.—The Secretary shall review the designation under this subsection in accordance with clauses (ii) and (iv) if the designated group, club, organization, or association of 5 or more persons files a petition for revocation within the petition period described in clause (ii).

"(ii) Petition Period.—

"(1) If a designated group, club, organization, or association of 5 or more persons has not previously filed a petition for revocation under clause (i), the petition period begins 2 years after the date on which the designation was made.

"(2) If the designated group, club, organization, or association of 5 or more persons has previously filed a petition for revocation under clause (i), the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

"(iii) Procedures.—Any group, club, organization, or association of 5 or more persons that submits a petition for revocation under this subparagraph of its designation as a criminal gang shall provide evidence in that petition that it is not described in section 101(a)(53).

"(iv) Determination.—

"(1) In General.—Not later than 90 days after receiving a petition for revocation under clause (i), the Secretary shall make a determination regarding the revocation sought by such petition.

"(2) Procedure.—In making a determination regarding a petition for revocation under clause (i), the Secretary may consider information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court or parte and in camera for purposes of judicial review under subsection (c).

"(3) Publication.—A determination made by the Secretary under this subsection shall be published in the Federal Register.

"(4) Procedures.—Any revocation by the Secretary shall be made in accordance with paragraph (6).

"(C) Other Review of Designation.—

"(1) In General.—If no review takes place under subparagraph (4) during the period, the Secretary shall review the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (4).

"(2) Procedures.—If a review does not take place under subparagraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewed in any court.

"(D) Procedures.—If a review of a designation made under this subparagraph in the Federal Register.

"(2) Revocation by Act of Congress.—Congress may block or revoke a designation made under paragraph (1) by an Act of Congress.

"(3) Revocation based on change in circumstances.—

"(A) In General.—The Secretary may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to paragraph (4) if the Secretary determines that—

"(i) the group, club, organization, or association of 5 or more persons that has been designated as a criminal gang is no longer described in section 101(a)(53); or

"(ii) the national security or the law enforcement interests of the United States warrant a revocation.

"(B) Procedure.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on completion of a review specifi ed in the revocation or upon publication in the Federal Register if no effective date is specified.

"(4) Effect of Revocation.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

"(5) Use of Designation in Trial or Hearing.—If a designation under this subsection becomes effective under paragraph (1), an alien in a removal proceeding may not raise any question concerning the validity of such designation as a defense or an objection.

"(6) Amendments To Title 18.—

"(1) In General.—The Secretary may amend a designation under subsection (a) if the Secretary determines that the group, club, organization, or association of 5 or more persons has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another group, club, organization, or association of 5 or more persons.

"(2) Procedure.—Amendments made to a designation under paragraph (1) shall be effective on the publication of such amendments in the Federal Register. Paragraphs (4), (5), (6), (7), and (8) of subsection (a) shall apply to an amended designation.
and any additional relevant information that supports such amendments.

(4) Classified Information.—The Secretary may consider classified information in amending a designation under this subsection. Classified information may not be subject to disclosure while it remains classified, except that such information may be disclosed to the designated group, to court, in camera for purposes of judicial review under subsection (c).

(5) In General.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated group, club, organization, or association of 5 or more persons may seek judicial review in the United States District Court for the District of Columbia Circuit.

(2) Basis of Review.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

(3) Scope of Review.—The court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation that the court finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

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

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2); or

(E) not in accord with the procedures required by law.

(4) Judicial Review Invoked.—Thependency of an action for judicial review of an ineligibility determination, amendment, or classification in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order denying the petition.

(5) Inapplicability of Restriction on Relief.—A final order of revocation of a designation under this section shall not preclude any person from applying for or receiving assistance under any other provision of law.

(6) Reconsideration.—After the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, 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 identifies the number of aliens detained during the reporting period as a result of the amendments made by paragraph (1).
“(G) an offense relating to a theft under State or Federal law (including theft by deceit, theft by fraud, and receipt of stolen property) regardless of whether any taking was temporary, permanent, or by deception; or offense under State or Federal law for which the term of imprisonment is at least 1 year, except that if the conviction records do not conclusively establish whether a crime constitutes a theft or burglary offense, the Attorney General or Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a theft or burglary offense.”;

(b) in subparagraph (N)—

(A) by striking “paragraph (1)(A) or (2)”; and

(B) by inserting a semicolon at the end;

(9) by amending subparagraph (O) to read as follows:

“(O) an offense described in section 275 or 276 for which the term of imprisonment is at least 1 year;;

(10) by amending subparagraph (P) to read as follows:

“(P) an offense which is described in chapter 115A of title 18, United States Code, and for which the term of imprisonment is at least 12 months;;

(11) by amending subparagraph (U) to read as follows:

“(U) attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense.”; and

(12) by striking the undesignated matter following subparagraph (U).”

(b) EFFECTIVE DATE—APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendments made by subsection (a) are effective on the date of the enactment of this Act.


(3) MANDATORY DETENTION FOR CERTAIN VIOLATIONS OF MORAL TURPITUDE.—

(P) by striking “Attorney General” each place such term appears (except for the first reference in paragraph (4)(B)(i) and inserting “Secretary of Homeland Security”;

(2) in subparagraph (B)(i), by striking “(A) by amending subparagraph (B) to read as follows:

“(B) BEGINNING OF PERIOD.—The removal period begins on the date the order of removal becomes administratively final.

“(ii) If the alien is not in the custody of the Secretary on the date the order of removal becomes administratively final, the date the alien is taken into such custody.

“(iii) If the alien is detained or confined (except under an immigration process) on the date the order of removal becomes administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.”;

and

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

“(C) SUSPENSION OF PERIOD.—

“(1) EXTENSION.—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary’s sole discretion, keep the alien in detention during such extended period if—

“(I) the alien fails to make all reasonable efforts to comply with the removal order, or to fully cooperate 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 conspires or acts to prevent the alien’s removal that is subject to an order of removal;

“(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.”;

and

(3) in paragraph (3)—

“(3) The Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

“(4) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period, in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal that is subject to an order of removal;

“(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.”;

and

(1) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order;

“(II) the stay of removal is no longer in effect;

“(III) the alien is returned to the custody of the Secretary;

“(IV)sole refel.——An alien may seek relief from detention under this subparagraph only by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this subsection shall have the right to seek release on bond.”;

(3) in paragraph (3)—
(A) in the matter preceding subparagraph (A), by inserting "or is not detained pursuant to paragraph (6)" after "within the removal period"; and
(B) by amending subparagraph (D) to read as follows:

"(D) to obey reasonable restrictions on the alien's conduct or activities 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) in paragraph (4)(A), by striking "paragraph (2)" and inserting "subparagraph (B)"; and

(5) by amending paragraph (6) to read as follows:

"(6) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.—

(A) DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security'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, and who has not conspired or acted to prevent removal, the Secretary may establish an administrative review process to determine whether the alien should be detained or released on bond. The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal officials or employees of that country who are able to ensure the alien's identity and carry out the removal.

(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

(I) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i). The Secretary may not continue to detain an alien beyond the 90 days authorized in clause (i). The Secretary may not continue to detain an alien beyond the 90 days authorized in clause (i). The Secretary may not continue to detain an alien beyond the 90 days authorized in clause (i). An alien whose detention is extended under this paragraph shall have no right to seek release on bond.

(ii) SPECIFIC CIRCUMSTANCES.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i) if—

(I) the alien is removed, if the Secretary, in the Secretary's sole discretion, determines that there is a significant likelihood that the alien—

(aa) will be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make 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 conspires to acts to prevent removal;

(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make 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 conspires to acts to prevent removal;

(cc) is removable, if the Secretary of Homeland Security certifies in writing—

(aa) 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;

(bb) 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;

(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information), that the alien has conspired or acted to prevent removal, 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 conspires to acts to prevent removal; or

(dd) the release of the alien will threaten the safety of the community or any person, conditioned reasonably to be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental or psychological disorder or behavior associated with that condition or disorder, the alien is likely to engage in acts of violence; or

(bb) pending a certification under subparagraph (B), as if the removal period terminated on the day of the detention.

(F) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under this section shall be subject to review by any other agency.

SEC. 3109. TIMELY REPATRIATION.

(a) LISTING OF COUNTRIES.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Secretary of Homeland Security shall publish a report that includes—

(1) a list of countries that have refused or unreasonably delayed repatriation of an alien who is a national of that country since the date of the enactment of this Act, including the total number of such aliens, disaggregated by nationality;

(2) a list of countries that have an excessive repatriation failure rate; and

(3) a list of each country included in a list described in paragraph (1) or (2) in a report preceding the current report and in the current report.

(b) PROHIBITIONS.—

(1) IN GENERAL.—Beginning on the date on which a country is included in the list described in subsection (a)(3) and on the date on which that country is no longer included in such list, the Secretary of State may not issue visas under section 101(a)(15)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(i)) to attendants, servants, personal employees, and members of the immediate families of officials or employees of that country who are able to ensure the alien's identity and carry out the removal.

(2) VISA REDUCTION.—Every 6 months that a country is included in the list described in subsection (a)(3), the Secretary of State shall reduce the number of visas available under clause (i) or (ii) of section 101(a)(15)(A) of such Act to 10 percent of the baseline visa number for that country. Except as provided under section 101(a)(15)(A) of such Act (8 U.S.C. 1101(a)(15)(A)), the Secretary may not reduce the number of such visas to a level below 20 percent of the baseline visa number.

(c) REPORTS.—

(1) NATIONAL SECURITY WAIVER.—If the Secretary of State submits to Congress a written determination that significant national security interests require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number. The Secretary shall notify Congress of any waiver. The Secretary shall notify Congress of any waiver.

(2) TEMPORARY EXEMPTION.—If the Secretary of State submits to Congress a written determination that temporary exigent circumstances require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number. The Secretary may not delegate the authority under this subsection.
SEC. 2311. ILLEGAL REENTRY.

Security and the Secretary of State in implementing this section provided for in paragraph (1).

(3) FAILURE RATE.—The term "failure rate" means, with respect to a report under subsection (a), a failure rate greater than 10 percent during—

(A) the period of the 3 full fiscal years preceding the date of publication of the report; or

(B) the period of 1 year preceding the date of publication of the report.

(2) EXCESSIVE REPATRIATION FAILURE RATE.—The term "excessive repatriation failure rate" means, with respect to a report under subsection (a), a failure rate greater than 10 percent during—

(A) the period of the 3 full fiscal years preceding the date of publication of the report; or

(B) the period of 1 year preceding the date of publication of the report.

(3) NUMBER OF NONREPATRIATIONS OUTSTANDING.—The term "number of nonrepatriations outstanding" means, for a period, the number of unique aliens whose repatriation has not occurred during that period by the total number of such requests during that period.

(4) NUMBER OF NONREPATRIATIONS OUTSTANDING.—The term "number of nonrepatriations outstanding" means, for a period, the number of unique aliens whose repatriation a country has refused or unreasonably delayed during that period by the total number of such requests during that period.

(5) REFUSED OR UNREASONABLY DELAYED.—A country is deemed to have "refused or unreasonably delayed" the acceptance of an alien who is a citizen, subject, national, or resident of that country if, not later than 90 days after receiving a request to repatriate such alien from an official of the United States who is authorized to make such a request, the country does not accept the alien or issue valid travel documents.

(i) GAO REPORT.—Not later than 1 year after the date on which the President submits to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, of the President's fiscal year 2019, the Comptroller General of the United States shall submit a report to Congress regarding the progress of the Secretary of Homeland Security and the Secretary of State in implementation of this section and in making requests to repatriate aliens as appropriate.

SEC. 2401. CLARIFICATION OF INTENT REGARDING TAXPAYER-PROVIDED COUNSEL.

Section 252 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) by striking "In any removal proceedings before an immigration judge and in any other proceedings before the Attorney General from any such removal proceedings" and inserting "In any removal proceedings before an immigration judge, or any other proceedings described in subsection (b)(2) of section 292 of the Immigration and Nationality Act (8 U.S.C. 1252), and in any removal proceeding described in section 2401 of the Homeland Security Act (6 U.S.C. 201) of the Department of Homeland Security exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) are asked in a uniform manner, to the extent possible, that both these questions and the answers provided in response to them are recorded in a uniform manner.

(2) FACTORS RELATING TO SWORN STATEMENTS.—Whenever practicable, any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(3) INTERPRETERS.—The Secretary shall ensure that a competent interpreter, not affiliated with the government of the country from which the alien may claim asylum, is used when the interviewing officer does not speak the alien's language.

(4) RECORDINGS IN IMMIGRATION PROCEEDINGS.—There shall be an audio or audio
visual recording of interviews of aliens subject to expedited removal. The recording shall be included in the record of proceeding and shall be considered as evidence in any further proceeding involving the alien.

(e) No PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed to create any right of action, or responsibility, whether substantive or procedural, enforceable in law or equity by a party against the United States, its departments, agencies, instrumentalities, officers, employes, or agents, or any person, nor does this section create any right of review in any administrative, judicial, or other proceeding.

SEC. 2405. RENUNCIATION OF ASYLUM STATUS PUISUANT TO RETURN TO HOME COUNTRY. (a) In General.—Section 208(c)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(c)(5)(A)) is amended by adding at the end the following:

“(4) Renunciation of asylum status pursuant to return to home country.—(A) The Secretary determines that the alien was granted asylum under this section, who, absent changed country conditions, subsequently returns to the country of such alien’s nationality or, in the case of an alien having no nationality, returns to any country in which such alien last habitually resided, shall have his or her status terminated.

(B) Waiver.—The Secretary of Homeland Security may waive subparagraph (A) if the alien is a refugee or (4) after “paragraph (2)”. “(C) Clarification.—The Secretary or the Attorney General may not determine that an application is frivolous unless the applicant, during the course of the proceedings, has had sufficient opportunity to clarify any discrepancies or implausible aspects of the claim.

(D) Withholding of removal.—A finding that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3); or protection pursuant to the Convention Against Torture.”.

SEC. 2406. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLICATIONS.

(a) In General.—Section 208(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by inserting “the Secretary of Homeland Security or” before “the Attorney General”;

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

(3) in subparagraph (B), by striking the period and inserting “;” and;

(4) by adding at the end the following:

“(C) Ensure that a written warning appears on the notice of the consequence of filing a frivolous application and serving as notice to the alien of the consequence of filing a frivolous application or;

(b) Conforming Amendment.—Section 208(d)(6) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(6)) is amended to read as follows:

“(6) FRIVOLOUS APPLICATIONS.—(A) In General.—If the Secretary of Homeland Security or the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received notice under paragraph (4) that it is not so sufficient in substance that it is clear that the applicant knowingly filed the application solely or in part—

(i) to delay removal from the United States;

(ii) to seek employment authorization as an applicant for asylum pursuant to regulations issued pursuant to paragraph (2); or

(iii) any of its material elements are deliberately fabricated.

(C) Clarification.—The Secretary or the Attorney General may not determine that an application is frivolous unless the applicant, during the course of the proceedings, has had sufficient opportunity to clarify any discrepancies or implausible aspects of the claim.

(D) Withholding of Removal.—A finding that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3); or protection pursuant to the Convention Against Torture.”.

SEC. 2407. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.

(a) ASYLUM CREDIBILITY DETERMINATIONS. —Section 208(b)(1)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(B)(i)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

(b) RELIEF FOR REMOVAL CREDIBILITY DEFICIENCIES. —Section 208(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1158(c)(4)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

SEC. 2408. PENALTIES FOR ASYLUM FRAUD.

Section 1001 of title 18, United States Code, is amended—

(1) 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”;

(2) in clause (i), by striking “and” at the end;

(3) in clause (ii), by striking “; and” and inserting a period; and

(4) by striking clause (iii).

SEC. 2501. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

(a) In General.—Section 215 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “Secretary of Homeland Security or the” before “Attorney General”;

(B) in paragraph (3), by inserting “Secretary of Homeland Security or the” before “Attorney General”;

(2) in subsection (b)(2), by inserting “Secretary of Homeland Security or the” before “Attorney General” each place such term appears;

(3) in subsection (c)—

(A) in paragraph (1), by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”;

(B) in paragraph (3), by inserting “Secretary of Homeland Security or the” before “Attorney General”;

(C) in paragraph (5)—

(i) in subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(ii) in subparagraph (B), by inserting “Secretary of Homeland Security or the” before “Attorney General”.

Subtitle E—Unaccompanied and Accompanied Alien Minors Apprehended Along the Border
(B) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:  

"(6) RULE OF CONSTRUCTION.—(1) In general.—Notwithstanding any other provision of law, judicial determination of whether an alien child is charged or convicted during the period the child is place in removal proceedings pursuant to section 235 of the Immigration and Nationality Act (8 U.S.C. 1225(a)(1), 1225(a)(2), and 1252(a)(1), and (2) In paragraph (5)—  

"(i) by striking "either of the immigrant's parents".  

SEC. 2502. SPECIAL IMMIGRANT JUVENILE STATUS FOR IMMIGRANTS UNABLE TO REUNITE WITH EITHER PARENT.  

Section 1225(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by striking "(A) in paragraph (2)—  

"(A) in paragraph (3), by inserting at the semicolon the following: "believing not to meet such criteria listed in subsection (a)(2)(A)"; and  

"(i) in the matter preceding clause (i), by inserting before the semicolon the following: "which shall include a hearing before an immigration judge not later than 14 days after being screened under paragraph (4)";  

"(2) in subsection (a)—  

"(A) in paragraph (2)—  

"(i) in subparagraph (A), by inserting before the semicolon the following: "believed not to meet such criteria listed in subsection (a)(2)(A)"; and  

"(ii) in paragraph (3), by striking "an unaccompanied alien child in custody—  

"(A) in the case of a child who does not meet such criteria listed in subsection (a)(2)(A), shall transfer the custody of such child to the Secretary of Health and Human Services not later than 30 days after determining that such child is an unaccompanied alien child who does not meet such criteria; or  

"(B) in the case of a child who meets the criteria listed in subsection (a)(2)(A), may transfer the custody of such child to the Secretary of Health and Human Services after determining that such child is an unaccompanied alien child who meets such criteria."; and  

"(3) SPECIAL RULE.—Not later than January 5, 2019, and every 6 months thereafter, the Attorney General shall submit a report that identifies—  

"(A) the number of unaccompanied alien children who failed to appear for any proceeding before an immigration judge during the 3-month period preceding the date of the report; and  

"(B) the number of unaccompanied alien children who were adjudicated during the 3-month period preceding the date of the report; and  

"(2) the Secretary of Homeland Security shall submit a report that identifies—  

"(A) the total number of applications for asylum, filed by unaccompanied alien children, which were adjudicated during the 3-month period preceding the date of the report; and  

"(B) the percentage of such applications that were granted.  

SEC. 2505. BIANNUAL REPORT TO CONGRESS.  

Not later than January 5, 2019, and every 6 months thereafter, the Attorney General shall submit a report to Congress on each crime for which an unaccompanied alien child is charged or convicted during the previous 6-month period following their release from the custody of the Secretary of Homeland Security pursuant to section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1158)."
CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

SEC. 3111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTH-
ERNSIDE

Section 102 of the Illegal Immigration Re-
form 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 Home-
land Security shall take such actions as may be nec-
essary (including the removal of obstacles to de-
tection of illegal entrants) to de-
sign, install, deploy, and op-
erate physical barriers, tactical infra-
structure, and technology in the vicinity of the
United States border to achieve situational aware-
seness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas.’’;

(2) in subsection—

(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 inser-
ting ‘‘this section’’;

(II) by striking ‘‘this subsection’’ and inser-
ting ‘‘this section’’; and

(iii) in subparagraph (D)—

(C) in paragraph (2)—

(i) by striking ‘‘construction of fences’’ and inser-
ting ‘‘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 such design, construction, or deployment of such physical barriers, tact-
ical infrastructure, or technology, as the case may be, that the Secretary determines, in the Secretary’s sole discretion, are nec-
cessary to maximize the safety and effective-
ness of the Department of Homeland Security or of any other Fed-
eral agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.’’;

(3) in subsection (c), by amending para-
graph (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 the Sec-
retary, in the Secretary’s sole discretion, de-
termine necessary to ensure the expedi-
tion, design, testing, construction, installation, deployment, operation, and maintenance of the physical barriers, tactical infrastructure, and technology the Secretary has determined any such decision by the Secretary shall be effective upon publica-
tion in the Federal Register.’’;

and

(4) by adding after subsection (d) the fol-
lowing new subsections:

‘‘(e) TECHNOLOGY.—Not later than Sep-

tember 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 bar-
riers and tactical infrastructure available for achieving situational awareness and operational control of the border.

‘‘(f) LIMITATION ON REQUIREMENTS.—Noth-
ing in the previous section shall con-
strue as requiring the Secretary of Homeland Security to install tactical infrastructure, tech-
nology, and physical barriers in a particular area along the 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 situational awareness and operational control over the international border.

‘‘(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 such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328).

‘‘(3) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps, access gates, checkpoints, lighting, and roads.

‘‘(4) TECHNOLOGY.—The term ‘technology’ includes border surveillance and detection technology, including the following:

(A) Tower-based surveillance technology.

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

(C) Vehicle and Dismount Exploitation Radars (VADER).

(D) 3-dimensional, seismic acoustic detec-
tion and ranging border tunneling detection technology.

(E) Advanced unattended surveillance sensors.

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

(G) Unmanned aerial vehicles.

(H) Other border detection, communica-
tion, and surveillance technology.

‘‘(7) UNMANNED AERIAL VEHICLES.—The term ‘unmanned aerial vehicle’ has the meaning given the term ‘unmanned aircraft’ in section 131 of the Border Patrol Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 60101 note).’’.

SEC. 3112. AIR AND MARINE OPERATIONS FLIGHT HOURS

(a) INCREASED FLIGHT HOURS.—The Sec-
retary, after coordination with the Adminis-
terator of the Federal Aviation Adminis-
tration, 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 Sec-
retary shall ensure that Air and Marine Op-
erations operate unmanned aerial systems on the southern border of the United States for not less than 24 hours per day for five days per week.

(c) CONTRACT AIR SUPPORT AUTHORIZA-
TION.—The Commissioner shall contract for the unfilled identified air support mission critical hours, as identified by the Chief of the U.S. Border Patrol technology.

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

(1) the primary missions for Air and Ma-
rine Operations are to support U.S. Border Patrol activities along the southern border of the United States and Joint Inter-
agency 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 estab-
lished by the Commissioner to carry out the requirements under this Act.

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

(1) identify critical flight hour require-
ments;

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

(3) SMALL UNMANNED AERIAL VEHICLES.—

(1) IN GENERAL.—The Chief of the U.S. Bor-
der Patrol shall be the executive agent for U.S. Customs and Border Protection’s use of small unmanned aerial vehicles for the pur-
pose 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 para-
graph (1), the Chief of the U.S. Border Patrol shall—

(3) coordinate flight operations with the Administrator of the Federal Aviation Ad-
ministration to ensure the safe and efficient
operation of the National Airspace System; and
(B) coordinate with the Executive Assistant
Commissioner for Air and Marine Oper-
ations of U.S. Customs and Border Protec-
tion to ensure the safety of other U.S. Cus-
toms and Border Protection aircraft flying in
the vicinity of small unmanned aerial ve-
cicles operated by the U.S. Border Patrol.
(3) CONFORMING AMENDMENT.—Paragraph
(S) of section 411(e) of the Homeland Security
Act of 2002 (6 U.S.C. 211(e)) is amended
(A) by substituting paragraph (B), by striking “and”
after the semicolon at the end;
(B) by redesignating subparagraph (C) as
subparagraph (D); and
(C) by inserting after subparagraph (B) the
following new subparagraph: “(C) carry out the small unmanned aerial vehicle requirements pursuant to subsection (f) of section 1112 of the Border Security for America Act of 2018; and”.
(g) SAVING CLAUSE.—Nothing in this sec-
tion shall affect the authority of 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 Pa-
trol any authority of the Secretary of Trans-
portation or the Administrator of the Fed-
eral Aviation Administration relating to the
use of airspace or aviation safety.
SEC. 3113. CAPABILITY DEPLOYMENT TO SPE-
CIFIC SECTORS AND TRANSIT ZONE.
(a) IN GENERAL.—Not later than September
30, 2022, the Secretary, in implementing sec-
tion 102 of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996 (as
amended by section 3111 of this division), and
acting through the appropriate component of
the Department of Homeland Security, shall
deploy to each sector or region of the south-
ern border and the northern border, in a
prioritized manner, to achieve situational awareness and operational control of such
borders, the following additional capabil-
ties:
(1) SAN DIEGO SECTOR.—For the San Diego
sector, the following:
(A) Enhanced border surveillance technology.
(B) Subterranean surveillance and detect-
tion technologies.
(C) To increase coastal maritime domain awareness, the following:
(i) Deployable, lighter-than-air surface sur-
veillance equipment.
(ii) Unmanned aerial vehicles with mar-
itime surveillance capability.
(iii) U.S. Customs and Border Protection
maritime patrol aircraft.
(iv) Coastal radar surveillance systems.
(v) Maritime signals intelligence capabil-
ities.
(D) Ultralight aircraft detection capabil-
ities.
(E) Advanced unattended surveillance sen-
(1)ors.
(F) A rapid reaction capability supported
by aviation assets.
(G) Mobile vehicle-mounted and man-port-
able surveillance systems.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(2) 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 capabili-
ties.
(D) Advanced unattended surveillance sen-
sors.
(E) A rapid reaction capability supported
by aviation assets.
(F) Mobile vehicle-mounted and man-port-
able surveillance systems.
(G) Man-portable unmanned aerial vehi-
cles.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(3) TUCSON SECTOR.—For the Tucson sector,
the following:
(A) Tower-based surveillance technology.
(B) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.
(C) Deployable, lighter-than-air ground
surveillance equipment.
(D) Ultralight aircraft detection capabili-
ties.
(E) Advanced unattended surveillance sen-
sors.
(F) A rapid reaction capability supported
by aviation assets.
(G) Man-portable unmanned aerial vehi-
cles.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(4) EL PASO SECTOR.—For the El Paso sec-
tor, the following:
(A) Tower-based surveillance technology.
(B) Deployable, lighter-than-air ground
surveillance equipment.
(C) Ultralight aircraft detection capabili-
ties.
(D) Advanced unattended surveillance sen-
sors.
(E) A rapid reaction capability supported
by aviation assets.
(F) Mobile vehicle-mounted and man-port-
able surveillance systems.
(G) Improved agent communications capa-
bilities.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(5) BIGHORN SECTOR.—For the Big Bend
sector, the following:
(A) Tower-based surveillance technology.
(B) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.
(C) Improved agent communications capa-
bilities.
(D) Ultralight aircraft detection capabili-
ties.
(E) Improved agent communications capa-
bilities.
(F) Mobile vehicle-mounted and man-port-
able surveillance systems.
(G) Improved agent communications capa-
bilities.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(6) FALCON LAKE REGION.—For the Falcon
Lake region, the following:
(A) Tower-based surveillance technology.
(B) Deployable, lighter-than-air ground
surveillance equipment.
(C) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.
(D) Ultralight aircraft detection capabili-
ties.
(E) Improved agent communications capa-
bilities.
(F) Mobile vehicle-mounted and man-port-
able surveillance systems.
(G) Improved agent communications capa-
bilities.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(7) DEL RIO SECTOR.—For the Del Rio sec-
tor, the following:
(A) Tower-based surveillance technology.
(B) Increased monitoring for cross-river
dams, culverts, and footpaths.
(C) Improved agent communications capa-
bilities.
(D) Improved maritime capabilities in the
Amistad National Recreation Area.
(E) Advanced unattended surveillance sen-
sors.
(F) A rapid reaction capability supported
by aviation assets.
(G) Mobile vehicle-mounted and man-port-
able surveillance capabilities.
(H) Man-portable unmanned aerial vehi-
cles.
(I) Improved agent communications capa-
bilities.
(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 detec-
tion, interdiction, and monitoring operations
capability.
(D) Increased monitoring for cross-river
dams, culverts, and footpaths.
(E) Ultralight aircraft detection capabili-
ties.
(F) Advanced unattended surveillance sen-
sors.
(G) A rapid reaction capability supported
by aviation assets.
(H) Man-portable unmanned aerial vehi-
cles.
(I) Improved agent communications capa-
bilities.
(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 detec-
tion, interdiction, and monitoring operations
capability.
(D) Ultralight aircraft detection capabili-
ties.
(E) Improved agent communications capa-
bilities.
(F) Increased monitoring for cross-river
dams, culverts, footpaths.
(G) A rapid reaction capability supported
by aviation assets.
(H) Increased maritime interdiction capa-
bilities.
(I) Mobile vehicle-mounted and man-port-
able surveillance capabilities.
(10) BLAINE SECTOR.—For the Blaine sector,
the following:
(A) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.
(B) Coastal radar surveillance systems.
(C) Increased maritime interdiction capa-
bilities.
(D) Mobile vehicle-mounted and man-port-
able surveillance capabilities.
(E) Advanced unattended surveillance sen-
sors.
(F) Ultralight aircraft detection capabili-
ties.
(G) Man-portable unmanned aerial vehi-
cles.
(H) Improved agent communications capa-
bilities.
(I) Improved agent communications capa-
bilities.
(11) SPOKANE SECTOR.—For the Spokane
sector, the following:
(A) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.
(B) Mobile vehicle-mounted and man-port-
able surveillance capabilities.
(C) Improved agent communications capa-
bilities.
(D) Advanced unattended surveillance sen-
sors.
(E) Ultralight aircraft detection capabili-
ties.
(F) Completion of six miles of the Bog
Creek road.
(G) Man-portable unmanned aerial vehi-
cles.
(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) The number and types of assets and personnel deployed pursuant to such alteration; and 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).
(C) Adherence to Standards.—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible for

SEC. 3114. U.S. BORDER PATROL ACTIVITIES.

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

SEC. 3115. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

"(a) MAJOR ACQUISITION PROGRAM MANAGEMENT.—In this section, the term "major acquisition program" means a major acquisition program of the Department of Homeland Security. Such a program may include the procurement of systems, equipment, or services that are developed, produced, or acquired through negotiation for the purpose of meeting specific performance requirements or to meet a specific time, cost, or other performance criteria."

"(b) PLANNING DOCUMENTATION.—For each major acquisition program of the Department that is determined to be a major acquisition program, the Secretary shall—

(1) ensure that each such program has a written acquisition program baseline approved by the relevant acquisition decision authority;

(2) document that each such program is meeting cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

(3) have a plan for meeting program implementation objectives by managing contractor performance.

"(c) ADHERENCE TO STANDARDS.—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible
for carrying out this section adhere to relevant internal control standards identified by the Comptroller General of the United States. The Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

(d) PROHIBITION.—The Secretary, acting through the Under Secretary for Management, in coordination with the Under Secretary for Strategy and the Commissioner of U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a plan for testing, evaluating, and using independent verification and validation resources for border security technology. Under the plan, new border security technologies shall be evaluated on the basis of assessments, processes, and audits to ensure—

"(1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

"(2) the effective use of taxpayer dollars."

(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 433 the following new item:

"Sec. 435. Border security technology program."
known as the “Administrative Procedure Act”.

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

(Y) the Congressional Borderlands and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

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

(1) The National Park Service General Authorities Act (Public Law 91–383, 16 U.S.C. 1a–1 et seq.).

(2) Section 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).

(3) Section 418A through 419 of the Arizona Desert Wilderness Act (Public Law 101–628).


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


(7) The American Indian Religious Freedom Act (42 U.S.C. 1801 et seq.).


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 Secretaries of the Interior, the Secretary of the Interior.

SEC. 3119. 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 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 1022 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 one member from each State who—

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

(2) lives and works in the United States within 60 miles from the southern border or the northern border.

(d) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

SEC. 3120. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

(a) IN GENERAL.—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 and any salt cedar along the Rio Grande River that impede border security operations.

(b) EXTENT.—The Secretary shall—

(1) have at least five years practical experience in border security operations; or

(2) lives and works in the United States within 60 miles from the southern border or the northern border.

(c) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

SEC. 3121. 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 and Governmental Affairs of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a Southern border threat analysis.

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

(A) the 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 made 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 along the Southern border;

(E) the current percentage of operational control achieved by the Department on the Southern border; and

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

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

(1) 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;

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

(3) the infrastructure needs and challenges;

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

(5) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(6) the terrain, population density, and climate along the Southern border; and

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

(c) 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 180 days after the submission of the threat analysis under subsection (a), and not later than June 30, 2018, and every five 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; and

(B) efforts to analyze and disseminate border security and border threat information between border security components of the Department and other appropriate Federal departments and agencies 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 excessive by the Department of Defense; and

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

(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) ensuring that any new border security technology can be operationally integrated with existing technologies in use by the Department; (H) operational requirements 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, including any relevant task forces of the Department; (J) lessons learned from Operation Jumpstart and OperationPhalanx; (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) information obtained 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 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 that 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 analysis of how border security operations affect border crossing times.

SEC. 3122. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION. 

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

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

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

(3) by inserting after paragraph (18) the following new paragraphs: ‘‘(19) direct the assignment of Federal personnel to mitigate the number indicated by the current fiscal period at the end the following: ’’compared with the fiscal year work flow staffing model’’. 

(b) Office of Field Operations Staffing.—Section 411(g)(5) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by inserting before the period at the end the following: “(i) enforce the laws of the United States, as authorized by the current fiscal year flow work staffing model’’.

(c) Implementation Plan.—Subparagraph (B) of section 411(g)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 433e(c)(1); enacted as title 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) The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET. 

(d) Election.—The Secretary may, 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.

(4) 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 center 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.

(5) Operation.—(a) 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.

(b) Limitation.—Coast Guard personnel assigned to serving a border region shall be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(4)(C).

(c) 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.

(d) 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.

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

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

(2) evaluates the.full implementation of the IBET program; 

(3) assesses the efficiencies and effectiveness of the IBETs in comparison to other Department cross-border programs; 

(4) identifies whether IBETs are effective in mitigating the number indicated by the current fiscal period at the end the following: ’’compared with the fiscal year work flow staffing model’’.

(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.

(4) 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.

(5) Operation.—(a) 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.

(b) Limitation.—Coast Guard personnel assigned to serving a border region shall be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(4)(C).

(c) 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.

(d) 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.

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

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

(2) evaluates the.full implementation of the IBET program; 

(3) assesses the efficiencies and effectiveness of the IBETs in comparison to other Department cross-border programs; 

(4) identifies whether IBETs are effective in mitigating the number indicated by the current fiscal period at the end the following: ’’compared with the fiscal year work flow staffing model’’.
“(2) assess the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;”

“(3) provide any information necessary to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and”

“(4) in coordination with 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 435 the following new item:

“Sec. 436. Integrated Border Enforcement Teams.”

SEC. 3125. TUNNEL TASK FORCES.

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

SEC. 3126. 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. Customs 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) Reports.—Not later than 150 days after the conclusion of the pilot program conducted under subsection (a), the Commissioner shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the findings and data derived from such program.

SEC. 3127. HOMELAND SECURITY FOREIGN 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 sections 3115 and 3124 of this division, is further amended by adding after the following, in the proper order:

“Sec. 437. Security assistance.”

“(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide temporary, financial assistance and, with or without reimbursement, security assistance, including equipment, training, maintenance, supplies, and sustainment, to—

“(b) DETERMINATION.—The Secretary may only provide financial assistance or security assistance pursuant to subsection (a) if the Secretary determines that such assistance would enhance the recipient government’s capacity to—

“(1) mitigate the risk of threat or threat of transnational organized crime and terrorism;

“(2) address irregular migration flows that may affect the United States, including any determination of priority or type of operations of the recipient government; or

“(3) protect and expedite legitimate trade and travel.

“(c) LIMITATION ON TRANSFER.—The Secretary may not—

“(1) transfer any equipment or supplies that are designated as a munitions item or controlled on the United States Munitions List, pursuant to section 38 of the Foreign Military Sales Act (22 U.S.C. 2778); or

“(2) transfer any vessel or aircraft pursuant to this section.

“(d) RELATED TRAINING.—In conjunction with a transfer of equipment pursuant to paragraph (1), the Secretary may provide such equipment-related training and assistance as the Secretary determines necessary.

“(e) MAINTENANCE OF TRANSFERRED EQUIPMENT.—The Secretary may provide for the maintenance of transferred equipment through service contracts or other means, with or without reimbursement, as the Secretary determines necessary.

“(f) REIMBURSEMENT OF EXPENSES.—

“(1) IN GENERAL.—The Secretary may collect payment pursuant to paragraph (1), any amounts appropriated or otherwise made available to the Department of Homeland Security may be transferred to the account that finances the security assistance under this section, including equipment, training, maintenance, supplies, sustainment support, and related sharing costs.

“(2) TRANSFER.—Notwithstanding any other provision of law, to the extent the Secretary determines necessary, the Secretary may—

“(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) remain available until expended for the purposes of carrying out this section.

“(g) AGRICULTURAL SPECIALISTS.—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.

“(h) AGRICULTURAL SPECIALISTS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 100 the number of officers and 50 horses for security patrol along the Southern border.

“(i) USE OF CANINES.—The Commissioner shall prioritize the use of canines at the primary inspection lanes at land ports of entry and checkpoints.

“(j) 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 264 Marine and Air Interdiction Agents for southern border air and maritime operations.

“(k) U.S. CUSTOMS AND BORDER PROTECTION HORSERIDE 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.

“(l) HORSERIDE UNIT SUPPORT.—The Commissioner shall construct new stables, maintain used stables, and provide other resources needed to maintain the health and well-being of the horses that serve in the horseback units of U.S. Customs and Border Protection.

“(m) U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents so that active duty presence of not fewer than 550 full-time equivalent special agents.

“(n) U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF INTELLIGENCE PERSONNEL.—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.

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

SEC. 3131. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION AGENTS AND OFFICERS.

(a) BORDER PATROL AGENTS.—Not later than September 30, 2022, the Commissioner 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.

(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 air and marine units of entry.

(c) AIR AND MARINE OPERATIONS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient agents for Air and Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 284 full-time equivalent agents.

SEC. 3132. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES.

(a) IN GENERAL.—Chapter 97 of title 5, United States Code, is amended by adding after the following:

“§ 9702. U.S. Customs and Border Protection temporary employment authorities

“(a) DEFINITIONS.—In this section—
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“(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 1131 of the Border Security for America Act of 2018;

“(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 ‘Director deems necessary to evaluate special information to the Director as the Director decides is appropriate to improve special rates of pay in accordance with that section’ means the Committee on Oversight and Government Reform, the Committee on Homeland Security, and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate.

“(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; 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 by section 1131 of the Border Security for America Act of 2018. The Secretary shall not use this authority beyond meeting the requirements of 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 such section are satisfied with respect to the individual (without regard to the regulations referenced in subsection (b)(2)(B)(ii) of such section or to any other provision of such section);

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

“(i) under which the individual is required to continue 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).

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

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

“(2) 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 purposes, including for retirement or in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or a benefit described in section 5754.

“(3) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—

“(1) 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 paragraph (3).

“(2) 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 5754.

“(3) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5303, the Secretary may establish special rates of pay in accordance with that section to assist the Secretary in meeting the requirements of section 1131 of the Border Security for America Act of 2018. 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.

“(4) OPM OVERSIGHT.—

“(1) Not later than September 30 of each year, the Secretary shall provide a report to the Director deeming the employment flexibility of the Secure Border Protection’s use of authorities provided under subsections (b) and (c). In each report, the Secretary shall provide such information that the Director determines is appropriate to ensure appropriate use of authorities under such subsections. Each report shall also include an assessment of—

“(A) the use of authorities under subsections (b) and (c) on implementation of section 1131 of the Border Security for America Act of 2018;

“(B) job performance and retention challenges at the agency, including at specific locations; and

“(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 a report under paragraph (1), the Secretary shall consider—

“(A) whether any CBP employee accepted an employment incentive under subsection (b) or a special rate of pay under subsection (c), the Secretary shall notify the appropriate congressional committees in writing. Upon receipt of the notification, the Secretary shall not make any new appointments or issue any new bonuses under subsection (b), nor provide CBP employees with further pay, until the Director has provided the Secretary and the appropriate congressional committees a written notice stating the Director is satisfied safeguards are in place to prevent further inappropriate use.

“(F) IMPROVING CBP HIRING AND RETENTION.—

“(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment 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 regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency head- quarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates, as well as the retention of current employees.

“(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

“(A) Developing or updating training and educational materials on hiring and human resources flexibilities for employees who are 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 programs in regions that could assist in filling positions in rural or remote areas.

“(E) Examination of existing agency programs on how to most effectively aid spouses or families of individuals who are candidates 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.

(H) Evaluation of Department of Homeland Security grants and programs and the usefulness of those 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 for congressional committees on the

(B) INFORMATION.—The evaluation conducted 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 to be relevant.

(g) INSPECTOR GENERAL REVIEW.—Not later than two 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 report to the appropriate congressional committees on the number of requests the Secretary receives 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 authority under subsection (b) shall be subject to the sole 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 delegate any authority under this section to the Commissioner.

(j) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director 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 before 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 following:

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

SEC. 3133. ANTI-BORDER CORRUPTION AUTHORIZATION ACT.

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

(b) HIRING FLEXIBILITY.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 3132) is further amended by adding at the end the following new subsections:

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

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

(i) has continuously served as a law enforcement officer for not fewer than three years;

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

(iii) is not currently under investigation, and has not been dismissed from a law enforcement officer position; and

(iv) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer’s current law enforcement agency;

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

(i) has continuously served as a law enforcement officer for not fewer than three years;

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

(iii) is not currently under investigation, has not been dismissed from a law enforcement officer position, and has not resigned from a law enforcement officer for not fewer than three years.

(c) ANNUAL REPORT.—Not later than one year after the date of the enactment of this section, the Commissioner shall publish and disseminate a report that includes—

(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 further referral to 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 following:

SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

(a) NON-EXEMPTION.—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) shall have a current background investigation that includes a Tier 4 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 one year after the date of the enactment of this section, the Commissioner shall publish and disseminate an annual report that includes—

(1) the number of waivers requested, granted, and denied under paragraph (1); and

(2) the reasons for any denials of such waivers;
CHAPTER 3—GRANTS

SEC. 3141. 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 new section:

"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 state and local governments, to be used 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;

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

"(3) shall have an organized, dedicated, and trained unit trained full-time equivalent polygraph examiners for the training of polygraph examiners for the State and/or local government.

"(c) Authorized Uses.—The recipient of a grant under this section may use such grant for—

"(1) equipment, including maintenance and support 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 Fiscal Year 2017 Homeland Security Grant Program Notice of Funding Opportunity; and

"(4) any other activity, as determined by the Secretary, in consultation with the Administrator of General Services.

"(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 fiscal years 2018 through 2022, the Administrator shall submit to the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, a report that establishes a professional and training curriculum for the Operation Stonegarden program.

"(f) Authorization of Appropriations.—There is authorized to be appropriated 

"(1) $22,000,000 for fiscal year 2018 for grants under this section.

"(2) $50,000,000 shall be used by the Department to improve tactical infrastructure pursuant to such section 2, as amended by such section 311(b) of this division.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 3151. AUTHORIZATION OF APPROPRIATIONS.
(a) Addition to Projects of Priority Southern Border Ports of Entry.

"(1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of title 40, United States Code, construct new ports of entry along the northern and southern border.

"(2) CONFORMING AMENDMENT.—Subsection (b) of section 311(b) of this Act is amended by striking ‘Construction of new port of entry located in’ and inserting ‘Construction of new port of entry located in each State within which a port of entry contains or is constructed pursuant to paragraphs (2) and (3) of section 311(b) of this Act’.

"(3) Authorization of Appropriations.—There is authorized to be appropriated

"(1) $4,960,000,000 to implement this subtitle and

"(2) $4,000,000,000 to be used for construction.

"(4) $1,500,000,000 shall be used by the Department to carry out section 3111 of this division.

"(5) $1,700,000,000 shall be used by the Department to carry out section 3113 of this division.

SEC. 3152. AUTHORIZATION OF APPROPRIATIONS.
(a) Addition to Projects of Priority Southern Border Ports of Entry.

"(1) AUTHORITY.—The Secretary shall carry out the projects of Priority Southern Border Ports of Entry.

"(2) Authorization of Appropriations.—There is authorized to be appropriated

"(1) $4,960,000,000 to implement this subtitle and

"(2) $4,000,000,000 to be used for construction.

"(3) $1,500,000,000 shall be used by the Department to carry out section 3111 of this division.

SEC. 3153. AUTHORIZATION OF APPROPRIATIONS.
(a) Addition to Projects of Priority Southern Border Ports of Entry.

"(1) AUTHORITY.—The Secretary of Homeland Security may, subject to section 3307 of title 40, United States Code, construct new ports of entry along the northern and southern border.

"(2) Authorization of Appropriations.—There is authorized to be appropriated

"(1) $4,960,000,000 to implement this subtitle and

"(2) $4,000,000,000 to be used for construction.

"(3) $1,500,000,000 shall be used by the Department to carry out section 3111 of this division.

"(4) $1,700,000,000 shall be used by the Department to carry out section 3113 of this division.
SEC. 3205. 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 new section:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

"(a) ESTABLISHMENT.—The Secretary shall—

"(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security and the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives a report that describes the following:

"(I) The effects of such demonstration on legitimate travel and trade.

"(II) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(III) The effectiveness of such demonstration in combating terrorism and smuggling.

"(b) REQUIREMENTS.—The Secretary shall—

"(1) expand the biometric exit data system to include the northern land border.

"(2) complete the demonstration at a land port of entry on the northern land border.

"(c) LTE CAPABILITY.—In carrying out subsection (b), the Secretary shall ensure that each port of entry is equipped with a secure radio or other two-way device, supporting system interoperability, that allows each such officer to communicate—

"(I) between ports of entry and inspection stations and

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

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 3206. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

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

"(1) The effects of such demonstration on legitimate travel and trade.

"(2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(3) The effectiveness of such demonstration in combating terrorism and smuggling.

SEC. 3205. 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 new section:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

"(a) ESTABLISHMENT.—The Secretary shall—

"(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security and the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives a report that describes the following:

"(I) The effects of such demonstration on legitimate travel and trade.

"(II) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(III) The effectiveness of such demonstration in combating terrorism and smuggling.

"(b) REQUIREMENTS.—The Secretary shall—

"(1) expand the biometric exit data system to include the northern land border.

"(2) complete the demonstration at a land port of entry on the northern land border.

"(c) LTE CAPABILITY.—In carrying out subsection (b), the Secretary shall ensure that each port of entry is equipped with a secure radio or other two-way device, supporting system interoperability, that allows each such officer to communicate—

"(I) between ports of entry and inspection stations and

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

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 3206. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

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

"(1) The effects of such demonstration on legitimate travel and trade.

"(2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(3) The effectiveness of such demonstration in combating terrorism and smuggling.

SEC. 3205. 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 new section:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

"(a) ESTABLISHMENT.—The Secretary shall—

"(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security and the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives a report that describes the following:

"(I) The effects of such demonstration on legitimate travel and trade.

"(II) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(III) The effectiveness of such demonstration in combating terrorism and smuggling.

"(b) REQUIREMENTS.—The Secretary shall—

"(1) expand the biometric exit data system to include the northern land border.

"(2) complete the demonstration at a land port of entry on the northern land border.

"(c) LTE CAPABILITY.—In carrying out subsection (b), the Secretary shall ensure that each port of entry is equipped with a secure radio or other two-way device, supporting system interoperability, that allows each such officer to communicate—

"(I) between ports of entry and inspection stations and

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

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 3206. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

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

"(1) The effects of such demonstration on legitimate travel and trade.

"(2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(3) The effectiveness of such demonstration in combating terrorism and smuggling.

SEC. 3205. 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 new section:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

"(a) ESTABLISHMENT.—The Secretary shall—

"(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security and the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives a report that describes the following:

"(I) The effects of such demonstration on legitimate travel and trade.

"(II) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(III) The effectiveness of such demonstration in combating terrorism and smuggling.

"(b) REQUIREMENTS.—The Secretary shall—

"(1) expand the biometric exit data system to include the northern land border.

"(2) complete the demonstration at a land port of entry on the northern land border.

"(c) LTE CAPABILITY.—In carrying out subsection (b), the Secretary shall ensure that each port of entry is equipped with a secure radio or other two-way device, supporting system interoperability, that allows each such officer to communicate—

"(I) between ports of entry and inspection stations and

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

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal year 2018 to carry out subsection (a).

SEC. 3206. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

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

"(1) The effects of such demonstration on legitimate travel and trade.

"(2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

"(3) The effectiveness of such demonstration in combating terrorism and smuggling.
Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of pedestrians.

(c)(2) **CONGRESSIONAL RECORD — SENATE**

SEC. 3208. DEFINITION.

In this subtitle, the term ‘Secretary’ means the Secretary of Homeland Security.

**TITLE IV—LAWFUL STATUS FOR CERTAIN CHILDHOOD ARRIVALS**

SEC. 4101. DEFINITIONS.

In this title:

(1) **IN GENERAL.**—Except as otherwise specifically provided, the terms used in this title have the meanings given such terms in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) **CONTIGENT NONIMMIGRANT.**—The term ‘contingent nonimmigrant’ means an alien who is granted contingent nonimmigrant status under this title.

(3) **EDUCATIONAL INSTITUTION.**—The term ‘educational institution’ means—

(A) an institution that is described in section 1228(b) of the Higher Education Act of 1965 (20 U.S.C. 1001(b)) or is a proprietary institution of higher education (as defined in section 1228(b) of such Act (20 U.S.C. 1002(b)));

(B) an elementary, primary, or secondary school within the United States; or

(C) an educational program assisting students either in obtaining a high school equivalency diploma, certificate, or its recognized equivalent under State law, or in passing a General Educational Development exam or other equivalent State-authorized exam or other applicable State requirements for high school equivalency.

(4) **SECRETARY.**—Except as otherwise specifically provided, the term ‘Secretary’ means the Secretary of Homeland Security.

(5) **SEXUAL ASSAULT OR HARASSMENT.**—The term ‘sexual assault or harassment’ means—

(a) conduct engaged in by an alien 18 years of age or older, which consists of unwelcome conduct by an individual is used as the basis for employment decisions affecting such individual; or

(b) such conduct has the purpose or effect of creating an intimidating, hostile, or offensive environment;

(b) conducting a criminal offense of domestic violence described in section 1016(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)(A));

(c) conducting a criminal offense of statutory rape, or of engaging in a sexual nature involving a minor under the age of 18 years, as described in section 1016(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)(A));

(d) conducting a criminal offense ofcest or sexual activity with a minor under the age of 16 years, as described in section 1016(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)(A));

(e) conduct punishable under section 2251 or 2252A (relating to the sexual exploitation of children and the selling or buying of children) or 2252 (relating to certain activities relating to material involving the sexual exploitation of minors or
relating to material constituting or containing child pornography) of title 18, United States Code; or

(F) conduct constituting the elements of any offense under the Controlled Substances Act, as a felony in the convicting jurisdiction.

(i) an offense involving trafficking in a controlled substance; or


(j) a conviction for any other crime involving moral turpitude;

(k) a conviction for any other offense for which the alien is deportable under section 237(a) of such Act (8 U.S.C. 1227(a)), except that in determining an alien’s deportability—

(i) subparagraph (A) of section 237(a)(1) of such Act shall not apply with respect to grounds of inadmissibility that do not apply pursuant to subparagraph (C) of such section; and

(ii) subparagraphs (B) through (D) of section 237(a)(1) and section 237(a)(3)(A) of such Act shall not apply;

(l) has failed or refused to attend or remain in attendance at a proceeding to determine the alien’s inadmissibility or deportability; or

(m) has failed to comply with any requirements of any removal order or voluntary departure agreement;

(n) has been ordered removed in absentia pursuant to section 235(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)(A));

(o) is an alien who—

(A) is a sex offender;

(B) has a conviction for—

(i) a crime of violence, as such term is defined in section 16(a) of title 18, United States Code;

(ii) a crime involving moral turpitude;


(iv) any other offense for which the alien is deportable under section 237(a) of such Act (8 U.S.C. 1227(a));

(v) a conviction for any other crime involving moral turpitude;

(vi) a conviction for any other offense for which the alien is deportable under section 237(a) of such Act (8 U.S.C. 1227(a));

(vii) any other conviction for a crime of violence, as such term is defined in section 16(a) of title 18, United States Code; or

(viii) any other crime involving moral turpitude;

(p) has failed to pay the Treasury, in addition to any amounts owed, an amount equal to the aggregate value of any discharge payments received by such alien for refunds described in section 1324(b)(2);

(q) has income that would result in tax liability under section 1 of the Internal Revenue Code of 1986 and that was not reported to the Internal Revenue Service; or

(r) has at any time engaged in sexual assault or harassment.

(2) GENERAL.—An alien may apply for contingent nonimmigrant status by submitting a completed application form in the form of the Alien Registration Document which authorizes the alien to be present in the United States on the date on which the alien submits an application for contingent nonimmigrant status from aliens in the United States during the application period set forth in paragraph (2), in accordance with the interim final rule made by the Secretary under section 1105.

(2) APPLICATION PROCEDURES.—The Secretary may only accept applications for contingent nonimmigrant status from aliens in the United States during the 1-year period beginning on the date on which the interim final rule is published in the Federal Register pursuant to section 1105.
(A) REQUIRED INFORMATION.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines to be necessary and appropriate in order to determine whether an alien meets the eligibility requirements set forth in subsection (b).

(B) REVIEW.—The Secretary shall conduct an in-person interview of each applicant for contingent nonimmigrant status under this section as part of the determination as to whether the alien satisfies the eligibility requirements set forth in subsection (b).

(4) DOCUMENTARY REQUIREMENTS.—An application filed by an alien under this section shall include the following:

(a) A photograph of the alien.

(b) An identification card or other documentary evidence of the alien’s identity.

(c) A copy of any admission document of the alien issued by the Department of Homeland Security bearing the alien’s name and photograph.

(d) Immigration records from the Department of Homeland Security demonstrating that the alien satisfies the requirements of subsection (b)(2)(A)(i) and (ii).

(5) FEES.—

(A) STANDARD PROCESSING FEE.—

(i) In general.—Aliens applying for contingent nonimmigrant status under this section shall pay a processing fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) Recovery of costs.—The processing fee authorized under clause (i) shall be set at a level that is, at a minimum, sufficient to recover the costs of processing the application, including any costs incurred—

(I) to adjudicate the application;

(II) to take and process biometrics;

(III) to perform national security and criminal checks;

(IV) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(B) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected under clause (i) shall be deposited into the Immigration Examinations and Removal Operations account established under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(C) BORDER SECURITY FEE.—

(i) In general.—Aliens applying for contingent nonimmigrant status under this section shall pay a border security fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) Use of border security fees.—Fees collected under clause (i) shall be deposited into the Immigration Examinations and Removal Operations account established under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(d) ALIENS APPREHENDED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in paragraph (2) appears prima facie eligible for contingent nonimmigrant status, to the satisfaction of the Secretary, the Secretary shall—

(A) provide the alien with a reasonable opportunity to file an application under this section during such application period, and

(B) may not remove the individual until the Secretary has denied the application, unless the Secretary’s sole and unreviewable discretion, determines that expeditious removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(e) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—

(A) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of this title, if the Secretary determines that an alien, during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in subsection (c)(2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review, the Secretary may provide a reasonable opportunity to apply for such status; and

(B) ALIENS ORDERED REMOVED.—If an alien who meets the eligibility requirements set forth in subsection (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States pursuant to any order issued pursuant to section 212(a)(6)(A)(i) and (ii) shall—

(I) provide the alien with a reasonable opportunity to apply for such status; and

(II) if the alien applies within the time frame provided, suspend such proceedings until the Secretary has made a determination on the application.

(f) ALIENS ORDERED REMOVED.—If an alien who meets the eligibility requirements set forth in subsection (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States pursuant to section 212(a)(6)(A)(i) and (ii) or 237(a)(1)(B) or (C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)(i), 1227(a)(1)(B) or (C)), the Secretary shall provide the alien with the opportunity to file an application for contingent nonimmigrant status provided that the alien has not failed to comply with any order issued pursuant to section 229A or 240B of the Immigration and Nationality Act (8 U.S.C. 1229, 1229c).

(g) PERIOD PENDING ADJUDICATION OF APPLICATION.—During the period beginning on the date on which an alien applies for contingent nonimmigrant status under subsection (c) and ending on the date on which the Secretary makes a determination regarding such application, an otherwise removable alien may not be removed from the United States unless—

(I) the Secretary makes a prima facie determination that such alien is, or has become, ineligible for contingent nonimmigrant status under subsection (b); or

(ii) the Secretary, in the Secretary’s sole and unreviewable discretion, determines that removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(h) SECURITY AND LAW ENFORCEMENT CLEARANCES.—

(A) BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant contingent nonimmigrant status to an alien under this section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

(B) ALTERNATIVE PROCEDURES.—The Secretary may provide an alternative procedure to the biometric and biographic data required under subparagraph (A) due to a physical impairment.

(i) CLEARANCES.—

(A) DATA COLLECTION.—The Secretary shall collect, from each alien applying for status under this section, biometric, biographic, and unreviewable discretionary information necessary for each determination that the alien meets the eligibility requirements set forth in subsection (b).

(B) ADDITIONAL SECURITY SCREENING.—The Secretary, in consultation with the Secretary of Homeland Security and the heads of other agencies as appropriate, shall conduct additional security screening upon determining, in the Secretary’s opinion based upon information related to national security, that an alien is or was a citizen or resident of a region or country known to pose a threat, or that contains groups or organizations that pose a threat, to the national security of the United States.

(j) DURATION OF STATUS AND EXTENSION.—

(A) GENERAL.—The status of a contingent nonimmigrant who is absent from the United States without authorization shall be subject to revocation under subsection (e).

(B) AUTHORIZATION.—The Secretary may authorize a contingent nonimmigrant to travel outside the United States and may designate, in consultation with the Secretary of Homeland Security, the heads of other agencies as appropriate, and the heads of other agencies as appropriate, the individual to whom such travel is authorized under this subsection.

(k) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—If an alien who meets the eligibility requirements set forth in subsection (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States pursuant to any order issued pursuant to section 212(a)(6)(A)(i) and (ii) or 237(a)(1)(B) or (C), the Secretary shall, unless the Secretary, in the Secretary’s sole and unreviewable discretion, determines that removal of the alien is in the national security, public safety, or foreign policy interest of the United States, during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in paragraph (2) appearances prima facie eligible for contingent nonimmigrant status, to the satisfaction of the Secretary, the Secretary shall—

(A) provide the alien with a reasonable opportunity to file an application under this section during such application period, and

(B) may not remove the individual until the Secretary has denied the application, unless the Secretary’s sole and unreviewable discretion, determines that expeditious removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(l) CLARIFICATION ON ADMISSION.—The initial period of contingent nonimmigrant status—

(A) shall be 3 years unless revoked pursuant to subsection (e); and

(B) may be extended for additional 3-year terms if—

(i) the alien remains eligible for contingent nonimmigrant status under subsection (b); and

(ii) the alien again passes background checks equivalent to the background checks described in subsection (c)(9); and

(iii) such status was not revoked by the Secretary for any reason.

(m) TERMS AND CONDITIONS OF CONTINGENT NONIMMIGRANT STATUS.—

(A) WORK AUTHORIZATION.—The Secretary shall grant employment authorization to an alien granted contingent nonimmigrant status who requests such authorization.

(B) AUTHORIZATION.—The Secretary may authorize a contingent nonimmigrant to travel outside the United States and may designate, in consultation with the Secretary of Homeland Security, the heads of other agencies as appropriate, and the heads of other agencies as appropriate, the individual to whom such travel is authorized under this subsection.

(n) DISCRETION OF STATUS AND EXTENSION.—The initial period of contingent nonimmigrant status—

(A) shall be 3 years unless revoked pursuant to subsection (e); and

(B) may be extended for additional 3-year terms if—

(i) the alien remains eligible for contingent nonimmigrant status under subsection (b); and

(ii) the alien again passes background checks equivalent to the background checks described in subsection (c)(9); and

(iii) such status was not revoked by the Secretary for any reason.

(o) INELIGIBILITY FOR HEALTH CARE SUBSIDIES AND REFUNDABLE TAX CREDITS.—

(A) HEALTH CARE SUBSIDIES.—A contingent nonimmigrant—

(i) is not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 and any other premium tax assistance provided under subsection subsection (c)(9); and

(ii) is otherwise eligible for health care subsidies under section 2(1)(A)(i) of such Code.

(p) UNAUTHORIZATION.—The Secretary shall provide an alternative procedure to the biometric and biographic data required under subparagraph (A) due to a physical impairment.

(q) ALIENS ORDERED REMOVED.—If an alien who meets the eligibility requirements set forth in subsection (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States pursuant to any order issued pursuant to section 212(a)(6)(A)(i) and (ii) or 237(a)(1)(B) or (C), the Secretary shall—

(I) provide the alien with a reasonable opportunity to apply for such status; and

(II) if the alien applies within the time frame provided, suspend such proceedings until the Secretary has made a determination on the application.
shall not be considered to have been admitting status under this title pending before the Secretary or in a Federal court (whether in the same or another jurisdiction).

SEC. 4106. RULEMAKING.

(a) IN GENERAL.—The Secretary shall issue, by final rulemaking, regulations governing the application and review of the temporary assistance for Needy Families (TANF) block grant.

(b) FEDERAL MEDIATION.—The Secretary shall consider mediation as a means of resolving disputes arising under this section.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 2018, and apply to fiscal years 2018 through 2027.

SEC. 4107. FEDERAL MENTAL HEALTH SAFETY NET PROVIDERS.

(a) IN GENERAL.—The Secretary shall establish a mental health safety net program to provide services to individuals who are mentally ill.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a mental health safety net program for individuals who are mentally ill and are incarcerated at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a mental health safety net program for individuals who are mentally ill and are incarcerated at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a mental health program for individuals who are mentally ill and are incarcerated at a Supermax facility.

SEC. 4108. MINOR DECISION MAKING.

(a) IN GENERAL.—The Secretary shall establish a program to provide legal representation to minors in certain legal proceedings.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a program to provide legal representation to minors in certain legal proceedings at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a program to provide legal representation to minors in certain legal proceedings at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a program to provide legal representation to minors in certain legal proceedings at a Supermax facility.

SEC. 4109. FEDERAL MEDICAL CENTER—SUPERMAX FACILITIES.

(a) IN GENERAL.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

SEC. 4110. FEDERAL MENTAL HEALTH PROGRAM—SUPERMAX FACILITIES.

(a) IN GENERAL.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

SEC. 4111. FEDERAL MENTAL HEALTH PROGRAM—SUPERMAX FACILITIES.

(a) IN GENERAL.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

SEC. 4112. FEDERAL MENTAL HEALTH PROGRAM—SUPERMAX FACILITIES.

(a) IN GENERAL.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility.

(b) FEDERAL MEDICAL CENTER.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Federal medical center.

(c) FEDERAL SUPERSPANISH.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

(d) FEDERAL MENTAL HEALTH PROGRAM.—The Secretary shall establish a program to provide mental health services to individuals who are mentally ill and are incarcerated at a Supermax facility at a Supermax facility.

SEC. 101. BORDER SECURITY.

(a) APPROPRIATIONS FOR U.S. CUSTOMS AND BORDER PROTECTION.—"There is appropriated to the Department of Homeland Security, $25,000,000,000 for the fiscal years 2018 through 2027 for the construction of physical barriers; border security technologies, facilities, and equipment; the purchase, maintenance, and operation of aircraft, air and unmanned aerial systems; the hiring of additional U.S. Customs and Border Protection Officers; Brady Improvements; and border access roads along the Southern land border, of which—

(1) $2,500,000,000 shall be available for fiscal year 2018, and shall remain available until September 30, 2022, and of the amount available under this paragraph—

(A) $764,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(B) $496,000,000 shall be available for 28 miles of a bollard levee in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(2) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph—

(A) $1,600,000,000 shall be available for 14 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $784,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(3) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2019, to remain available until September 30, 2024, and of the amount available under this paragraph—

(A) $1,600,000,000 shall be available for 14 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $784,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(4) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2020, to remain available until September 30, 2025, and of the amount available under this paragraph—

(A) $1,600,000,000 shall be available for 14 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $784,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(5) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2021, to remain available until September 30, 2026, and of the amount available under this paragraph—

(A) $1,600,000,000 shall be available for 14 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $784,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(6) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2022, to remain available until September 30, 2027, and of the amount available under this paragraph—

(A) $1,600,000,000 shall be available for 14 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $784,000,000 shall be available for 32 miles of border fencing in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,226,000 shall be available for planning activities related to physical barrier construction along the Southwest border;
2024, to remain available until September 30, 2029, and of the amount available under this paragraph $1,771,000,000 shall be available for the construction of physical barriers; and
(10) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2025, to remain available until September 30, 2031, and of the amount available under this paragraph $1,717,000,000 shall be available for the construction of physical barriers.

(b) Construction.—Amounts appropriated under subsection (a) for fiscal years 2018 and 2019, the construction of physical barriers shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as current and updated bollard designs, that prioritize agent safety.

(c) Annual Reports.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report, for which a full evaluation has been completed, to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations of the House of Representatives, that—
(1) defines goals, objectives, activities, and milestones;
(2) includes a detailed implementation schedule with estimates for the planned obligation of funds for fiscal year 2019 through fiscal year 2023 that are linked to the milestone based delivery of specific—
(A) capabilities and services;
(B) performance standards and outcomes;
(C) program management capabilities; and
(D) lifecycle cost estimates;
(3) describes how specific projects under the plan will enhance border security goals and objectives and address the highest priority border security needs;
(4) identifies the planned locations, quantities, and types of resources, such as fencing, other physical barriers, or other tactical infrastructure and technology and a comprehensive plan to consult State and local elected officials on eminent domain and construction process relating to such physical barriers;
(5) provides, after consultation with the Secretaries of the Interior and the Administration of the Environmental Protection Agency, a comprehensive analysis of the environmental impacts of the construction and placement of such physical barriers along the Southwest border, including barriers in the Santa Ana National Wildlife Refuge; and
(6) includes a description of the methodology used to identify specific resources for deployment to particular locations that includes—
(A) a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—
(i) underground sensors;
(ii) fixed, mounted, or day or night cameras;
(iii) tethered or mobile aerostats;
(iv) drones or other airborne assets;
(v) integrated fixed towers; and
(vi) the deployment of additional border personnel;
(B) effects on communities and property owners near areas of infrastructure deployment, the necessary land acquisitions, the total number of necessary condemnation actions, and the precise number of landowners that will be impacted by the construction of such physical barriers; and
(C) other factors critical to the decision-making process;
(7) identifies staffing requirements, including full-time equivalents, contractors, and detailed personnel, by activity;
(8) identifies performance metrics for assessing and reporting on the contributions of border security capabilities realized from current and future investments;
(9) reports on the status of the Department of Homeland Security’s efforts to address open recommendations by the Office of Inspector General and the Government Accountability Office related to border security, timelines, and associated milestones for fully addressing such recommendations; and
(10) includes certifications by the Under Secretary for Management, including all documents, memoraanda, and a description of the investment review and information technology management oversight and processes supporting such certifications, that—
(A) the program has been reviewed and approved in accordance with an acquisition review management process that complies with capital asset investment control and review requirements established by the Office of Management and Budget, including as provided in Circular A-11, part 7; and
(B) all planned activities comply with Federal acquisition rules, requirements, guidelines, and practices.

(d) Government Accountability Office Evaluation.—Not later than 180 days after the date on which the Secretary of Homeland Security submits the report described in subsection (c), the Comptroller General of the United States shall complete the evaluation required under such subsection.

(e) Transfer.—The Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide for the transfer of amounts made available in subsection (a) for each fiscal year to eligible activities under this section.

(f) Reappropriation.—Notwithstanding any other provision of law, any amounts appropriated under subsection (a) that remain available after the completion of the construction program, in the reports required under subsection (c) shall be rescinded and returned to the general fund of the Treasury.

(g) Prohibition.—Notwithstanding any other provision of law, and except for the activities described under subsection (a), none of the amounts appropriated under this section are available for any other component or activity within the Department of Homeland Security.

(h) Budget Request.—An expenditure plan for amounts made available pursuant to this section—
(1) shall be included in each budget for a fiscal year submitted by the President under section 1105 of title 31, United States Code; and
(2) shall describe planned obligations by program, project, and activity in the receiving account at the same level of detail provided for in the request for other appropriations in that account.

(i) Rule of Construction.—Nothing in this section shall be construed as limiting the availability of funds made available in any other Act for carrying out the purposes described in section 1105 of title 31, United States Code.

(j) Budgetary Effects.—
(1) In General.—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained pursuant to section 4106 of H.Con.Res. 71 (115th Congress).

Subtitle B—Improving Border Safety and Security

SEC. 111. BORDER ACCESS ROADS.

(a) Construction.—The Secretary of Homeland Security shall construct roads along the Southern land border of the United States to facilitate safe and swift access for U.S. Customs and Border Protection personnel to access the border for purposes of patrol and apprehension.

(b) Types of Roads.—The roads constructed under paragraph (1) shall include—
(A) access roads;
(B) border roads;
(C) patrol roads; and
(D) Federal, State, local, and privately-owned roads.

(c) Maintenance.—The Secretary of Homeland Security, in partnership with local stakeholders, shall maintain roads used for patrol and apprehension.

(d) Policy Guidance.—The Secretary of Homeland Security shall—
(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of roads under subsection (a) as the Secretary determines to be necessary;
(2) share the policies and guidance developed under paragraph (1) with each Border Patrol Sector of U.S. Customs and Border Protection;
(3) document and communicate the process and criteria for prioritizing funding for operationally effective roads not owned by the Federal Government; and
(4) assess the feasibility of options for addressing the maintenance of non-Federal roads, including any data needs relating to such maintenance.

SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORIZATIONS.

(a) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the following:
"§7002. U.S. Customs and Border Protection employment authorization.
"(a) Definitions.—In this section—
"(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection;
"(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 ‘rural or remote area’ means an area within the United States that is not within an area defined and designated as an urbanized area by the Bureau of the Census during the most recently completed decennial census; and
"(5) the term ‘Secretary’ means the Secretary of Homeland Security.

(b) Demonstration of Recruitment and Retention Difficulties in Rural or Remote Areas.
"(1) In General.—For purposes of subsections (c) and (d), the Secretary shall determine, for a rural or remote area, whether there is—
"(A) a critical hiring need in the area; and
"(B) a direct relationship between—
"(i) the rural or remote nature of the area; and
"(ii) difficulty in the recruitment and retention of CBP employees in the area.

(c) Factors.—To inform the determination of whether there is a direct relationship under paragraph (1)(B), the Secretary may consider evidence—
“(A) that the Secretary—

(i) is unable to efficiently and effectively recruit individuals for positions as CBP employees, which may be demonstrated with evidence or documentation, including—

(I) evidence that multiple positions have been continuously vacant for significantly longer than the national average period for which similar positions in U.S. Customs and Border Protection are vacant; or

(II) recruitment studies that demonstrate the inability of the Secretary to efficiently and effectively recruit CBP employees for positions in the area; or

(ii) experiences a consistent inability to retain employees that negatively impacts agency operations at a local or regional level; or

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

(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND RETENTION BONUSES—

(I) DIRECT HIRE AUTHORITY.—

(A) IN GENERAL.—The Secretary may appoint, without regard to any provision of section 5305, the Director may establish, and candidates to positions in the competitive service as CBP employees, in a rural or remote area, if the Secretary—

(i) determines that—

(I) there is a critical hiring need; and

(II) there exists a severe shortage of qualified candidates because of the direct relationship identified by the Secretary under subsection (b)(1)(B) of this section between—

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

(bb) difficulties in the recruitment and retention of CBP employees in the area; and

(ii) has published public notice for the positions;

(B) PRIORITIZATION OF HIRING VETERANS.—If the Secretary uses the direct hiring authority under subparagraph (A), the Secretary shall apply the principles of preference for the hiring of veterans established under subchapter I of chapter 31.

(2) RECRUITMENT AND RETENTION BONUSES.—The Secretary may pay a bonus to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

(A) the Secretary determines that—

(i) conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (a)(2) of section 5753 are satisfied with respect to the individual (without regard to any other provision of this section); and

(ii) a position to which the individual is appointed or to which the individual moves or to which the individual moves or is reassigned—

(I) is a position as a CBP employee; and

(II) is in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; 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); and

(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).

(B) RELATION TO BASIC PAY.—A bonus paid to an employee under—

(i) paragraph (2) 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) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period.

(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee other than a new hire under paragraph (2) if—

(A) the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(II) difficulty in the recruitment and retention of CBP employees in the area; and

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

(I) the Federal service; or

(ii) a different position in the Federal service, including a position in another agency or component of the Department of Homeland Security; 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); and

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

(c) DIRECT HIRE AUTHORITY; RECRUITMENT OR RETENTION EFFORTS OF THE SECRETARY—

(1) DIRECT HIRE AUTHORITY.—

(A) DEVELOPING OR UPDATING TRAINING AND HUMAN RESOURCES FLEXIBILITIES.—In addition to any human resources flexibilities (including hiring and human resources flexibilities for employees who are stationed in rural or remote areas) for all employees, the Secretary, in consultation with the Chief Human Capital Officer of the Department of Homeland Security, shall develop and implement a strategy to improve recruiting and human resources flexibilities for employees who are stationed in rural or remote areas, as well as to ensure that those flexibilities are in place. The strategy shall include—

(I) an education program in regions that could assist in filling service vacancies, or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for positions in a rural or remote area, as well as the retention of current employees.

(II) regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

(III) the development of pilot programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

(III) identifying and enhancing strategic recruiting efforts through 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 programs in regions that could assist in filling positions in rural or remote areas.

(B) SPECIAL PAY AUTHORITY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with such standards and guidelines as the Secretary determines, including—

(I)ording to the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in 1 or more areas or locations are, or are likely to become, significantly handicapped because the positions are located in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

(ii) 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).

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

(4) RULES FOR BONUSES.—

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

(i) paragraph (2) 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) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period.

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

(5) OPM OVERSIGHT.—The Director shall, to the extent practicable—

(A) set aside a determination of the Secretary under this subsection if the Director finds substantial evidence that the Secretary abused the discretion of the Secretary in making the determination; and

(B) oversee the compliance of the Secretary with the determination.

(e) REGULAR CBP REVIEW.—

(1) REGULAR CBP REVIEW.—

The Secretary shall review the use of hiring flexibilities under subsection (c) and (d) to fill positions at a location in a rural or remote area to determine—

(A) the impact of those flexibilities on solving hiring and retention challenges at the location; and

(B) whether hiring and retention challenges still exist at the location; and

(C) whether the Secretary needs to continue to use those flexibilities at the location.

(2) CONSIDERATION.—In conducting the review under paragraph (1), the Secretary shall consider—

(A) whether any CBP employee accepted an employment incentive under subsection (o) or (d) 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.

(f) IMPROVING CBP HIRING AND RETENTION—

(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment 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 hiring, assessment, and retention of candidates for positions in a rural or remote area, as well as the retention of current employees.

(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

(A) Developing or updating training and educational materials on hiring and human resource flexibilities for employees who are stationed in rural or remote areas, as well as the retention of current employees.

(B) Developing or implementing training and educational materials on hiring and human resource flexibilities for employees who are stationed in rural or remote areas, as well as the retention of current employees.

(C) Developing or updating training and educational materials on hiring and human resource flexibilities (including hiring and human resource flexibilities for positions in rural or remote areas) for all employees, as well as the retention of current employees.

(II) Regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

(III) The development of pilot programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

(D) Developing and enhancing strategic recruiting efforts through 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 programs in regions that could assist in filling positions in rural or remote areas.

(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates 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. 

(2) Evaluation of Department of Homeland Security information sharing programs and the usefulness of those 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 and implemented under paragraph (1). 

(B) Information.—The evaluation conducted under subparagraph (A) shall include—

(i) any reduction in the time taken by the Secretary to fill mission-critical positions in rural or remote areas;

(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges 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 flexibilities by the Secretary under subsections (c) and (d) to determine whether the use of those flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

(h) Exercise of Authority. —

(1) Sole discretion.—The exercise of authority under subsection (c) shall be subject to the sole and exclusive discretion of the Secretary, as applicable under paragraph (2) of this subsection, notwithstanding chapter 71.

(2) Delegation.—(A) In general.—Subject to subparagraph (B), the Secretary may delegate any authority under this section to the Commissioner.

(B) Oversight.—The Commissioner may not make a determination under subsection (b)(1) unless the Secretary approves the determination.

(1) Rule of construction.—Nothing in this subsection is intended to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

(2) Sunset.—The authorities under subsections (c) and (d) shall terminate on the date that is 5 years after the date of the enactment of this section.

(i) 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 following: “9702. U.S. Customs and Border Protection personnel or other emergency response personnel that a person at that location is in distress; 

(2) include a self-powering cellular phone relay limited to 911 calls to allow persons in disaster areas who are unable to get to a telephone station to signal their location and access emergency personnel; and

(3) be movable to allow U.S. Border Patrol to relocate

(i) to mitigate migrant deaths;

(ii) to facilitate access to emergency personnel; and

(iii) to address any use of the means for diversion by criminals.

SEC. 114. SOUTHERN BORDER REGION EMERGENCY COMMUNICATIONS GRANTS. 

(a) In General.—The Secretary of Homeland Security, in consultation with the governors of the States located on the international border between the United States and Mexico, shall establish a 2-year grant program to improve emergency communications in the Southern border region.

(b) Eligibility for Grants.—An individual is eligible for a grant under this section if the individual demonstrates that he or she—

(1) regularly resides or works in a State that shares a land border with Mexico; and

(2) is at great personal risk due to a lack of cellular and LTE network service at the individual’s residence or business and the individual’s proximity to the Southern border.

(c) Use of Grants.—Grants awarded under this section may be used to purchase satellite telephone communications systems and services that—

(1) can provide access to 9–1–1 service; and

(2) are equipped with receivers for the Global Positioning System.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY. 

Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient special agents at the Office of Professional Responsibility to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

Subtitle C—Additional Matters

SEC. 121. ELIMINATE IMMIGRATION COURT BACKLOGS. 

(a) Annual Increases in Immigration Judges. —The Attorney General of the United States shall increase the total number of immigration judges to adjudicate pending cases and efficiently process future cases by at least—

(1) 55 judges during fiscal year 2018; 

(2) an additional 55 judges during fiscal year 2019; and

(3) an additional 55 judges during fiscal year 2020.

(b) Qualifications of Immigration Judges. —The Attorney General shall ensure that all newly hired immigration judges are highly qualified and trained to conduct fair, impartial hearings consistent with due process and that all newly hired immigration judges represent a diverse pool of individuals that includes a balance of individuals with legal, law enforcement, or academic experience in addition to government experience.

(c) Necessary Support Staff for Immigration Judges. —The Attorney General shall ensure that all immigration judges have support staff necessary to carry out their duties.

(d) Annual Increases in Board of Immigration Appeals Personnel.—The Attorney General shall increase the number of Board of Immigration Appeals staff attorneys (including necessary additional support staff) to efficiently process cases by at least—

(1) 23 attorneys during fiscal year 2018; 

(2) an additional 23 attorneys during fiscal year 2019; and

(3) an additional 23 attorneys during fiscal year 2020.

(e) GAO Report.—The Comptroller General of the United States shall—

(1) conduct a study of the hirings to efficiently hire immigration court judges with the Department of Justice; and

(2) propose solutions to Congress for improving the efficiency of the hiring process.

SEC. 122. IMPROVED TRAINING FOR IMMIGRATION JUDGES AND MEMBERS OF THE BOARD OF IMMIGRATION APPEALS. 

(a) In General.—To ensure efficient and fair proceedings, the Director of the Executive Office for Immigration Review shall facilitate robust training programs for immigration judges and members of the Board of Immigration Appeals.

(b) Mandatory Training.—Training facilitated under csection (a) shall include—

(1) an expansion of the training program for new immigration judges and Board members; 

(2) continuing education regarding current developments in immigration law through regularly available training resources and an annual conference; 

(3) methods to ensure that immigration judges are trained on properly crafting and dictating decisions and standards of review, including improved on-bench reference materials and decision templates; 

(4) specialized training to handle cases involving other vulnerable populations including survivors of domestic violence, sexual assault, trafficking, and individuals with mental disabilities in partnership with the National Council of Juvenile and Family Court Judges; and

(5) specialized training in child interviewing, child psychology, and child trauma in partnership with the National Council of Juvenile and Family Court Judges for Immigration Judges.

SEC. 123. NEW TECHNOLOGY TO IMPROVE COURT PROCEDURES. 

(a) In General.—The Director of the Executive Office for Immigration Review shall modernize its case management and related electronic systems, allowing for electronic filing, to improve efficiency in the adjudication of immigration proceedings.

(b) Annual Reauthorization of E-VERIFy. —Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of
TITLE II—EARNED CITIZENSHIP FOR CHILDHOOD ARRIVALS

SEC. 201. DEFINITIONS.

In this subtitle:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall have the meaning given in the term in the immigration laws.

(2) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability” means liability for Federal tax otherwise imposed under the Internal Revenue Code of 1986, including any penalties and interest on taxes imposed under the Internal Revenue Code of 1986.

(3) DACA.—The term “DACA” means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals program announced by President Obama on June 15, 2012.

(4) DISABILITY.—The term “disability” has the meaning given the term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101).

(5) EARLY CHILDHOOD EDUCATION PROGRAM.—The term “early childhood education program” has the meaning given the term in section 1002 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(6) ELEMENTARY SCHOOL; HIGH SCHOOL; SECONDARY SCHOOL.—The terms “elementary school”, “high school”, and “secondary school” have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1221).

(7) FELONY.—The term “felony” means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element is the alien’s immigration status) punishable by imprisonment for a term exceeding 1 year.

(8) 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)).

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

(A) except as provided in subparagraph (B), has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(B) does not include an institution of higher education outside of the United States.

(10) MISDEMEANOR.—

(A) in which the alien has engaged in conduct that would impair a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element is the alien’s immigration status, a significant misdemeanor, and a minor traffic offense) for which—

(i) the maximum term of imprisonment is greater than 5 days and not greater than 1 year; or

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

(B) in which the alien has engaged in conduct that would impair an essential element of the alien’s immigration status, a significant misdemeanor, or a minor traffic offense for which—

(i) the maximum term of imprisonment is greater than 5 days and not greater than 1 year; or

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

(11) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term “permanent resident status on a conditional basis” means status as an alien lawfully admitted for permanent resident status under this subsection.

(12) POVERTY LINE.—The term “poverty line” means the meaning given the term in section 673 of the Community Services Block Grant Act (42 U.S.C. 10913).

(13) SECRETARY.—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Homeland Security.

(14) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien’s immigration status) for which the maximum term of imprisonment is greater than 5 days and not greater than 1 year that—

(A) regardless of the sentence imposed, is a crime of domestic violence (as defined in section 226A(a)(2)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(2)(C))) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence if the State law requires, as an element of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher; or

(B) resulted in a sentence of time in custody of more than 90 days, excluding an offense for which the sentence was suspended.

(15) UNIFORM SERVICES.—The term “Uniformed Services” has the meaning given the term “uniformed services” in section 10(a) of title 10, United States Code.

(16) VETERAN.—The term “veteran” has the meaning given the term “veteran” in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1003).

SEC. 202. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENDED THEIR TRANSITION IN THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding the provision of law, an alien who obtains the status of an alien lawfully admitted for permanent resident status under this section shall be considered to have obtained the status, subject to this subtitle, on the date on which the alien obtained the status, subject to this subtitle.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent resident status on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under this section.

(2) WAIVER.—

(A) IN GENERAL.—With respect to any alien on whom a waiver is otherwise available for a waiver under subparagraph (A), the number of waivers granted under subparagraph (A) shall be reduced by the number of requests for a waiver under that subparagraph.

(B) E XEMPTION.—An applicant may be exempt from paying the fee required under subparagraph (A) only if the alien—

(i) is not inadmissible under paragraph (2), (3), or (4); or

(ii) the alien was granted DACA, the alien is not inadmissible under paragraph (2), (3), or (4); and

(C) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes, for the preceding quarter—

(i) the number of requests for a waiver under subparagraph (A); and

(ii) the number of waivers granted under that subparagraph.

(c) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be considered to affect any other provision of law.

(2) INTERPRETATION.—Nothing in this section shall be considered to affect any other provision of law.

(3) TREATMENT OF EXPUNGED CONVICTIONS.—Nothing in this section shall be considered to affect any other provision of law.

(4) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged conviction on a case-by-case basis according to the nature and severity of the offense underlying the expunged conviction, based on the record of conviction, to determine whether, under the particular circumstances, the alien is eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

(5) DACA RECORDS.—With respect to an alien granted DACA, the Secretary shall—

(A) cancel the removal of, and adjust the status of the alien to the status of an alien lawfully admitted for permanent resident status on a conditional basis, unless the alien was granted DACA, the alien has engaged in conduct that would render the alien ineligible for DACA.

(6) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may require an alien applying for permanent resident status on a conditional basis to pay a reasonable fee that is commensurate with the costs of processing the alien’s application.

(B) EXEMPTION.—An applicant may be exempt from paying the fee required under paragraph (A) only if the alien—

(i) is younger than 18 years of age; and

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

(C) FORFEITURE.—In no case, including, without limitation, a case in which the alien was granted DACA, shall the application fee be refunded.

(D) IMPEACHMENT.—An alien may not be impeached as a result of an expunged conviction.

(E) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.

(F) DETERMINATION.—Nothing in this section shall be considered to affect any other provision of law.

(G) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.

(H) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.

(I) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.

(J) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.

(K) CONCLUSION.—Nothing in this section shall be considered to affect any other provision of law.
this section, that is less than 150 percent of the poverty line; or
(ii) during the 1-year period immediately preceding the date on which the alien files an application under this subsection, accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien;
(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this subsection, that is less than 150 percent of the poverty line.
(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—
(A) IN GENERAL.—The Secretary may not grant an alien permanent resident status on a conditional basis unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.
(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any alien who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical impairment.
(7) BACKGROUND CHECKS.—
(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, or other data that the Secretary determines to be appropriate—
(i) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis; and
(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for permanent resident status on a conditional basis.
(B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks of an alien required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary grants the alien permanent resident status on a conditional basis.
(C) CRIMINAL RECORDS REQUESTS.—With respect to an alien seeking permanent resident status on a conditional basis, the Secretary, in cooperation with the Secretary of State, shall seek to obtain from INTERPOL, the European Union Police Office, or any other international or national law enforcement agency of the country of nationality, country of citizenship, or country of last habitual residence of the alien, information about any criminal activity—
(i) in which the alien engaged in the country of nationality, country of citizenship, or country of last habitual residence of the alien; or
(ii) which the alien was convicted in the country of nationality, country of citizenship, or country of last habitual residence of the alien.
(8) MEDICAL EXAMINATION.—
(A) REQUIREMENT.—An alien applying for permanent resident status on a conditional basis shall undergo a medical examination.
(B) POLICIES AND PROCEDURES.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination under subparagraph (A).
(9) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis shall not terminate the conditional basis, as appropriate, may not return to temporary protected status if—
(i) the alien ceases to meet the requirements under subparagraph (A) or (B) of section 203(b), subject to paragraphs (2) and (3) of that section; and
(ii) the alien ceases to meet the requirements under paragraph (1)(C) of section 203(b) of that section.
(10) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—
(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to be maintaining continuous physical presence in the United States if the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).
(B) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—
(i) to conduct security and law enforcement background checks of an alien required under subsection (b)(1)(A) if the alien has departed from the United States for any period greater than 180 days, in the aggregate, greater than 180 days.
(ii) Extensions for Extemporizing Circumstances.—The Secretary may extend the time periods described in subparagraph (A) for an alien that demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the control of the alien, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.
(C) LIMITATION ON REMOVAL OF CERTAIN AliENS.—
(i) IN GENERAL.—The Secretary or the Attorney General may not remove an alien who appears prima facie eligible for relief under this section.
(ii) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order, the Secretary shall provide the alien with a reasonable opportunity to prove for relief under this section.
(iii) Certain aliens enrolled in elementary or secondary school.—(A) STAY OF REMOVAL.—The Attorney General shall stay the removal proceedings of an alien who—
(i) meets all the requirements under subparagraphs (A), (B), and (C) of subsection (b)(1), subject to paragraphs (2) and (3) of that subsection;
(ii) is at least 16 years of age; and
(iii) is enrolled in an elementary school, a secondary school, or an early childhood education program.
(B) COMMENCEMENT OF REMOVAL PROCEEDINGS.—The Secretary may not commence removal proceedings for an alien described in subparagraph (A).
(C) EMPLOYMENT.—An alien whose removal is stayed pursuant to subparagraph (A) or who may not be placed in removal proceedings pursuant to subparagraph (B) shall, upon application to the Secretary, be granted an employment authorization document.
(D) LIFT OF STAY.—The Secretary or Attorney General shall only lift the stay granted to an alien under subparagraph (A) unless the alien ceases to meet the requirements under such subparagraph.
(e) EXCEPTION FROM NUMERICAL LIMITATIONS.—A numerical limitation in this section or in any other law may be construed to apply a numerical limitation to the number of aliens who may be granted permanent resident status on a conditional basis.
SEC. 203. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.
(A) PERIOD OF STATUS.—Permanent resident status on a conditional basis is—
(1) valid for a period of 8 years, unless that period is extended by the Secretary; and
(2) subject to termination under subsection (c).
(b) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this subsection and the requirements to have the conditional basis of such status renewed.
(c) TERMINATION OF STATUS.—The Secretary may terminate the permanent resident status on a conditional basis of an alien on the following basis:
(1) determinations that the alien ceases to meet the requirements under paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section;
(2) prior to the termination, the alien—
(A) notice of the proposed termination; and
(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise contest the termination.
(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—
(1) IN GENERAL.—Except as provided in paragraph (2), the immigration status of an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied or revoked may not return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for such status, as appropriate.
(2) SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied or revoked may not return to the immigration status or temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) immediately before receiving or applying for permanent resident status on a conditional basis, as appropriate, may not return to temporary protected status if—
(A) the relevant designation under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) has been terminated; or
(B) the Secretary determines that the reasons for terminating the permanent resident status on a conditional basis renders the alien ineligible for temporary protected status.
(e) INELIGIBILITY FOR PUBLIC BENEFITS.—An alien who has been granted permanent resident status on a conditional basis shall not be eligible for any Federal means-tested public benefit within the meaning of section 409 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) until the date on which the conditional permanent resident status of the alien is removed.
SEC. 204. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.
(A) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—
(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional basis of the permanent resident status of an alien granted under this subtitle and grant the alien status as an alien lawfully admitted for temporary permanent resident status if the alien—
(A) is described in paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section;
(B) has not abandoned the residence of the alien in the United States;
(C)(i) has acquired a degree from an institution of higher education or has completed
at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

(ii) is in foster care or otherwise lacking any parental or other familial support;

(iii) cannot care for himself or herself because of a serious, chronic disability; and

(ii) received total income, during the 1-year period immediately preceding the date on which the alien files an application for naturalization under this section, that is less than 150 percent of the poverty line; and

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

(ii) was not an alien lawfully admitted for permanent resident status on a conditional basis through a payment installment plan approved by the Commissioner of Internal Revenue.

(b) Exception.—(A) In General.—The Secretary shall remove the conditional basis of the permanent resident status of an alien and grant the alien permanent resident status if the alien—

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

(ii) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(iii) demonstrates that—

(I) the alien has a disability;

(II) the alien is a full-time caregiver of a minor child; or

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

(c) Citizenship Requirement.—

(A) In General.—Except as provided in subparagraph (B), the conditional basis of the permanent resident status granted to an alien under paragraph (1) shall not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1432(a)) due to disability.

(B) Exception.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1432(a)) due to disability.

(d) Application Fee.—

(A) In General.—The Secretary may require an alien to pay an application fee for lawful permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

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

(i) is younger than 18 years of age;

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

(iii) is in foster care or otherwise lacking any parental or other familial support; or

(iv) is younger than 18 years of age and is homeless, or

(v) cannot care for himself or herself because of a serious, chronic disability; and

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

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

(ii) has entered into an agreement to pay the applicable Federal tax liability incurred by the alien during the entire period for which the alien was in permanent resident status on a conditional basis; or

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

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

(ii) demonstrates using procedures established by the Secretary, before the date on which the Secretary removes the conditional basis of the alien.

(3) Security and Law Enforcement Background Checks.—

(A) Requirement for Background Checks.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks of an alien applying for permanent resident status of the alien; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of the conditional basis if the permanent resident status of the alien.

(B) Completion of Background Checks.—The security and law enforcement background checks of an alien required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary removes the conditional basis of the permanent resident status of the alien.

(4) Limitations on Application for Naturalization.—

(A) In General.—An alien may not be naturalized—

(i) on any date on which the alien is in permanent resident status on a conditional basis; or

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

(B) Reduction in Period.—

(i) In General.—Subject to clause (ii), the 12-year period referred to in subparagraph (A)(ii) shall be reduced by the number of days that the alien was a DACA recipient.

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

(C) Advanced Filing Date.—With respect to an alien granted permanent resident status on a conditional basis, the alien may file an application for naturalization not more than 90 days before the date on which the applicant meets the requirements for naturalization under subparagraph (A).
(4) hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization;

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

(6) employment records that include the employer's name and contact information;

(7) official records from a religious entity confirming the alien's participation in a religious ceremony;

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

(9) automobile license receipts or registration;

(10) deeds, mortgages, or rental agreement contracts;

(11) receipts;

(12) travel records;

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

(14) employment records of aliens who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

(a) the nature and duration of the relationship between the affiant and the alien.

(15) remittance records; or

(16) insurance policies.

(4) DOCUMENTS ESTABLISHING ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has been admitted to an institution of higher education, the alien shall submit to the Secretary a document from the institution of higher education certifying that the alien—

(a) has been admitted to the institution; or

(b) is currently enrolled in the institution as a student.

(5) DOCUMENTS ESTABLISHING RECORD OF A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate or a recognized equivalent, the alien shall submit to the Secretary a document from the institution stating that the alien has received such a degree.

(6) DOCUMENTS ESTABLISHING RECORD OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from an institution of higher education in the United States, the alien shall submit to the Secretary—

(a) a high school diploma, certificate of completion, or other alternate award;

(b) a high school equivalency diploma or certificate recognized under State law; or

(c) evidence that the alien passed a State-authorized exam, including the general educational development exam, in the United States.

(7) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or educational program described in subsection (a) (or a 200(a)(1)(D)(i) or 200(a)(3)(A)(ii), or 205(a)(1)(C)(i), the alien shall submit school records from the United States school that the alien is currently attending that include—

(a) the name of the school; and

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

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

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien is younger than 18 years of age.

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

(a) employment records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(b) bank records; or

(c) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

(i) the name, address, and telephone number of the affiant and the alien.

(2) AFFIRMATIVE APPLICATION.—The regulations published under paragraph (1) shall apply affirmatively for the relief available under section 203 without being placed in removal proceedings.

(a) INITIAL PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register regulations implementing this subtitle.

(b) AFFIRMATIVE APPLICATION.—The regulations published under paragraph (1) shall apply affirmatively for the relief available under section 203 without being placed in removal proceedings.

(F) remittance records.

(1) D O C U M E N T S TO E S T A B L I S H I N C O M E.—To establish that an alien has earned a high school diploma or a commensurate alternative award from an institution of higher education, the alien shall submit to the Secretary the following:

(a) the nature and duration of the relationship between the affiant and the alien.

(3) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMIL I A R SUPPORT, HOMELESSNESS, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, otherwise lacks parental or other familiar support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that contain—

(a) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, is homeless, or has a serious, chronic disability, as appropriate;

(B) bear the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(4) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

(a) bear the provider's name and address;

(b) bear the name of the individual receiving treatment; and

(C) document that the alien has accumulated $15,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien.

(1) D O C U M E N T S TO ESTABLISH QUALIFICATION FOR HARDSHIP EXEMPTION.—To establish that an alien satisfies 1 of the criteria for the hardship exemption described in section 203(a)(2)(A)(iii), the alien shall submit to the Secretary a document from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

(a) the name, address, and telephone number of the affiant; and

(b) the nature and duration of the relationship between the affiant and the alien.

(j) D O C U M E N T S ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, restrains the use of such document or class of documents.

SEC. 206. RULEMAKING.

(a) INITIAL PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register regulations implementing this subtitle.

(b) AFFIRMATIVE APPLICATION.—The regulations published under paragraph (1) shall apply affirmatively for the relief available under section 203 without being placed in removal proceedings.

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

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

SEC. 207. CONFIDENTIALITY OF INFORMATION.

(a) I N GENERAL.—The Secretary may not disclose or use for the purpose of immigration enforcement any information provided in—

(1) an application filed under this subtitle; or

(b) a request for DACA.

(b) R E F E R R A L S P R O H I B I T E D.—The Secretary may not refer an alien to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designated of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection any individual who—

(1) has been granted permanent resident status on a conditional basis; or

(2) was granted DACA.

(c) LIM I T ED E XCEPTION.—Notwithstanding subsection (a) and (b), information provided in an application for permanent resident status on a conditional basis or a request for
of the Immigration and Nationality Act (8 U.S.C. 1255a(b));
(ii) is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1255a(c)); and except as provided in subparagraphs (B) and (C), the Secretary of Homeland Security shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—
(i) is the spouse, domestic partner, child, or unmarried son or daughter of an alien whose status has been adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1);
(ii) is physically present in the United States on the date on which the alien files an application for such adjustment of status; and
(iii) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(B) Concurrent proceedings.—
(i) In general.—The status of an unmarried son or daughter referred to in subparagraph (A)(i) may not be adjusted under subparagraph (A) until such son or daughter establishes that he or she has been physically present in the United States for at least 1 year.

(ii) Short periods.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (i) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(C) Waiver.—In determining eligibility and admissibility under subparagraph (A)(iii), the grounds for inadmissibility under paragraphs (4), (5), (6), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182) shall not apply.

5. AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide applicants for adjustment of status under paragraph (1) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255a).

6. EXCEPTIONS TO NUMERICAL LIMITATIONS.—The numerical limitations set forth in sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to aliens whose status is adjusted pursuant to paragraph (1).

A. NOTwithstanding requirements regarding future discontinued eligibility of aliens from countries currently admitted under temporary protected status.—Section 244(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)) is amended—

(A) by striking “the Attorney General” and inserting “the Secretary of Homeland Security”; and

(B) by inserting “including a recommendation from the Secretary of State that is received by the Secretary of Homeland Security not later than 90 days before the expiration of the period of designation” after “Government”; and

(C) by striking “the Attorney General” and inserting “the Secretary”;

and by adding at the end the following:

(i) In general.—If the Secretary of Homeland Security renders a final administrative decision that an alien is ineligible for adjustment of status under subsection (b), the alien has a right to judicial review.

(ii) Waiver.—The Secretary of Homeland Security may, in the Secretary’s sole discretion, waive the grounds for inadmissibility under paragraphs (4), (5), and (6) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182) if the Secretary determines that the alien is not inadmissible for any other ground of inadmissibility or for a ground of ineligibility under paragraphs (4), (5), or (6) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182) if the Secretary determines that the alien is not inadmissible for any other ground of inadmissibility or for a ground of ineligibility under paragraphs (4), (5), or (6) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182).
of the Senate and the Committee on the Judici-
ary of the House of Representatives that shall include—

(1) an explanation of the event or events that initially prompted the Secretary of a nation’s designation under paragraph (1);

(II) the progress the country has made in remediating the designation under paragraph (1), including any significant changes or shortcomings that have not been addressed since the initial designation; and

(III) a statement indicating whether the country has requested a designation under paragraph (1), a redesignation under such paragraph, or an extension of such designation; and

(IV) an analysis, with applicable and relevant metrics, as determined by the Secretary, of the country’s ability to repatriate its nationals, including—

(a) the country’s financial ability to provide for its repatriated citizens;

(b) the country’s financial ability to address the initial designation under paragraph (1) without foreign assistance;

(2) an analysis of the country’s political stability and its ability to be economically self-sufficient without foreign assistance;

(3) economic and social impact repatriation of nationals in possession of temporary protected status would have on the recipient country; and

(4) any additional metrics the Secretary considers necessary.

(c) OTHER MATTERS.—

(1) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section may be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Secretary of Homeland Security in the administration and enforcement of the immigration laws.

(3) ELIGIBILITY FOR OTHER IMMIGRATION BENEFITS.—An alien who is eligible to be granted the status of an alien lawfully admitted for permanent residence under subsection (a) shall be eligible for benefits other than such status under any other provision of immigration law for which the alien may otherwise be eligible.

SA 1969. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the fol-
lowing:

SEC. 2. TABLE OF CONTENTS.

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

"SEC. 244A. PROVISIONAL PROTECTED PRESENCE.

Sec. 244A. Provisional protected presence for young individuals.

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

"SEC. 244A. PROVISIONAL PROTECTED PRESENCE."
status is granted and ending on the date described in subsection (d).

(2) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section may not occur during a period of unlawful presence.

(1) APPLICATION.—
(A) IN GENERAL.—An alien who has never been in removal proceedings, or whose proceedings have been terminated before making a request for provisional protected presence, shall be at least 15 years old on the date on which the alien submits an application under this section.

(B) EXEMPTION.—The age requirement set forth in subparagraph (A) shall not apply to an alien who, on the date on which the alien applies for provisional protected presence, is in removal proceedings, has a final removal order, or has a voluntary departure order.

(2) APPLICATION FEE.—
(A) IN GENERAL.—The Secretary may require an alien seeking provisional protected presence and employment authorization under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—
(i) is not in the United States;
(ii) is a national of the United States; or
(iii) is a spouse or child of an individual described in clause (i) or (ii).

(3) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section to an alien who is not in immigration detention, including any alien files an application under this section that is less than 150 percent of the United States poverty level; or

(4) CONFIDENTIALITY.—
(A) IN GENERAL.—The information submitted in applications for provisional protected presence under this section and in requests for consideration of DACA from disclosure to U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection for the purpose of immigration enforcement proceedings.

(B) REFERRALS PROHIBITED.—The Secretary may not refer individuals whose cases have been deferred pursuant to DACA or who have been granted temporary protected presence under this section to U.S. Immigration and Customs Enforcement.

(C) LIMITED EXCEPTION.—The information submitted in applications for provisional protected presence under this section and in requests for consideration of DACA may be shared with national security and law enforcement agencies for the following purposes:

(i) for assistance in the consideration of the application for provisional protected presence;

(ii) to identify or prevent fraudulent claims;

(iii) for national security purposes; and

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

(7) ACCEPTANCE OF APPLICATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall begin accepting applications for provisional protected presence and employment authorization under this section unless the Secretary determines that the alien—

(1) has been convicted of—

(A) a felony;

(B) a significant misdemeanor; or

(C) three or more misdemeanors not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct;

(2) poses a threat to national security or a threat to public safety;

(3) has traveled outside of the United States without authorization from the Secretary; or

(4) has ceased to continuously reside in the United States.

(b) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—For purposes of subsections (c)(3) and (g)(4), an alien shall not be considered to have failed to continuously reside in the United States due to—

(1) brief, casual, and innocent absences from the United States during the period beginning on June 15, 2007, and ending on August 14, 2012; or

(2) travel outside of the United States on or after August 15, 2012, if such travel was authorized by the Secretary.

(c) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of subsections (c)(7) and (g)(1), an expunged conviction shall not automatically be treated as a disqualifying felony, significant misdemeanor, or misdemeanor, but shall be evaluated on a case-by-case basis according to the nature and severity of the offense to determine whether, under the circumstances, the alien should be eligible for provisional protected presence under this section.

(d) EFFECT OF DEFERRED ACTION UNDER DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

(1) PROVISIONAL PROTECTED PRESENCE.—A DACA recipient is deemed to have provisional protected presence under this section through date that is the earlier of—

(A) the date that is 1 year after the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application; or

(B) September 30, 2019.

(2) EMPLOYMENT AUTHORIZATION.—If a DACA recipient has been granted employment authorization by the Secretary in addition to deferred action status, the employment authorization shall continue through the earlier of—

(A) the date that is 1 year after the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application; or

(B) September 30, 2019.

(3) EFFECT OF APPLICATION.—If a DACA recipient files an application for provisional protected presence under this section that is less than 150 percent of the United States poverty level, the Secretary shall determine whether the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application, the alien’s provisional protected presence, and any employment authorization, shall remain in effect pending the adjudication of such application.

(b) CEROCLICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244A the following:

‘‘Sec. 244A. Provisional protected presence.’’

TITLE II— BORDER SECURITY APPROPRIATIONS

SEC. 201. OPERATIONS AND SUPPORT.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $675,000,000 to U.S. Customs and Border Protection for ‘‘Operations and Support’’, which shall remain available until September 30, 2019, of which—

(1) $551,000,000 shall be available for—

(A) border security technologies;

(B) facilities;

(C) equipment; and

(D) the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems;

(2) $48,000,000 shall be available for retenion, recruitment, and relocation of Border Patrol Agents, Customs Officers, and Air and Marine personnel;

(3) $75,000,000 shall be available to hire 615 additional U.S. Customs and Border Protection officers for deployment to ports of entry; and

(4) $21,000,000 shall be available for data circuits and network bandwidth surveillance and associated personnel.

SEC. 202. PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $2,630,396,000 for ‘‘Procurement, Construction, and Improvement’, which shall remain available until September 30, 2022, of which—

(1) $794,000,000 shall be available for 32 miles of border bollard fencing in the Rio Grande Valley Sector, Texas;

(2) $496,000,000 shall be available for 28 miles of a bollard levee fencing in the Rio Grande Valley Sector, Texas, and improvements;

(3) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California;

(4) $1,100,000,000 shall be available for border security technologies, marine vessels, aircraft unmanned aerial systems, facilities, and equipment; and

(5) $30,000,000 shall be available to prepare the reports required under subsections (b) and (c) of section 203; and
(6) $15,000,000 shall be available for chemical screening devices (as defined in section 2 of the INTERDICT Act (Public Law 115–112)).

SEC. 203. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.— Amounts appropriated under paragraphs (1) through (3) of section 202 shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

(b) INTERIM REPORT.— Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit an interim report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Comptroller General of the United States that—

(1) identifies, with respect to the physical barriers described in paragraphs (1) through (3) of section 202—

(A) all necessary land acquisitions;

(B) the total number of necessary condemnation actions;

(C) the precise number of landowners that will be impacted by the construction of such physical barriers;

(2) contains a comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to such physical barriers;

(3) provides, after consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, a comprehensive analysis of the environmental impacts of the construction and placement of such physical barriers along the Southwest border, including barriers in the Santa Ana National Wildlife Refuge; and

(4) includes, for each barrier segment described in paragraphs (1) through (3) of section 202, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or fiber-optic cables; and

(C) tethered or mobile aerostats;

(D) drones or other airborne assets;

(E) integrated fixed towers; and

(F) the deployment of additional border personnel.

(c) ANNUAL REPORTS.— Not later than 180 days after the date of the enactment of this Act, and thereafter, the Secretary of Homeland Security shall submit a report containing all of the information required under paragraphs (1) through (4) of subsection (b) to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Comptroller General of the United States.

(d) EVALUATION.— Not later than 180 days after the date on which the Secretary of Homeland Security submits each report described in subsections (b) and (c), the Comptroller General of the United States shall submit an evaluation of the strengths and weaknesses of the report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Homeland Security of the House of Representatives.

(e) RESCISSION.— Notwithstanding any other provision of law, any amounts appropriated under paragraphs (1) through (3) of section 202 that remain available after the completion of the construction projects described in such paragraphs shall be rescinded and returned to the general fund of the Treasury.

(f) PROHIBITION.— Notwithstanding any other provision of law, none of the amounts appropriated under subsection (b) may be reprogrammed or transferred for any other activity within the Department of Homeland Security.

SA 1971. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986, to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. LIMITATION ON PARENTS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

An alien shall not be eligible to adjust status to that of an alien lawfully admitted for permanent residence if an alien petition filed by a child or a son or daughter of the alien if—

(1) the child or son or daughter was granted permanent resident status on a conditional basis under this Act; and

(2) the alien knowingly assisted the child or son or daughter to enter the United States unlawfully.

SA 1972. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3. ILLEGAL REENTRY.

(a) Short Title.— This section may be cited as ‘‘Kate’s Law’’.

(b) REENTRY OF REMOVED ALIENS.—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) REENTRY AFTER REMOVAL.— Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

(1) CROSSES THE BORDER TO THE UNITED STATES.—The term ‘‘crosses the border’’ refers to an unlawful entry, regardless of whether the alien is free from official restraint.

(2) FELONY.—The term ‘‘felony’’ means any crime 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.

(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.— In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.— Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States shall be incarcerated for the remainder of the sentence of imprisonment that was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Department of Homeland Security has expressly consented to the alien’s reentry. Such alien 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.— For purposes of this section and section 275, the following definitions shall apply:

(1) CROSSES THE BORDER TO THE UNITED STATES.— The term ‘‘crosses the border’’ refers to an unlawful entry, regardless of whether the alien is free from official restraint.

(2) FELONY.— The term ‘‘felony’’ means any crime 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, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.
“(5) 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.”

SA 1973. Mr. GRAHAM (for himself and Mr. ROUNDS) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 214G. NONIMMIGRANT RETURNING WORKERS.

Section 214G of the Migration and Nationality Act (8 U.S.C. 1181(g)) is amended—

(a) by striking “fiscal year 2013, 2014, or 2015” and inserting “any of the three previous fiscal years”; and

(b) by striking “fiscal year 2016” and inserting “the current fiscal year”; and

(c) by inserting at the end of the section after new subparagraph (B) the following new subparagraphs:

“(D) The number of aliens considered to be returning workers under subparagraph (A) in any fiscal year may not exceed the highest number of nonimmigrants who participated in the returning worker program in any fiscal year in which returning workers were exempt from the numerical limitation under paragraph (1)(B).”

SA 1974. Ms. SMITH submitted an amendment to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 15. HELPING SEPARATED CHILDREN.

(a) Short Title.—This section may be cited as the “Humanitarian Aid and Legal Protections for Separated Children Act” or the “HELP Separated Children Act”.

(b) Definitions.—In this section:

(1) APPREHENSION.—The term “apprehension” means the detention or arrest by officials of the Department or cooperating entities.

(2) CHILD.—The term “child” means an individual who is younger than 18 years of age.

(3) CHILD WELFARE AGENCY.—The term “child welfare agency” means a State or local agency responsible for child welfare services under subparts B and of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(4) COOPERATING ENTITY.—The term “cooperating entity” means a State or local entity acting under agreement with the Secretary.

(5) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(6) DETENTION FACILITY.—The term “detention facility” means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract with the Department, cooperating entities, and the authority of the Director.

(7) IMMIGRATION ENFORCEMENT AGENCY.—The term “immigration enforcement action” means the apprehension of one or more individuals whom the Department has reason to believe are removable from the United States by the Secretary or a cooperating entity.

(8) PARENT.—The term “parent” means a biological or adoptive parent of a child, whose parental rights have not been relinquished, as of August 2, 2005, before the date of the law of a foreign country, or a legal guardian under State law or the law of a foreign country.

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

(c) APPREHENSION PROCEDURES FOR IMMIGRATION ENFORCEMENT-RELATED ACTIVITIES.—

(1) APPREHENSION PROCEDURES.—In any immigration enforcement action, the Secretary and cooperating entities shall—

(A) as soon as possible, but generally not later than 2 hours after an immigration enforcement action, inquire whether an individual is a parent or primary caregiver of a child in the United States and provide any such individual with—

(i) the opportunity to make a minimum of 2 telephone calls to arrange for the care of such child in the individual’s absence; and

(ii) contact information for—

(I) child welfare agencies and family courts in the same jurisdiction as the child; and

(II) consulates, attorneys, and legal service providers capable of providing free legal advice or representation regarding child welfare, child custody determinations, and immigration matters;

(B) notify the child welfare agency with jurisdiction over the child if the child’s parent or primary caregiver is unable to make care arrangements for the child or if the child is in imminent risk of serious harm;

(C) ensure that the Department and cooperating entities do not, absent medical necessity or extraordinary circumstances, compel or request children to interpret or translate for interviews of their parents or of other individuals who are encountered as part of an immigration enforcement action; and

(D) ensure that any parent or primary caregiver of a child in the United States—

(i) absent medical necessity or extraordinary circumstances, is not transferred from or to his or her area of apprehension until the individual—

(I) has made arrangements for the care of such child;

(II) if such arrangements are unavailable or the individual is unable to make such arrangements, is informed of the care arrangements made for the child and of a means to maintain communication with the child;

(ii) absent medical necessity or extraordinary circumstances, and to the extent practicable, is placed in a detention facility that is—

(I) proximate to the location of apprehension; and

(II) proximate to the child’s habitual place of residence; and

(iii) receives due consideration of the best interests of such child in any decision or action relating to his or her detention, release, or transfer between detention facilities.

(2) REQUESTS TO STATE AND LOCAL ENTITIES.—If the Secretary requests a State or local entity to hold in custody an individual to the custody of the Secretary or to hold an individual a detention facility operated by a State or local entity, the Secretary shall agree to request that the State or local entity provide the individual the protections specified in subparagraphs (A) and (B) of paragraph (1) for the parent or primary caregiver of a child in the United States.

(3) PROTECTIONS AGAINST TRAFFICKING PROTECTED PERSONS.—Nothing in this subsection may be construed to impede, delay, or limit the obligations of the Secretary, the Attorney General, the Secretary of Health and Human Services under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232), and the Department of Homeland Security Act of 2002 (6 U.S.C. 279), or the Stipulated Settlement Agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85-4544 RKJ) (commonly known as the “Flores Settlement Agreement”).

(d) ACCESS TO CHILDREN, STATE AND LOCAL COURTS, CHILD WELFARE AGENCIES, AND CONSERVATOR OFFICIALS.—At all detention facilities, the Secretary shall—

(1) prominently post in a manner accessible to detainees and visitors and include in detainee handbooks information on the protections of this subtitle as well as information on potential eligibility for parole or release;

(2) absent extraordinary circumstances, ensure that individuals who are detained by the Department and are parents of children in the United States are—

(A) permitted regular telephone calls and contact visits with their children;

(B) provided with contact information for child welfare agencies and family courts in the relevant jurisdiction;

(C) able to participate fully and, to the extent possible, in person in all family court proceedings and any other proceedings that may impact their right to custody of their children;

(D) granted free and confidential telephone calls to relevant child welfare agencies and family courts as often as is necessary to ensure that the best interest of their children, including a preference for family unity whenever appropriate, can be considered in child welfare agency or family court proceedings;

(E) able to fully comply with all family court or child welfare agency orders impacting custody of their children;

(F) provided access to United States passport applications or other relevant travel document applications for the purpose of obtaining travel documents to reunite children with their families;

(G) afforded timely access to a notary public for the purpose of applying for a passport or other agreements to ensure the safety of their children; and

(H) granted adequate time before removal to obtain passports, apostilled birth certificates, travel documents, and other necessary records on behalf of their children if such children will accompany them on their return to their country of origin or join them in their country of origin.

(3) If doing so would not impact public safety or national security, facilitate the ability of detained alien parents and primary caregivers to share information regarding travel arrangements with their consulates, children, child welfare agencies, or other caregivers in advance of the detained alien individual’s departure from the United States.

(e) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services and independent child advocacy and family law entities, shall develop and provide training on the protections required under subsections (c) and (d) to all personnel of the Department, cooperating entities, and detention facilities operated by such entities that regularly engage in immigration enforcement actions, including detention, and
in the course of such actions come into contact with individuals who are parents or primary caregivers of children in the United States.

(9) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement sections (o) and (p).

(10) SEVERABILITY.—If any provision of this section, any amendment made by this section, or the application of any such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of this section, the remaining provisions of any other provision of law, including sections 212 and 237 of the Immigration and Nationality Act (8 U.S.C. 1182(a)), a noncitizen veteran ordered removed who meets each requirement under subsection (b) to enter the United States as a lawful permanent resident; and

(c)Ports of Entry Infrastructural Enhancements.—Not later than 360 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall report a summary of the review conducted under subparagraph (A).

(2) DETECTION EQUIPMENT THAT WOULD IMPROVE THE ABILITY OF SUCH OFFICE OF FIELD OPERATIONS OFFICERS TO IDENTIFY OPIOIDS AND OTHER DRUGS THAT ARE BEING ILLICITLY TRANSPORTED INTO THE UNITED STATES, INCLUDING A DESCRIPTION OF CIRCUMSTANCES AT SPECIFIC PORTS OF ENTRY THAT PREVENT THE IMPLEMENTATION OF TECHNOLOGY USED AT OTHER PORTS OF ENTRY.

(3) SAFETY EQUIPMENT THAT WOULD PROTECT SUCH OFFICE OF FIELD OPERATIONS OFFICERS FROM ACCIDENTAL EXPOSURE TO SUCH DRUGS OR OTHER DANGERS ASSOCIATED WITH THE INSPECTION OF POTENTIAL DRUG TRAFFICKERS.

(4) GAO REPORT.—If the Commissioner does not hire the 500 additional Office of Field Operations officers authorized under paragraph (1), the Office of Field Operations officers hired pursuant to paragraph (1). (B) detection equipment that would improve the ability of such Office of Field Operations officers to identify opioids, including precursors and derivatives, that are being illegally transported into the United States; and

(5) SECURITY EQUIPMENT THAT WOULD PROTECT SUCH OFFICE OF FIELD OPERATIONS OFFICERS FROM ACCIDENTAL EXPOSURE TO SUCH DRUGS OR OTHER DANGERS ASSOCIATED WITH THE INSPECTION OF POTENTIAL DRUG TRAFFICKERS.

(6) VETERAN.—The term "veteran" has the meaning given such term under section 101(2) of title 38, United States Code.

SEC. 3. RETURN OF NONCITIZEN VETERANS REMOVED FROM THE UNITED STATES; STATUS FOR NONCITIZEN VETERANS IN THE UNITED STATES.

(a) IN GENERAL.—

(1) DUTIES OF SECRETARY.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(A) establish a program and application procedure to permit—

(i) a deported veteran who seeks admission to the United States as a lawful permanent resident for humanitarian purposes; and

(ii) a noncitizen veteran in the United States who seeks admission to the United States as a lawful permanent resident for humanitarian purposes; and

(B) carry out this section $69,520,000 for each of the fiscal years 2018 through 2024.

(2) DUTIES OF SECRETARY.—Notwithstanding any other provision of law, including sections 212 and 237 of the Immigration and Nationality Act (8 U.S.C. 1182(a)), a noncitizen veteran ordered removed who meets each requirement under subsection (b) to enter the United States as a lawful permanent resident; and

(c) cancel the removal of any noncitizen veteran ordered removed who meets each requirement under subsection (b) and allow the noncitizen veteran to adjust status to that of an alien lawfully admitted for permanent residence; and

(3) NO NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of veterans who may be eligible to receive a benefit under paragraph (1). (b) ELIGIBILITY.—

(1) WAIVER.—The Secretary may waive the application of paragraph (1) to—

(A) for humanitarian purposes; or

(B) to ensure family unity;

(ii) a deported veteran who meets each requirement under subsection (b) to enter the United States as a lawful permanent resident for humanitarian purposes; and

(iii) a deported veteran who meets each requirement under subsection (b) to enter the United States as a lawful permanent resident for humanitarian purposes; and

(2) NO NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of veterans who may be eligible to receive a benefit under paragraph (1).

(3) NO NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of veterans who may be eligible to receive a benefit under paragraph (1).
At the appropriate place, insert the following:

SEC. 4. IDENTIFYING ALIENS CONNECTED TO THE ARMED FORCES.

Upon an application for an immigration benefit or the placement of such alien in an immigration enforcement proceeding, the Secretary of Homeland Security shall:

(1) determine if the alien is serving, or has served, as a member of—
   (A) a regular or reserve component of the Armed Forces of the United States on active duty; or
   (B) a reserve component of the Armed Forces in an active status; and

(2) afford an opportunity to track the outcomes for each alien.

SA 1978. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 6. PERMANENT RESIDENT STATUS FOR MIGUEL ANGEL PEREZ-MONTES, JR.

(a) In General.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), on filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to that of an alien lawfully admitted for permanent residence,

(b) Adjustment of Status.—If Miguel Angel Perez-Montes, Jr., enters the United States before the date of the filing deadline described in subsection (c), the alien shall be—

(1) considered to have entered and remained lawfully in the United States; and

(2) eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act, if the alien is otherwise eligible for adjustment of status under that section.

(c) Deadline for Application and Payment of Fees.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed, together with the applicable fees, not later than 2 years after the date of enactment of this Act.

(d) Reduction of Immigrant Visas Number.—On the granting of an immigrant visa or permanent residence to Miguel Angel Perez-Montes, Jr., the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year—

(1) the total number of immigrant visas that are made available to natives of the country of birth of the alien under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)); or

(2) if applicable, the total number of immigrant visas that are made available to natives of the country of birth of the alien under section 202(e) of that Act (8 U.S.C. 1152(e)).

SA 1980. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 8. ESTABLISHMENT AND USE OF MILITARY TRAINING SITES.

(a) Definition.—In this section, the term “Secretary concerned” has the meaning given that term in section 101(a) of title 10, United States Code.

(b) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, shall establish a naturalization office at each initial military training site of the Armed Forces under the jurisdiction of the respective Secretary.

(c) Outreach.—In coordination with the Under Secretary of Defense for Personnel.
and Readiness and the Director of U.S. Citizenship and Immigration Services, each Secretary concerned shall, to the maximum extent practicable—

(1) identify each member of the Armed Forces overseen by such Secretary who is not a citizen of the United States;

(2) inform each noncitizen member of the Armed Forces overseen by such Secretary about—

(A) the existence of a naturalization office at each initial military training site;

(B) the availability of each naturalization office throughout the career of a member of the Armed Forces to—

(i) evaluate the extent to which a noncitizen member of the Armed Forces is eligible to become a naturalized citizen; and

(ii) assess the suitability for citizenship of a noncitizen member of the Armed Forces;

(C) each potential pathway to citizenship;

(D) each service a naturalization office provides;

(E) the required length of service to obtain citizenship during—

(i) peacetime; and

(ii) a period of hostility; and

(F) the application process for citizenship, including—

(i) details of the application process;

(ii) required application materials;

(iii) requirements for a naturalization interview; and

(iv) any other information required to become a citizen under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(d) TIMING.—Each Secretary concerned shall complete the notifications required under subsection (c)—

(1) during each stage of basic training;

(2) during training for any military occupational specialty;

(3) at each school of professional military education;

(4) upon each transfer of a duty station; and

(5) at any other time determined appropriate by the Secretary concerned.

(e) TRAINED PERSONNEL.—

(1) AVAILABILITY.—Each Secretary concerned shall retain trained personnel at a naturalization office at every initial military training site to provide appropriate services to every member of the Armed Forces who is not a citizen of the United States.

(2) TRAINING.—All personnel retained under paragraph (1) shall be familiar with—

(A) the naturalization provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) authorizing the expedited application and naturalization process for current members of the Armed Forces and veterans;

(B) the application process for naturalization and associated application materials; and

(C) the naturalization process administered by U.S. Citizenship and Immigration Services.

(f) ASSIGNMENT PREFERENCE.—The Secretary concerned, to the extent practicable, shall assign each new member of the Armed Forces who is not a citizen of the United States to an initial military training site that has a naturalization office.

(g) REPORTING REQUIREMENT.—The Director of the U.S. Citizenship and Immigration Services shall, to the extent practicable, publish, on a publicly accessible website—

(1) the number of members of the Armed Forces who became naturalized United States citizens in each recent year for which data is available, categorized by country in which the naturalization ceremony took place;

(2) the number of Armed Forces member’s children who became naturalized United States citizens during the most recent year for which data is available, categorized by country in which the naturalization ceremony took place;

(3) the number of Armed Forces member’s spouses who became naturalized United States citizens during the most recent year for which data is available, categorized by country in which the naturalization ceremony took place;

(4) the required length of service to obtain citizenship during—

(i) peacetime; and

(ii) a period of hostility; and

(5) the special provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) authorizing the expedited application and naturalization process for Armed Services members.

SEC. 2001. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED ALIENS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1225a) is amended to read as follows:

"SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

"(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for an employer—

"(A) to hire, recruit, or refer for a fee an alien for employment in the United States knowing that the alien is an unauthorized alien with respect to such employment; or

"(B) to hire, recruit, or refer for a fee for employment in the United States an individual without complying with the requirements under subsections (c) and (d).

"(2) CONTINUING EMPLOYMENT.—

"(A) PROHIBITION ON CONTINUED EMPLOYMENT.—It is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

"(B) PROHIBITION ON CONSIDERATION OF PRE-VISIT DOCUMENTATION.—Nothing in this section may be construed to prohibit the employment of an individual who is authorized for employment in the United States if the individual was previously an unauthorized alien.

"(3) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, any employer that under a contract, subcontract, or purchase agreement to obtain the labor of an alien in the United States while knowing that the alien is an unauthorized alien with respect to performing such labor shall be considered to have hired the alien for employment in the United States in violation of paragraph (1).

"(4) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B), (2), and (4), an employer shall be deemed to have complied with the requirements under subsection (c) with respect to the hiring of an individual who was referred for employment by a State employment agency (as defined by the Secretary) if the employer has and retains (for the period and in the manner described in subsection (c)) appropriate documentation—

(i) that the employer has complied with the procedures described in subsection (c) with respect to the individual’s referral. An employer that relies on a State agency’s certification of compliance with subsection (c) under this paragraph may utilize and retain the State agency’s certification of compliance with the procedures described in subsection (d), if any, in the manner provided under this paragraph.

"(5) GOOD FAITH DEFENSE.—

"(A) DEFENSE.—An employer, person, or entity that hires, employs, recruits, or refers individuals for employment in the United States, or is otherwise obligated to comply with the requirements under this section and establishes good faith compliance with the requirements under paragraphs (1) through (4) of subsection (c) and subsection (d)—

"(i) has established an affirmative defense that the employer, person, or entity has not violated paragraph (1)(A) with respect to hiring and employing; and

"(ii) has established compliance with its obligations under subparagraph (A) and (B) of paragraph (1) and subsection (c) unless the Secretary demonstrates by clear and convincing evidence that the employer had knowledge that an individual hired, employed, recruited, or referred by the employer, person, or entity is an unauthorized alien.

"(B) EXEMPTION FOR CERTAIN EMPLOYERS.—An employer who is not required to participate in the System or who is otherwise not required to participate in the System on a voluntary basis pursuant to subparagraph (d) has established an affirmative defense under subparagraph (A) and is otherwise obligated to comply with the requirements under subsection (d).

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an employer, person, or entity is considered to have complied with a requirement under this section notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXEMPTION IF FAILURE TO CORRECT AND SERVICE.—Subparagraph (A) shall not apply if—

"(i) the failure is not de minimis;

"(ii) the Secretary of Homeland Security has explained to the employer, person, or entity the basis for the failure and why it is not de minimis;
(iii) the employer, person, or entity has been provided a period of not less than 30 days (beginning after the date of the explanation) to correct the failure; and

(ii) the employer, person, or entity has not corrected the failure voluntarily within such period.

(C) Exception for patterns or practices of violations.—Paragraph (A) shall not apply to an employer, person, or entity that has engaged in or is engaging in a pattern or practice of violations of paragraph (1)(A) or (2).

(7) Presumption.—After the date on which an employer is required to participate in the Employment Verification System, if the employer is presumed to have acted with knowledge for purposes of paragraph (1)(A) if the employer hires, employs, recruits, or refers an employee, the fee and fails to make an inquiry to verify the employment authorization status of the employee through the System.

(B) Continued application of workforce and labor protection remedies despite unauthorized employment. —

(i) In general.—Subject only to subparagraphs (A)(i) and (ii) of subsection (d), any person or entity, including an employer, that hires, employs, recruits, or refers an employee for a fee and fails to make an inquiry to verify the identity and employment authorization status of the individual—

(I) by examining—

(aa) a document specified in subparagraph (C) or

(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

(II) by using an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

(ii) Publication of documents.—The Secretary shall publish on the E-Verify Services website.

(A) Requirements.—

(I) Form.—The form referred to in subparagraph (A)(i) shall be published in the Federal Register not later than 6 months after the date of enactment of the SECURE and SUCCEED Act;

(II) Shall be available as—

(aa) a paper form;

(bb) a form that may be completed by an employer via telephone or video conference;

(cc) an electronic form; or

(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

(III) Attestation.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

(B) Compliance.—An employer has complied with the requirements under this paragraph with respect to examination of the documentation referenced in clauses (I) and (II) of subparagraph (A)(i) if—

(I) the employer, person, or entity has good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

(C) Documents establishing identity and employment authorization status.—A document described in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

(i) A driver’s license or identity card that is not described in subparagraph (C)(iii) and is issued by an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the document is unexpired (unless the validity of the document is extended by law) and includes, at a minimum—

(I) the individual’s photograph, name, date of birth, gender, and driver’s license or identification card number; and

(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

(ii) A voter registration card.

(iii) A document that complies with the requirements under section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

(iv) For individuals under 18 years of age who are unable to present a document listed in clauses (i) or (II) of paragraph (1) or (I) of paragraph (1) of this section, if the individual presents to the Secretary, if the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph; and

(iii) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

(D) Authorization to be employed under this Act or by the Secretary.

(E) Workplace rights.—The term ‘workplace rights’ means rights guaranteed under Federal labor or employment laws, including laws concerning wages and hours, benefits and employment standards, labor relations, workplace health and safety, work-related injuries, nondiscrimination, and retaliation for exercising rights under such laws.

(F) Records and reports. —

(i) In general.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

(ii) Attestation after examination of documentation.—

(A) In general.—

(I) Examination by employer.—An employer shall attest to the identity and employment authorization status of the individual on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

(1) by examining—

(aa) a document specified in subparagraph (C) or

(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

(2) by using an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

(ii) Publication of documents.—The Secretary shall publish on the E-Verify Services website.

(A) Requirements.—

(I) Form.—The form referred to in subparagraph (A)(i) shall be published in the Federal Register not later than 6 months after the date of enactment of the SECURE and SUCCEED Act;

(II) Shall be available as—

(aa) a paper form;

(bb) a form that may be completed by an employer via telephone or video conference;

(cc) an electronic form; or

(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

(III) Attestation.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

(B) Compliance.—An employer has complied with the requirements under this paragraph with respect to examination of the documentation referenced in clauses (I) and (II) of subparagraph (A)(i) if—

(I) the employer, person, or entity has good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

(C) Documents establishing identity and employment authorization status.—A document described in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

(i) A United States passport or passport card that is not described in subparagraph (C)(iii) and is issued to an individual by a State, an outlying possession of the United States by a State, an outlying possession of the United States, a Federally recognized Indian tribe, or an agency (including military) of the Federal Government if the document is unexpired (unless the validity of the document is extended by law) and includes, at a minimum—

(I) a photograph, name, date of birth, gender, and passport or card number; and

(II) security features to make the passport or card resistant to tampering, counterfeiting, and fraudulent use.

(ii) A voter registration card.

(iii) A document that complies with the requirements under section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

(iv) For individuals under 18 years of age who are unable to present a document listed in clauses (i) or (II) of paragraph (1) or (I) of paragraph (1) of this section, if the individual presents to the Secretary, if the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph; and

(iii) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

(D) Authorization to be employed under this Act or by the Secretary.

(E) Workplace rights.—The term ‘workplace rights’ means rights guaranteed under Federal labor or employment laws, including laws concerning wages and hours, benefits and employment standards, labor relations, workplace health and safety, work-related injuries, nondiscrimination, and retaliation for exercising rights under such laws.
is not valid to evidence employment authorized status or has other similar words of limitation.

(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System is acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features that are resistant to tampering, counterfeiting, and fraudulent use.

(F) Identity Authentication Mechanism.

(i) Definitions.—In this subparagraph:

(II) COVERED IDENTIFICATION DOCUMENT.—The term ‘covered identity document’ means a valid—

(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

(bb) enhanced driver’s license or identity card issued by a participating State or an outlying possession of the United States;

(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

(ii) The term ‘participating States’ means a State that has an agreement with the Secretary to provide the Secretary with copies of documents, appropriate identifying information, and appropriate identifying information maintained by the State.

(iii) Requirement for Identity Authentication.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify, at the time an employer hires an individual, using the identity authentication mechanism described in clause (iii), or for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d).

(iv) Additional Security Measures.

(1) Use Requirement.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (ii) because the employee did not present a covered document for employment eligibility verification purposes shall verify the identity of such individual using the additional security measures described in subsection (d).

(2) Development Requirement.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (ii). Such additional security measures shall—

(aa) shall be kept up-to-date with technological advances;

(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identity information that may include review of identity documents or background screening verification techniques using publicly available information; and

(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

(iii) Comprehensive Use.—An employer may utilize the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer’s intent to discontinue such election.

(iv) Automated Verification.—The Secretary—

(1) may establish a program, in addition to the identity authentication mechanism described in paragraph (f)(iii), in which the System automatically verifies information contained in a covered identity document issued by a State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State’s records;

(2) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services or the Department of Homeland Security.

(v) Authority to Prohibit Use of Certain Documents.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

(1) may prohibit or restrict the use of such document or class of documents for purposes of employment verification;

(2) shall notify all employers registered within the System of the prohibition through appropriate means.

(vi) Authority to Allow Use of Certain Documents.—If the Secretary has determined that another document or class of documents, such as a document issued by a federal or state government, may be used to reliably establish identity or employment authorized status, the Secretary—

(1) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

(2) shall publish a description of any such document or class of documents on the U.S. Citizenship and Immigration Services website; and

(3) shall directly notify all employers registered within the System of the addition through appropriate means.

(vii) Individual Queries.—The Secretary may provide the individual with the individual’s record in the System through an internet-based tool that enables employers to match such record against the document presented by an individual for purposes of employment verification;

(viii) Retention of Verification Records.—The Secretary—

(1) may not use or disclose such information, except as authorized under this section;

(2) shall retain such information during a period not to exceed the required retention period set forth in paragraph (3);

(3) may prohibit or restrict the use of that document or class of documents for purposes of employment verification;

(4) may not use or disclose such information, except as authorized under this section;

(5) may prohibit or restrict the use of that document or class of documents for purposes of employment verification; and

(6) shall provide the individual with the individual’s record in the System through an internet-based tool that enables employers to match such record against the document presented by an individual for purposes of employment verification.

(2) Individual Determination.—The Secretary may promulgate regulations regarding—

(a) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

(b) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

(3) Penalties.—An employer that fails to comply with any requirement under this subsection or any regulation promulgated pursuant to this subsection may be penalized under section 1324 of this title.

(4) Protection of Civil Rights.—(A) In General.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

(B) Prohibition on Discrimination.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

(5) Receipts.—The Secretary may authorize the use of receipts for replacement documents, and temporary evidence of employment authorization by an individual to meet the documentation requirements of this subsection on a temporary basis not to exceed 1 year, after which time the individual

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shall provide documentation sufficient to satisfy the documentation requirements under this subsection.

(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION SYSTEM.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

E-VERIFY SYSTEM

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

"(B) MONITORING.—The Secretary shall create procedures to monitor—

"(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, and the speed and accuracy of responses;

"(ii) the misuse of the fraud or identity theft;

"(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorization documents,

"(iv) the security, integrity, and privacy of the System;

"(C) PROCEDURES.—The Secretary—

"(i) shall create processes to provide an individual with direct access to the individual’s case history in the System, including—

"(I) all persons or entities that have queried the individual through the System;

"(II) the date of each such query; and

"(III) the System response for each such query; and

"(ii) in consultation with the Commissioner, shall develop—

"(I) a procedure to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

"(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

"(2) PARTICIPATION REQUIREMENTS.—

"(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and entities of the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

"(i) the effective date of the E-Verify in the final rule shall be construed to include the effective date of the E-Verify in the final rule as published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent rule or regulation;

"(ii) the date that is 90 days after the date of enactment of the SECURE and SUCCEED Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

"(ii) the date that is 90 days after the date of the enactment of the SECURE and SUCCEED Act.

"(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

"(C) CRITICAL INFRASTRUCTURE.

"(1) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct an employer or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

"(2) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify any employer that is required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

"(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

"(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

"(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

"(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A) shall participate in the System with respect to all newly hired agricultural employees and employees with expiring temporary employment authorization documents.

"(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

"(I) TRIBAL GOVERNMENT EMPLOYERS.—

"(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

"(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

"(II) consult with the governments of federally recognized Indian tribes.

"(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

"(J) IMMIGRATION LAW VIOLATORS.

"(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary’s discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if the Secretary determines that such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer’s compliance with System requirements for a period of time or on such other schedule as the Secretary determines.

"(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to the employer’s current employees to participate in the System with respect to the employer’s current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

"(K) VOLUNTARY PARTICIPATION.—The Secretary may permit any employer that is not required to participate in the System under this section to do so on a voluntary basis.

"(L) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the failure, other than a inadvertent failure, of an employer to participate in the System with the requirements of this section with respect to an individual—

"(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

"(ii) creates a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply in a criminal prosecution.

"(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use of evidence seized in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer’s failure to comply with requirements of this section.

"(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.

"(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

"(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

"(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subsections (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

"(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. Such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

"(iv) ALL EMPLOYERS.—The employer shall inform individuals hired for employment that the System—

"(I) will be used by the employer;

"(II) may be used for immigration enforcement purposes; and

"(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorization status.

"(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual and the individual shall provide—

"(I) the individual’s social security account number; and

"(II) if the individual does not attest to United States citizenship or status as a national of the United States under subsections (I) and (II), the individual’s alien registration number established by the Department as the Secretary shall specify; and

"(III) such other information as the Secretary determines is necessary to verify identity and employment authorization of an individual.
(vi) Presentation of documentation.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements of subsections (c) and (d) of subsection (a) of this section to confirm in such manner as the Secretary may specify.

(ii) In general.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

(I) the period beginning on the date on which the individual accepts an offer of employment, or 3 business days after the date on which employment begins; or

(II) such other reasonable period as the Secretary may prescribe.

(iii) An employer may not make the starting date of an individual’s employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

(iv) Other employment.—For employers directly covered by the Secretary to participate in the System under paragraph (2)(c)(i) to protect critical infrastructure or otherwise specified in this section, the System shall provide a reasonable period to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

(v) Notification.—

(I) In general.—The Secretary shall provide, and the employer shall use, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual’s identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a ‘further action notice’).

(II) Procedures.—The Secretary shall—

(aa) directly notify the individual and the employer, by use of electronic correspondence, mail, text message, telephone, or other direct communication, of a confirmation or nonconfirmation action notice; and

(bb) take reasonable steps to direct the individual to provide, the employer shall notify the individual and the employer of a further action notice and any procedures specified by the Secretary in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notification as required by this subsection as a ‘further action notice’.

(iv) Confirmation upon initial inquiry.—If the employer receives an appropriate confirmation of an individual’s identity and employment authorized status under the System, the employer shall confirm the identity and employment eligibility under the System, or during such other reasonable period as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary in writing, or in such other manner as the Secretary may prescribe.

(v) Examination.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been issued where the Secretary determines that the confirmation or nonconfirmation has not been correct. Any procedures for reexamination shall not limit in any way an employee’s right to appeal a nonconfirmation.

(vi) Employer protections.—An employer may not terminate employment or take adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection unless—

(aa) a nonconfirmation has been issued;

(bb) if the further action notice was contested, the period that the administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

(vii) Good cause for nonconfirmation.—Not later than 3 business days after an employer receives a further action notice, the employer shall notify the Secretary in writing and the employer shall acknowledge in the System under penalty of perjury that it provided notice to contest a further action notice as provided in subclause (I), or does not acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual contests the further action notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe, the receipt of the further action notice unless the individual has provided, the employer shall notify the individual to have identity and employment eligibility confirmed under this subsection as a 'further action notice'.

(viii) Appeal.—The employer shall give the individual the opportunity to appeal a nonconfirmation notice to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice to contest a further action notice as provided in subclause (I), or does not acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the individual in such manner as the Secretary may prescribe.

(x) Consequences of nonconfirmation.—

(i) Termination of continued employment.—Except as provided in clause (iii), an employer that has received a nonconfirmation notice shall not terminate the individual’s employment within a period specified by the Secretary unless—

(a) the nonconfirmation notice has been issued by the Secretary; and

(b) the nonconfirmation notice to the individual has been withdrawn or dismissed.

(ii) Continued employment after nonconfirmation.—If the employer continues to employ an individual after receiving a nonconfirmation notice, the employer shall provide notice to the individual and the employer of a further action notice and any procedures specified by the Secretary in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the individual in such manner as the Secretary may prescribe.

(iii) Effect of administrative appeal or review by administrative law judge.—If the individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual’s employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (7)(B).

(iv) Weekly report.—The Director of U.S. Citizenship and Immigration Services
shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System:

(‘‘I’’ the name of such individual;
(‘‘II’’ his or her social security number or alien file number;
(‘‘III’’ the name and contact information for his or her current employer; and
(‘‘IV’’ any other critical information that the Assistant Secretary determines to be appropriate.

(‘‘V’’ OTHER REFERAL.—The Director of U.S. Citizenship and Immigration Services shall refer the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary, or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

(‘‘I’’ any case in which the Director believes that a social security number has been falsely or fraudulently used; and
(‘‘II’’ any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

(‘‘E’’ OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

(‘‘I’’ IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries or requests for current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misutilization, misuse, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

(‘‘II’’ ACTION BY INDIVIDUALS.—

(‘‘I’’ IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for verification by the employer under subsection (II) in writing, or in such other manner as the Secretary may prescribe, the employer shall—

(‘‘aa’’ notify the individual of any such requirement for further actions; and
(‘‘bb’’ provide the date and manner of such notification.

(‘‘III’’ ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subsection (II) in writing, or in such other manner as the Secretary may prescribe.

(‘‘iii’’ RULEMAKING.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

(‘‘aa’’ to facilitate the functioning, accuracy, and fairness of the System;
(‘‘bb’’ to prevent misuse, fraud, or identity theft in the use of the System; and
(‘‘cc’’ to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; or to prevent, detect, or locate the perpetrator of any petition described in section 38(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

(‘‘II’’ NOTICE.—The regulations issued under subparagraph (I) shall be—

(‘‘aa’’ published in the Federal Register; and
(‘‘bb’’ provided directly to all employers registered in the System.

(‘‘IV’’ Designated Agents.—The Secretary shall establish a process—

(‘‘I’’ for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents for System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;
(‘‘ii’’ for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and
(‘‘iii’’ for establishing standards for certification of electronic I-9 programs.

(‘‘G’’ REQUIREMENT TO PROVIDE INFORMATION.—

(‘‘I’’ IN GENERAL.—No later than 3 months after the date of the enactment of the SECURE and SUCCEED Act, the Secretary, in consultation with the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrative Office of the United States Courts, shall commence a campaign to disseminate information respecting the procedures, rules, and remedies prescribed under this section.

(‘‘II’’ CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (I)—

(‘‘I’’ shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and
(‘‘ii’’ shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

(‘‘III’’ ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

(‘‘IV’’ AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign authorized under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

(‘‘V’’ FUNDING.—From amounts in the Border Security, Enforcement Fund under section 1301 of the SECURE and SUCCEED Act, there shall be available in each of fiscal years 2019 through 2012 such sums as may be necessary to carry out this section.

(‘‘VI’’ AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures and processes used to establish identity or employment authorization status, the Secretary, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorization status of employees and maintains existing protections against misuse, discrimination, fraud, and identity theft—

(‘‘I’’ the information that shall be presented by an individual; and
(‘‘ii’’ the information that shall be provided to the System by the employer; and

(‘‘iii’’ the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

(‘‘V’’ SELF-VERIFICATION.—Subject to appropriate safeguards to protect the System, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who determines that his or her own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

(‘‘VI’’ PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, the local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

(‘‘VII’’ ADMINISTRATIVE APPEAL.—

(‘‘A’’ IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Secretary, in consultation with the Attorney General, the Equal Employment Opportunity Commission, and the Administrative Office of the United States Courts.

(‘‘B’’ NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

(‘‘C’’ REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was submitted in support of the individual wishes or that was submitted in support of the individual wishes to submit. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 30 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence or argument that the individual wishes to submit. The Secretary and the Commissioner may, on a case-by-case basis for good cause, extend the filing and resolution period in order to receive and evaluate appeals regarding an administrative appeal before the Secretary or the Commissioner.

(‘‘D’’ PREPONDERANCE OF EVIDENCE.—Administrative appeals under paragraph (6) shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

(‘‘E’’ DAMAGES, FEES, AND COSTS.—No money damages, fees, or costs may be awarded in the administrative appeal process under this paragraph.

(‘‘F’’ REVIEW BY ADMINISTRATIVE LAW JUDGE.—

(‘‘A’’ IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain a review of such determination by filing a
purposes of delay.

mines that the action is frivolous or filed for

fect until the resolution of the complaint,

paragraph, and the stay shall remain in ef-

mination shall be automatically stayed upon

tempt of such court.

poena and any failure to obey such order

the administrative law judge, an appropriate

order lost wages and other appropriate rem-

tion on the request for reconsideration and

firming or reversing the result of the agency,

shall promulgate regulations regarding the

law judge in accordance with

complaint with a Department of Justice ad-

bation respecting employment authorized status;

judges shall have special train-

order may be appealed as provided in subparagraph

shall serve the Attorney General.

(7) AUTHORITY OF ADMINISTRATIVE LAW

(1) RULES OF PRACTICE.—The Secretary

shall have power to—

(i) terminate a stay of a nonconfirmation

under paragraph (B) if the administrative

law judge determines that the action is friv-

olous or filed for purposes of delay;

(III) compel by subpoena the attendance

of witnesses and the production of evidence

at any designated place or hearing;

(IV) resolve claims of identity theft; and

V) enter, upon the pleadings and any evi-

dence adduced at a hearing, a decision af-

firming or reversing the result of the agency,

with or without requiring the cause for a rehear-

(iii) SUBPOENA.—In case of contumacy or

clusion of the System, including—

(9) MANAGEMENT OF THE SYSTEM.—

(A) IN GENERAL.—The Secretary is author-

ized to establish, manage, and modify the

System.

(1) DELEGATION AND OPERATION OF SYSTEM.—

The System shall be designed and operated—

(i) to maximize its reliability and ease of

use by employers consistent with protecting

the privacy of individuals, ensuring the authen-

cation of the information, and ensuring full notice of such

use to employees; and

(ii) to maintain appropriate administra-

tive, technical, and physical safeguards to

prevent unauthorized disclosure of personal

information, misuse by employers and em-

ployees, and fraud.

(ii) CALCULATION OF LOST WAGES.—Lost

wages shall be calculated based on the wage

rate and work schedule that prevailed prior
to termination. The individual shall be compen-

sated for wages lost beginning on the first

scheduled work day after employment was

terminated and ending 120 days after comple-

tion of the administrative law judge's review
described in this paragraph or the day after

the individual is reinstated or obtains employ-

ment elsewhere, whichever occurs first.

(iii) to develop and use tools and processes
to detect and prevent fraud and identity theft,

such as multiple uses of the same identifying

information or documents to fraudulently

gain employment;

(iv) to develop and use tools and processes
to detect and prevent misuse of the system

by employers and employees;

(v) to develop tools and processes to det-

ect anomalies in the performance of the

system that may indicate potential fraud or

misuse of the system;

and to receive documents and information

submitted by employers to employees, in-

cluding authority to conduct interviews with

employers and employees, and obtain infor-

mation concerning employment from the

employer;

(vii) to confirm identity and employment

authorization verification and comparison of

records as determined necessary by the

Secretary;

(viii) to confirm electronically the issuance of the

employment authorization or identity document

and any failure to obey such order may be

be appealed as provided in subparagraph

shall serve the Attorney General.

(1) RULES OF PRACTICE.—The Secretary

shall have power to—

(i) terminate a stay of a nonconfirmation

under paragraph (B) if the administrative

law judge determines that the action is friv-

olous or filed for purposes of delay;

(III) compel by subpoena the attendance

of witnesses and the production of evidence

at any designated place or hearing;

(IV) resolve claims of identity theft; and

(5) ORDERS OF ADMINISTRATIVE LAW

JUDGE.—

(i) IN GENERAL.—The administrative law

judge shall issue and cause to be served to

the parties in the proceeding an order which

may be appealed as provided in subparagraph

(2) CONTENTS OF ORDER.—Such an order

shall uphold or reverse the final determina-

tion on the request for reconsideration and

order lost wages and other appropriate rem-

edies as provided in subparagraph (F).

(6) COMPENSATION FOR ERROR.—

(i) Compensation.—In cases in which the

administrative law judge reverses the final
determination of the Secretary or the Commiss-

ioner made under paragraph (6), and the

administrative law judge finds that—

(1) the nonconfirmation was due to gross

gross negligence or intentional misconduct

of the employer, the administrative law judge may

order the employer to pay the individual

lost wages, and reasonable costs and attorneys' fees

incurred during administrative and judi-

cial review; or

(2) the final determination was erro-

neous by reason of the negligence of the Sec-

retary or the Commissioner, the administra-

tive law judge may order the Secretary or

the Commissioner to pay the individual

lost wages, and reasonable costs and attorneys' fees

incurred during the administrative ap-

peal and the administrative law judge re-

view.

(ii) CALCULATION OF LOST WAGES.—Lost

wages shall be calculated based on the wage

rate and work schedule that prevailed prior
to termination. The individual shall be compen-

sated for wages lost beginning on the first

scheduled work day after employment

was terminated and ending 120 days after comple-

tion of the administrative law judge's review
described in this paragraph or the day after

the individual is reinstated or obtains employ-

ment elsewhere, whichever occurs first.

(i) to develop and use tools and processes
to detect and prevent misuse of the system

by employers and employees;
subsequently found to be employment authorized individuals.

The report shall describe in detail the audits required under subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standard as for employment authorization; and

include recommendations as provided in subsection (b), but no reduction in fines pursuant to subclause (IV).

The reduction of penalties for record-keeping or practice involving persistent system inaccuracies.

Notwithstanding subsection (e)(4)(C)(I), in any calendar year following a report by the Inspector General that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

(iv) Records Security Program.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

(I) ensures that only authorized personnel have access to document verification or System data; and

(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

(v) Records Security Program.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

(vi) Authorized Personnel Defined.—In this subparagraph, the term ‘authorized personnel’ means anyone registered as a System operator, who retains document verification or System data for the purposes of the System.

(vii) Authorized Personnel Defined.—In this subparagraph, the term ‘authorized personnel’ means anyone registered as a System operator, who retains document verification or System data for the purposes of the System.

(viii) Monitoring and Compliance Unit.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

(ix) Protection from Multiple Use.—The Secretary and the Commissioner shall establish a procedure for identifying and preventing situations in which the same social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

(x) Monitoring and Compliance Unit.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

(xi) Civil Rights and Civil Liberties Assessments.—

(1) Requirement to Conduct.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other

Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorization status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States, and) other information as the Secretary may prescribe.
rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

(‘‘C’’) An assessment of any challenges faced by small employers in using the System.

(‘‘D’’) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

(i) Taking adverse action based on a further action notice.

(ii) Use of the System for nonemployees or other individuals before they are offered employment.

(‘‘E’’) An assessment of the System selectively, except in cases in which such use is authorized.

(‘‘F’’) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

(‘‘G’’) An assessment of the accuracy and completeness of the System.

(‘‘H’’) An assessment of the System’s impact on the employment of aliens.

(‘‘I’’) An assessment of the System’s impact on the employment of unauthorized aliens.

(‘‘J’’) An assessment of the System’s impact on the employment of refugees.

(‘‘K’’) An assessment of the System’s impact on the employment of individuals authorized to be employed in the United States.

(‘‘L’’) An assessment of the accuracy and completion of the System.

(‘‘M’’) An assessment of the System’s impact on the employment of citizens and nationals of the United States, and aliens.

(‘‘N’’) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

(‘‘O’’) An assessment of whether the System is being used in a manner that is not discriminatory or used for retaliation against employees.

(‘‘P’’) An assessment of the effects of the System on the identity verification mechanism and any other security measures set forth in subsection (c)(1)(D) to verify identity incorporated into the System or otherwise used by employers on employees.

(‘‘Q’’) An assessment of the System’s impact on the employment of individuals.

(‘‘R’’) An assessment of the System’s impact on the employment of refugees.

(‘‘S’’) An assessment of the System’s impact on the employment of citizens and nationals of the United States, and aliens.

(‘‘T’’) An assessment of the System’s impact on the employment of refugees.

(‘‘U’’) An assessment of the System’s impact on the employment of citizens and nationals of the United States, and aliens.

(‘‘V’’) An assessment of the System’s impact on the employment of refugees.

(‘‘W’’) An assessment of the System’s impact on the employment of citizens and nationals of the United States, and aliens.

(‘‘X’’) An assessment of the System’s impact on the employment of refugees.

(‘‘Y’’) An assessment of the System’s impact on the employment of citizens and nationals of the United States, and aliens.

(‘‘Z’’) An assessment of the System’s impact on the employment of refugees.
paragraph (4)(E).

mitigation of the penalty that the admin-
istrative law judge shall issue the final
determination with a written penalty claim.

employer receives written pre-penalty notice

punishment that the adminis-

sion of the Department's intention to

should issue to the employer concerned a writ-

Secretary has reasonable cause to believe that

lish an enhanced civil penalty for an em-

has been implemented, and has instituted

investigate the employer, and voluntary dis-

attorney. In addition to serving the respond-

the minimum penalty provided by this sec-

section (d), pertaining to the System (once

the employer, person, or entity resides or of the

Right to a Hearing.—Before issuance of an order imposing a penalty on any employer, person, or entity, the employer, person, or entity shall be entitled to a hearing before an administrative law judge, if requested within 60 days of the notice of penalty. The hearing shall be held at the nearest location practicable to the place where the employer, person, or entity resides or of the place where the alleged violation occurred.

Issuance of Orders.—If no hearing is requested, a written penalty claim shall be filed. If the Secretary finds after a hearing that there was a violation, the Secretary shall issue an order imposing a civil money penalty.

The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any mitigating or qualifying factors. The civil money penalty shall be imposed for each violation of this section. The penalty imposed shall be determined by the Secretary, after taking into consideration all factors that the Secretary may establish or any procedures established governing the administrative law judge's assessment of penalties, to reduce or mitigate penalties imposed upon employers, based upon factors including, the employer's hiring volume, compliance history, the Secretary's discretion, and other relevant factors.

right to a hearing, the Secretary may im-

(II) workplace health and safety.

(III) the prosecution of immigration-related criminal offenses.

(III) the payment of wages;

the penalty sought to be im-
posed; and

The Secretary, in issuing a civil money penalty for violations of this section, shall have due regard for the following factors:

(A) pay a civil penalty of not less than $10,000 and not more than $25,000 for each unauthorized alien with respect to which a violation of this section occurred.

(B) enhanced penalties.—After the Secretary certifies to Congress that the System has been established, implemented, and has served to improve employment verification, the Secretary may establish, publish, and implement additional penalties for violations of this subsection to the extent provided by section (d), and may increase the penalties under this section (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to the hiring of current and former System users) and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c), the Secretary may establish, implement, and make manda-
tory for use by all employers in the United States.

Extension of Deadline.—At the request of the employer, the Secretary may extend the 60-day deadline for good cause.

standards or methods for such cer-

imposes a monetary or other penalty upon

shall review, investigate, and determine the existence of the violation, the amount of the penalty, and whether the employer violated this section.

The Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the remedy provided by subsection (i)(2).

Employer Certification.—(1) Except as provided in subparagraph (C), not later than 60 days after receiving a notice from the Secretary requiring a certification under subparagraph (A), an official with responsibility for, and authority to bind the company on, all hiring and immigration compliance notices shall certify under penalty of perjury that the employer is in conformance with the requirements of paragraphs (1) through (4) of subsection (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to the hiring of current and former System users) and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c), the employer has reasonable cause to believe that it is in compliance with this section, or has instituted a program to come into compliance with these requirements.

(ii) Application.—Clause (i) shall not apply until the date that the Secretary certifies to Congress that the System has been established, implemented, and made mandatory for use by all employers in the United States.

(iii) Petitioner's Brief.—The petitioner shall serve the record and briefs. The record and briefs shall be filed in the court of appeals for the judicial circuit where the employer's principal place of business was located when the final decision of the Secretary was made. The record and briefs do not have to be printed. The court shall review the proceeding on a typewritten or electronically filed record and briefs.

(iii) The employer has previously been fined more than once under this paragraph, pay a civil penalty of not less than $10,000 and not more than $25,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred.

(ii) If the employer has previously been fined as a result of a previous enforcement action or previous violation under this para-
}

(3) Compliance Procedures.—

(A) Pre-Penalty Notice.—If the Secretary has reasonable cause to believe that there was a violation of this section in the previous 3 years, the Secretary shall issue to the employer concerned a writ-

(B) Enhanced Penalties.—After the Secretary certifies to Congress that the System has been established, implemented, and has served to improve employment verification, the Secretary may establish, publish, and implement additional penalties for violations of this subsection to the extent provided by section (d), and may increase the penalties under this section (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to the hiring of current and former System users) and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c), the Secretary may establish, implement, and make manda-
tory for use by all employers in the United States.

(4) Civil Penalties.—(A) Penalties for violating the provisions of paragraphs (2)(B), (C), or (D) of subsection (a) shall be

(i) pay a civil penalty of not less than $10,000 and not more than $25,000 for each unauthorized alien with respect to which a violation of this section occurred.

(ii) if the employer has previously been fined as a result of a previous enforcement action or previous violation under this para-

(iii) if the employer has previously been fined more than once under this paragraph,
provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(E) SCOPE AND STANDARD FOR REVIEW.—The court shall conduct a de novo review of the administrative record on which the final determination was based and any additional evidence that the Court finds was previously unavailable at the time of the administrative hearing.

"(F) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final determination not made by a court, or the Secretary, if the petitioner exhausts available administrative remedies established by regulation; and

"(G) ENFORCEMENT OF ORDERS.—If the final determination issued against the employer under this section is not subject to review as provided in this paragraph, the Attorney General, upon request by the Secretary, may bring a civil action to enforce compliance with the order; or

"(H) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—If a preliminary injunction requiring the return of any amounts for each violation and to an administrative penalty is issued against that employer that the employer comply with the final determination, or

"(I) EFFECT OF FILING NOTICE OF LIEN.—If a notice of lien is filed in the manner described in this paragraph, the lien shall be deemed to be filed on the same date would not be valid.

"(J) CREATION OF LIEN.—If any employer liable for a fee or penalty under this section neglects or refuses to pay such liability after demand and fails to file a petition for review (if applicable) as provided in paragraph (6), the amount of the fee or penalty shall be a debt as defined by section 3002 of title 31, United States Code, for determining that an employer is a repeat violator (meaning an employer who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to have the right to participate in the System, as provided in subsection (b) of section 554 of title 5, United States Code, as described in 1 of the following:

"(1) Real personal property, whether tangible or intangible, in 1 office within the State (or the county, or other governmental subdivision), in which the property subject to the lien is situated.

"(2) Personal property. In the case of personal property, whether tangible or intangible, in 1 office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely considering to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

"(3) With Clerk of District Court.—In the office of the Clerk of District Court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated 1 office which meets the requirements of subparagraph (A) or (B) of paragraph (6), the lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing of a notice of lien under this subsection. Such proceedings shall be conducted in accordance with requirements of section 554 of title 5, United States Code.

"(4) Enforcement of a lien.—A lien obtained through this paragraph shall be considered a debt as defined by section 3002 of title 28, United States Code, and enforceable pursuant to chapter 176 of title 26.

"(5) Attorney General adjudication. The Attorney General shall have jurisdiction to adjudicate administrative proceedings under this subsection. Such proceedings shall be conducted in accordance with requirements of section 554 of title 5, United States Code.

"(6) Criminal and Civil Penalties and Injunctions.—

"(j) Challenges to Validity of the System. (1) IN GENERAL.—Any right, benefit, or claim not otherwise waived or limited pursuant to this section is available in an action in the United States District Court for the District of Columbia, but shall be limited to determinations of—

"(A) whether this section, or any regulation promulgated under this section, violates the Constitution of the United States;

"(B) whether such a regulation issued by or under the authority of the Secretary to implement this section, is contrary to applicable provisions of this section or was issued in violation of chapter 5 of title 5, United States Code.

"(2) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this subsection must be filed no later than 180 days after the date the challenged section or regulation described in subparagraph (A) or (B) of paragraph (1) becomes effective. No court shall have jurisdiction to review any challenge described in subparagraph (A) or (B) after the time period specified in this subsection expires.

"(3) CRIMINAL AND CIVIL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

"(A) PATTERN AND PRACTICE.—Any employer who engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined up to $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employer, or if the employer cannot be located, to the general fund of the Treasury.

"(B) GOVERNMENT CONTRACTS.—

"(1) CONTRACTORS AND Recipients.—Whenever an employer who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to have the right to participate in the System, as provided in subsection (b) of section 554 of title 5, United States Code, no more than $10,000 for each unauthorized alien with respect to whom such violation occurs, imprisoned for not more than 2 years for the entire pattern or practice, or both.

"(2) Term of imprisonment. The maximum term of imprisonment of a person convicted of any criminal violation under this section is increased by 5 years if the offense is committed as part of
a pattern or practice of violations of subsection (a)(1), (2), or (a)(2).

(3) ENJOYING OF PATTERN OR PRACTICE VIOLATIONS.—When the Secretary or the Attorney General is unable to conclude that an employer is engaged in a pattern or practice of employment in violation of subsection (a)(1), (2), or (a)(2), the Attorney General, by civil action in the appropriate district court of the United States, may have such action brought against any employer, the Secretary or Attorney General deems necessary.

(1) CRIMINAL PENALTIES FOR UNLAWFUL AND AGGRESSIVE PRACTICES.—

(a) In general.—Any person who, during any 12-month period, knowingly employs or hires, employs, recruits, or refers for a fee for employment 10 or more individuals with or without documentation, in the United States who are under the control and supervision of such person—

(A) knowing that the individuals are unauthorized aliens; and

(B) under conditions that violate section 3(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(a)) or subsection (a)(1) (relating to occupational safety and health), section 6 or 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207) (relating to minimum wages and maximum hours of employment), section 6103(m) of title 40, United States Code, (relating to required wages on construction contracts), or sections 6703 or 6704 of title 41, United States Code, (relating to required wages on service contracts), shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(2) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under subsection (a) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(3) LIMITATION ON ADJUSTMENT OF STATUSES.—The Secretary may not adjust the status of any individual who is in the United States under the control and supervision of an employer who was not subject to a civil penalty under section (a), on employers, naturalized United States citizens, nationals of the United States, and individuals with employment authorized status who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(4) A general assessment of the average financial costs for individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(5) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(6) A description of the barriers to individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(7) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(8) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(9) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(10) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(11) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(12) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(13) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(14) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(15) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(16) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A to obtain such documents.

(b) On request. The Secretary shall, on request of an employer, provide written notification of the results of the audit or investigation.

(c) Good faith compliance. The Secretary shall not impose a penalty under subsection (a) of such section 274A, including barriers imposed by the executive branch of the Government.

(d) Any particular challenges facing individuals who have employment authorized status who are members of a federally recognized Indian tribe in complying with the provisions of such section 274A.

(2) REPEAL OF PILOT PROGRAMS AND E-VERIFY AMENDMENTS.—

(1) REPEAL.—

(A) CONTINUATION OF E-VERIFY PROGRAM.— Notwithstanding the repeals made by paragraph (1), the Secretary shall continue to operate the E-Verify Program as described in section 274B(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, until the transition to the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

(B) TRANSITION TO THE SYSTEM.—Any employer who was participating in the E-Verify Program on the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, shall participate in the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), to the extent and in the same manner that the employer participated in such E-Verify Program.

(2) Conforming amendments. The repeal made by paragraph (1) shall not be construed to limit the authority of the Secretary to allow or continue to allow the participation in such E-Verify Program of employers who are permitted to participate in such E-Verify Program, as in effect on the minute before the date of the enactment of this Act.

(3) CONFIRMING AMENDMENT.—Section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1321(a)) is amended—

(A) by striking paragraph (3); and

(B) in paragraph (4), by striking the period at the end and adding at the end the following:

“(4) A toll-free telephone number operated by the Department of Homeland Security, for use only by employees of the Department of Homeland Security for the purpose of mailing such notice to such taxpayer.”.

(e) SOCIAL SECURITY ACCOUNT STATEMENTS.—

(1) Definitions. In this section—

(A) the term ‘‘taxpayer’’ means any individual who has employment authorized status who is permitted to access the System for the purpose of obtaining or verifying the tax identification number of an individual who is a United States citizen, national of the United States, or individual who has employment authorized status; and

(B) the term ‘‘tax identification number’’ means a social security number or an alien account number issued under the Social Security Act (8 U.S.C. 1320b–13(a)).

(f) Reporting requirements. The Secretary shall disclose the mailing address of any taxpayer who is entitled to receive notice under section 274A of the Internal Revenue Code of 1986 and amend the section to read as follows:

“(4) A toll-free telephone number operated by the Department of Homeland Security, for use only by employees of the Department of Homeland Security for the purpose of mailing such notification to such taxpayer.”.

(g) CONSOLIDATED REFORM ACT.—

(1) Definition. In this section—

(A) the term ‘‘taxpayer’’ means any individual who has employment authorized status who is permitted to access the System for the purpose of obtaining or verifying the tax identification number of an individual who is a United States citizen, national of the United States, or individual who has employment authorized status; and

(B) the term ‘‘tax identification number’’ means a social security number or an alien account number issued under the Social Security Act (8 U.S.C. 1320b–13(a)).

(2) Authority to disclose. The Secretary shall disclose the mailing address of any taxpayer who is entitled to receive notice under section 274A of the Internal Revenue Code of 1986 and amend the section to read as follows:

“(4) A toll-free telephone number operated by the Department of Homeland Security, for use only by employees of the Department of Homeland Security for the purpose of mailing such notification to such taxpayer.”.

(h) LEGISLATIVE HISTORY.—

(1) Repeal. The repeal made by section 274B(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

(2) In general. The repeal made by section 274B(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

(3) Conforming amendments. The repeal made by paragraph (1) shall not be construed to limit the authority of the Secretary to allow or continue to allow the participation in such E-Verify Program of employers who are permitted to participate in such E-Verify Program, as in effect on the minute before the date of the enactment of this Act.

(4) CONFIRMING AMENDMENT.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1321(b)) is amended—

(A) by striking paragraph (3); and

(B) in paragraph (4), by striking the period at the end and adding at the end the following:

“(4) A toll-free telephone number operated by the Department of Homeland Security, for use only by employees of the Department of Homeland Security for the purpose of mailing such notification to such taxpayer.”.
shall not be liable for civil penalties described in subsection (g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

(A) was, for similar conduct, subject to—

(1) a reasonable cause determination by the Office of Special Counsel for Immigration-Related Unfair Employment Practices; or

(2) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(c)) that have become available to verify the identity of a newly hired employee, if such system—

(i) is used in a uniform manner for all newly hired employees;

(ii) not used for the purpose or with the intent of discriminating against any individual;

(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

(2) LIMITATION.—The Commissioner of Social Security shall disclose for the purpose of investigating a violation of section 1041 of the Social Security Act or an Act described by this section of a social security account number or social security card.

SEC. 2003. INCREASING SECURITY AND INTEGRITY OF IMMIGRATION DOCUMENTS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the feasibility, advantages, and cost of including, in addition to a photograph, other biometric information on each employment authorization document issued by the Department of Homeland Security.

SEC. 2004. RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

"PART E—EMPLOYMENT VERIFICATION"

"SEC. 1186. RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

(a) CONFIRMATION OF EMPLOYMENT VERIFICATION DATA.—The employment verification system established by the Secretary of Homeland Security under the provisions of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) (in this section referred to as the ‘‘System’’), the Commissioner of Social Security shall, subject to the provisions of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), establish a reliable, secure method that, operating through the System and within the time periods specified in section 274A(d) of such Act—

(1) compares the name, date of birth, social security account number, and available citizenship information provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identification employment eligibility must be confirmed;

(2) determines the correspondence of the name, date of birth, and number;

(3) determines whether an individual is a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(4) determines whether the individual has presented a social security account number that is not valid for employment.

(b) PROHIBITION.—The System shall not disclose or release social security information to employers through the confirmation system (other than such confirmation or nonconfirmation, information provided by the employer to the System, or the reason for the issuance of a further action notice)."

SEC. 2005. IMPROVED PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended to read as follows:

"(1) PROHIBITION ON DISCRIMINATION GENERALLY.—It is an unfair immigration-related employment practice for a person, other entity, or employment agency, to discriminate
against any individual (other than an unauthorized alien defined in section 274A(b) because of such individual's national origin or citizenship status, with respect to the following:

(‘‘A’’) The hiring of the individual for employment.

(‘‘B’’) The verification of the individual’s eligibility to work in the United States.

(‘‘C’’) The discharging of the individual from employment.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) A person, other entity, or employer that employs 3 or fewer employees, except for an employment agency,

(B) A person’s or entity’s discrimination because of an individual’s national origin if the discrimination with respect to that employer, person, or entity and that individual is covered under section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2), unless the discrimination is related to an individual’s verification of employment authorization.

(3) Discrimination because of citizenship status which—

(i) is otherwise required in order to comply with a provision of Federal, State, or local law related to law enforcement;

(ii) is required by Federal Government contractors;

(iii) the Secretary or Attorney General determines to be essential for an employer to do business with an agency or department of the Federal Government or a State, local, or tribal government.

(4) ADDITIONAL EXCEPTIONS PROVIDING RIGHT TO PREFER EquALy QUALIFIED CITIzenS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for an employer to refuse to hire, recruit, or refer for a fee an individual who is a citizen or national of the United States over another individual who is an alien if the 2 individuals are equally qualified.

(5) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES RELATING TO THE SYSTEM.—It is also an unfair immigration-related employment practice for a person, other entity, or employment agency—

(A) to discharge or constructively discharge an individual solely because of a further action notice issued by the Employment Verification System created by section 274A until an employee is given a green card as described in section 274A(d)(6) is completed;

(B) to use the System with regard to any person for any purpose except as authorized by subsection (d);

(C) to use the System to verify the employment authorization of a current employee, including an employee continuing in employment, other than reverification upon expiration of employment authorization, or as otherwise authorized under section 274A(d) or by regulation;

(D) to use the System selectively for employees, except where authorized by law;

(E) to fail to provide to an individual any notice required in section 274A(d) within the relevant time period;

(F) to use the System to deny workers’ employment or post-employment benefits;

(G) to misuse the System to discriminate based on national origin or citizenship status;

(H) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results;

(I) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(J) to grant access to document verification or System data, to any individual or entity other than personnel authorized to have such access, or to fail to take reasonable steps to prevent such access.

(6) PROHIBITION OF INTIMIDATION OR RETALIATION.—It is also an unfair immigration-related employment practice for a person, other entity, or employment agency to intimidate, threaten, coerce, or retaliate against any individual because of an individual’s national origin if the discrimination with respect to that individual is covered under section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2), unless the discrimination is related to an individual’s verification of employment authorization.

(J) to provide to any individual any notice required in section 274A(d) within the relevant time period.

(K) to use the System to deny workers’ employment or post-employment benefits.

(L) to misuse the System to discriminate based on national origin or citizenship status.

(M) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results.

(N) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(O) to reverify an employee’s employment eligibility, for more or different reasons than those described in section 274A for purposes of verifying employment eligibility; or

(P) to fail to provide to any individual any notice required in section 274A(d) within the relevant time period.

(Q) to use the System to deny workers’ employment or post-employment benefits.

(R) to misuse the System to discriminate based on national origin or citizenship status.

(S) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results.

(T) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(U) to reverify an employee’s employment eligibility, for more or different reasons than those described in section 274A for purposes of verifying employment eligibility; or

(V) to fail to provide to any individual any notice required in section 274A(d) within the relevant time period.

(W) to use the System to deny workers’ employment or post-employment benefits.

(X) to misuse the System to discriminate based on national origin or citizenship status.

(Y) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results.

(Z) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(AA) to reverify an employee’s employment eligibility, for more or different reasons than those described in section 274A for purposes of verifying employment eligibility; or

(BB) to fail to provide to any individual any notice required in section 274A(d) within the relevant time period.

(CC) to use the System to deny workers’ employment or post-employment benefits.

(DD) to misuse the System to discriminate based on national origin or citizenship status.

(EF) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results.

(GG) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(HH) to reverify an employee’s employment eligibility, for more or different reasons than those described in section 274A for purposes of verifying employment eligibility; or

(I) to fail to provide to any individual any notice required in section 274A(d) within the relevant time period.

(J) to use the System to deny workers’ employment or post-employment benefits.

(K) to misuse the System to discriminate based on national origin or citizenship status.

(1) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results.

(2) to use an immigration status verification feature of the System beyond the requirements described in section 274A for purposes of verifying employment eligibility; or

(3) to reverify an employee’s employment eligibility, for more or different reasons than those described in section 274A for purposes of verifying employment eligibility; or

(4) to fail to provide to any individual any notice required in section 274A(d) within the relevant time period.

(5) to use the System to deny workers’ employment or post-employment benefits.

(6) to misuse the System to discriminate based on national origin or citizenship status.
(3) Informing small businesses and individuals of the financial liabilities and criminal penalties that apply to violations and failures to comply with the requirements of section 274A of the Immigration and Nationality Act, including, but not limited to, issuing best practices for compliance with that section.

(4) To the extent practicable, proposing changes to the Secretary in the administrative practices of the employment verification system required under subsection (c) of section 274A of the Immigration and Nationality Act to mitigate the problems identified under paragraph (2).

(5) Making recommendations through the Secretary to Congress for legislative action to mitigate such problems.

(c) Authority to Issue Assistance Order.—

(1) In general.—Upon application filed by a small business or individual with the Office (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Office may issue an assistance order if—

(A) the Office determines the small business or individual is suffering or about to suffer a significant hardship as a result of the manner in which the employment verification system required under subsection (c) of section 274A of the Immigration and Nationality Act are being administered by the Secretary;

(B) the small business or individual meets such other requirements as are set forth in regulations prescribed by the Secretary.

(2) Determination of Hardship.—For purposes of paragraph (1), a significant hardship shall include—

(A) an immediate threat of adverse action;

(B) a delay of more than 60 days in resolving employment verification system problems;

(C) the incurring by the small business or individual of significant costs if relief is not granted;

(D) irreparable injury to, or a long-term adverse impact on, the small business or individual if relief is not granted.

(3) Standards When Administrative Guidance Is Not Followed.—In cases where a U.S. Citizenship and Immigration Services employee determines that the administrative guidance, the Office shall construe the facts taken into account in determining whether to issue an assistance order under this subsection in a manner most favorable to the small business or individual.

(4) Terms of Assistance Order.—The terms of an assistance order issued under this subsection may require the Secretary within a specified time period—

(A) to determine whether any employee is or is not authorized to work in the United States; or

(B) to abate any penalty under section 274A of the Immigration and Nationality Act that the Secretary determines is arbitrary, capricious, or disproportionate to the underlying offense.

(5) Authority to Modify or Rescind.—Any assistance order issued by the Office under this subsection may be modified or rescinded—

(A) only by the Office, the Director or Deputy Director of U.S. Citizenship and Immigration Services, or the Secretary or the Secretary’s designee; and

(B) if rescinded by the Director or Deputy Director of U.S. Citizenship and Immigration Services, only if a written explanation of the reasons for such official for the modification or rescission is provided to the Office.

(6) Notice of Issuance or Denial of Authorization or Limitation.—The running of any period of limitation with respect to an action described in paragraph (4)(A) shall be suspended for—

(A) the period beginning on the date of the small business or individual’s application for such action and ending on the date of the Office’s decision with respect to such application; and

(B) any period specified by the Office in an assistance order issued under this subsection pursuant to such application.

(7) Independent Action of Office.—Nothing in this subsection shall prevent the Office from taking any action in the absence of an application under paragraph (1).

(d) Accessibility to the Public.—

(1) In person, online, and telephone assistance.—In providing information and assistance specified in subsection (b) in person at locations designated by the Secretary, online through an Internet website of the Department available to the public, and by telephone.

(2) Availability to all employers.—In making information and assistance available, the Office shall prioritize the needs of small businesses and individuals. However, the information and assistance available through the Office shall be available to any employer.

(e) Avoiding Duplication through Coordination.—In the discharge of the functions of the Office, the Secretary shall consult with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration in order to avoid duplication of efforts across the Federal Government.

(f) Definitions.—In this section:

(1) Employer.—The term ‘‘employer’’ has the meaning given that term in section 274A(b) of the Immigration and Nationality Act.

(2) Small business.—The term ‘‘small business’’ means an employer with 49 or fewer employees.

(g) Funding.—Of amounts in the Border Security Enforcement Fund under section 1301, there shall be available such sums as may be necessary to carry out the functions of the Office.

SA 1983. Mr. Wyden submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3. Prohibition on Inadmissibility or Deportation of Aliens Who Qualify With State Law.

(a) Prohibition on Inadmissibility.—Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)) is amended by inserting ‘‘other than an act involving marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the act occurs’’ after ‘‘(B)(2).’’.

(b) Prohibition on Deportation.—Section 237(a)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(B)(i)) is amended by striking ‘‘marijuana’’ and inserting ‘‘marijuana or an offense involving marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the act occurs’’ after ‘‘(B)(3).’’.

SA 1984. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to
unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1. PROTECTING CHILD TRAFFICKING VICTIMS.

(a) SHORT TITLE.—This section may be cited as the “Child Trafficking Victims Protection Act”.

(b) UNACCOMPANIED ALIEN CHILDREN DEFINED.—In this section, the term “unaccompanied alien children” has the meaning given such term in section 202 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services and independent child development specialists, shall mandate live training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, practices, and procedures pertaining to this vulnerable population.

(d) CARE AND TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary shall ensure that all unaccompanied children who will undergo any immigration proceedings before the Department or the Executive Office for Immigration Review are duly transported and placed in the care and legal and physical custody of the Office of Refugee Resettlement not later than 72 hours after their apprehension and detention, unless such detention is necessary because of a natural disaster or comparable emergency beyond the control of the Secretary or the Office of Refugee Resettlement. The Secretary shall ensure that female officers are continuously present during the transfer and transport of female detainees who are transferred by the Department to the Border Protection station assigned to that port having in its custody during the past 2 fiscal years an average of 50 or more unaccompanied alien children, including the accommodation of child welfare professionals in accordance with subsection (f).

(f) CHILD WELFARE PROFESSIONALS.—In general, the Senior Advisor on Trafficking in Persons shall submit to the Secretary, and annually thereafter, the Senior Advisor on Trafficking in Persons shall submit a report to Congress that—

(A) describes the screening procedures used by the child welfare professionals to screen unaccompanied alien children;

(B) assesses the effectiveness of such screenings;

(C) includes data on all unaccompanied alien children who were screened by child welfare professionals;

(D) ensures that all unaccompanied alien children, upon apprehension, are—

(i) receives emergency medical care when necessary;

(ii) receives emergency medical and mental health care that complies with the standards applicable to incarcerated individuals under the Prison Rape Elimination Act of 2003 (42 U.S.C. 1990v-1(c)) whenever necessary, including, in cases in which a child is at risk to harm himself, herself, her brother, sister, or other child;

(iii) is provided with climate appropriate clothing, shoes, basic personal hygiene and sanitary products, a pillow, linens, and sufficient blankets to rest at a comfortable temperature;

(iv) receives adequate nutrition;

(v) enjoys a safe and sanitary living environment;

(vi) has access to daily recreational programs and activities if held for a period longer than 12 hours;

(vii) has access to legal and consular officials; and

(viii) is permitted to make supervised phone calls to family members.

(h) NOTICE OF RIGHTS AND RIGHT TO ACCESS COUNSEL.—In general, the Secretary shall ensure that all unaccompanied alien children who are in the custody of the Department, and who are—

(i) entitled to be accompanied nonparentally by a legal representative;

(ii) inmates exhibiting violent behavior.

(i) CONFIDENTIALITY.—The Secretary of Health and Human Services shall maintain the privacy and confidentiality of all information gathered in the course of providing care, custody, and follow-up services to unaccompanied alien children, consistent with the best interest of the unaccompanied alien child, by not disclosing such information to other government agencies or nongovernmental third parties unless such disclosure is—

(1) recorded in writing and placed in the child’s file;

(2) in the child’s best interest; and

(3) authorized by the child or by an approved sponsor in accordance with section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) and the Health Insurance Portability and Accountability Act (Public Law 104-191); or

(4) provided to a duly recognized law enforcement entity to prevent imminent and serious harm to another individual.

(j) OTHER POLICIES AND PROCEDURES.—The Secretary shall adopt additional child protection policies and procedures that—

(1) for reliable age determinations of children, developed in consultation with medical and child welfare experts, which exclude the use of fallible forensic testing of children’s bone and teeth;

(2) to ensure the safe and secure repatriation and reintegration of unaccompanied alien children to their home countries through specialized programs developed in close consultation with the Secretary of State, the Office of the Refugee Resettlement, and reputable independent child welfare experts, including placement of children with their families or nongovernmental agencies to provide food, shelter, and vocational training and microfinance opportunities;

(3) to utilize all legal authorities to defer the child’s removal if the child faces a risk of life-threatening harm upon return including due to the child’s mental health or medical condition; and

(k) TRANSFER OF FUNDS.—In general, the Secretary shall, in accordance with the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5001 et seq.), that unaccompanied alien children, while in detention, are—

(A) physically separated from any adult who is not an immediate family member; and

(B) separated by sight and sound from—

(i) immigration detainees and inmates with criminal convictions;

(ii) pretrial inmates facing criminal prosecution; and

(iii) inmates exhibiting violent behavior.
of classification as an immediate relative (as defined in section 201(b)(2)(A)(i) of the Immigration and Nationality Act) as amended by section 102(a) of this Act) due to the death of such an alien relative shall be eligible for parole into the United States pursuant to the Secretary of Homeland Security’s discretionary authority under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and
(B) such alien’s application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).
(3) ELIGIBILITY FOR PAROLE.—If an alien described in subsection (a)(1) of the Immigration and Nationality Act (as amended by section 102(a) of this Act) was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act, such alien shall be eligible for parole into the United States pursuant to the Secretary of Homeland Security’s discretionary authority under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and
(B) such alien’s application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

SEC. 3. KEEPING TRACK OF UNACCOMPANIED ALIEN CHILDREN.
(a) Unaccompanied Alien Children Defined.—In this section, the term ‘‘unaccompanied alien children’’ has the meaning given such term in section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).
(b) Table of Unaccompanied Alien Children.—The total number of unaccompanied alien children who were screened by U.S. Customs and Border Protection was ordered to lie on the table, as follows:

SA 1987. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

SEC. 4. RELIEF FOR ORPHANS, WIDOWS, AND WIDOWERS.
(a) In General.—(1) Special rule for orphans, spouses, and permanent partners.—In applying clauses (i) and (iv) of section 203(b)(2)(A) of the Immigration and Nationality Act as added by section 102(a) of this Act, an alien whose citizen or lawful permanent resident relative died before the date of the enactment of this Act, the alien relative may file the classification petition under section 203(b)(2)(A) of such Act, as amended by section 102(a) of this Act, later than 2 years after the date of the enactment of this Act.
(2) Eligibility for parole.—If an alien was not eligible to be determined, removed, or departed voluntarily before the date of the enactment of this Act based solely upon the alien’s lack of eligibility for parole after ‘‘spouse’’ each place such term appears; and
(b) Waivers of inadmissibility.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—
(1) by redesigning the second subsection (a) as subsection (a); and
(2) by adding at the end the following:
'(q) Immigrants Described in Section 101(a)(15).—Section 212(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(b)(2)(A)(i)) is amended by striking ‘‘within 2 years after such date’’.

SA 1988. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

SEC. V. NONIMMIGRANT VISAS.
(a) Nonimmigrant Eligibility.—Subparagraph (V) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended to read as follows:
'(V)(i) subject to section 214(q)(1) and section 212(a)(4), an alien who is the beneficiary of an approved petition under section 203(a) as—
'‘(V)(ii) subject to section 214(q)(2), an alien who is—

(1) the unmarried son or unmarried daughter of a citizen of the United States; or
(2) the unmarried son or unmarried daughter of an alien lawfully admitted for permanent residence; or
(3) the married son or married daughter of a citizen of the United States and who is 31 years of age or younger; or
(4) the sibling of a citizen of the United States; or
(5) the married son or married daughter of a citizen of the United States who is 31 years of age or older;'.
(b) Employment and Period of Admission of Nonimmigrants Described in Section 101(a)(15).—Section 214(q) of such Act (8 U.S.C. 1183a(q)) is amended to read as follows:
'(q) Nonimmigrants Described in Section 101(a)(15).—Section 214(q) of such Act (8 U.S.C. 1183a(q)) is amended to read as follows:
'
(1) Finding: Sense of Congress.—
(1) Finding.—Congress finds that the United States tradition as a nation of laws and a nation of immigrants is best served by effective fair and impartial immigration judges, who have decisional independence and are free from political influence.

(2) Sense of Congress.—It is the sense of Congress that
(A) immigration judges should be fair and impartial and have decisional independence that is free from political pressure or influence; and
(B) in order to promote even-handed, non-biased, decision making that is representative of the public at large, immigration judges should be a pool of candidates with a variety of legal experience, such as law professors, private practitioners, representatives of pro bono service organizations, military officers, and government employees.

(c) Professional Treatment of Immigration Judges.—
(1) Defined Term.—Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended as follows:
"(4)(A) The term 'immigration judge' means an attorney who—
(i) has been appointed by the Attorney General to serve as a United States immigration judge;
(ii) is qualified to conduct proceedings under this Act, including removal proceedings under section 240; and
(iii) is subject to such supervision and shall perform such duties as the Attorney General shall prescribe as long as such supervision does not interfere with the immigration judge's exercise of independent decision making authority over cases in which he or she presides.
"(C) An immigration judge shall be an attorney at the time of his or her appointment by the Attorney General and shall maintain good standing or appropriate judicial status (as defined solely by the licensing jurisdiction) with the bar of the highest court of any State.
"(D) The service of an immigration judge is deemed to be judicial in nature. Actions taken by an immigration judge while serving in a judicial capacity shall be reviewed under the standards of judicial conduct. Immigration judges shall not be subject to any code of attorney behavior for conduct or actions taken while performing duties as an immigration judge.
"(E) An immigration judge may not be disciplined for any good faith legal decisions made in the course of adjudicating cases. Criticism of an immigration judge, in a decision of any appellate court may not be considered or construed as a finding of misconduct.
"(2) Performance Appraisals.—Any system of completion goals or other efficiency standards imposed on immigration judges (as defined in section 1229a(b)(1) of the Immigration and Nationality Act) —
(i) may be used solely as management tools for obtaining or allocating resources; and
(ii) may not be used—
(i) to limit the independent authority of immigration judges to fulfill their duties; or
(ii) as a reflection of individual judicial performance.
"(3) Judicial Complaint Process.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a transparent judicial complaint process that is consistent with the Guidelines for the Evaluation of Judicial Performance established by the American Bar Association and the judicial performance evaluation principles developed by the Institute for the Advancement of the American Legal System.

(4) Annual Leave.—Every immigration judge shall be presumed to have 15 years of Federal service for the purpose of the accrual of annual leave.

(5) Continuing Legal Education.—
(A) In General.—In addition to the training required under section 603(c) of the International Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), the Attorney General shall provide immigration judges with—
(i) meaningful, ongoing training, including annual, in-person training, including current knowledge of immigration law, changes in the law and effective docketing practices; and
(ii) time away from the bench to assimilate the knowledge gained through such training.

(B) Service to the Legal Profession.—Immigration judges have an ethical duty to participate in continuing legal education, including teaching of law at institutions of higher learning and other activities to educate the public and to improve the legal profession. The Attorney General may not prevent or interfere with the participation of an immigration judge in any such bona fide activities if—
(i) undertaken in conjunction with an established university, law school, bar association, or legal organization;
(ii) the immigration judge clearly indicates that such participation is in his or her personal capacity and does not reflect any official positions or policies.

(6) Contempt Authority.—
(A) Rulemaking.—
(B) Effect of Failure to Promulgate Regulations.—If the Attorney General fails to comply with subparagraph (A)(ii), immigration judges shall—
(i) make appropriate findings of contempt; and
(ii) submit such findings to the United States District Court for the judicial district in which the immigration judge is physically located.

SA 1990. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4. IMMIGRATION JUDGES.
(a) Scope of Title.—The section may be cited as the 'Immigration Court Improvement Act of 2018'.
(b) Finding: Sense of Congress.—
(1) Finding.—Congress finds that the United States tradition as a nation of laws and a nation of immigrants is best served by effective fair and impartial immigration judges, who have decisional independence and are free from political influence.

(2) Sense of Congress.—It is the sense of Congress that
(A) immigration judges should be fair and impartial and have decisional independence that is free from political pressure or influence; and
(B) in order to promote even-handed, non-biased, decision making that is representative of the public at large, immigration judges should be a pool of candidates with a variety of legal experience, such as law professors, private practitioners, representatives of pro bono service organizations, military officers, and government employees.

(c) Professional Treatment of Immigration Judges.—
(1) Defined Term.—Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended as follows:
"(4)(A) The term 'immigration judge' means an attorney who—
(i) has been appointed by the Attorney General to serve as a United States immigration judge;
(ii) is qualified to conduct proceedings under this Act, including removal proceedings under section 240; and
(iii) is subject to such supervision and shall perform such duties as the Attorney General shall prescribe as long as such supervision does not interfere with the immigration judge's exercise of independent decision making authority over cases in which he or she presides.
"(C) An immigration judge shall be an attorney at the time of his or her appointment by the Attorney General and shall maintain good standing or appropriate judicial status (as defined solely by the licensing jurisdiction) with the bar of the highest court of any State.
"(D) The service of an immigration judge is deemed to be judicial in nature. Actions taken by an immigration judge while serving in a judicial capacity shall be reviewed under the standards of judicial conduct. Immigration judges shall not be subject to any code of attorney behavior for conduct or actions taken while performing duties as an immigration judge.
"(E) An immigration judge may not be disciplined for any good faith legal decisions made in the course of adjudicating cases. Criticism of an immigration judge, in a decision of any appellate court may not be considered or construed as a finding of misconduct.
"(2) Performance Appraisals.—Any system of completion goals or other efficiency standards imposed on immigration judges (as defined in section 1229a(b)(1) of the Immigration and Nationality Act) —
(i) may be used solely as management tools for obtaining or allocating resources; and
(ii) may not be used—
(i) to limit the independent authority of immigration judges to fulfill their duties; or
(ii) as a reflection of individual judicial performance.
"(3) Judicial Complaint Process.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a transparent judicial complaint process that is consistent with the Guidelines for the Evaluation of Judicial Performance established by the American Bar Association and the judicial performance evaluation principles developed by the Institute for the Advancement of the American Legal System.

(4) Annual Leave.—Every immigration judge shall be presumed to have 15 years of Federal service for the purpose of the accrual of annual leave.

(5) Continuing Legal Education.—
(A) In General.—In addition to the training required under section 603(c) of the International Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), the Attorney General shall provide immigration judges with—
(i) meaningful, ongoing training, including annual, in-person training, including current knowledge of immigration law, changes in the law and effective docketing practices; and
(ii) time away from the bench to assimilate the knowledge gained through such training.

(B) Service to the Legal Profession.—Immigration judges have an ethical duty to participate in continuing legal education, including teaching of law at institutions of higher learning and other activities to educate the public and to improve the legal profession. The Attorney General may not prevent or interfere with the participation of an immigration judge in any such bona fide activities if—
(i) undertaken in conjunction with an established university, law school, bar association, or legal organization;
(ii) the immigration judge clearly indicates that such participation is in his or her personal capacity and does not reflect any official positions or policies.

(6) Contempt Authority.—
(A) Rulemaking.—
(B) Effect of Failure to Promulgate Regulations.—If the Attorney General fails to comply with subparagraph (A)(ii), immigration judges shall—
(i) make appropriate findings of contempt; and
(ii) submit such findings to the United States District Court for the judicial district in which the immigration judge is physically located.

SA 1990. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE — FAIR DAY IN COURT FOR KIDS SEC. . SHORT TITLE. This title may be cited as the “Fair Day in Court for Kids Act of 2018”.

SEC. . IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.
(a) Appointment of Counsel in Removal Proceedings; Right To Review Certain
In General.—To the maximum extent practicable, the Attorney General should make every effort to utilize the services of pro bono counsel to provide representation to such children under subsection (b) without charge.

(2) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—The Attorney General shall develop the necessary mechanisms to identify counsel available to provide pro bono legal assistance and representation to children under subsection (b) and to recruit such counsel.

(3) CONTRACTS; GRANTS.—The Attorney General may enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children to carry out the responsibilities under this section, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(4) DUTIES OF COUNSEL.—Counsel provided under this section shall represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Department of Homeland Security; appear in person for all individual merits hearings before the Executive Office for Immigration Review; work with other government agencies; and provide access to counsel for all aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, who may be necessary to carry out this title.

(5) REPORT ON ACCESS TO COUNSEL.—Not later than December 31 of each year, the Secretary of Homeland Security, in consultation with the Attorney General, shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the extent to which aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, have been provided access to counsel.

(6) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(a) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings, which shall be based on the children’s asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(b) PURPOSE OF GUIDELINES.—The guidelines developed under paragraph (1) shall be designed to ensure that children and individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(7) DUTIES OF COUNSEL.—Counsel provided under this section shall

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Department of Homeland Security;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review involving the Department of Homeland Security;

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due to an adult client; and

(4) carry out other such duties as may be prescribed by the Attorney General or the Executive Office for Immigration Review.

(g) SAVINGS PROVISION.—Nothing in this section may be construed to supersede—

(1) any duties, responsibilities, disciplinary, or ethical responsibilities an attorney may have to his or her client under State law;

(2) the admission requirements under State law; or

(3) any other State law pertaining to the admission to the practice of law in a particular jurisdiction.

(h) RULEMAKING.—The Attorney General shall promulgate regulations to implement section 292 of the Immigration and Nationality Act, as added by this title, in accordance with the requirements set forth in section 3006A of title 18, United States Code.

SEC. 7. ACCESS BY COUNSEL AND LEGAL ORIENTATION AT DETENTION FACILITIES.

The Secretary of Homeland Security shall provide access to counsel for all aliens detained in a facility under the supervision of U.S. Immigration and Customs Enforcement, the Federal Bureau of Prisons, or the Department of Health and Human Services, or in any private facility that contracts with the Federal Government to house, detain, or provide services to aliens.

SEC. 8. REPORT ON ACCESS TO COUNSEL.

(a) REPORT.—Not later than December 31 of each 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 regarding the extent to which aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, have been provided access to counsel.

(b) CONTENTS.—Each report submitted under paragraph (a) shall include, for the immediately preceding 1-year period:

(1) the number and percentage of aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, who were represented by counsel, including information specifying—

(A) the stage of the legal process at which each such alien was represented;

(B) whether the alien was in government custody at the time; and

(C) the nationality and ages of such aliens;

(2) the number and percentage of aliens who received legal orientation presentations, including the nationality and ages of such aliens.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Executive Office of Immigration Review of the Department of Justice such sums as may be necessary to carry out this title.
(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) family unity should continue to be a guiding principle of the legal immigration system of the United States; and

(2) elimination or reduction of the number of family-based visas or family-based Green Cards would have a negative effect on the United States as a whole.

SA 1992. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

At the appropriate place, insert the following:

TITLES

01. SHORT TITLE.

This title may be cited as the “Protecting Data at the Border”.

02. FINDINGS.

Congress finds the following:

(1) United States persons have a reasonable expectation of privacy in the digital contents of their electronic equipment, the digital contents of their online accounts, and the nature of their online presence.

(2) The Supreme Court of the United States recognized in Riley v. California, 134 S. Ct. 2473 (2014) the extraordinary privacy interests in electronic equipment like cell phones.

(3) The privacy interest of United States persons in the digital contents of their electronic equipment, the digital contents of their online accounts, and the nature of their online presence differs in both degree and kind from their privacy interest in closed containers.

(4) Accessing the digital contents of electronic equipment, accessing the digital contents of an online account, or obtaining information regarding the nature of the online presence of persons entering or exiting the United States, without a lawful warrant based on probable cause, is unreasonable under the Fourth Amendment to the Constitution of the United States.

03. SCOPE.

Nothing in this title shall be construed to—

(1) prohibit a Governmental entity from conducting an inspection of the external physical components of the electronic equipment to determine the presence or absence of weapons or contraband without a warrant, including activating or attempting to activate an object that appears to be electronic equipment to verify that the object is electronic equipment;

(2) limit the authority of a Governmental entity under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 04. DEFINITIONS.

As used in this title—

(1) the term “access credential” includes a username, password, PIN number, fingerprint, or biometric indicator;

(2) the term “emergency situation” means the international border of the United States and the functional equivalent of such border;

(3) the term “digital contents” means any signs, signals, writings, voices, sounds, data, or intelligence of any nature transmitted in whole or in part by electronic equipment, or stored in electronic equipment or an online account;

(4) the term “electronic communication service” has the meaning given the term “computer” in section 1030(e) of title 18, United States Code;

(5) the term “electronic equipment” has the meaning given the term “computer” in section 2510 of title 18, United States Code;

(6) the term “Governmental entity” means a department or agency of the United States (including any officer, employee, or contractor or other agent thereof);

(7) the term “access” means an online account with an electronic communication service or remote computing service;

(8) the term “online account information” means the screen name or other identifier or information that would allow a Governmental entity to identify the online presence of an individual;

(9) the term “remote computing service” has the meaning given that term in section 2711 of title 18, United States Code; and

(10) the term “United States person” means an individual who is a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 05. PROCEDURES FOR LAWFUL ACCESS TO DIGITAL DATA AT THE BORDER.

(a) STANDARD.—Subject to subsection (b), a Governmental entity may—

(1) access the digital contents of any electronic equipment belonging to or in the possession of United States persons at the border without a warrant; other than—

(A) when used in the preparation of official governmental documents or for official governmental purposes;

(B) in the course of an emergency investigation or incident; or

(C) where access to digital contents is necessary to prevent serious or immediate danger to life or health.

(1) Access the digital contents of electronic equipment or the digital contents of an online account;

(2) delay entry into or exit from the United States by a United States person based on a refusal by the United States person to provide an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account;

(3) delay entry into or exit from the United States by a United States person for longer than 4 hours, necessary to determine whether the United States person will, in a manner in accordance with subsection (c), consensually provide an access credential, access, or online account information, as described in subparagraphs (A), (B), and (C) of paragraph (2).

(b) EMERGENCY EXCEPTIONS.—

(1) EMERGENCY SITUATIONS GENERALLY.—

(A) by governmental entity to law enforcement officer of a Governmental entity who is designated by the Secretary of Homeland Security for purposes of this paragraph may access the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant described in subsection (a)(1) if the investigative or law enforcement officer—

(i) reasonably determines that—

(aa) an emergency situation exists that involves—

(aa) immediate danger of death or serious physical injury to any person;

(bb) conspiratorial activities threatening the national security interest of the United States; or

(cc) conspiratorial activities characteristic of organized crime; and

(ii) makes an application in accordance with this section for a warrant described in subsection (a)(1) as soon as practicable, but not later than 7 days after the investigative or law enforcement officer accesses the digital contents under the authority under this subparagraph.

(B) WARRANT NOT OBTAINED.—If an application for a warrant described in subparagraph (A)(i) is denied, or in any other case in which an investigative or law enforcement officer accesses the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant pursuant to section 2518 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), the investigative or law enforcement officer shall immediately destroy—

(1) the digital contents, and any information derived from the digital contents, may not be disclosed to any Governmental entity or a State or local government; and

(2) the Governmental entity employing the investigative or law enforcement officer who accessed the digital contents shall notify the United States person that any copy of the digital contents has been destroyed.

(c) DEFINITIONS.—

(1) CONSPIRATIONAL ACTIVITIES.—A Governmental entity may access the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant under the emergency authority under subparagraph (A) and a warrant authorizing the access is not obtained—

(A) any copy of the digital contents of the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant described in subsection (a)(1) if the access is—

(ii) the digital contents, and any information derived from the digital contents, may not be disclosed to any Governmental entity or a State or local government; and

(ii) unrelated to the investigation of a possible crime or other violation of the law.

(2) INFORMED CONSENT IN WRITING.—

(A) IN GENERAL.—A Governmental entity shall provide the notice described in subparagraph (B) before requesting that a United States person at the border—

(i) provide consent to access the digital contents of any electronic equipment belonging to or in the possession of the digital contents of an online account of the United States person;

(ii) disclose an access credential that would enable access to the digital contents of any electronic equipment; or

(iii) provide access to the digital contents of electronic equipment or the digital contents of an online account of the United States person; or

(B) NOTICED.—A Governmental entity shall provide the notice described in subparagraph (B) before requesting that a United States person at the border—

(i) provide consent to access the digital contents of any electronic equipment belonging to or in the possession of the digital contents of an online account of the United States person;

(ii) disclose an access credential that would enable access to the digital contents of any electronic equipment; or

(iii) provide access to the digital contents of electronic equipment or the digital contents of an online account of the United States person; or

(iv) otherwise cause the digital contents of electronic equipment to be used in the preparation of official governmental documents or for official governmental purposes.
(iv) provide online account information of the United States person.

(B) CONTENTS.—The notice described in this subparagraph is written notice in a language that the United States person understands and makes available to the United States person that the Governmental entity—

(i) may not—

(I) compel access to the digital contents of electronic equipment belonging to or in the possession of, the digital contents of an online account of, or the online account information of a United States person without a valid warrant; or

(II) deny entry into or exit from the United States by the United States person based on a refusal by the United States person—

(aa) to disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account;

(bb) to provide access to the digital contents of electronic equipment or the digital contents of an online account; or

(cc) to provide online account information; or

(iii) delay entry into or exit from the United States by the United States person for longer than the period of time, which may not exceed 48 hours, necessary to determine whether the United States person will consensually provide an access credential, access, or online account information, as described in item (aa), (bb), and (cc) of subclause (II); and

(ii) if the Governmental entity has probable cause that the electronic equipment belonging to or in the possession of the United States person has committed a felony, may seize electronic equipment belonging to or in the possession of the United States person for a period of time if the United States person refuses to consensually provide access to the digital contents of the electronic equipment.

(2) CONSENT.—

(A) IN GENERAL.—A Governmental entity shall obtain written consent described in subparagraph (B) before—

(i) accessing, pursuant to the consent of a United States person at the border the digital contents of electronic equipment belonging to or in the possession of the digital contents of an online account of the United States person;

(ii) obtaining, pursuant to the consent of a United States person at the border, an access credential of the United States person that would enable access to the digital contents of electronic equipment or the digital contents of an online account of the United States person; and

(iii) obtaining, pursuant to the consent of a United States person at the border, online account information for an online account of the United States person.

(B) CONTENTS OF WRITTEN CONSENT.—Written consent described in this subparagraph is written notice in a language that the United States person understands and makes available to the United States person—

(i) indicates the United States person understands the protections and limitations described in paragraph (1)(B);

(ii) states that the United States person is—

(I) providing consent to the Governmental entity to access certain digital contents or consensually disclosing an access credential; or

(II) consensually providing online account information; and

(iii) specifies the digital contents, access credential, or online account information with respect to which the United States person is providing consent.

(d) RETENTION OF DIGITAL CONTENTS.

(1) LAWFUL ACCESS.—A Governmental entity that obtains access to the digital contents of electronic equipment, the digital contents of an online account, or online account information with this section may not make or retain a copy of the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, unless there is probable cause to believe the digital contents or online account information contains information that is relevant to an allegation that the United States person has committed a felony.

(2) UNLAWFUL ACCESS.—If a Governmental entity obtains access to the digital contents of electronic equipment, the digital contents of an online account, or online account information in a manner that is not in accordance with this section, the Governmental entity—

(A) shall immediately destroy any copy of the digital contents or online account information, and any information directly or indirectly derived from the digital contents or online account information, in the custody or control of the Governmental entity;

(B) may not disclose the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, to any other Governmental entity or a State or local government; and

(C) shall notify the United States person that any copy of the digital contents or online account information, and any information derived directly or indirectly from the digital contents or online account information, has been destroyed.

(e) RECORD—A Governmental entity shall keep a record of each instance in which the Governmental entity obtains access to the digital contents of electronic equipment or the digital contents of an online account of an individual at the border, the digital contents of an online account of an individual who is at the border, or online account information of an individual who is at the border, which shall include—

(1) the reason for the access;

(2) the nationality, immigration status, and admission status of an individual;

(3) the nature and extent of the access;

(4) if the access was consensual, how and to what individual the consented, and what individual provided by consent;

(5) whether electronic equipment of the individual was seized;

(6) whether the Governmental entity made a copy of all or a portion of the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information;

(7) whether the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, was shared with another Governmental entity or a State or local government.

SEC. 06. LIMITS ON USE OF DIGITAL CONTENTS AS EVIDENCE.

(a) IN GENERAL.—Whenever any digital contents or online account information have been obtained as described in this title, no part of the digital contents or online account information and no evidence derived therefrom may be received in evidence in any proceeding relating to the immigration laws, as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof.

(b) APPLICATION.—To the maximum extent practicable, the limitations under subsection (a) shall apply in the same manner as the limitations under section 2515 of title 18, United States Code.

SEC. 07. LIMITS ON SEIZURE OF ELECTRONIC CONTENTS.

(A) A Governmental entity may not seize any electronic equipment belonging to or in the possession of a United States person at the border unless there is probable cause to believe that the electronic equipment contains information that is relevant to an allegation that the United States person has committed a felony.

SEC. 08. AUDIT AND REPORTING REQUIREMENTS.

In March of each year, the Secretary of Homeland Security shall submit a report and make publicly available on the Web site of the Department of Homeland Security a report that includes the following:

The number of times during the previous year that an officer or employee of the Department of Homeland Security did each of the following:

(A) Accessed the digital contents of any electronic equipment belonging to or in the possession of or the digital contents of an online account of a United States person at the border pursuant to a warrant supported by probable cause issued using the procedures described in the Federal Rules of Criminal Procedure by a court of competent jurisdiction.

(B) Accessed the digital contents of any electronic equipment belonging to or in the possession of or the digital contents of an online account of a United States person at the border pursuant to the emergency authority under section 05(b).

(C) Requested consent to access the digital contents of any electronic equipment belonging to or in the possession of the digital contents of an online account of an Internet account of a United States person at the border pursuant to written consent provided in accordance with section 06(c).

(D) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of a United States person at the border in a manner that was not in accordance with section 06.

(E) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border.

(F) Accessed the digital contents of electronic equipment or the digital contents of an online account of an Internet account of a United States person at the border using an access credential pursuant to written consent provided in accordance with section 06(c).

(G) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border in a manner that was not in accordance with section 06.

(H) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border in a manner that was not in accordance with section 06.

(I) Requested a United States person at the border consensually disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account of the United States person.

(J) Accessed the digital contents of electronic equipment or the digital contents of an online account of a United States person at the border.

(K) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border.

(L) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border in a manner that was not in accordance with section 06.

(M) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border in a manner that was not in accordance with section 06.
(i) the digital contents of electronic equipment belonging to or in the possession of the United States person at the border; 
(ii) the digital contents of an online account of a United States person while at the border; or
(iii) online account information of the United States person while at the border.

(C) the number and nationality of individuals who are not United States persons for which a Governmental entity obtains access to—
(i) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border; 
(ii) the digital contents of an online account of the individuals while at the border; or
(iii) online account information of the individuals while at the border.

(D) the country from which individuals who are not United States persons departed most recently before arriving in the United States for the individuals for which a Governmental entity obtains access to—
(i) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border; 
(ii) the digital contents of an online account of the individuals while at the border; or
(iii) online account information of the individuals while at the border.

(3) Aggregate data regarding the perceived race and ethnicity of individuals for whom a Governmental entity obtains access to—
(A) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border;
(B) the digital contents of an online account of the individuals while at the border; or
(C) online account information of the individuals while at the border.

SA 1994. Mr. WYDEN submitted an amendment intended to be proposed by him to H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1. U.S. CUSTOMS AND BORDER PROTECTION HIRING AND RETENTION.

(a) Short Title.—This section may be cited as the “CBP HiRe Act”.

(b) Flexibility in Employment Authorities.—
(1) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the following:

*9702. U.S. Customs and Border Protection employment authorities.*

(a) Definitions.—In this section—

(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection;
(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 ‘rural or remote area’ means an area within the United States that is not within an area defined and designated as an urbanized area by the Bureau of the Census in the most recently completed decennial census; and
(5) the term ‘Secretary’ means the Secretary of Homeland Security.

(b) Demonstration of Recruitment and Retention Difficulties in Rural or Remote Areas.—

(1) In General.—For purposes of subsections (c) and (d), the Secretary shall determine, for a rural or remote area, whether there is—

(A) a critical hiring need in the area; and
(B) a direct relationship between—

(i) the rural or remote nature of the area; and
(ii) difficulty in the recruitment and retention of CBP employees in the area.

(2) Factors.—The determination of a direct relationship under paragraph (1)(B), the Secretary may consider evidence—

(A) that the Secretary—

(i) is unable to efficiently and effectively recruit individuals for positions as CBP employees, which may be demonstrated with various types of evidence, including—

(I) evidence that multiple positions have been continuously vacant for significantly longer than the national average period for which similar positions in U.S. Customs and Border Protection are vacant; or

(II) recruitment studies that demonstrate the inability of the Secretary to efficiently and effectively recruit employees for positions in the area; or

(III) other terms and conditions under which the bonus is payable, subject to the requirements of this section; and

(bb) difficulty in the recruitment and retention of CBP employees in the area.

(3) Flexibility in Employment Authority.—

(1) In General.—For purposes of 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 such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of this section); and

(ii) the amount of the bonus; and

(II) the individual has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

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

(II) the Federal service, including a position in another agency or component of the Department of Homeland Security; and

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

(i) determines that—

(ii) there is a critical hiring need; and

(iii) there exists a severe shortage of qualified candidates because of the direct relationship identified under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

(iv) has given public notice for the position—

(II) the amount of the bonus; and

(III) other terms and conditions under which the bonus is payable, subject to the requirements of this section; and

(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).

(c) Direct Hire Authority; Recruitment and Retention Bonuses; Retention Bonuses.—The Secretary may pay a retention bonus to a 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 such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of this section); and

(ii) the individual has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

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

(II) the Federal service, including a position in another agency or component of the Department of Homeland Security; and

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

(i) determines that—

(ii) there is a critical hiring need; and

(iii) there exists a severe shortage of qualified candidates because of the direct relationship identified under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

(iv) has given public notice for the position—

(II) the amount of the bonus; and

(III) other terms and conditions under which the bonus is payable, subject to the requirements of this section; and

(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).

(c) Direct Hire Authority; Recruitment and Retention Bonuses; Retention Bonuses.—The Secretary may pay a retention bonus to a 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 such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of this section); and

(ii) the individual has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

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

(II) the Federal service, including a position in another agency or component of the Department of Homeland Security; and

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

(i) determines that—

(ii) there is a critical hiring need; and

(iii) there exists a severe shortage of qualified candidates because of the direct relationship identified under subsection (b)(1)(B) of this section between—

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

(bb) difficulty in the recruitment and retention of CBP employees in the area; and

(iv) has given public notice for the position—

(II) the amount of the bonus; and

(III) other terms and conditions under which the bonus is payable, subject to the requirements of this section; and

(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).
“(1) 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) an examination and termination dates of the required service period (or provisions for the determination thereof);

“(II) the amount of the bonus; and

“(III) 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;

“(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;

“(C) the difference in the quality of life for new hires and their families.

“(e) REGULAR CBP REVIEW.—

“(1) Ensuring Flexibilities meet CBP Needs.—Each year, the Secretary shall review the use of flexibilities under subsection (b) and (c) to fill positions at a location in a rural or remote area to determine—

“(I) the impact of the use of those flexibilities on solving hiring and retention challenges at the location;

“(II) whether the Secretary needs to continue to use those flexibilities at the location.

“(2) Consideration.—In conducting the review under paragraph (1), the Secretary shall consider—

“(A) whether any CBP employee accepted an employment incentive under subsection (b) or (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.

“(f) Improvement of CBP Hiring and Retention Act of 2018, the Inspector General of the Department of Homeland Security shall review the use of hiring flexibilities by the Secretary under subsection (b) and (c) to determine whether the use of those flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

“(g) Report on Polygraph Requests.—The Secretary shall report to Congress on the number of requests the Secretary receives from any other Federal agency for the file of an applicant for a position in U.S. Customs and Border Patrol that includes the results of a polygraph examination.

“(i) Exercise of Authority.—Any sole discretion or exercise of authority under subsection (c) 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.

“(j) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

“(k) Sunset.—The authorities under subsections (c) and (d) shall terminate on the date that is 5 years after the date of enactment of the U.S. Customs and Border Protection Hiring and Retention Act of 2018.

“(2) 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 following:

“7902. U.S. Customs and Border Protection employment authorities.”.

“SA 996. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as amended by adding at the end the following:

“SEC. 9. 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:

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

“(c) Eligible Recipients.—To be eligible to receive a grant under this section, a law enforcement agency shall be located in—

“(1) a State bordering Canada or Mexico;

“(2) a State or territory with a maritime border; or

“(3) Indian country (as defined in section 1151 of title 18, United States Code) that is located all or in part of a State bordering Canada or Mexico.

“(d) Permitted Uses.—The recipient of a grant under this section may use such grant funds 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 Stonebridge 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. There is hereby appropriated $110,000,000 for fiscal year 2019 for grants under this section.

“(g) 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.’’

“(h) CEREMONIAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–286) is amended by inserting after the item relating to section 2008 the following: ‘‘Sec. 2009. Operation Stonegarden.’’

SA 1997. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 5. NORTHERN BORDER STRATEGY IMPLEMENTATION PLAN.

“(a) IN GENERAL.—If the Secretary develops a new Northern Border strategy under section 4, the Secretary shall submit a new implementation plan for the strategy to the appropriate congressional committees not later than 180 days after the strategy is submitted to the appropriate congressional committees.

“(b) IMPLEMENTATION PLAN REQUIREMENTS.—In developing a new implementation plan under this section, the Secretary shall include—

“(1) the specific technology, personnel, and infrastructure needs of the Department of Homeland Security to successfully implement the strategy; and

“(2) any changes in Department policy required to successfully implement the strategy.’’

SA 1998. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 106. RELIEF FOR ABUSED DERIVATIVE ALIENS. —

“(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—

“(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), as amended by section 20305(d)(6)(8)(e)(11) of this Act, is further amended by adding at the end the following:

“(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and ‘‘or’’; and

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

“(1) the spouse or child admitted under section 101(a)(15);

“(2) is accompanying or following to join a principal alien admitted under such a section; and

“(3) has been subjected to battery or extreme cruelty by such principal alien.

“(B) RELIEF FOR ABUSED DERIVATIVE ALIENS.—The Secretary—

“(1) shall grant or extend the status of admission of an abused derivative alien under such section 101(a)(15) under which the principal alien was admitted for the longer of—

“(A) the same period of time for which the principal alien was initially admitted; or

“(B) a period of 3 years;

“(2) may renew a grant or extension of status made under paragraph (1); and

“(3) shall grant employment authorization to an abused derivative alien; and

“(4) may adjust the status of the abused derivative alien to that of an alien lawfully admitted for permanent residence if—

“(A) the alien is admissible under section 212(a) or the Secretary of Homeland Security finds the alien’s continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest; and

resources, technological assets or funding for operations on the Northern Border below such levels in effect on the day before the date of the enactment of this Act.''

“(b) NORTHERN BORDER.—The Secretary may temporarily transfer personnel, resources, technological assets, or funding for operations on the Northern Border if the Secretary notifies and provides justification to the appropriate congressional committees that such a transfer is required to meet a critical emergency.

“(c) DURATION OF AUTHORITY.—Any authority exercised under subsection (c) shall last for 90 days but may be extended for additional 90-day periods provided that the Secretary continues to notify the appropriate congressional committees for each additional 90-day extension and provide justification that the critical emergency continues to exist.

SA 1999. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 106. STATUS FOR CERTAIN BATTEDERED SPOUSES AND CHILDREN.—

“(a) NONIMMIGRANT STATUS FOR CERTAIN BATTERED SPOUSES AND CHILDREN.—

“(1) IN GENERAL.—Section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), as amended by section 20305(d)(6)(8)(e)(11) of this Act, is further amended by adding at the end the following:

“(A) in subparagraph (E), by striking ‘‘or’’ at the end the following:

“(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and ‘‘or’’; and

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

“(1) the spouse or child admitted under section 101(a)(15);

“(2) is accompanying or following to join a principal alien admitted under such a section; and

“(3) has been subjected to battery or extreme cruelty by such principal alien.

“(B) RELIEF FOR ABUSED DERIVATIVE ALIENS.—The Secretary—

“(1) shall grant or extend the status of admission of an abused derivative alien under such section 101(a)(15) under which the principal alien was admitted for the longer of—

“(A) the same period of time for which the principal alien was initially admitted; or

“(B) a period of 3 years;

“(2) may renew a grant or extension of status made under paragraph (1); and

“(3) shall grant employment authorization to an abused derivative alien; and

“(4) may adjust the status of the abused derivative alien to that of an alien lawfully admitted for permanent residence if—

“(A) the alien is admissible under section 212(a) or the Secretary of Homeland Security finds the alien’s continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest; and
“(B) the status under which the principal alien was admitted to the United States would have potentially allowed for eventual adjustment of status.

“(c) EFFECT PARAGRAPH 4(a)(3) OF SECTION 214(l)—Termination of the relationship with principal alien shall not affect the status of an abused derivative alien under this section if battered by the principal alien was 1 central reason for termination of the relationship.

“(d) Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(C).

“(e) DIVISION 3—PHYSICIAN ASSISTANCE REAUTHORIZATION

SEC. 1. SHORT TITLE. This division may be cited as the “Conrad State 30 and Physicin Access Reauthorization Act”.

SEC. 2. CONRAD STATE 30 PROGRAM.

(a) EXTENSION.—Section 229(c) of the Immigration and Nationality Act (8 U.S.C. 1184a(c)) is amended by inserting “elder abuse;” after “stalking;”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted as of January 1, 2007.

SEC. 3. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.

(a) IN GENERAL.—Section 214(l)(1) of the Immigration and Nationality Act (8 U.S.C. 1184a(l)(1)) is amended—

“(1) in the matter preceding subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

“(2) in subparagraph (A), by striking “Director of United States Information Agency” and inserting “Secretary of State”; and

“(3) in subparagraph (B), by inserting “, except as provided in paragraphs (7) and (8) before the semicolon at the end; and

“(4) in subparagraph (C), by striking clauses (i) and (ii) and inserting the following:

“(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Secretary of Homeland Security to be in the public interest; and

“(ii) the alien has accepted employment with the health facility or health care organization in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals;”.

“(d) DURATION.—(1) Section 214(l)(1)(A) is amended by—

“(A) inserting after the date the following:

“(aa) 90 days after receiving nonimmigrant status or employment authorization, if the alien or the alien’s employer petitions for such nonimmigrant status or employment authorization not later than 90 days after the date on which the alien completes his or her graduate medical education or training under a program approved pursuant to section 212(j); or

“(bb) 90 days after receiving nonimmigrant status or employment authorization, if the alien or the alien’s employer petitions for such nonimmigrant status or employment authorization not later than 90 days after the date on which the alien completes his or her graduate medical education or training under a program approved pursuant to section 212(j); and

“(B) inserting the following:

“(cc) 90 days after receiving nonimmigrant status or employment authorization, if the alien or the alien’s employer petitions for such nonimmigrant status or employment authorization not later than 90 days after the date on which the alien completes his or her graduate medical education or training under a program approved pursuant to section 212(j); or

“(dd) 90 days after receiving nonimmigrant status or employment authorization, if the alien or the alien’s employer petitions for such nonimmigrant status or employment authorization not later than 90 days after the date on which the alien completes his or her graduate medical education or training under a program approved pursuant to section 212(j).

“(2) Section 214(l)(2) of such Act (8 U.S.C. 1184a(l)(2)) is amended by inserting “substantial requirement of an” before “agreement entered into.”

“(d) PHYSICIAN EMPLOYMENT IN UNDERSERVED AREAS.—Section 214(l)(1) of such Act (8 U.S.C. 1184(l)(1)) is amended by adding at the end the following:

“(4)(d) If an interested State agency denies the application for a waiver under paragraph (1)(B) from a physician pursuing graduate medical education or training pursuant to section 101(a)(15)(J) because the State has requested the maximum number of waivers permitted for that fiscal year, the physician’s nonimmigrant status is extended for up to 6 months if the physician agrees to seek a waiver under this subsection (except for paragraph (1)(D)(ii)) to work for the Secretary of Health and Human Services as having a shortage of health care professionals, in a State that has not yet requested the maximum number of waivers.

“(e) CONTRACT REQUIREMENTS.—Section 214(l)(1) of such Act, as amended by subsection (d), is further amended by adding at the end the following:

“(9) An alien granted a waiver under paragraph (1)(B) shall enter into an employment agreement with the contracting health facility or health care organization that—

“(A) specifies the maximum number of on-call, clinic, or other times per week, per month (or a monthly average) that the alien will be expected to be available and the compensation the alien will receive for on-call time;

“(B) specifies—

“(i) whether the contracting facility or organization will pay the alien’s malpractice insurance premiums; and

“(ii) whether the employer will provide malpractice insurance; and

“(iii) the amount of such insurance that will be provided;

“(C) describes all of the work locations that the alien will work and includes a statement that the contracting facility or organization will not add additional work locations without the approval of the Federal agency or State agency that requested the waiver; and

“(D) does not include a non-compete provision.

“(6) An alien granted a waiver under this subsection whose employment relationship with the contracting health facility or health care organization terminates under paragraph (1)(C)(ii) during the 3-year service period required under paragraph (1) shall be considered to be terminated under paragraph (1)(C) during the period of stay during the 90-day period referred to in items (aa) and (bb) of subparagraph...
SEC. 5. AMENDMENTS TO THE PROCEDURES, Definitions, AND OTHER PROVISIONS RELATED TO PHYSICIAN IMmIgrant.

(a) VISA ELIGIBILITY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall amend section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(l))) to clarify the expression of a future intention to seek a waiver under section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l))) by an alien coming to the United States to receive graduate medical education or training, as described in section 212(i) of such Act (8 U.S.C. 1182(i))) or to take examinations required to receive such graduate medical education or training, shall not, by itself, constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a non-immigrant or otherwise obtaining or maintaining the status of a non-immigrant.

(b) Application of Section 212(e) to Spouses and Children of J-1 Exchange Visitors.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) by inserting ‘‘(1)’’ after ‘‘(e)’’; and

(2) by adding at the end the following:

‘‘(2) A spouse or child of an exchange visitor described in section 151(c) of title 8, United States Code, shall not be subject to the requirements under this subjection solely on account of such spouse’s or child’s derivative nonimmigrant status to which such individual is subject to the requirements under this subsection.’’

SEC. 6. PERMANENT RESIDENT STATUS FOR INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 214 of the Immigration and Nationality Act (8 U.S.C. 1158(a)); if—

(1) the alien has been continuously physically present in the United States since the date that is 10 years before the date of the enactment of this Act;

(2) the alien is a citizen of Indonesia;

(3) the alien is a member of a religious minority in Indonesia; and

(4) the alien—

(A) is not inadmissible under paragraph (2), (3), (6)(B), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(B) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of religion, nationality, membership in a particular social group, or political opinion; and

(C) has not been convicted of—

(i) a crime that is a felony or is a crime punishable by the Federal or State law, other than a State offense for which an essential element is the alien’s immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

(ii) 3 or more offenses under Federal or State law, other than State offenses for which a maximum term of imprisonment is of more than 1 year.

SEC. 7. ELIMINATION OF ONE-YEAR FILING DEADLINE FOR ASYLUM APPLICATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(1) in subparagraph (A), by inserting ‘‘or the Secretary of Homeland Security’’ after ‘‘the Attorney General’’;

(2) by striking subparagraphs (B) and (D); and

(3) by redesigning subparagraph (C) as subparagraph (B).

(4) in subparagraph (B), as redesignated, by striking ‘‘subparagraph (D)’’ and inserting ‘‘subparagraphs (C) and (D)’’; and

(5) by inserting after subparagraph (B), as redesignated, the following new subparagraphs:

‘‘(C) Changed circumstances.—Notwithstanding subparagraph (B), an application for asylum of an alien may be considered if the alien demonstrates, to the satisfaction of the Attorney General or the Secretary of Homeland Security, the existence of changed circumstances that materially affect the applicant’s eligibility for asylum.

SEC. 8. AMENDMENTS TO THE PROCEDURES, DEFINITIONS, AND OTHER PROVISIONS RELATED TO THE DEFINITION OF ‘‘PROFESSIONAL WORK’’.

(a) VISA ELIGIBILITY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall amend section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(l)) to clarify the expression of a future intention to seek a waiver under section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) by an alien coming to the United States to receive graduate medical education or training, as described in section 212(i) of such Act (8 U.S.C. 1182(i)), or to take examinations required to receive such graduate medical education or training, shall not, by itself, constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a non-immigrant or otherwise obtaining or maintaining the status of a non-immigrant.

(b) Application of Section 212(e) to Spouses and Children of J-1 Exchange Visitors.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) by inserting ‘‘(1)’’ after ‘‘(e)’’; and

(2) by adding at the end the following:

‘‘(2) A spouse or child of an exchange visitor described in section 151(c) of title 8, United States Code, shall not be subject to the requirements under this subjection solely on account of such spouse’s or child’s derivative nonimmigrant status to which such individual is subject to the requirements under this subsection.’’

SEC. 9. ALLOTMENT OF CONRAD 30 WAIVERS.

(a) IN GENERAL.—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) is amended as follows:

(b) ACADEMIC MEDICAL CENTERS.—Section 214(l)(1)(D) of such Act is amended—

(1) in clause (ii), by striking ‘‘and’’ at the end and inserting ‘‘; and’’;

(2) by striking subparagraphs (B) and (D); and

(3) by adding after (B) the following:

‘‘(3) (A) Except as provided in subparagraph (B), each waiver granted under this subsection shall be used for the 1 fiscal year in which there was a decrease in the number of waivers used in the fiscal year in which the waiver was granted.

(B) Exception for Conrad 30 Waivers.—A waiver granted under this subsection shall result in a decrease of 5 waivers for a fiscal year, the States shall not drop below 30.’’

SEC. 10. ALLOTMENT OF CONRAD 30 WAIVERS.

(a) IN GENERAL.—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) is amended—

(1) by striking ‘‘30 per cent. of’’ and inserting ‘‘50 per cent. of’’;

(2) by striking ‘‘the number of Conrad 30 waivers that the States were allotted pursuant to this paragraph, in which there was an increase in the allotment, shall result in an additional decrease of 5 waivers for a fiscal year, the States will only receive an additional increase of 5 waivers the following fiscal year if 95 percent of the waivers available to the States receiving at least 1 waiver were used in the previous fiscal year.’’

(b) ACADEMIC MEDICAL CENTERS.—Section 214(l)(1)(D) of such Act is amended—

(1) in clause (ii), by striking ‘‘and’’ at the end and inserting ‘‘; and’’;

(2) by adding at the end the following:

‘‘(ii) each additional 5 percent decrease in such waivers granted from the last year in which there was an increase in the number of waivers allotted pursuant to this paragraph, in which there was an increase in the allotment, shall result in an additional decrease of 5 waivers allotted for all States beginning in the next fiscal year; and

‘‘(iii) the number of waivers allotted shall be decreed by 5 for all States beginning in the next fiscal year; and

‘‘(iv) each additional 5 percent decrease in such waivers granted from the last year in which there was an increase in the allotment, shall result in an additional decrease of 5 waivers allotted for all States, provided that the number of waivers allotted for all States shall not be more than 30.’’

(c) PERMANENT RESIDENT STATUS FOR INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 214 of the Immigration and Nationality Act (8 U.S.C. 1158(a)); if—

(1) the alien has been continuously physically present in the United States since the date that is 10 years before the date of the enactment of this Act;

(2) the alien is a citizen of Indonesia;

(3) the alien is a member of a religious minority in Indonesia; and

(4) the alien—

(A) is not inadmissible under paragraph (2), (3), (6)(B), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(B) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of religion, nationality, membership in a particular social group, or political opinion; and

(C) has not been convicted of—

(i) a crime that is a felony or is a crime punishable by the Federal or State law, other than a State offense for which an essential element is the alien’s immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

(ii) 3 or more offenses under Federal or State law, other than State offenses for which a maximum term of imprisonment is of more than 1 year.

SEC. 12. ELIMINATION OF ONE-YEAR FILING DEADLINE FOR ASYLUM APPLICATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(1) in subparagraph (A), by inserting ‘‘or the Secretary of Homeland Security’’ after ‘‘the Attorney General’’;

(2) by striking subparagraphs (B) and (D); and

(3) by redesigning subparagraph (C) as subparagraph (B).

(4) in subparagraph (B), as redesignated, by striking ‘‘subparagraph (D)’’ and inserting ‘‘subparagraphs (C) and (D)’’; and

(5) by inserting after subparagraph (B), as redesignated, the following new subparagraphs:

‘‘(C) Changed circumstances.—Notwithstanding subparagraph (B), an application for asylum of an alien may be considered if the alien demonstrates, to the satisfaction of the Attorney General or the Secretary of Homeland Security, the existence of changed circumstances that materially affect the applicant’s eligibility for asylum.”
“(D) MOTION TO REOPEN CERTAIN MERRI-
TIOUS CLAIMS.—Notwithstanding subpara-
graph (B) or section 240(c)(7), an alien may file a motion to reopen an asylum claim if the alien—
“(i) was denied asylum based solely upon a failure to meet the 1-year application filing deadline in effect on the date on which the application was filed;
“(ii) was granted withholding of removal pursuant to section 241(b)(3) and has not obtained lawful permanent residence in the United States pursuant to any other provi-
sion of law;
“(iii) is not subject to the safe third country excep-
tion under subparagraph (A) or a bar to asylum under subsection (b)(2) and should not be denied asylum as a matter of discretion; and
“(iv) is physically present in the United States when the motion is filed.”

SA 2006. Mrs. SHAHEEN (for herself and Ms. HASSAN) submitted an amend-
ment intended to be proposed by her to the bill H.R. 2579, to amend the Inter-
nal Revenue Code of 1986 to allow the premium tax credit with respect to un-
subsidized COBRA continuation coverage; which was ordered to lie on the tables as follows:

At the appropriate place, insert the fol-
lowing:

SEC. 244A. PROVISIONAL PROTECTED PRESENCE FOR INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

(a) IN GENERAL.—Chapter 4 of title II of the Immig-
ration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by adding at the end the following new section:

**SEC. 244A. PROVISIONAL PROTECTED PRESENCE FOR QUALIFIED INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.**

(b) AUTHORIZATION.—The Secretary—

“(1) shall grant provisional protected presence to an alien who files an application demonstrating that he or she meets the eligi-

bility criteria under subsection (b)(2) and pays the appropriate application fee; and

“(2) shall provide such alien with employ-
ment authorization;

(c) ELIGIBILITY CRITERIA.—An alien is elig-
ible for provisional protected presence under this section and employment author-
ization if—

“(1) the alien has been continuously phys-
ically present in the United States since the date that is 10 years before the date of the enactment of this section;

“(2) the alien is a citizen of Indonesia;

“(3) the alien is a member of a religious minority in Indonesia; and

“(4) the alien—

“(A) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of this Act;

“(B) has not been, or been, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, na-
tionality, membership in a particular social group, or political opinion; and

“(C) has not been convicted of—

“(i) any offense under Federal or State law, other than a State offense for which an essen-
tial element is the alien’s immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

“(ii) 3 or more offenses under Federal or State law, other than State offenses for which an essential element is the alien’s immig-
ration status, for which the alien was convicted and for which each of the 3 offenses and imprisoned for an aggregate of 90 days or more.

“(D) DURATION OF PROVISIONAL PROTECTED PRESENCE AND EMPLOYMENT AUTHORIZA-
TION.—Provisional protected presence and the employment authorization provided under this section shall be effective until the date that is three years after the date of the enactment of this section.

“(E) STATUS DURING PERIOD OF PROVI-
SIONAL PROTECTED PRESENCE.—(1) IN GENERAL.—An alien granted provi-
sional protected presence is not considered to be unlawfully present in the United States during the period beginning on the date such status is granted and ending on the date de-
scribed in subsection (c).

“(2) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section does not excuse previous or sub-
sequent periods of unlawful presence.

(b) Clerical Amendment.—The table of contents for the Immigration and Nation-
ality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

“Sec. 244A. Provisional protected presence for Indonesians living in the United States for more than 10 years.”

SA 2007. Mrs. MURRAY (for herself, Ms. CORTEZ MASTO, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the tables as follows:

At the appropriate place, insert the fol-
lowing:

SEC. 3. ELIMINATION OF NUMERICAL LIMITA-
TION ON U VISAS.

Section 214(p) of the Immigration and Na-
tionality Act (8 U.S.C. 1116(p)) is amended by striking paragraph (2).

SA 2008. Mrs. MURRAY submitted an amend-
ment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table as follows:

At the appropriate place, insert the fol-
lowing:

SEC. 3. ELIMINATION OF NUMERICAL LIMITA-
TION ON U VISAS.

Section 214(p) of the Immigration and Na-
tionality Act (8 U.S.C. 1116(p)) is amended by striking paragraph (2).

SEC. 4. PROHIBITION ON RESTRAINT OF PREGNANT DETAINERS.

(A) PROHIBITION.—A detention facility shall not use restraints on a detainee known to be pregnant, including during labor, transport to a medical facility or birthing center, de-

livery, and postpartum recovery, unless the facility administrator makes an individual-
determination that the detainee presents an extraordinary circumstance as de-
scribed in paragraph (2).

(B) PROHIBITION ON SHACKLING, CHAIN-
ING, AND RESTRAINING PREGNANT INDIVIDUALS IN DETENTION.

(1) PROHIBITION.—A detention facility shall not use restraints on pregnant individuals pursuant to an immigration deten-
tion facility or the designee of such official.

(2) Definitions.—In this section:

(A) detention facility means a Federal, State, or local government facility, or a privately

owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immi-

gration and Customs Enforcement or the Commissioner of U.S. Customs and Border

Protection, including facilities that hold such individuals under a contract or agree-

ment with the Director or Commissioner, or that is used, in whole or in part, to hold indi-

viduals pursuant to an immigration deten-

tion.

(B) facility administrator means the official that is responsible for oversight of a deten-

tion facility or the designee of such official.

(C) postpartum recovery means the 6-week pe-

riod, or longer as determined by her health care provider, following delivery, including the entire period a woman is in the hospital or infirmary after birth.

(D) restraint means any physical restraint or a mechanical device used to control the movement of a detainee’s body or limbs, including flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a se-

curity (tether) chain, or a convex shield.

SEC. 5. RECORD OF EXTRAORDINARY CIR-
CUMSTANCES.—In the rare event that one of the extraordinary circumstances in para-

graphs (1) through (9) applies, one or more restrictive restraints necessary shall be used, except that—

(A) if a doctor, nurse, or other health profes-

sional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall imme-

diately remove all restraints;

(B) under no circumstance shall leg, waist, or four point restraints be used;

(C) under no circumstance shall wrist re-

straints be used to bind the detainee’s hands behind her back or to another person; and

(D) under no circumstances shall any re-

straints be used on any detainee in labor or delivery.

SEC. 6. RECORD OF EXTRAORDINARY CIR-
CUMSTANCES.—In the rare event that one of the extraordinary circumstances in para-

graphs (1) through (9) applies, one or more restrictive restraints necessary shall be used, except that—

(A) if a doctor, nurse, or other health profes-

sional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall imme-

diately remove all restraints;

(B) under no circumstance shall leg, waist, or four point restraints be used;

(C) under no circumstance shall wrist re-

straints be used to bind the detainee’s hands behind her back or to another person; and

(D) under no circumstances shall any re-

straints be used on any detainee in labor or delivery.

SEC. 7. RECORD OF EXTRAORDINARY CIR-
CUMSTANCES.—In the rare event that one of the extraordinary circumstances in para-

graphs (1) through (9) applies, one or more restrictive restraints necessary shall be used, except that—

(A) if a doctor, nurse, or other health profes-

sional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall imme-

diately remove all restraints;

(B) under no circumstance shall leg, waist, or four point restraints be used;

(C) under no circumstance shall wrist re-

straints be used to bind the detainee’s hands behind her back or to another person; and

(D) under no circumstances shall any re-

straints be used on any detainee in labor or delivery.
medical facility or birthing center, no detention officer shall be present in the room during a pelvic exam, labor, delivery, or treatment of other symptoms related to pregnancy specifically requested by a medical professional. If a detention officer’s presence is requested by medical personnel, the detention officer shall be female, if practicable, and remain near the detainee’s head to protect her privacy. If restraints are used on a detainee pursuant to subsection (b)(2), a detention officer shall remain immediately outside the room at all times so that the officer may promptly remove the restraints if requested by medical personnel, as required by subsection (b)(2).

(d) Treatment of Pregnant Women.—

With regard to pregnant detainees:

(1) Release.-Absent extraordinary circumstances of the pregnant woman being a threat to herself or others or subject to mandatory detention, the United States Government shall not detain pregnant women.

(2) Mandated Review.—For any pregnant detainee held in detention who satisfies the requirements of paragraph (1), the United States Government shall conduct a review, not less than weekly, to determine if the pregnant detainee continues to be a threat to herself or others or subject to mandatory detention, and release any such pregnant detainee that does not satisfy these conditions.

(3) Access to Services.—A pregnant detainee shall have access to health care services, including services related to reproductive health care and pregnancy such as routine or specialized prenatal care, pregnancy counseling, comprehensive counseling and assistance, postpartum follow-up, and lactation services.

(4) Annual Reports.—

(i) Facility Administrator.—Not later than 30 days after the end of each fiscal year, the facility administrator of each detention facility that detained a pregnant detainee shall submit to the Secretary a written report that includes, with respect to the previous fiscal year, the following:

(A) An account of every instance of the use of restraints on pregnant detainees, including the justification for such restraint and the name of the facility administrator who made the individualized determination under subsection (b)(1).

(B) The number of pregnant detainees.

(C) The average length of detention of pregnant detainees.

(D) The number of pregnant detainees detained longer than 15 days.

(E) The number of pregnant detainees detained longer than 30 days.

(2) Audit and Reports by Secretary.—Not later than 90 days after the end of each fiscal year, the Secretary shall—

(A) complete an audit of the information submitted under subparagraphs (B) through (F) of paragraph (1); and

(B) submit to the appropriate committees of Congress a report that includes all of the information submitted to the Secretary under paragraph (1), disaggregated by facility.

(5) Privacy.—No report submitted under this subsection may contain any individually identifying information of any detainee. No report submitted under this subsection that is made available for public inspection may contain any individually identifying information of a facility administrator otherwise included under paragraph (1)(A).

(6) Public Inspection.—Except as provided in paragraph (3), each report submitted under this subsection shall be made available for public inspection.

(7) Rules.—The Secretary shall adopt regulations or policies to carry out this section at every detention facility.
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the alien or an immediate family member of the alien; and

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

(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(7) IN GENERAL.—The Secretary may not grant an alien permanent resident status on a conditional basis 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 any alien who is unable to provide the biometric or biographic data referred to in paragraph (1) due to of a physical impairment.

‘‘(h) BACKGROUND CHECKS.—

(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate—

(A) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis; and

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

(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks of an alien required under paragraph (1) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary grants the alien permanent resident status on a conditional basis.

(3) CRIMINAL RECORD REQUESTS.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or in removal proceedings under a removable order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

‘‘(i) ELIGIBILITY FOR REMOVAL OF CERTAIN ALIENS.—

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

(2) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or in removal proceedings under a removable order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

‘‘(j) MILITARY SELECTIVE SERVICE.—An alien whose immigration status of an alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for permanent resident status is terminated under paragraph (1) or is terminated under paragraph (3) or whose application for permanent resident status on a conditional basis is denied shall return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for permanent resident status on a conditional basis, as appropriate.

‘‘(k) DETERMINATION OF CONTINUOUS PRESENCE.—

(1) Period of continuous presence under paragraph (1) due to of a physical impairment.

(2) Treatment of certain breaks in presence.—

(A) In general.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to meet the continuous presence requirement if—

(i) the alien is outside the United States for not more than 90 days or for any number of periods, in the aggregate, greater than 180 days;

(ii) the alien has departed from the United States for any period longer than 90 days or for any number of periods, in the aggregate, greater than 180 days;

(iii) the alien has departed from the United States for any period longer than 90 days or for any number of periods, in the aggregate, greater than 180 days.

(B) Extensions for extenuating circumstances.—The Secretary may extend the time periods described in paragraph (A) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the control of the alien, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(C) Travel authorized by the Secretary.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

‘‘(l) Limitation on removal of certain aliens.—

(1) Subject to subparagraph (B), valid for a period of 7 years and

(i) subject to subsections (c) and (d); and

(ii) subject to termination under paragraph (3).

(2) Extension authorized.—The Secretary may extend the period described in subparagraph (A)(i).

(3) Notice of requirements.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this section and the requirements to have the conditional basis of that status removed.

‘‘(m) Exemption from numerical limitation.—The Secretary may terminate the permanent resident status of an alien only if the Secretary—

(A) subject to subsections (c) and (d), determines that the alien—

(i) is inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a); or

(ii) has an order, innitiated, 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

(iii) has been convicted of—

(a) a felony;

(b) a significant misdemeanor; or

(c) 3 or more misdemeanors—

(aa) not occurring on the same date; and

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

(B) prior to the termination, provides the alien—

(i) notice of the proposed termination; and

(ii) the opportunity for a hearing to provide evidence that the alien meets the requirements or otherwise contest the termination.

‘‘(n) Return to previous immigration status.—The immigration status of an alien whose permanent resident status on a conditional basis expires under paragraph (1) or is terminated under paragraph (3) whose application for permanent resident status on a conditional basis is denied shall return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for permanent resident status on a conditional basis, as appropriate.

‘‘(p) Removal of conditional basis of permanent resident status.—

(1) Eligibility for removal of conditional basis.—

(A) In general.—Subject to subparagraph (B), the Secretary shall remove the conditional basis of the permanent resident status of an alien granted under this section and the requirements of this section and the requirements to have the conditional basis of that status removed if the alien—

(i) subject to subsections (c) and (d); and

(ii) is inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a); or

(iii) has been convicted of—

(aa) a felony;

(bb) a significant misdemeanor; or

(cc) 3 or more misdemeanors—

(aa) not occurring on the same date; and

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

(ii) has not abandoned the residence of the alien in the United States;

(iii) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

(iv) has served in the Uniformed Services for at least 2 years; or

(v) in the case of a alien who has been discharged from the Uniformed Services, has received an honorable discharge or been granted an honorable discharge; or

(vi) has been employed for periods totaling at least 3 years and at least 75 percent of
the time that the alien has had a valid employment authorization, except that any period during which the alien is not employed while having a valid employment authorization and is enrolled in an institution of higher education, a secondary school, or an education program described in subsection (b)(2)(D)(ii), shall not count toward the time required to meet the requirements under this clause (iii), with respect to an alien granted permanent resident status;

(2) NATURALIZATION.—

(A) In general.—For purposes of title III, an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and to be present in the United States, as an alien lawfully admitted for permanent residence.

(B) LIMITATIONS ON APPLICATION FOR NATURALIZATION.—

(i) In general.—An alien shall not be naturalized—

(I) on any date on which the alien is in permanent resident status on a conditional basis; or

(II) subject to clause (iii), before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

(2) ADVANCED FILING DATE.—Subject to clause (III), with respect to an alien granted permanent resident status on a conditional basis, the alien may file an application for naturalization not more than 90 days before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

(3) LIMITATION.—Notwithstanding subsection (I), the reduction in the 12-year period referred to in clause (I) and clause (II) may be reduced by the number of days on which the alien was a DACA recipient, if applicable.

(II) REDUCTION IN PERIOD.—

(A) In general.—An alien shall not be eligible to adjust status to permanent resident status under this subsection to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) CITIZENSHIP REQUIREMENT.—The conditional basis of the permanent resident status granted to an alien under this section may not be removed unless the alien demonstrates that the alien satisfies the requirements of section 312(a).

(C) APPLICATION PROCEDURE.—

(i) GENERAL.—The Secretary may require an alien applying for lawful permanent resident status under this subsection to pay a reasonable fee that is commensurate with the cost of processing the application.

(ii) EXEMPTION.—An applicant may be exempt from paying the fee required under clause (i)—

(A) the child or son or daughter of the alien if—

(aa) is younger than 18 years of age; or

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

(cc) is in foster care or otherwise lacking any personal or familial support;

(B) the alien is or was enrolled at the time that the alien has had a valid employment authorization in an institution of higher education, school;

(C) the alien has attended in the United States an institution the alien has attended in the United States, as required under subsection (b)(2)(B) that an alien was granted permanent resident status to pay a reasonable fee that is commensurate with the cost of processing the application.

(iv) the nature and duration of the relationship between the applicant and the alien.

(2) DOCUMENTS ESTABLISHING INITIAL ENTRY INTO THE UNITED STATES.—To establish under subsection (b)(2)(B) that an alien was younger than 18 years of age on the date on which the alien initially entered the United States, an alien may submit documents to the Secretary, including—

(A) an admission stamp on the alien’s passport;

(B) records from any educational institution the alien has attended in the United States;

(C) any document from the Department of Justice or the Department of Homeland Security stating the alien’s date of entry into the United States;

(D) hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization;

(E) rent receipts or utility bills bearing the alien’s name or the name of an immediate family member of the alien, and the alien’s address;

(F) employment records that include the employer’s name and contact information;

(G) official records from a religious entity confirming the alien’s participation in a religious ceremony;

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

(I) automobile license receipts or registration;

(J) deeds, mortgages, or rental agreement contracts;

(K) tax receipts;

(L) insurance policies;

(M) remittance records;

(N) birth, death, or marriage certificates;

(O) bank statements and records of service from the Uniformed Services;

(P) official records from a religious entity confirming the alien’s participation in a religious ceremony;

(Q) information and documents from any educational institution the alien attended in the United States, as required under subsection (b)(2)(B); and

(R) any other documents the Secretary deems necessary to establish the alien’s identity.

(3) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(2) any record from an educational institution the alien attended in the United States.

(4) DOCUMENTS ESTABLISHING LEGAL EXISTENCE.—To establish that an alien has been lawfully present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(C) any record from an educational institution the alien attended in the United States.

(3) DOCUMENTS ESTABLISHING LEGAL EXISTENCE.—To establish that an alien has been lawfully present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(C) any record from an educational institution the alien attended in the United States.

(2) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(C) any record from an educational institution the alien attended in the United States.

(3) DOCUMENTS ESTABLISHING LEGAL EXISTENCE.—To establish that an alien has been lawfully present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(C) any record from an educational institution the alien attended in the United States.

(2) DOCUMENTS ESTABLISHING LEGAL EXISTENCE.—To establish that an alien has been lawfully present in the United States, as required under subsection (b)(2)(A), the alien may submit documents to the Secretary, including—

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

(B) official records from any educational institution the alien attended in the United States; and

(C) any record from an educational institution the alien attended in the United States.
The alien shall submit to the Secretary a document from the institution of higher education certifying that the alien—

(A) has been admitted to the institution; or

(B) is currently enrolled in the institution as a student.

(5) DOCUMENTS ESTABLISHING RECEIPT OF A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has acquired a degree from an institution of higher education, the alien shall submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

(6) DOCUMENTS ESTABLISHING RECEIPT OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a certificate of education, or an educational development certificate recognized under State law or a high school equivalency certificate from the United States, the alien shall submit to the Secretary—

(A) a high school diploma, certificate of education, or an educational development certificate recognized under State law; or

(B) a high school equivalency diploma or certificate recognized under State law; or

(C) evidence that the alien passed a general educational development exam, including the general educational development certificate recognized under State law; or

(D) high school equivalency exam, in the United States.

(7) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in subsection (b)(2)(D)(i)(I), (m)(1)(C), or (p)(1)(A)(i)(II), the alien shall submit to the Secretary the following relevant documents:

(A) the name of the school; and

(B) the alien’s name, periods of attendance, and current grade or educational level.

(8) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is eligible for an application fee exemption under subsection (f)(2) or (p)(1)(C)(ii), the alien shall submit to the Secretary the following relevant documents:

(A) the name of the school; and

(B) a high school equivalency diploma or certificate recognized under State law; or

(C) evidence that the alien passed a general educational development exam, including the general educational development certificate recognized under State law; or

(D) high school equivalency exam, in the United States.

(9) INITIAL PUBLICATION.—

(A) In General.—An alien may satisfy the employment requirement by submitting at least 2 types of reliable documents that prove evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

(iv) records of a labor union, day labor organization, or organization that assists workers in employment;

(v) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—

(I) the name, address, and telephone number of the affiant; and

(II) the nature and duration of the relationship between the affiant and the alien; and

(vi) remittance records.

(B) ATTACHMENT TO THE PROSECUTION OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document does not reliably establish identity or that permanent resident status on a conditional basis is being fraudulently obtained by any unacceptable means, the Secretary may prohibit or restrict the use of such document or class of documents.

(10) D O C U M E N T S ESTABLISHING EMPLOYMENT.—

(A) In General.—An alien may satisfy the employment requirement, with respect to subsection (p)(1)(A)(i)(II), by submitting records that—

(i) establish compliance with such employment requirement; and

(ii) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) OTHER DOCUMENTS.—An alien who is unable to submit the records described in subparagraph (A) may satisfy the employment requirement by submitting at least 2 types of reliable documents that prove evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

(iv) records of a labor union, day labor center, or organization that assists workers in employment;

(v) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work, that contain—

(I) the name, address, and telephone number of the affiant; and

(II) the nature and duration of the relationship between the affiant and the alien; and

(vi) remittance records.

(C) ATTACHMENT TO THE PROSECUTION OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document does not reliably establish identity or that permanent resident status on a conditional basis is being fraudulently obtained by any unacceptable means, the Secretary may prohibit or restrict the use of such document or class of documents.

(11) RULEMAKING.—

(A) Initial Publication.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register regulations implementing this section.

(B) Affirmative Application.—The regulations published under subparagraph (A) shall apply to any alien who immediately apply affirmatively for the relief available under subsection (b) without being placed in removal proceedings.

(12) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to paragraph (11)(A) shall be effective, on an interim basis, immediately on publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a permanent rulemaking.

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

(14) PAPERWORK REDUCTION ACT.—The requirements under chapter 33 of title 44, United States Code, (commonly known as the ‘‘Paperwork Reduction Act’’) shall not apply to any action to implement this subsection.

(15) CONFIDENTIALITY OF INFORMATION.—

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

(A) an application filed under this section; or

(B) a request for deferred action status under DACA.

(2) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection any individual who—

(A) has been granted permanent resident status on a conditional basis; or

(B) was granted deferred action status under DACA.

(3) LIMITED EXCEPTIO N.—Notwithstanding paragraphs (1) and (2), information provided in an application for permanent resident status on a conditional basis or a request for deferred action status under DACA may be shared with a Federal security or law enforcement agency—

(A) for assistance in the consideration of an application for permanent resident status on a conditional basis; or

(B) to identify or prevent fraudulent claims.

(C) for national security purposes; or

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

(4) PENALTY.—Any person who knowingly uses, publishes, or permits information to be published in violation of this subsection shall be fined not more than $10,000.

(b) Conforming Amendment.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

Sec. 244A. Cancellation of removal for certain long-term residents who entered the United States as children...
(A) IN GENERAL.—Qualified immigrants who are the spouse or child of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the sum of—

(i) 140,000;

(ii) the number (if any) by which such worldwide level exceeds 226,000; and

(iii) by striking ‘‘unmarried son or daughter’’ and inserting ‘‘as a family-sponsored immigrant under section 203(a)(1)’’ and inserting ‘‘child as an immediate relative under section 201(b)(2)’’; and

(b) in section 214(q)(1)(B)(i), by striking ‘‘(a)(2)(A)’’ each place such term appears and inserting ‘‘(a)(2)’’;

(c) EF FECTIVE DATE.—The amendments made by this section shall take effect on the date on which—

(I) the Secretary of Homeland Security has adjudicated each petition that is filed under section 204(a)(2)(B) (as in effect on the day before the date of enactment of this Act) after December 31, 2018;

(ii) any alien seeking to extend or change status or adjust status to that of a nonimmigrant engaged in a business in the United States as a special agricultural worker may be retained in the priority date assigned to the alien under that subparagraph; and

(iii) by redesignating paragraph (5) as paragraph (6); and

(d) AVAILABILITY FOR FISCAL YEAR 2018.—Of the amount appropriated by subsection (b), $148,000,000, including for not fewer than 615 officers of U.S. Customs and Border Protection.

(5) To hire 615 U.S. Customs and Border Protection Officers for deployment to ports of entry, $75,000,000.

(6) To provide for operations, salary and expenses of officers of Border Patrol Agents, Customs Officers, and Air and Marine personnel, $183,000,000.

(7) For emergency operations, $25,000,000.

(8) equipment.

(9) To provide for the consolidation of the operations of the Department of Homeland Security, including the use of personnel, property, equipment, and services of the Department of Homeland Security and the other Federal agencies and offices of the United States, including the use of personnel, facilities, and equipment, $2,500,000,000.

(10) To carry out the activities described in paragraph (1) through (9), $2,500,000,000.

(11) To make available for fiscal year 2019 $2,500,000,000, of which—

(A) $2,250,000,000 shall be available for—

(i) equipment; and

(ii) equipment, facilities, and services of the Department of Homeland Security;

(B) $500,000,000 shall be available for the International (Northern) Air and Marine Program.

(12) To carry out paragraphs (1) through (11), $2,500,000,000.

(13) To carry out the activities described in paragraphs (1) through (12), $2,500,000,000.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), is amended by—

(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking ‘‘section 203(a)(2)(A)’’ each place such term appears and inserting ‘‘section 203(a)(2)’’;

(2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)), by striking ‘‘section 203(a)(2)(A)’’ and inserting ‘‘section 203(a)(2)’’;

(3) in section 202—

(A) in subsection (a)(8 U.S.C. 1152(a)—

(i) in paragraph (2), by striking ‘‘(3), (4), and (5)’’ and inserting ‘‘(3) and (4)’’;

(ii) by striking paragraph (4); and

(iii) by redesigning paragraph (5) as paragraph (4); and

(B) in subsection (e), by striking ‘‘, or as limited by the number of visas that may be issued under section 203(a)(2)(A) to subsection (a)(4)(A)’’;

(4) in section 203—

(A) in paragraph (3), by striking ‘‘(a)(2)’’ and inserting ‘‘subsection (a)(2)’’; and

(B) in subsection (a)(2)(A), each place such term appears and inserting ‘‘(a)(2)’’;

(5) in section 204—

(A) in subsection (a)(1)(B)—

(i) in clause (I), by striking ‘‘if such a child has not been classified under clause (ii) of section 203(a)(2)(A) and’’;

(ii) in clause (II), by striking ‘‘section 203(a)(2)(A)’’ and inserting ‘‘section 203(a)(2)’’;

(6) (7) in subsection (c)(1)—

(i) by striking ‘‘alien unmarried son or daughter’’ and inserting ‘‘as a family-sponsored immigrant under section 203(a)(2)(B)’’ and inserting ‘‘child as a family-sponsored immigrant under section 203(a)(1)’’; and

(ii) by striking ‘‘son or daughter’’ and inserting ‘‘child’’; and

(iii) by striking ‘‘unmarried son or daughter’’ and inserting ‘‘as a family-sponsored immigrant under section 203(a)(1)’’ and inserting ‘‘child as an immediate relative under section 201(b)(2)’’; and

(7) in section 214(q)(1)(B)(i), by striking ‘‘(a)(2)(A)’’ each place such term appears and inserting ‘‘(a)(2)’’;

(c) EF FECTIVE DATE.—The amendments made by this section shall take effect on the date on which—

(I) the Secretary of Homeland Security has adjudicated each petition that is filed under section 203(a)(2)(B) (as in effect on the day before the date of enactment of this Act) before January 1, 2019, in accordance with that subparagraph; and

(ii) prior to the date on which a visa becomes available, the alien may retain the priority date assigned to the alien under that subparagraph for a petition filed under this subsection.

(d) RETENTION OF PRIORITY DATE.—In the case of an alien child who is the principal or derivative beneficiary of a petition filed under subparagraph (A) who turns 21 years old before the date on which a visa becomes available, the alien may retain the priority date assigned to the alien under that subparagraph for a petition filed under this subsection.

(e) TRANSITION PERIOD.—

(I) IN GENERAL.—The Secretary of State shall allocate a visa to a principal or derivative beneficiary of an approved petition filed by an alien lawfully admitted for permanent residence on behalf of a spouse or an unmarried son or daughter under subpara- graph (B) (as in effect on the day before the date of enactment of this Act) before January 1, 2019, in accordance with that subparagraph.

(ii) the number (if any) by which such worldwide level exceeds 226,000; and

(iii) the number of visas not required for the class described in paragraph (1).

(f) LIMITATION ON AVAILABILITY FOR FISCAL YEAR 2018.—Of the amount appropriated by subsection (b), amounts shall be available for fiscal year 2018 as follows:

(1) For imperative and denial, $1,571,000,000.

(2) For domain awareness, $658,000,000.

(3) For intelligence, $143,000,000.

(4) For the retention, recruitment, and relocation of officers of Border Patrol Agents, Customs Officers, and Air and Marine personnel.

(g) LIMITATION ON AVAILABILITY FOR FISCAL YEARS 2019 THROUGH 2027.—

(I) IN GENERAL.—Subject to subsection (f), the amount appropriated under subsection (b) shall not be more than—

(1) for fiscal year 2019, $2,500,000,000;

(2) for fiscal year 2020, $2,500,000,000;

(3) for fiscal year 2021, $2,500,000,000;

(4) for fiscal year 2022, $2,500,000,000;

(5) for fiscal year 2023, $2,500,000,000;

(6) for fiscal year 2024, $2,500,000,000;

(7) for fiscal year 2025, $2,500,000,000;

(8) for fiscal year 2026, $2,500,000,000; and

(9) for fiscal year 2027, $2,500,000,000.

(II) LIMITATION.—The amount appropriated under subsection (b) for fiscal years 2018 and 2019 shall only be available for operationally effective designs deployed as of the date of the Appropriations Act for fiscal year 2017 (Public Law 115–31), as currently deployed, and shall not be used for any nonoperationally effective designs.

(III) LIMITATION.—The amount specified in subsection (d) for each of fiscal years 2019 through 2027 shall not be available for such fiscal year unless—

(A) the Secretary submits to Congress, not later than 60 days before the beginning of such fiscal year, a report setting forth—

(i) a description of every planned expenditure in each fiscal year under the plan required by subsection (e) in an amount in excess of $50,000,000; and

(ii) a description of the total number of maintenance and repair costs of physical barriers that will be constructed in such fiscal year under the plan;
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(iii) a statement of the number of new U.S. Customs and Border Protection Officers to be hired in such fiscal year under the plan and the intended location of deployment;

(iv) the new roads to be installed in such fiscal year under the plan;

(v) a description of the land to be acquired in such fiscal year under the plan, including—

(I) all necessary land acquisitions;

(II) the total number of necessary condemnation actions; and

(III) the precise number of landowners that will be affected by the construction of such physical barriers;

(vi) a description of the amount and types of technology required for each of the northern border and the southern border in such fiscal year under the plan; and

(vii) a statement of the percentage of each of the northern border and the southern border for which the Department of Homeland Security will obtain full situational awareness in such fiscal year under the plan; and

(B) not later than October 1 of such fiscal year, the Secretary certifies to Congress that the Department of Homeland achieved not less than 75 percent of the goals of the Department's border security plan (other than land acquisition) for the prior fiscal year.

(2) AVAILABILITY WITHOUT CERTIFICATION.—If the Secretary is unable to make the certification required in paragraph (1)(B) with respect to a fiscal year as of October 1 of the succeeding fiscal year, the amount specified in subsection (d) for such succeeding fiscal year shall not be available except pursuant to an Act of Congress specifically making such amount available for such succeeding fiscal year that is enacted into law in such succeeding fiscal year.

(g) AVAILABILITY.—If amounts described in subsection (d) are available for a fiscal year, such amounts shall remain available for 5 years.

(h) LIMITATION.—Notwithstanding any other provision of law, none of the amounts appropriated under this section may be reprogrammed for or transferred to any other component of the Department of Homeland Security.

(i) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to subsection (b) shall include in each budget for a fiscal year submitted by the President under section 1106 of title 31, United States Code; and shall describe planned obligations by program, project, and activity in the receiving agency; and shall include an amount level of detail provided for in the request for other appropriations in that account.

(j) BUDGETARY EFFECTS.—

(1) IN GENERAL.—The budgetary effects of this section shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go PAYGO scorecard maintained pursuant to section 4106 of H.Con.Res. 71 (115th Congress).

(2) SENATE PAYGO SCORECARDS.—The budgetary effects of this section shall not be entered on any PAYGO scorecard maintained pursuant to public law 4106 of H.Con.Res. 71 (115th Congress).

(k) POINT OF ORDER.—

(1) DEFINITION.—In this subsection, the term "point of order sustained" means the amount appropriated for border security for a fiscal year under subsection (b).

(2) POINT OF ORDER IN THE SENATE.—

(A) IN GENERAL.—In the Senate, it shall not be in order to consider a provision in a bill, joint resolution, motion, amendment, conference report, or joint agreement between the Houses, or conference report that would reduce the covered appropriation amount for a fiscal year.

(B) POINT OF ORDER SUSTAINED.—If a point of order is made by a Senator against a provision described in clause (1), and the point of order is sustained by the Chair, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

(C) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, joint resolution, or report, a point of order being raised by any Senator pursuant to subparagraph (A), and such point of order being sustained, such material contained in such conference report or Senate amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recommit its report, or the Senate shall concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only the portion of the conference report or Senate amendment derived from such conference report by operation of this subsection, no further amendment shall be in order.

(D) SUPERMAJORITY WAIVER AND APPEAL.—In the Senate, this paragraph may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of Members of the Senate, duly chosen and sworn shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(E) ENFORCEMENT PRIORITIES.—

(1) DEFINITIONS.—In this subsection:

(A) FELONY.—

(i) IN GENERAL.—The term "felony" means a Federal, State, or local criminal offense punishable by imprisonment for a term that exceeds 1 year.

(ii) EXCLUSION.—The term "felony" does not include a Federal, State, or local criminal offense for which an essential element is the immigration status of an alien.

(B) MISDEMEANOR.—

(i) IN GENERAL.—The term "misdemeanor" means a Federal, State, or local criminal offense for which—

(I) the maximum term of imprisonment is—

(aa) greater than 5 years; and

(bb) not greater than 1 year; and

(ii) the individual was sentenced to time in custody of the alien.

(ii) EXCLUSION.—The term "misdemeanor" does not include a State or local offense for which an essential element is—

(I) the immigration status of an alien;

(ii) a significant misdemeanor; or

(iii) a minor traffic offense.

(C) SIGNIFICANT MISDEMEANOR.—

(i) IN GENERAL.—The term "significant misdemeanor" means a Federal, State, or local criminal offense for which—

(I) for which the maximum term of imprisonment is—

(aa) more than 5 years; and

(bb) not more than 1 year; and

(ii) that, regardless of the sentence imposed, led to—

(AA) a crime of domestic violence (as defined in section 237(a)(2)(E)(i)) of the Immigration and Nationality Act (8 U.S.C. 1255a(2));

(bb) an offense of—

(CC) sexual abuse or exploitation; (DD) burglary; (EE) unlawful possession or use of a fire arm; (FF) drug distribution or trafficking; or (GG) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than 0.08 percent; or

(aa) that resulted in a sentence of time in custody of more than 90 days.

(ii) EXCLUSION.—The term "significant misdemeanor" does not include a State or local offense for which an essential element is the immigration status of an alien.

(F) Priority.—In carrying out immigration enforcement activities, the Secretary shall prioritize available immigration enforcement resources to aliens who—

(A) have been convicted of—

(i) a felony;

(ii) a significant misdemeanor; or

(iii) 3 or more misdemeanor offenses;

(B) pose a threat to national security or public safety; or

(C(i) are unlawfully present in the United States; and

(ii) arrived in the United States after June 30, 2010.

SEC. 5. OFFICE OF PROFESSIONAL RESPONSIBILITY.

Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient special agents at the Office of Professional Responsibility.

SA 2011. Mr. HEINRICH (for himself and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage, which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BORDER SECURITY ENHANCEMENTS IN MOUNTAINOUS, HIGH DESERT, AND BACKCOUNTRY TERRAIN.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall—

(1) acquire and deploy such additional horses and off-road vehicles, including all-terrain vehicles, as may be necessary to provide for enhanced security in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico;

(2) increase the use of advanced detection and surveillance technology in the areas described in paragraph (1);

(3) acquire fixed and mobile technology assets, including night vision goggles;

(4) increase and improve interoperable communications that are LTE-capable;

(5) increase mountain patrols to gain and enhance domain awareness;

(6) increase and upgrade facilities to the extent necessary to accommodate personnel and asset needs;

(7) perform any maintenance and care that may be necessary to preserve the operational capability of all mountainous, high desert, and backcountry assets; and

(8) hire and deploy additional personnel, as necessary—

(A) to enhance border security in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and

(b) REQUIREMENTS.—In carrying out subsection (a), the Commissioner shall—
(1) consult with agents in the field;
(2) prioritize the deployment of such technology based on the needs of remote stations in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico;
(3) report.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall submit a report to the appropriate congressional committees that describes the implementation of subsection (a), including—
(1) how agents deployed in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and
(2) the expenditures incurred to acquire and deploy such assets.

(d) AGENT MOBILITY DEMONSTRATION PROGRAM.—
(1) IN GENERAL.—The Secretary of Homeland Security shall establish a 5-year pilot program in the El Paso Sector, to be known as the “Agent Mobility Program,” under which any agent assigned within the El Paso Sector may laterally transfer to a designated, hard-to-fill station within the El Paso Sector for a period of at least 3 years.
(2) REQUIREMENTS.—Any agent who completes 3 years of service at a hard-to-fill station to which he or she transferred under the program established under paragraph (1) shall be presented to the selecting officer as a preferred agent; and
(b) shall be eligible to transfer to 1 of 3 border patrol stations in the El Paso Sector of their choice that has an opening at the time of such transfer.

(e) AUTHORIZATION OF APPROPRIATIONS.—
(a) REPORT.—
(1) IN GENERAL.—Until the TEDS policy and standards are in place, the Commissioner shall submit to Congress a report on the status of implementing the following:
(2) the expenditures incurred to acquire and deploy such assets.

SA 2012. Mr. HEINRICHS amendment added an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

SEC. 2. STANDARDS FOR SHORT-TERM CUSTODY BY U.S. CUSTOMS AND BORDER PROTECTION.
(a) REPORT.—
(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the status of the Transport, Escort, Detention and Search (TEDS) policy for short-term custody of individuals by U.S. Customs and Border Protection.

(B) the Commissioner shall protect individual application information; and
(c) CONFIDENTIALITY OF INFORMATION.—
(1) IN GENERAL.—The Secretary shall protect individual application information from disclosure to U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection for any purpose other than implementing the following:

(1) DACA Program.
(2) Any program similar to the DACA program to provide deferred action for aliens that is established by this Act or an amendment made by this Act.
(3) The Development, Relief and Education for Alien Minors Act or any similar program to provide deferred action for aliens that is established by this Act or an amendment made by this Act.

(c) REFERRALS PROHIBITED.—The Secretary may not refer any individual whose case has been deferred pursuant to a program specified in subsection (b) to U.S. Immigration and Customs Enforcement or other immigration enforcement agencies—
(1) to identify or prevent fraudulent claims;
(2) for particularized national security purposes relating to an individual application; or
(3) for the investigation or prosecution of any felony not related to immigration status.

SA 2013. Mr. HEINRICHS amendment added a provision relating to an individual application; and
(c) REFERRALS PROHIBITED.—The Secretary shall protect individual application information from disclosure to U.S. Immigration and Customs Enforcement or other immigration enforcement agencies—
(1) to identify or prevent fraudulent claims;
(2) for particularized national security purposes relating to an individual application; or
(3) for the investigation or prosecution of any felony not related to immigration status.

SEC. 4. STANDARDS FOR SHORT-TERM CUSTODY BY U.S. CUSTOMS AND BORDER PROTECTION.

(1) IN GENERAL.—The term “DACA Program” means the Deferred Action for Childhood Arrivals Program and similar programs.

(a) DEFINITIONS.—In this section:

(1) DACA PROGRAM.—The term “DACA Program” means the Deferred Action for Childhood Arrivals Program announced on June 15, 2012, which was ordered to lie on the table; as follows:

(b) STANDARDS OF CARE.—
(1) IN GENERAL.—In accordance with subsection (b) and the status of implementation of the TEDS policy among the various components of U.S. Customs and Border Protection, the Commissioner shall—
(2) conduct a description of the frequency and findings of U.S. Customs and Border Protection audits and investigations into compliance with the TEDS policy and supplemental policies.

(1) IN GENERAL.—In accordance with subsection (b) and the status of implementation of the TEDS policy in accordance with the following:
(2) the expenditures incurred to acquire and deploy such assets.

(c) REFERRALS PROHIBITED.—The Secretary may not refer any individual whose case has been deferred pursuant to a program specified in subsection (b) to U.S. Immigration and Customs Enforcement or other immigration enforcement agencies—
(1) to identify or prevent fraudulent claims;
(2) for particularized national security purposes relating to an individual application; or
(3) for the investigation or prosecution of any felony not related to immigration status.

(b) STANDARDS OF CARE.—
(1) IN GENERAL.—The Commissioner shall protect individual application information from disclosure to U.S. Immigration and Customs Enforcement or other immigration enforcement agencies—
(1) to identify or prevent fraudulent claims;
(2) for particularized national security purposes relating to an individual application; or
(3) for the investigation or prosecution of any felony not related to immigration status.

(c) INSPECTIONS.—The Commissioner shall—
(1) conduct a description of the frequency and findings of U.S. Customs and Border Protection audits and investigations into compliance with the TEDS policy and supplemental policies.
of the U.S. Customs and Border Protection facilities that provide short-term custody to ensure that humane standards of care addressing all of the requirements set forth in such subsection are made publicly available and are being implemented throughout the agency.

(2) ACCESS FOR LOP PROVIDERS AND COUNSEL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall direct U.S. Customs and Border Protection to allow Legal Orientation Program (LOP) providers and counsel access to migrants held in U.S. Customs and Border Protection short-term custody facilities.

(3) SITE VISITS.—The Department of Homeland Security Office of the Inspector General shall conduct site visits to all short-term detention facilities at least every six months and issue annual inspection reports assessing each facility's compliance with the requirements set forth in subsection (b), along with recommendations for improvement as needed, and promptly make those reports publicly available.

SA 2014, Mr. HEINRICH (for himself and Mr. Udall) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit to amend the Internal Revenue Code of 1986 to allow the premium tax credit to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit to


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(3) in section 202 (8 U.S.C. 1152)—
(A) by striking (in paragraph (2), by striking (3), (4), and (5)” and inserting “(3) and (4)”;
(B) by striking paragraph (4); and
(iii) by redesignating paragraph (5) as paragraph (4); and
(B) in subsection (e), by striking “or, or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)”;
(4) in section 203(h) (8 U.S.C. 1153(h)—
(A) in paragraph (3), by striking “subsections (a)(2)(A) and (d)” and inserting “subsection (d)”;
(B) by striking “(a)(2)(A)” each place it appears and inserting “(a)(2)(A)”;
(5) in section 204 (8 U.S.C. 1154)—
(A) in subsection (a)(1)(B)—
(i) in clause (i)—
(I) by striking “if such a child is” and inserting “if such child is”;
(II) in subclause (II)(cc), by striking “section 203(a)(2)(A)” and inserting “section 203(a)(2)”;
(ii) in clause (ii)—
(I) in subclause (I), by striking “(3), (4), and” and inserting “(3), (5)”;
(II) in subclause (II), by striking “(a)(2)(A)” and inserting “(a)(2)”;
(iii) by striking “(a)(2)” and inserting “(a)(2)(A)”;
SEC. 4004. CREATION OF NONMIGRANT CLASSIFICATION FOR ALIEN PARENTS OF CUTLY UNITED STATES CITIZEN
(a) In General.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—
(1) in subparagraph (T)(i)(III), by striking the period at the end and inserting a semicolon;
(2) in subparagraph (U)(i), by striking “or” at the end;
(3) in subparagraph (V)(i)(II), by striking the period at the end and inserting “; or”;
(4) by adding at the end the following:
“(W) Subject to section 214(a), an alien who is a parent of a citizen of the United States, if the citizen is at least 21 years of age.”;
(b) Conditions on Admission.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1116) is amended by adding at the end the following:
“(O) 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 or noncitizen of the nonimmigrant is still residing in the United States.
(2) A nonimmigrant described in section 101(a)(15)(W) is not authorized to be employed in the United States; and
(B) the number equal to 33 percent of the remaining visas shall be available for aliens who are members of the professions holding advanced degrees and aliens of exceptional ability under section 203(b)(2) of such Act; and
(C) the number equal to 33 percent of the remaining visas shall be available for aliens who are skilled workers, professionals, or other workers under section 203(b)(3) of such Act.
(c) Transition Rules for Employment-Based Immigrants.—
(1) In General.—Subject to paragraphs (2) through (4), and notwithstanding section II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:
(A) For fiscal year 2018, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2011 under such paragraphs.
(B) For fiscal year 2019, 10 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2012 under such paragraphs.
(C) For fiscal year 2020, 10 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2013 under such paragraphs.
(B) cases of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are nationals of any single foreign state.
(3) Special Rule to Prevent Unused Visas.—If, with respect to fiscal year 2018, 2019, or 2020, the application of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).
(d) in paragraph (2), by striking “2009(b) of such Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.
SEC. 4007. 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 redesigning subsections (d) through (g) as subsections (c), (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)”; and 
(4) In subsection (d), as redesignated—
(A) by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”; and
(B) by redesignating paragraph (3) as paragraph (2); and
(5) In subsection (e), as redesignated, by striking “subsection (a), (b), or (c)” of this section and inserting “subsection (a) or (b)”; and
(6) In subsection (f), as redesignated, by striking “subsection (a), (b), or (c)” of this section and inserting “subsection (a) or (b)”; and
(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(c)”; 
(2) in section 201 (8 U.S.C. 1115)—
(A) as redesignated for fiscal years 1991 through 1995, by striking “subsection (f)” and inserting “subsection (e)”; and
(B) as redesignated for fiscal years 1996 through 2001, by striking “subsection (f)” and inserting “subsection (e)”; and
(3) in section 203(b)(2)(C)(ix) (8 U.S.C. 1153(b)(2)(C)(ix)), by striking “subsection (c)”; 
(4) in section 202 (8 U.S.C. 1114)—
(A) in subsection (a)(1)—
(i) by striking paragraph (3); and
(ii) by redesigning subparagraphs (B) through (L) as subparagraphs (I) through (K), respectively; and
(B) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and inserting “subsection (a) or (b) of section 203”; and
(C) in subsection (l)(2),—
(i) by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”; and
(ii) by redesigning subsection (b) as subsection (a); and
(5) in section 214(g)(1)(B)(i) (8 U.S.C. 1154(g)(1)(B)(i)), by striking “subsection 203(d)” and inserting “subsection 203(c)”; and 
(6) in section 230(b)(3) (8 U.S.C. 1163a(b)(3)), in the undesignated matter following subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”; and
(7) in section 234(d)(1)(B) (8 U.S.C. 1255(d)(1)(B)), by striking “section 203(d)” and inserting “section 203(c)”; and
(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.

SEC. 4008. REALLOCATION OF VISAS; GRANDFATHERED PETITIONS. 

(a) Grandfathered Petitions and Visas.—Notwithstanding the elimination under section 4007 of the diversity visa program described in sections 201(e) and 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), any alien lawfully admitted for permanent residence, or the spouse, son, or daughter of such alien, who holds a petition from the Secretary of Homeland Security for a diversity visa, or who holds a petition from the Secretary of Homeland Security for a diversity visa which need not constitute a majority interest in a United States business entity, may file an application to become an alien lawfully admitted for permanent residence; provided, however, that the petition may not be filed after the date of the enactment of this Act.

(b) Reallocation of Diversity Visas.—

(1) 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:

(A) 20,000 visas shall be made available to aliens who—
(i) have earned a Ph.D. degree from a United States institution of higher education (as defined in section 101(a)(1064)(A) of the Higher Education Act (20 U.S.C. 1001(a))) in a field of science, technology, engineering, or mathematics; and
(ii) have an offer of employment from a United States employer in a field related to such degree.

(B) 20,000 visas shall be made available to aliens who qualify as an Entrepreneur Immigrant Visa.

(C) 10,000 visas shall be made available to aliens under section 203(b)(6) of the Immigration and Nationality Act, as added by paragraph (2)(B).

(b) Technological 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(c)”; and

(2) in section 201 (8 U.S.C. 1115)—

(A) as redesignated for fiscal years 1991 through 1995, by striking “subsection (f)” and inserting “subsection (e)”; and

(B) as redesignated for fiscal years 1996 through 2001, by striking “subsection (f)” and inserting “subsection (e)”; and

(3) in section 203(b)(2)(C)(ix) (8 U.S.C. 1153(b)(2)(C)(ix)), by striking “subsection (c)”; and

(4) in section 202 (8 U.S.C. 1114)—

(A) in subsection (a)(1)—

(i) by striking paragraph (3); and

(ii) by redesigning subparagraphs (B) through (L) as subparagraphs (I) through (K), respectively; and

(B) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and inserting “subsection (a) or (b) of section 203”; and

(5) in section 214(g)(1)(B)(i) (8 U.S.C. 1154(g)(1)(B)(i)), by striking “subsection 203(d)” and inserting “subsection 203(c)”; and

(6) in section 230(b)(3) (8 U.S.C. 1163a(b)(3)), in the undesignated matter following subparagraph (C), by striking “subsection 203(d)” and inserting “subsection 203(c)”; and

(7) in section 234(d)(1)(B) (8 U.S.C. 1255(d)(1)(B)), by striking “subsection 203(d)” and inserting “subsection 203(c)”; and

(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.
“(VII) satisfies such other criteria as the Secretary may establish.

“(viii) QUALIFIED VENTURE CAPITALIST.—The term ‘qualified venture capitalist’ means an entity that—

“(I)(aa) is a venture capital operating company (as defined in section 2510.3-101(d) of title 29, Code of Federal Regulations or any successor regulation); or

“(bb) has management rights, as defined in, and to the extent required by, such section 2510.3-101(d) or successor regulation, in its portfolio companies;

“(II) has capital commitments of not less than $10,000,000; and

“(III) has an investment adviser that—

“(aa) is registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or

“(bb) has its primary office location in the United States;

“(cc) is directly or indirectly owned by individuals, the majority of whom are citizens of the United States or aliens lawfully admitted for permanent residence in the United States;

“(dd) has been advising such entity or other similar funds or entities for at least 2 years; and

“(ee) has advised such entity or a similar fund or entity with respect to at least 2 investments not less than $500,000 made by such entity or similar fund or entity during each of the most recent 2 years.

“(ix) except as otherwise specifically provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(x) SENIOR EXECUTIVE POSITION.—The term ‘senior executive position’ includes the position of chief executive officer, chief technology officer, and chief operating officer.

“(xi) UNITED STATES BUSINESS ENTITY.—The term ‘United States business entity’ means any corporation, company, association, firm, partnership, society, or joint stock company that is organized under the laws of the United States or any State and that conducts business in the United States that is not—

“(I) a private fund (as defined in section 2(2a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2));

“(II) a commodity pool (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1 et seq.));

“(III) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-2)); or

“(IV) an issuer that would be an investment company without an exemption provided in—

“(aa) section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)); or

“(bb) section 270.3a-7 of title 17, Code of Federal Regulations, or any similar successor regulation.

“(B) IN GENERAL.—Not more than 10,000 visas shall be available during each fiscal year for qualified immigrants seeking to enter the United States for the purpose of creating new businesses, as described in this paragraph.

“(C) ELIGIBILITY.—An alien who is a qualified entrepreneur is eligible for a visa under this paragraph if—

“(i)(I) the alien maintained valid nonimmigrant status in the United States for at least 3 years prior to the date on which the alien filed an application for such status;

“(II) the alien has a significant ownership interest in a United States business entity; or

“(III) during the 3-year period ending on the date on which the alien files an initial petition for such status under this section (I)(i) the alien has a significant ownership interest in a United States business entity that has created not fewer than 3 qualified jobs; and

“(BB) a qualified venture capitalist, a qualified angel investor, a qualified government entity, a qualified community development financial institution, qualified startup accelerator, or such other entity or type of investors, as determined by the Secretary, or any combination of qualified investments of not less than $500,000 in annual revenue within the United States; or

“(BB)(AA) the alien has a significant ownership interest in a United States business entity that has created not fewer than 3 qualified jobs; and

“(C) ELIGIBILITY.—An alien who is a qualified entrepreneur is eligible for a visa under this paragraph if—

“(i) the availability of visas under paragraph (1);

“(ii) the manner in which the visas shall be allocated.

“AUTHORITY FOR COMMITTEES TO MEET

Mr. CORNYN. Mr. President, I have 11 requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 9:30 a.m., to conduct a hearing on the following nominations: Joseph Simons, of Virginia, Christine S. Wilson, of Virginia, Noah Joshua Phillips, of Maryland, and Rohit Chopra, of New York, each to be a Federal Trade Commissioner.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 10:30 a.m., to conduct a hearing entitled “The President’s Fiscal Year 2019 Budget.”

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing on the President’s budget and the following nominations: Dennis Shea, of Virginia, to be a Deputy United States Trade Representative (Geneva Office), with the rank of Ambassador, and C. J. Mahoney, of Kansas, to be a Deputy United States Trade Representative (Hemispheric, Environmental, Africa, China, and the Western Hemisphere), with the rank of Ambassador.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing entitled “The President’s Fiscal Year 2019 Budget.”

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 10 a.m., to conduct a business meeting and hearing on the following nominations: Jeff T.H. Pon to be Director, Office of Personnel Management, and Michael Rigas, to be Deputy Director, Office of Personnel and Management.

COMMITTEE ON INDIAN AFFAIRS

The Committee on Indian Affairs is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing entitled “Making Indian Country Count: Native Americans and the 2020 Census.”