

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.**

**H.R. 815**

To amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mrs. MURRAY (for herself and Mr.  
SCHUMER)

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency National  
5 Security Supplemental Appropriations Act, 2024”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short Title.  
Sec. 2. Table of Contents.  
Sec. 3. References.

DIVISION A—NATIONAL SECURITY SUPPLEMENTAL  
APPROPRIATIONS ACT, 2024

DIVISION B—BORDER SECURITY AND COMBATTING FENTANYL  
SUPPLEMENTAL APPROPRIATIONS ACT, 2024

DIVISION C—BORDER ACT

1 **SEC. 3. REFERENCES.**

2       Except as expressly provided otherwise, any reference  
3 to “this Act” contained in any division of this Act shall  
4 be treated as referring only to the provisions of that divi-  
5 sion.

1 **DIVISION A—NATIONAL SECURITY SUP-**  
2 **PLEMENTAL APPROPRIATIONS ACT,**  
3 **2024**

4 The following sums are appropriated, out of any  
5 money in the Treasury not otherwise appropriated, for the  
6 fiscal year ending September 30, 2024, and for other pur-  
7 poses, namely:

8 TITLE I

9 DEPARTMENT OF DEFENSE

10 MILITARY PERSONNEL

11 MILITARY PERSONNEL, ARMY

12 For an additional amount for “Military Personnel,  
13 Army”, \$207,158,000, to remain available until December  
14 31, 2024, to respond to the situation in Ukraine and for  
15 related expenses: *Provided*, That such amount is des-  
16 ignated by the Congress as being for an emergency re-  
17 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
18 anced Budget and Emergency Deficit Control Act of 1985.

19 MILITARY PERSONNEL, MARINE CORPS

20 For an additional amount for “Military Personnel,  
21 Marine Corps”, \$3,538,000, to remain available until De-  
22 cember 31, 2024, to respond to the situation in Ukraine  
23 and for related expenses: *Provided*, That such amount is  
24 designated by the Congress as being for an emergency re-

1 requirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3                   MILITARY PERSONNEL, AIR FORCE

4           For an additional amount for “Military Personnel,  
5 Air Force”, \$23,302,000, to remain available until Decem-  
6 ber 31, 2024, to respond to the situation in Ukraine and  
7 for related expenses: *Provided*, That such amount is des-  
8 ignated by the Congress as being for an emergency re-  
9 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
10 anced Budget and Emergency Deficit Control Act of 1985.

11                   MILITARY PERSONNEL, SPACE FORCE

12           For an additional amount for “Military Personnel,  
13 Space Force”, \$4,192,000, to remain available until De-  
14 cember 31, 2024, to respond to the situation in Ukraine  
15 and for related expenses: *Provided*, That such amount is  
16 designated by the Congress as being for an emergency re-  
17 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
18 anced Budget and Emergency Deficit Control Act of 1985.

19                   OPERATION AND MAINTENANCE

20                   OPERATION AND MAINTENANCE, ARMY

21           For an additional amount for “Operation and Main-  
22 tenance, Army”, \$4,887,581,000, to remain available until  
23 December 31, 2024, to respond to the situation in Ukraine  
24 and for related expenses: *Provided*, That such amount is  
25 designated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3 OPERATION AND MAINTENANCE, NAVY

4 For an additional amount for “Operation and Main-  
5 tenance, Navy”, \$1,534,163,000, to remain available until  
6 December 31, 2024, to respond to the situation in  
7 Ukraine, to support improvements to the submarine indus-  
8 trial base, and for related expenses: *Provided*, That of the  
9 total amount provided under this heading in this Act,  
10 \$976,405,000 shall be to respond to the situation in  
11 Ukraine and for related expenses: *Provided further*, That  
12 of the total amount provided under this heading in this  
13 Act, \$557,758,000, to remain available until September  
14 30, 2024, shall be to support improvements to the sub-  
15 marine industrial base and for related expenses: *Provided*  
16 *further*, That such amount is designated by the Congress  
17 as being for an emergency requirement pursuant to sec-  
18 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
19 gency Deficit Control Act of 1985.

20 OPERATION AND MAINTENANCE, MARINE CORPS

21 For an additional amount for “Operation and Main-  
22 tenance, Marine Corps”, \$69,045,000, to remain available  
23 until December 31, 2024, to respond to the situation in  
24 Ukraine and for related expenses: *Provided*, That such  
25 amount is designated by the Congress as being for an

1 emergency requirement pursuant to section  
2 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
3 Deficit Control Act of 1985.

4 OPERATION AND MAINTENANCE, AIR FORCE

5 For an additional amount for “Operation and Main-  
6 tenance, Air Force”, \$846,869,000, to remain available  
7 until December 31, 2024, to respond to the situation in  
8 Ukraine and for related expenses: *Provided*, That such  
9 amount is designated by the Congress as being for an  
10 emergency requirement pursuant to section  
11 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
12 Deficit Control Act of 1985.

13 OPERATION AND MAINTENANCE, SPACE FORCE

14 For an additional amount for “Operation and Main-  
15 tenance, Space Force”, \$8,443,000, to remain available  
16 until December 31, 2024, to respond to the situation in  
17 Ukraine and for related expenses: *Provided*, That such  
18 amount is designated by the Congress as being for an  
19 emergency requirement pursuant to section  
20 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
21 Deficit Control Act of 1985.

22 OPERATION AND MAINTENANCE, DEFENSE-WIDE

23 (INCLUDING TRANSFERS OF FUNDS)

24 For an additional amount for “Operation and Main-  
25 tenance, Defense-Wide”, \$34,230,780,000, to remain

1 available until December 31, 2024, to respond to the situ-  
2 ations in Israel, Ukraine, and Taiwan and for related ex-  
3 penses: *Provided*, That of the total amount provided under  
4 this heading in this Act, \$13,772,460,000, to remain  
5 available until September 30, 2025, shall be for the  
6 Ukraine Security Assistance Initiative: *Provided further*,  
7 That such funds for the Ukraine Security Assistance Ini-  
8 tiative shall be available to the Secretary of Defense under  
9 the same terms and conditions as are provided for under  
10 this heading in the Additional Ukraine Supplemental Ap-  
11 propriations Act, 2023 (division M of Public Law 117–  
12 328), and shall be available notwithstanding section 8135  
13 of the Department of Defense Appropriations Act, 2023  
14 (division C of Public Law 117–328) or any similar provi-  
15 sion in any other Act making appropriations for the De-  
16 partment of Defense: *Provided further*, That of the total  
17 amount provided under this heading in this Act, up to  
18 \$4,400,000,000, to remain available until September 30,  
19 2025, may be transferred to accounts under the headings  
20 “Operation and Maintenance”, “Procurement”, and “Re-  
21 volving and Management Funds” for replacement,  
22 through new procurement or repair of existing unservice-  
23 able equipment, of defense articles from the stocks of the  
24 Department of Defense, and for reimbursement for de-  
25 fense services of the Department of Defense and military

1 education and training, provided to or identified for provi-  
2 sion to the Government of Israel or to foreign countries  
3 that have provided support to Israel at the request of the  
4 United States: *Provided further*, That up to  
5 \$13,414,432,000, to remain available until September 30,  
6 2025, may be transferred to accounts under the headings  
7 “Operation and Maintenance”, “Procurement”, and “Re-  
8 volving and Management Funds” for replacement,  
9 through new procurement or repair of existing unservice-  
10 able equipment, of defense articles from the stocks of the  
11 Department of Defense, and for reimbursement for de-  
12 fense services of the Department of Defense and military  
13 education and training, provided to or identified for provi-  
14 sion to the Government of Ukraine or to foreign countries  
15 that have provided support to Ukraine at the request of  
16 the United States: *Provided further*, That up to  
17 \$1,900,000,000, to remain available until September 30,  
18 2025, may be transferred to accounts under the headings  
19 “Operation and Maintenance”, “Procurement”, and “Re-  
20 volving and Management Funds” for replacement,  
21 through new procurement or repair of existing unservice-  
22 able equipment, of defense articles from the stocks of the  
23 Department of Defense, and for reimbursement for de-  
24 fense services of the Department of Defense and military  
25 education and training, provided to or identified for provi-



1 sion to the Government of Taiwan or to foreign countries  
2 that have provided support to Taiwan at the request of  
3 the United States: *Provided further*, That funds trans-  
4 ferred pursuant to the preceding three provisos shall be  
5 merged with and available for the same purposes and for  
6 the same time period as the appropriations to which the  
7 funds are transferred: *Provided further*, That the Sec-  
8 retary of Defense shall notify the congressional defense  
9 committees of the details of such transfers not less than  
10 15 days before any such transfer: *Provided further*, That  
11 upon a determination that all or part of the funds trans-  
12 ferred from this appropriation are not necessary for the  
13 purposes provided herein, such amounts may be trans-  
14 ferred back and merged with this appropriation: *Provided*  
15 *further*, That any transfer authority provided herein is in  
16 addition to any other transfer authority provided by law:  
17 *Provided further*, That such amount is designated by the  
18 Congress as being for an emergency requirement pursuant  
19 to section 251(b)(2)(A)(i) of the Balanced Budget and  
20 Emergency Deficit Control Act of 1985.

## 21 PROCUREMENT

### 22 MISSILE PROCUREMENT, ARMY

23 For an additional amount for “Missile Procurement,  
24 Army”, \$2,742,757,000, to remain available until Sep-  
25 tember 30, 2026, to respond to the situation in Ukraine

1 and for related expenses: *Provided*, That such amount is  
2 designated by the Congress as being for an emergency re-  
3 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
4 anced Budget and Emergency Deficit Control Act of 1985.

5           PROCUREMENT OF AMMUNITION, ARMY

6           For an additional amount for “Procurement of Am-  
7 muniton, Army”, \$6,414,300,000, to remain available  
8 until September 30, 2026, to respond to the situations in  
9 Israel and Ukraine and for related expenses: *Provided*,  
10 That of the total amount provided under this heading in  
11 this Act, \$801,400,000 shall be to respond to the situation  
12 in Israel and for related expenses: *Provided further*, That  
13 of the total amount provided under this heading in this  
14 Act, \$5,612,900,000 shall be to respond to the situation  
15 in Ukraine and for related expenses: *Provided further*,  
16 That such amount is designated by the Congress as being  
17 for an emergency requirement pursuant to section  
18 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
19 Deficit Control Act of 1985.

20           OTHER PROCUREMENT, ARMY

21           For an additional amount for “Other Procurement,  
22 Army”, \$308,991,000, to remain available until Sep-  
23 tember 30, 2026, to respond to the situation in Ukraine  
24 and for related expenses: *Provided*, That such amount is  
25 designated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3 WEAPONS PROCUREMENT, NAVY

4 For an additional amount for “Weapons Procure-  
5 ment, Navy”, \$706,976,000, to remain available until  
6 September 30, 2026, to respond to the situation in  
7 Ukraine and for related expenses: *Provided*, That such  
8 amount is designated by the Congress as being for an  
9 emergency requirement pursuant to section  
10 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
11 Deficit Control Act of 1985.

12 SHIPBUILDING AND CONVERSION, NAVY

13 For an additional amount for “Shipbuilding and Con-  
14 version, Navy”, \$2,155,000,000, to remain available until  
15 September 30, 2028, to support improvements to the sub-  
16 marine industrial base and for related expenses: *Provided*,  
17 That of the total amount provided under this heading in  
18 this Act, funds shall be available as follows:

19 Columbia Class Submarine (AP),  
20 \$1,955,000,000; and

21 Virginia Class Submarine (AP), \$200,000,000:  
22 *Provided further*, That such amount is designated by the  
23 Congress as being for an emergency requirement pursuant  
24 to section 251(b)(2)(A)(i) of the Balanced Budget and  
25 Emergency Deficit Control Act of 1985.

## 1 OTHER PROCUREMENT, NAVY

2 For an additional amount for “Other Procurement,  
3 Navy”, \$319,570,000, to remain available until September  
4 30, 2026, to respond to the situation in Ukraine, to sup-  
5 port improvements to the submarine industrial base, and  
6 for related expenses: *Provided*, That of the total amount  
7 provided under this heading in this Act, \$26,000,000 shall  
8 be to respond to the situation in Ukraine and for related  
9 expenses: *Provided further*, That of the total amount pro-  
10 vided under this heading in this Act, \$293,570,000 shall  
11 be to support improvements to the submarine industrial  
12 base and for related expenses: *Provided further*, That such  
13 amount is designated by the Congress as being for an  
14 emergency requirement pursuant to section  
15 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
16 Deficit Control Act of 1985.

## 17 PROCUREMENT, MARINE CORPS

18 For an additional amount for “Procurement, Marine  
19 Corps”, \$212,443,000, to remain available until Sep-  
20 tember 30, 2026, to respond to the situation in Ukraine  
21 and for related expenses: *Provided*, That such amount is  
22 designated by the Congress as being for an emergency re-  
23 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
24 anced Budget and Emergency Deficit Control Act of 1985.

## 1 MISSILE PROCUREMENT, AIR FORCE

2 For an additional amount for “Missile Procurement,  
3 Air Force”, \$366,001,000, to remain available until Sep-  
4 tember 30, 2026, to respond to the situation in Ukraine  
5 and for related expenses: *Provided*, That such amount is  
6 designated by the Congress as being for an emergency re-  
7 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
8 anced Budget and Emergency Deficit Control Act of 1985.

## 9 OTHER PROCUREMENT, AIR FORCE

10 For an additional amount for “Other Procurement,  
11 Air Force”, \$2,808,678,000, to remain available until  
12 September 30, 2026, to respond to the situation in  
13 Ukraine and for other expenses: *Provided*, That such  
14 amount is designated by the Congress as being for an  
15 emergency requirement pursuant to section  
16 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
17 Deficit Control Act of 1985.

## 18 PROCUREMENT, DEFENSE-WIDE

19 For an additional amount for “Procurement, De-  
20 fense-Wide”, \$5,246,780,000, to remain available until  
21 September 30, 2026, to respond to the situations in Israel  
22 and Ukraine and for related expenses: *Provided*, That of  
23 the total amount provided under this heading in this Act,  
24 \$4,000,000,000 shall be for the Secretary of Defense to  
25 provide to the Government of Israel for the procurement

1 of the Iron Dome and David’s Sling defense systems to  
2 counter short-range rocket threats: *Provided further*, That  
3 of the total amount provided under this heading in this  
4 Act, \$1,200,000,000 shall be for the Secretary of Defense  
5 to provide to the Government of Israel for the procure-  
6 ment of the Iron Beam defense system to counter short-  
7 range rocket threats: *Provided further*, That funds in the  
8 preceding provisos shall be transferred pursuant to an ex-  
9 change of letters and are in addition to funds provided  
10 pursuant to the U.S.-Israel Iron Dome Procurement  
11 Agreement, as amended: *Provided further*, That nothing  
12 under this heading in this Act shall be construed to apply  
13 to amounts made available in prior appropriations Acts  
14 for the procurement of the Iron Dome and David’s Sling  
15 defense systems or for the procurement of the Iron Beam  
16 defense system: *Provided further*, That of the total amount  
17 provided under this heading in this Act, \$46,780,000 shall  
18 be to respond to the situation in Ukraine and for related  
19 expenses: *Provided further*, That such amount is des-  
20 ignated by the Congress as being for an emergency re-  
21 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
22 anced Budget and Emergency Deficit Control Act of 1985.

23 DEFENSE PRODUCTION ACT PURCHASES

24 For an additional amount for “Defense Production  
25 Act Purchases”, \$331,200,000, to remain available until

1 expended, for activities by the Department of Defense pur-  
2 suant to sections 108, 301, 302, and 303 of the Defense  
3 Production Act of 1950 (50 U.S.C. 4518, 4531, 4532, and  
4 4533): *Provided*, That such amounts shall be obligated  
5 and expended by the Secretary of Defense as if delegated  
6 the necessary authorities conferred by the Defense Pro-  
7 duction Act of 1950: *Provided further*, That such amount  
8 is designated by the Congress as being for an emergency  
9 requirement pursuant to section 251(b)(2)(A)(i) of the  
10 Balanced Budget and Emergency Deficit Control Act of  
11 1985.

12 RESEARCH, DEVELOPMENT, TEST AND  
13 EVALUATION  
14 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,  
15 ARMY

16 For an additional amount for “Research, Develop-  
17 ment, Test and Evaluation, Army”, \$18,594,000, to re-  
18 main available until September 30, 2025, to respond to  
19 the situation in Ukraine and for related expenses: *Pro-*  
20 *vided*, That such amount is designated by the Congress  
21 as being for an emergency requirement pursuant to sec-  
22 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
23 gency Deficit Control Act of 1985.

1 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,  
2 NAVY

3 For an additional amount for “Research, Develop-  
4 ment, Test and Evaluation, Navy”, \$20,825,000, to re-  
5 main available until September 30, 2025, to respond to  
6 the situation in Ukraine, to support improvements to the  
7 submarine industrial base, and for related expenses: *Pro-*  
8 *vided*, That of the total amount provided under this head-  
9 ing in this Act, \$13,825,000 shall be to respond to the  
10 situation in Ukraine and for related expenses: *Provided*  
11 *further*, That of the total amount provided under this  
12 heading in this Act, \$7,000,000 shall be to support im-  
13 provements to the submarine industrial base and for re-  
14 lated expenses: *Provided further*, That such amount is des-  
15 igned by the Congress as being for an emergency re-  
16 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
17 anced Budget and Emergency Deficit Control Act of 1985.

18 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,  
19 AIR FORCE

20 For an additional amount for “Research, Develop-  
21 ment, Test and Evaluation, Air Force”, \$406,834,000, to  
22 remain available until September 30, 2025, to respond to  
23 the situation in Ukraine and for related expenses: *Pro-*  
24 *vided*, That such amount is designated by the Congress  
25 as being for an emergency requirement pursuant to sec-



1 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
2 gency Deficit Control Act of 1985.

3 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,  
4 DEFENSE-WIDE

5 For an additional amount for “Research, Develop-  
6 ment, Test and Evaluation, Defense-Wide”,  
7 \$194,125,000, to remain available until September 30,  
8 2025, to respond to the situation in Ukraine and for re-  
9 lated expenses: *Provided*, That such amount is designated  
10 by the Congress as being for an emergency requirement  
11 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
12 et and Emergency Deficit Control Act of 1985.

13 OTHER DEPARTMENT OF DEFENSE PROGRAMS  
14 OFFICE OF THE INSPECTOR GENERAL

15 For an additional amount for “Office of the Inspector  
16 General”, \$8,000,000, to remain available until December  
17 31, 2024, which shall be for operation and maintenance  
18 of the Office of the Inspector General, including the Spe-  
19 cial Inspector General for Operation Atlantic Resolve, to  
20 carry out reviews of the activities of the Department of  
21 Defense to execute funds appropriated in this Act, includ-  
22 ing assistance provided to Ukraine: *Provided*, That the In-  
23 spector General of the Department of Defense shall pro-  
24 vide to the congressional defense committees a briefing not  
25 later than 90 days after the date of enactment of this Act:

1 *Provided further*, That such amount is designated by the  
2 Congress as being for an emergency requirement pursuant  
3 to section 251(b)(2)(A)(i) of the Balanced Budget and  
4 Emergency Deficit Control Act of 1985.

5 RELATED AGENCIES

6 INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

7 For an additional amount for “Intelligence Commu-  
8 nity Management Account”, \$2,000,000, to remain avail-  
9 able until September 30, 2024, to respond to the situation  
10 in Ukraine and for related expenses: *Provided*, That such  
11 amount is designated by the Congress as being for an  
12 emergency requirement pursuant to section  
13 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
14 Deficit Control Act of 1985.

15 GENERAL PROVISIONS—THIS TITLE

16 (INCLUDING TRANSFERS OF FUNDS)

17 SEC. 101. (a) Upon the determination of the Sec-  
18 retary of Defense that such action is necessary in the na-  
19 tional interest, the Secretary may, with the approval of  
20 the Director of the Office of Management and Budget,  
21 transfer up to \$1,000,000,000 only between the appro-  
22 priations or funds made available in this title to the De-  
23 partment of Defense to respond to the situation in  
24 Ukraine and for related expenses: *Provided*, That the Sec-  
25 retary shall notify the Congress promptly of each transfer

1 made pursuant to the authority in this subsection: *Pro-*  
2 *vided further*, That such authority is in addition to any  
3 transfer authority otherwise provided by law and is subject  
4 to the same terms and conditions as the authority pro-  
5 vided in section 8005 of the Department of Defense Ap-  
6 propriations Act, 2023, or any similar provision in any  
7 subsequent Act making appropriations for the Department  
8 of Defense for Fiscal Year 2024, except for monetary limi-  
9 tations concerning the amount of authority available.

10 (b) Upon the determination by the Director of Na-  
11 tional Intelligence that such action is necessary in the na-  
12 tional interest, the Director may, with the approval of the  
13 Director of the Office of Management and Budget, trans-  
14 fer up to \$250,000,000 only between the appropriations  
15 or funds made available in this title for the National Intel-  
16 ligence Program: *Provided*, That the Director of National  
17 Intelligence shall notify the Congress promptly of all  
18 transfers made pursuant to the authority in this sub-  
19 section: *Provided further*, That such authority is in addi-  
20 tion to any transfer authority otherwise provided by law  
21 and is subject to the same terms and conditions as the  
22 authority provided in section 8093 of the Department of  
23 Defense Appropriations Act, 2023, or any similar provi-  
24 sion in any subsequent Act making appropriations for the  
25 Department of Defense for Fiscal Year 2024, except for

1 monetary limitations concerning the amount of authority  
2 available.

3       SEC. 102. Not later than 60 days after the date of  
4 enactment of this Act, the Secretary of Defense, in coordi-  
5 nation with the Secretary of State, shall submit a report  
6 to the Committees on Appropriations, Armed Services,  
7 and Foreign Affairs of the House of Representatives and  
8 the Committees on Appropriations, Armed Services, and  
9 Foreign Relations of the Senate on measures being taken  
10 to account for United States defense articles designated  
11 for Ukraine since the February 24, 2022, Russian inva-  
12 sion of Ukraine, particularly measures with regard to such  
13 articles that require enhanced end-use monitoring; meas-  
14 ures to ensure that such articles reach their intended re-  
15 cipients and are used for their intended purposes; and any  
16 other measures to promote accountability for the use of  
17 such articles: *Provided*, That such report shall include a  
18 description of any occurrences of articles not reaching  
19 their intended recipients or used for their intended pur-  
20 poses and a description of any remedies taken: *Provided*  
21 *further*, That such report shall be submitted in unclassified  
22 form, but may be accompanied by a classified annex.

23       SEC. 103. Not later than 30 days after the date of  
24 enactment of this Act, and every 30 days thereafter  
25 through fiscal year 2025, the Secretary of Defense, in co-

1 ordination with the Secretary of State, shall provide a  
2 written report to the Committees on Appropriations,  
3 Armed Services, and Foreign Affairs of the House of Rep-  
4 resentatives and the Committees on Appropriations,  
5 Armed Services, and Foreign Relations of the Senate de-  
6 scribing United States security assistance provided to  
7 Ukraine since the February 24, 2022, Russian invasion  
8 of Ukraine, including a comprehensive list of the defense  
9 articles and services provided to Ukraine and the associ-  
10 ated authority and funding used to provide such articles  
11 and services: *Provided*, That such report shall be sub-  
12 mitted in unclassified form, but may be accompanied by  
13 a classified annex.

14 SEC. 104. For an additional amount for the Depart-  
15 ment of Defense, \$2,440,000,000, to remain available  
16 until September 30, 2024, for transfer to military per-  
17 sonnel accounts, operation and maintenance accounts,  
18 procurement accounts, research, development, test and  
19 evaluation accounts, and the Defense Working Capital  
20 Funds, in addition to amounts otherwise made available  
21 for such purpose, only for U.S. operations, force protec-  
22 tion, deterrence, and the replacement of combat expendi-  
23 tures in the United States Central Command region: *Pro-*  
24 *vided*, That none of the funds provided under this section  
25 may be obligated or expended until 30 days after the Sec-

1   retary of Defense provides to the congressional defense  
2   committees an execution plan: *Provided further*, That not  
3   less than 15 days prior to any transfer of funds, the Sec-  
4   retary of Defense shall notify the congressional defense  
5   committees of the details of any such transfer: *Provided*  
6   *further*, That upon transfer, the funds shall be merged  
7   with and available for the same purposes, and for the same  
8   time period, as the appropriation to which transferred:  
9   *Provided further*, That any transfer authority provided  
10  herein is in addition to any other transfer authority pro-  
11  vided by law: *Provided further*, That such amount is des-  
12  ignated by the Congress as being for an emergency re-  
13  quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
14  anced Budget and Emergency Deficit Control Act of 1985.

15       SEC. 105. For an additional amount for the Depart-  
16  ment of Defense, \$542,400,000, to remain available until  
17  September 30, 2024, for transfer to operation and mainte-  
18  nance accounts, procurement accounts, and research, de-  
19  velopment, test and evaluation accounts, in addition to  
20  amounts otherwise made available for such purpose, only  
21  for unfunded priorities of the United States Indo-Pacific  
22  Command for fiscal year 2024 (as submitted to Congress  
23  pursuant to section 1105 of title 31, United States Code):  
24  *Provided*, That none of the funds provided under this sec-  
25  tion may be obligated or expended until 30 days after the

1 Secretary of Defense, through the Under Secretary of De-  
2 fense (Comptroller), provides the Committees on Appro-  
3 priations of the House of Representatives and the Senate  
4 a detailed execution plan for such funds: *Provided further,*  
5 That not less than 15 days prior to any transfer of funds,  
6 the Secretary of Defense shall notify the congressional de-  
7 fense committees of the details of any such transfer: *Pro-*  
8 *vided further,* That upon transfer, the funds shall be  
9 merged with and available for the same purposes, and for  
10 the same time period, as the appropriation to which trans-  
11 ferred: *Provided further,* That any transfer authority pro-  
12 vided herein is in addition to any other transfer authority  
13 provided by law: *Provided further,* That such amount is  
14 designated by the Congress as being for an emergency re-  
15 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
16 anced Budget and Emergency Deficit Control Act of 1985.

24

1 TITLE II  
2 DEPARTMENT OF ENERGY  
3 ENERGY PROGRAMS  
4 SCIENCE

5 For an additional amount for “Science”,  
6 \$98,000,000, to remain available until expended, for ac-  
7 quisition, distribution, and equipment for development and  
8 production of medical, stable, and radioactive isotopes:  
9 *Provided*, That such amount is designated by the Congress  
10 as being for an emergency requirement pursuant to sec-  
11 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
12 gency Deficit Control Act of 1985.

13 ATOMIC ENERGY DEFENSE ACTIVITIES  
14 NATIONAL NUCLEAR SECURITY  
15 ADMINISTRATION  
16 DEFENSE NUCLEAR NONPROLIFERATION

17 For an additional amount for “Defense Nuclear Non-  
18 proliferation”, \$143,915,000, to remain available until  
19 September 30, 2025, to respond to the situation in  
20 Ukraine and for related expenses: *Provided*, That such  
21 amount is designated by the Congress as being for an  
22 emergency requirement pursuant to section  
23 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
24 Deficit Control Act of 1985.



## 1 FEDERAL SALARIES AND EXPENSES

2 For an additional amount for “Federal Salaries and  
3 Expenses”, \$5,540,000, to remain available until Sep-  
4 tember 30, 2025, to respond to the situation in Ukraine  
5 and for related expenses: *Provided*, That such amount is  
6 designated by the Congress as being for an emergency re-  
7 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
8 anced Budget and Emergency Deficit Control Act of 1985.

## 9 GENERAL PROVISION—THIS TITLE

10 (INCLUDING TRANSFER OF FUNDS)

11 SEC. 201. (a) Of the unobligated balances from  
12 amounts previously appropriated under the heading “De-  
13 partment of Energy—Energy Programs—Nuclear En-  
14 ergy” in division J of the Infrastructure Investment and  
15 Jobs Act (Public Law 117–58) that were made available  
16 for fiscal years 2022, 2023, and 2024, up to  
17 \$2,720,000,000 shall be available, in addition to amounts  
18 otherwise available, for necessary expenses to carry out  
19 the Nuclear Fuel Security Act of 2023 (section 3131 of  
20 the National Defense Authorization Act for Fiscal Year  
21 2024 (Public Law 118–31)): *Provided*, That if insufficient  
22 unobligated balances are available from such fiscal year  
23 2022, 2023, and 2024 amounts to fund a total amount  
24 for such purpose of up to \$2,720,000,000, then up to  
25 \$800,000,000 from amounts previously appropriated

1 under the heading “Department of Energy—Energy Pro-  
2 grams—Nuclear Energy” in division J of the Infrastruc-  
3 ture Investment and Jobs Act (Public Law 117–58) that  
4 are made available for fiscal year 2025, may be made  
5 available, in addition to amounts otherwise available, for  
6 such purpose to meet such total amount: *Provided further*,  
7 That amounts repurposed pursuant to this section may  
8 be transferred to “Department of Energy—Energy Pro-  
9 grams—American Energy Independence Fund” in either  
10 fiscal year 2024 or fiscal year 2025: *Provided further*,  
11 That amounts repurposed or transferred by this section  
12 shall be subject to the same authorities and conditions as  
13 if such section were included in the Department of Energy  
14 title of the Energy and Water Development and Related  
15 Agencies Appropriations Act for fiscal year 2024: *Provided*  
16 *further*, That the Secretary of Energy may use the  
17 amounts repurposed, transferred, or otherwise made avail-  
18 able pursuant to this section to enter into and perform  
19 such contracts, leases, cooperative agreements, or other  
20 similar transactions with public agencies and private orga-  
21 nizations and persons, as authorized by section 646(a) of  
22 the Department of Energy Organization Act (42 U.S.C.  
23 7256(a)), for such periods of time and subject to such  
24 terms and conditions as the Secretary deems appropriate,  
25 without regard to section 161(u) of Atomic Energy Act

1 of 1954 (42 U.S.C. 2201(u)): *Provided further*, That not-  
2 withstanding 31 U.S.C. 3302, receipts from the sale or  
3 transfer of LEU and HALEU or from any other trans-  
4 action in connection with the amounts repurposed, trans-  
5 ferred, or otherwise made available pursuant to this sec-  
6 tion shall hereafter be credited to the “American Energy  
7 Independence Fund” as discretionary offsetting collections  
8 and shall be available, for the same purposes as funds  
9 repurposed or transferred pursuant to this section, to the  
10 extent and in the amounts provided in advance in appro-  
11 priations Acts: *Provided further*, That receipts may here-  
12 after be collected from transactions entered into pursuant  
13 to section 2001(a)(2)(F)(iii) of the Energy Act of 2020  
14 (42 U.S.C. 16281(a)(2)(F)(iii)) and, notwithstanding 31  
15 U.S.C. 3302, receipts from any transaction entered into  
16 pursuant to section 2001(a)(2)(F)(ii) and (iii) of such Act  
17 (42 U.S.C. 16281(a)(2)(F)(ii) and (iii)) shall hereafter be  
18 credited to the “American Energy Independence Fund”  
19 as discretionary offsetting collections and shall be avail-  
20 able, for the same purposes as funds repurposed or trans-  
21 ferred pursuant to this section, to the extent and in the  
22 amounts provided in advanced in appropriations Acts:  
23 *Provided further*, That the Secretary of Energy may use  
24 funds repurposed, transferred, or otherwise made available  
25 pursuant to this section for a commitment only if the full

1 extent of the anticipated costs stemming from that com-  
2 mitment is recorded as an obligation at the time that the  
3 commitment is made and only to the extent that up-front  
4 obligation is recorded in full at that time: *Provided further*,  
5 That amounts repurposed or transferred pursuant to this  
6 section that were previously designated by the Congress  
7 as an emergency requirement pursuant to a concurrent  
8 resolution on the Budget are designated as an emergency  
9 requirement pursuant to section 4001(a)(1) of S. Con.  
10 Res. 14 (117th Congress), the concurrent resolution on  
11 the budget for fiscal year 2022, and to legislation estab-  
12 lishing fiscal year 2024 budget enforcement in the House  
13 of Representatives.

14 (b) Amounts may not be repurposed or transferred  
15 pursuant to this section until a law is enacted or adminis-  
16 trative action is taken to prohibit or limit importation of  
17 LEU and HALEU from the Russian Federation or by a  
18 Russian entity into the United States.

19 (c) The Nuclear Fuel Security Act of 2023 (section  
20 3131 of the National Defense Authorization Act for Fiscal  
21 Year 2024 (Public Law 118–31)) is amended—

22 (1) in subsections (f)(1)(B)(i) and (h)(4)(B)(i)  
23 to read as follows:

24 “(i) may not make commitments  
25 under this subsection (including coopera-

1           tive agreements (used in accordance with  
2           section 6305 of title 31, United States  
3           Code), purchase agreements, guarantees,  
4           leases, service contracts, or any other type  
5           of commitment) for the purchase or other  
6           acquisition of HALEU or LEU unless  
7           funds are specifically provided for those  
8           purposes in advance in appropriations Acts  
9           enacted after the date of enactment of this  
10          Act; and”;

11           (2) in subsection (j) to read as follows:

12          “(j) REASONABLE COMPENSATION.—In carrying out  
13 activities under this section, the Secretary shall ensure  
14 that any LEU and HALEU made available by the Sec-  
15 retary under 1 or more of the Programs is subject to rea-  
16 sonable compensation, taking into account the fair market  
17 value of the LEU or HALEU and the purposes of this  
18 section.”.

1 TITLE III  
2 DEPARTMENT OF HOMELAND SECURITY  
3 PROTECTION, PREPAREDNESS, RESPONSE, AND  
4 RECOVERY  
5 FEDERAL EMERGENCY MANAGEMENT AGENCY  
6 OPERATIONS AND SUPPORT

7 For an additional amount for “Federal Emergency  
8 Management Agency—Operations and Support”,  
9 \$10,000,000, to remain available until September 30,  
10 2027, for necessary expenses related to the administration  
11 of nonprofit security grants: *Provided*, That such amount  
12 is designated by the Congress as being for an emergency  
13 requirement pursuant to section 251(b)(2)(A)(i) of the  
14 Balanced Budget and Emergency Deficit Control Act of  
15 1985.

16 FEDERAL ASSISTANCE

17 For an additional amount for “Federal Emergency  
18 Management Agency—Federal Assistance”,  
19 \$390,000,000, of which \$160,000,000 shall remain avail-  
20 able until September 30, 2024, and \$230,000,000 shall  
21 remain available until September 30, 2026, for Nonprofit  
22 Security Grant Program under section 2009 of the Home-  
23 land Security Act of 2002 (6 U.S.C. 609a) for eligible  
24 nonprofit organizations to prevent, prepare for, protect  
25 against, and respond to acts of terrorism or other threats:

1 *Provided*, That the Administrator of the Federal Emer-  
2 gency Management Agency shall make programmatic ad-  
3 justments as necessary to expedite the disbursement of,  
4 and provide flexibility in the use of, amounts made avail-  
5 able under this heading in this Act: *Provided further*, That  
6 notwithstanding any provision of 6 U.S.C. 609a, and in  
7 addition to amounts available under 6 U.S.C. 609a(c)(2),  
8 the Administrator of the Federal Emergency Management  
9 Agency may permit a State to use up to two percent of  
10 a grant awarded under this heading in this Act to provide  
11 outreach and technical assistance to eligible nonprofit or-  
12 ganizations to assist them with applying for Nonprofit Se-  
13 curity Grant Program awards under this heading in this  
14 Act: *Provided further*, That such outreach and technical  
15 assistance should prioritize rural and underserved commu-  
16 nities and nonprofit organizations that are traditionally  
17 underrepresented in the Program: *Provided further*, That  
18 such amount is designated by the Congress as being for  
19 an emergency requirement pursuant to section  
20 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
21 Deficit Control Act of 1985.

1 TITLE IV  
2 DEPARTMENT OF HEALTH AND HUMAN  
3 SERVICES  
4 ADMINISTRATION FOR CHILDREN AND FAMILIES  
5 REFUGEE AND ENTRANT ASSISTANCE

6 For an additional amount for “Refugee and Entrant  
7 Assistance”, \$2,334,000,000, to remain available until  
8 September 30, 2025, for refugee and entrant assistance  
9 activities authorized by section 414 of the Immigration  
10 and Nationality Act and section 501 of the Refugee Edu-  
11 cation Assistance Act of 1980: *Provided*, That amounts  
12 made available under this heading in this Act may be used  
13 for grants or contracts with qualified organizations, in-  
14 cluding nonprofit entities, to provide culturally and lin-  
15 guistically appropriate services, including wraparound  
16 services, housing assistance, medical assistance, legal as-  
17 sistance, and case management assistance: *Provided fur-*  
18 *ther*, That amounts made available under this heading in  
19 this Act may be used by the Director of the Office of Ref-  
20 ugee Resettlement (Director) to issue awards or supple-  
21 ment awards previously made by the Director: *Provided*  
22 *further*, That the Director, in carrying out section  
23 412(c)(1)(A) of the Immigration and Nationality Act (8  
24 U.S.C. 1552(c)(1)(A)) with amounts made available under  
25 this heading in this Act, may allocate such amounts



1 among the States in a manner that accounts for the most  
2 current data available: *Provided further*, That such  
3 amount is designated by the Congress as being for an  
4 emergency requirement pursuant to section  
5 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
6 Deficit Control Act of 1985.

7           GENERAL PROVISION—THIS TITLE

8           SEC. 401. Section 401(a)(1)(A) of the Additional  
9 Ukraine Supplemental Appropriations Act, 2022 (Public  
10 Law 117–128) is amended by striking “September 30,  
11 2023” and inserting “September 30, 2024”: *Provided*,  
12 That such amount is designated by the Congress as being  
13 for an emergency requirement pursuant to section  
14 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
15 Deficit Control Act of 1985.

1

## TITLE V

2

## DEPARTMENT OF DEFENSE

3

## MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

4

For an additional amount for “Military Construction,

5

Navy and Marine Corps”, \$281,914,000, to remain avail-

6

able until September 30, 2028, to support improvements

7

to the submarine industrial base and for related expenses:

8

*Provided*, That not later than 60 days after the date of

9

enactment of this Act, the Secretary of the Navy, or their

10

designee, shall submit to the Committees on Appropria-

11

tions of the House of Representatives and the Senate an

12

expenditure plan for funds provided under this heading

13

in this Act: *Provided further*, That such funds may be obli-

14

gated or expended for planning and design and military

15

construction projects not otherwise authorized by law:

16

*Provided further*, That such amount is designated by the

17

Congress as an emergency requirement pursuant to sec-

18

tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-

19

gency Deficit Control Act of 1985.

1 TITLE VI  
2 DEPARTMENT OF STATE AND RELATED  
3 AGENCY  
4 DEPARTMENT OF STATE  
5 ADMINISTRATION OF FOREIGN AFFAIRS  
6 DIPLOMATIC PROGRAMS

7 For an additional amount for “Diplomatic Pro-  
8 grams”, \$210,000,000, to remain available until Sep-  
9 tember 30, 2025, to respond to the situations in Israel  
10 and Ukraine and areas and countries impacted by the situ-  
11 ations in Israel and Ukraine: *Provided*, That of the total  
12 amount provided under this heading in this Act,  
13 \$100,000,000, to remain available until expended, shall be  
14 for Worldwide Security Protection, including to respond  
15 to the situation in Israel and areas impacted by the situa-  
16 tion in Israel: *Provided further*, That such amount is des-  
17 igned by the Congress as being for an emergency re-  
18 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
19 anced Budget and Emergency Deficit Control Act of 1985.

20 OFFICE OF INSPECTOR GENERAL

21 For an additional amount for “Office of Inspector  
22 General”, \$12,000,000, to remain available until Sep-  
23 tember 30, 2025: *Provided*, That such amount is des-  
24 igned by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3 EMERGENCIES IN THE DIPLOMATIC AND CONSULAR  
4 SERVICE

5 For an additional amount for “Emergencies in the  
6 Diplomatic and Consular Service”, \$50,000,000, to re-  
7 main available until expended, to meet unforeseen emer-  
8 gencies arising in the Diplomatic and Consular Service,  
9 as authorized: *Provided*, That such amount is designated  
10 by the Congress as being for an emergency requirement  
11 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
12 et and Emergency Deficit Control Act of 1985.

13 UNITED STATES AGENCY FOR INTERNATIONAL  
14 DEVELOPMENT

15 FUNDS APPROPRIATED TO THE PRESIDENT  
16 OPERATING EXPENSES

17 For an additional amount for “Operating Expenses”,  
18 \$39,000,000, to remain available until September 30,  
19 2025, to respond to the situations in Israel and Ukraine  
20 and countries impacted by the situations in Israel and  
21 Ukraine: *Provided*, That such amount is designated by the  
22 Congress as being for an emergency requirement pursuant  
23 to section 251(b)(2)(A)(i) of the Balanced Budget and  
24 Emergency Deficit Control Act of 1985.

## 1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for “Office of Inspector  
3 General”, \$13,000,000, to remain available until Sep-  
4 tember 30, 2025: *Provided*, That such amount is des-  
5 ignated by the Congress as being for an emergency re-  
6 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
7 anced Budget and Emergency Deficit Control Act of 1985.

## 8 BILATERAL ECONOMIC ASSISTANCE

## 9 FUNDS APPROPRIATED TO THE PRESIDENT

## 10 INTERNATIONAL DISASTER ASSISTANCE

11 For an additional amount for “International Disaster  
12 Assistance”, \$5,655,000,000, to remain available until ex-  
13 pended, to address humanitarian needs in response to the  
14 situations in Israel and Ukraine, including the provision  
15 of emergency food and shelter, and for assistance for other  
16 vulnerable populations and communities: *Provided*, That  
17 such amount is designated by the Congress as being for  
18 an emergency requirement pursuant to section  
19 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
20 Deficit Control Act of 1985.

## 21 TRANSITION INITIATIVES

22 For an additional amount for “Transition Initia-  
23 tives”, \$25,000,000, to remain available until expended,  
24 for assistance for Ukraine and countries impacted by the  
25 situation in Ukraine: *Provided*, That such amount is des-

1 igned by the Congress as being for an emergency re-  
2 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
3 anced Budget and Emergency Deficit Control Act of 1985.

4                                   ECONOMIC SUPPORT FUND

5       For an additional amount for “Economic Support  
6 Fund”, \$7,899,000,000, to remain available until Sep-  
7 tember 30, 2025: *Provided*, That of the total amount pro-  
8 vided under this heading in this Act, \$7,849,000,000 shall  
9 be for assistance for Ukraine, which may include budget  
10 support and which may be made available notwithstanding  
11 any other provision of law that restricts assistance to for-  
12 eign countries: *Provided further*, That none of the funds  
13 made available for budget support pursuant to the pre-  
14 ceding proviso may be made available for the reimburse-  
15 ment of pensions: *Provided further*, That of the total  
16 amount provided under this heading in this Act,  
17 \$50,000,000 shall be to prevent and respond to food inse-  
18 curity: *Provided further*, That such amount is designated  
19 by the Congress as being for an emergency requirement  
20 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
21 et and Emergency Deficit Control Act of 1985.

22                                   ASSISTANCE FOR EUROPE, EURASIA AND CENTRAL ASIA

23       For an additional amount for “Assistance for Eu-  
24 rope, Eurasia and Central Asia”, \$1,575,000,000, to re-  
25 main available until September 30, 2025, for assistance

1 and related programs for Ukraine and other countries  
2 identified in section 3 of the FREEDOM Support Act (22  
3 U.S.C. 5801) and section 3(c) of the Support for East  
4 European Democracy (SEED) Act of 1989 (22 U.S.C.  
5 5402(c)): *Provided*, That such amount is designated by  
6 the Congress as being for an emergency requirement pur-  
7 suant to section 251(b)(2)(A)(i) of the Balanced Budget  
8 and Emergency Deficit Control Act of 1985.

9 DEPARTMENT OF STATE

10 MIGRATION AND REFUGEE ASSISTANCE

11 For an additional amount for “Migration and Ref-  
12 ugee Assistance”, \$3,495,000,000, to remain available  
13 until expended, to address humanitarian needs and assist  
14 refugees in response to the situations in Israel and  
15 Ukraine, and for assistance for other vulnerable popu-  
16 lations and communities: *Provided*, That such amount is  
17 designated by the Congress as being for an emergency re-  
18 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
19 anced Budget and Emergency Deficit Control Act of 1985.

20 INTERNATIONAL SECURITY ASSISTANCE

21 DEPARTMENT OF STATE

22 INTERNATIONAL NARCOTICS CONTROL AND LAW

23 ENFORCEMENT

24 For an additional amount for “International Nar-  
25 cotics Control and Law Enforcement”, \$375,000,000, to

1 remain available until September 30, 2025: *Provided*,  
2 That of the total amount provided under this heading in  
3 this Act, \$300,000,000 shall be for assistance for Ukraine  
4 and countries impacted by the situation in Ukraine: *Pro-*  
5 *vided further*, That funds made available in the preceding  
6 proviso may be made available to support the State Border  
7 Guard Service of Ukraine and National Police of Ukraine,  
8 including units supporting or under the command of the  
9 Armed Forces of Ukraine: *Provided further*, That of the  
10 total amount provided under this heading in this Act,  
11 \$75,000,000 shall be for assistance for the Middle East,  
12 following consultation with the appropriate congressional  
13 committees, including to enhance law enforcement capa-  
14 bilities, counter terrorism, combat narcotics trafficking,  
15 and meet other critical partner requirements: *Provided*  
16 *further*, That such amount is designated by the Congress  
17 as being for an emergency requirement pursuant to sec-  
18 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
19 gency Deficit Control Act of 1985.

20 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND  
21 RELATED PROGRAMS

22 For an additional amount for “Nonproliferation,  
23 Anti-terrorism, Demining and Related Programs”,  
24 \$100,000,000, to remain available until September 30,  
25 2025, for assistance for Ukraine and countries impacted



1 by the situation in Ukraine: *Provided*, That not later than  
2 60 days after the date of enactment of this Act, the Sec-  
3 retary of State shall consult with the Committees on Ap-  
4 propriations on the prioritization of demining efforts and  
5 how such efforts will be coordinated with development ac-  
6 tivities: *Provided further*, That such amount is designated  
7 by the Congress as being for an emergency requirement  
8 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
9 et and Emergency Deficit Control Act of 1985.

10

## PEACEKEEPING OPERATIONS

11 For an additional amount for “Peacekeeping Oper-  
12 ations”, \$10,000,000, to remain available until September  
13 30, 2025, for a United States contribution to the Multi-  
14 national Force and Observers mission in the Sinai to en-  
15 hance force protection capabilities: *Provided*, That such  
16 amount is designated by the Congress as being for an  
17 emergency requirement pursuant to section  
18 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
19 Deficit Control Act of 1985.

20

## FUNDS APPROPRIATED TO THE PRESIDENT

21

## FOREIGN MILITARY FINANCING PROGRAM

22 For an additional amount for “Foreign Military Fi-  
23 nancing Program”, \$7,100,000,000, to remain available  
24 until September 30, 2025: *Provided*, That of the total  
25 amount provided under this heading in this Act,

1 \$3,500,000,000 shall be for assistance for Israel and for  
2 related expenses: *Provided further*, That to the extent that  
3 the Government of Israel requests that funds be used for  
4 such purposes, grants made available for Israel under this  
5 heading in this Act shall, as agreed by the United States  
6 and Israel, be available for advanced weapons systems, of  
7 which up to \$769,300,000 may be available for the pro-  
8 curement in Israel of defense articles and defense services:  
9 *Provided further*, That the limitation in the preceding pro-  
10 viso may be exceeded, if agreed by the United States and  
11 Israel, following consultation with the Committees on Ap-  
12 propriations: *Provided further*, That any congressional no-  
13 tification requirement applicable to funds made available  
14 under this heading in this Act for Israel may be waived  
15 if the Secretary of State determines that to do so is in  
16 the national security interest of the United States: *Pro-*  
17 *vided further*, That of the total amount provided under  
18 this heading in this Act, \$2,000,000,000 shall be for as-  
19 sistance for the Indo-Pacific region and for related ex-  
20 penses: *Provided further*, That of the total amount pro-  
21 vided under this heading in this Act, \$1,600,000,000 shall  
22 be for assistance for Ukraine and countries impacted by  
23 the situation in Ukraine and for related expenses: *Pro-*  
24 *vided further*, That amounts made available under this  
25 heading in this Act and unobligated balances of amounts

1 made available under this heading in Acts making appro-  
2 priations for the Department of State, foreign operations,  
3 and related programs for fiscal year 2024 and prior fiscal  
4 years shall be available for the cost of loans and loan guar-  
5 antees as authorized by section 2606 of the Ukraine Sup-  
6 plemental Appropriations Act, 2022 (division N of Public  
7 Law 117–103), subject to the terms and conditions pro-  
8 vided in such section, or as otherwise authorized by law:  
9 *Provided further*, That loan guarantees made using  
10 amounts described in the preceding proviso for loans fi-  
11 nanced by the Federal Financing Bank may be provided  
12 notwithstanding any provision of law limiting the percent-  
13 age of loan principal that may be guaranteed: *Provided*  
14 *further*, That up to \$5,000,000 of funds made available  
15 under this heading in this Act, in addition to funds other-  
16 wise available for such purposes, may be used by the De-  
17 partment of State for necessary expenses for the general  
18 costs of administering military assistance and sales, in-  
19 cluding management and oversight of such programs and  
20 activities: *Provided further*, That such amount is des-  
21 ignated by the Congress as being for an emergency re-  
22 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
23 anced Budget and Emergency Deficit Control Act of 1985.

## 1       INTERNATIONAL ASSISTANCE PROGRAMS

## 2                   MULTILATERAL ASSISTANCE

## 3   CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT

## 4                   ASSOCIATION

5       For an additional amount for “Contribution to the  
6 International Development Association”, \$250,000,000, to  
7 remain available until expended, which shall be made  
8 available for a contribution to the International Develop-  
9 ment Association Special Program to Enhance Crisis Re-  
10 sponse Window: *Provided*, That such amount is designated  
11 by the Congress as being for an emergency requirement  
12 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
13 et and Emergency Deficit Control Act of 1985.

## 14                   GENERAL PROVISIONS—THIS TITLE

## 15                   (INCLUDING TRANSFERS OF FUNDS)

16       SEC. 601. During fiscal year 2024, up to  
17 \$250,000,000 of funds deposited in the Consular and Bor-  
18 der Security Programs account in any fiscal year that are  
19 available for obligation may be transferred to, and merged  
20 with, funds appropriated by any Act making appropria-  
21 tions for the Department of State, foreign operations, and  
22 related programs under the headings “Diplomatic Pro-  
23 grams” (including for Worldwide Security Protection) and  
24 “Emergencies in the Diplomatic and Consular Service” for  
25 emergency evacuations or to prevent or respond to security

1 situations and related requirements: *Provided*, That such  
2 transfer authority is in addition to any other transfer au-  
3 thority provided by law, and any such transfers are subject  
4 to prior consultation with, and the regular notification  
5 procedures of, the Committees on Appropriations.

6 SEC. 602. During fiscal year 2024, section 506(a)(1)  
7 of the Foreign Assistance Act of 1961 (22 U.S.C.  
8 2318(a)(1)) shall be applied by substituting  
9 “\$7,800,000,000” for “\$100,000,000”.

10 SEC. 603. During fiscal year 2024, section  
11 506(a)(2)(B) of the Foreign Assistance Act of 1961 (22  
12 U.S.C. 2318(a)(2)(B)) shall be applied by substituting  
13 “\$400,000,000” for “\$200,000,000” in the matter pre-  
14 ceding clause (i), and by substituting “\$150,000,000” for  
15 “\$75,000,000” in clause (i).

16 SEC. 604. During fiscal year 2024, section 552(c)(2)  
17 of the Foreign Assistance Act of 1961 (22 U.S.C.  
18 2348a(c)(2)) shall be applied by substituting  
19 “\$50,000,000” for “\$25,000,000”.

20 SEC. 605. Section 12001 of the Department of De-  
21 fense Appropriations Act, 2005 (Public Law 108–287) is  
22 amended as follows:

23 (1) In paragraph (2) of subsection (a), by strik-  
24 ing “armor” and all that follows through the end of  
25 the paragraph and inserting “defense articles that

1 are in the inventory of the Department of Defense  
2 as of the date of transfer, are intended for use as  
3 reserve stocks for Israel, and are located in a stock-  
4 pile for Israel as of the date of transfer”.

5 (2) In subsection (b), by striking “at least  
6 equal to the fair market value of the items trans-  
7 ferred” and inserting “in an amount to be deter-  
8 mined by the Secretary of Defense”.

9 (3) In subsection (c), by inserting before the  
10 comma in the first sentence the following: “, or as  
11 far in advance of such transfer as is practicable as  
12 determined by the President on a case-by-case basis  
13 during extraordinary circumstances impacting the  
14 national security of the United States”.

15 SEC. 606. For fiscal year 2024, section 514(b) of the  
16 Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b))  
17 shall not apply to defense articles to be set aside, ear-  
18 marked, reserved, or intended for use as reserve stocks  
19 in stockpiles in the State of Israel.

20 SEC. 607. Unobligated balances from amounts appro-  
21 priated in prior Acts under the heading “Multilateral As-  
22 sistance—International Financial Institutions—Contribu-  
23 tions to the International Monetary Fund Facilities and  
24 Trust Funds” shall be available to cover the cost, as de-  
25 fined in section 502 of the Congressional Budget Act of

1 1974 (2 U.S.C. 661a), of loans made by the Secretary of  
2 the Treasury only to the Poverty Reduction and Growth  
3 Trust of the International Monetary Fund, following con-  
4 sultation with the appropriate congressional committees:  
5 *Provided*, That such funds shall be available to subsidize  
6 gross obligations for the principal amount of direct loans  
7 not to exceed \$21,000,000,000 in the aggregate, and the  
8 Secretary of the Treasury is authorized to make such  
9 loans.

10 SEC. 608. Section 17(a)(6) of the Bretton Woods  
11 Agreements Act (22 U.S.C. 286e–2(a)(6)) is amended by  
12 striking “December 31, 2025” and inserting “December  
13 31, 2030”.

14 SEC. 609. (a) Funds appropriated by this Act under  
15 the headings “International Disaster Assistance” and  
16 “Migration and Refugee Assistance” may be transferred  
17 to, and merged with, funds appropriated by this Act under  
18 such headings.

19 (b) Funds appropriated by this Act under the head-  
20 ings “Economic Support Fund” and “Assistance for Eu-  
21 rope, Eurasia and Central Asia” to respond to the situa-  
22 tion in Ukraine and in countries impacted by the situation  
23 in Ukraine may be transferred to, and merged with, funds  
24 made available under the headings “United States Inter-  
25 national Development Finance Corporation—Corporate

1 Capital Account”, “United States International Develop-  
2 ment Finance Corporation—Program Account”, “Export-  
3 Import Bank of the United States—Program Account”,  
4 and “Trade and Development Agency” for such purpose.

5 (c) Funds appropriated by this Act under the heading  
6 “International Narcotics Control and Law Enforcement”  
7 for assistance for countries in the Middle East may be  
8 transferred to, and merged with, funds appropriated by  
9 this Act under the headings “Nonproliferation, Anti-ter-  
10 rorism, Demining and Related Programs”, “Peacekeeping  
11 Operations”, and “Foreign Military Financing Program”  
12 for such purpose.

13 (d) The transfer authorities provided by this section  
14 are in addition to any other transfer authority provided  
15 by law, and are subject to prior consultation with, and  
16 the regular notification procedures of, the Committees on  
17 Appropriations.

18 (e) Upon a determination that all or part of the funds  
19 transferred pursuant to the authorities provided by this  
20 section are not necessary for such purposes, such amounts  
21 may be transferred back to such appropriations.

22 SEC. 610. Section 1705 of the Additional Ukraine  
23 Supplemental Appropriations Act, 2023 (division M of  
24 Public Law 117–328) shall apply to funds appropriated



1 by this Act under the heading “Economic Support Fund”  
2 for assistance for Ukraine.

3 SEC. 611. None of the funds appropriated or other-  
4 wise made available by this title in this Act may be made  
5 available for assistance for the Governments of the Rus-  
6 sian Federation or Belarus, including entities owned or  
7 controlled by such Governments.

8 SEC. 612. (a) Section 2606 of the Ukraine Supple-  
9 mental Appropriations Act, 2022 (division N of Public  
10 Law 117–103) is amended as follows:

11 (1) in subsection (a), by striking “and North  
12 Atlantic Treaty Organization (NATO) allies” and in-  
13 sserting “, North Atlantic Treaty Organization  
14 (NATO) allies, major non-NATO allies, and the  
15 Indo-Pacific region”; by striking “\$4,000,000,000”  
16 and inserting “\$8,000,000,000”; and by striking “,  
17 except that such rate may not be less than the pre-  
18 vailing interest rate on marketable Treasury securi-  
19 ties of similar maturity”; and

20 (2) in subsection (b), by striking “and NATO  
21 allies” and inserting “, NATO allies, major non-  
22 NATO allies, and the Indo-Pacific region; by strik-  
23 ing “\$4,000,000,000” and inserting  
24 “\$8,000,000,000”; and by inserting at the end of

1 the second proviso “except for guarantees of loans  
2 by the Federal Financing Bank”.

3 (b) Funds made available for the costs of direct loans  
4 and loan guarantees for major non-NATO allies and the  
5 Indo-Pacific region pursuant to section 2606 of division  
6 N of Public Law 117–103, as amended by subsection (a),  
7 may only be made available from funds appropriated by  
8 this Act under the heading “Foreign Military Financing  
9 Program” and available balances from under such heading  
10 in prior Acts making appropriations for the Department  
11 of State, foreign operations, and related programs: *Pro-*  
12 *vided*, That such funds may only be made available if the  
13 Secretary of State certifies and reports to the appropriate  
14 congressional committees, not less than 15 days prior to  
15 the obligation of such funds, that such direct loan or loan  
16 guarantee is in the national security interest of the United  
17 States, is being provided in response to exigent cir-  
18 cumstances, is addressing a mutually agreed upon emer-  
19 gency requirement of the recipient country, and the recipi-  
20 ent country has a plan to repay such loan: *Provided fur-*  
21 *ther*, That not less than 60 days after the date of enact-  
22 ment of this Act, the Secretary of State shall consult with  
23 such committees on the implementation of this subsection.

24 (c) Amounts repurposed pursuant to this section that  
25 were previously designated by the Congress as an emer-

1 agency requirement pursuant to a concurrent resolution on  
2 the Budget are designated as an emergency requirement  
3 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
4 et and Emergency Deficit Control Act of 1985.

5 SEC. 613. Funds appropriated under the headings  
6 “Economic Support Fund” and “Assistance for Europe,  
7 Eurasia and Central Asia” in this title in this Act may  
8 be made available as contributions, following consultation  
9 with the Committees on Appropriations.

10 SEC. 614. None of the funds appropriated or other-  
11 wise made available by this division and division B of this  
12 Act, and prior Acts making appropriations for the Depart-  
13 ment of State, foreign operations, and related programs,  
14 may be made available for a contribution, grant, or other  
15 payment to the United Nations Relief and Works Agency,  
16 notwithstanding any other provision of law.

17 SEC. 615. (a) CERTIFICATION.—The Secretary of  
18 State shall certify and report to the appropriate congres-  
19 sional committees not later than March 1, 2024, that—

20 (1) oversight policies, processes, and procedures  
21 have been established by the Department of State  
22 and the United States Agency for International De-  
23 velopment, as appropriate, and are in use to prevent  
24 the diversion, misuse, or destruction of assistance,  
25 including through international organizations, to

1        Hamas and other terrorist and extremist entities in  
2        Gaza; and

3            (2) such policies, processes, and procedures  
4        have been developed in coordination with other bilat-  
5        eral and multilateral donors and the Government of  
6        Israel, as appropriate.

7        (b) OVERSIGHT POLICY AND PROCEDURES.—The  
8        Secretary of State and the USAID Administrator shall  
9        submit to the appropriate congressional committees, con-  
10       current with the submission of the certification required  
11       in subsection (a), a written description of the oversight  
12       policies, processes, and procedures for funds appropriated  
13       by this title that are made available for assistance for  
14       Gaza, including specific actions to be taken should such  
15       assistance be diverted, misused, or destroyed, and the role  
16       of Israel in the oversight of such assistance.

17        (c) REQUIREMENT TO INFORM.—The Secretary of  
18        State and USAID Administrator shall promptly inform  
19        the appropriate congressional committees of each instance  
20        in which funds appropriated by this title that are made  
21        available for assistance for Gaza have been diverted, mis-  
22        used, or destroyed, to include the type of assistance, a de-  
23        scription of the incident and parties involved, and an ex-  
24        planation of the response of the Department of State or  
25        USAID, as appropriate.

1 (d) THIRD PARTY MONITORING.—Funds appro-  
2 priated by this title shall be made available for third party  
3 monitoring of assistance for Gaza, including end use moni-  
4 toring, following consultation with the appropriate con-  
5 gressional committees.

6 (e) OFFICES OF INSPECTORS GENERAL.—

7 (1) DEPARTMENT OF STATE.—Of the funds ap-  
8 propriated by this title under the heading “Office of  
9 Inspector General” for the Department of State,  
10 \$7,000,000 shall be made available for the oversight  
11 and monitoring of assistance made available for  
12 Gaza by this title and in prior Acts making appro-  
13 priations for the Department of State, foreign oper-  
14 ations, and related programs.

15 (2) UNITED STATES AGENCY FOR INTER-  
16 NATIONAL DEVELOPMENT.—Of the funds appro-  
17 priated by this title under the heading “Office of In-  
18 spector General” for USAID, \$3,000,000 shall be  
19 made available for the oversight and monitoring of  
20 assistance made available for Gaza by this title and  
21 in prior Acts making appropriations for the Depart-  
22 ment of State, foreign operations, and related pro-  
23 grams.

24 (f) REPORT.—Not later than 90 days after the initial  
25 obligation of funds appropriated by this title that are

1 made available for assistance for Gaza, and every 90 days  
2 thereafter until all such funds are expended, the Secretary  
3 of State and the USAID Administrator shall jointly sub-  
4 mit to the appropriate congressional committees a report  
5 detailing the amount and purpose of such assistance pro-  
6 vided during each respective quarter, including a descrip-  
7 tion of the specific entity implementing such assistance.

8 (g) ASSESSMENT.—Not later than 90 days after the  
9 date of enactment of this Act and every 90 days thereafter  
10 until September 30, 2025, the Secretary of State, in con-  
11 sultation with the Director of National Intelligence and  
12 other heads of elements of the intelligence community that  
13 the Secretary considers relevant, shall submit to the ap-  
14 propriate congressional committees a report assessing  
15 whether funds appropriated by this title and made avail-  
16 able for assistance for the West Bank and Gaza have been  
17 diverted by Hamas or other terrorist and extremist enti-  
18 ties in the West Bank and Gaza: *Provided*, That such re-  
19 port shall include details on the amount and how such  
20 funds were made available and used by such entities: *Pro-*  
21 *vided further*, That such report may be submitted in classi-  
22 fied form, if necessary.

23 (h) CONSULTATION.—Not later than 30 days after  
24 the date of enactment of this Act but prior to the initial  
25 obligation of funds made available by this title for humani-

1 tarian assistance for Gaza, the Secretary of State and  
2 USAID Administrator, as appropriate, shall consult with  
3 the Committees on Appropriations on the amount and an-  
4 ticipated uses of such funds.

5 SEC. 616. Prior to the initial obligation of funds  
6 made available in this title in this Act, the Secretary of  
7 State, USAID Administrator, and the Secretary of the  
8 Treasury, as appropriate, shall submit to the Committees  
9 on Appropriations—

10 (1) spend plans, as defined in section  
11 7034(s)(4) of the Department of State, Foreign Op-  
12 erations, and Related Programs Appropriations Act,  
13 2023 (division K of Public Law 117–328), at the  
14 country, account, and program level, for funds ap-  
15 propriated by this Act under the headings “Eco-  
16 nomic Support Fund”, “Transition Initiatives”, “As-  
17 sistance for Europe, Eurasia and Central Asia”,  
18 “International Narcotics Control and Law Enforce-  
19 ment”, “Nonproliferation, Anti-terrorism, Demining  
20 and Related Programs”, “Peacekeeping Oper-  
21 ations”, “Foreign Military Financing Program”, and  
22 “Contribution to the International Development As-  
23 sociation”: *Provided*, That plans submitted pursuant  
24 to this paragraph shall include for each program no-  
25 tified—(A) total funding made available for such

1 program, by account and fiscal year; (B) funding  
2 that remains unobligated for such program from  
3 prior year base or supplemental appropriations; (C)  
4 funding that is obligated but unexpended for such  
5 program; and (D) funding committed, but not yet  
6 notified for such program; and

7 (2) operating plans, as defined in section 7062  
8 of the Department of State, Foreign Operations, and  
9 Related Programs Appropriations Act, 2023 (divi-  
10 sion K of Public Law 117–328), for funds appro-  
11 priated by this title under the headings “Diplomatic  
12 Programs”, “Emergencies in the Diplomatic and  
13 Consular Service”, and “Operating Expenses”.



## 1 TITLE VII

## 2 GENERAL PROVISIONS—THIS ACT

3 SEC. 701. Each amount appropriated or made avail-  
4 able by this Act is in addition to amounts otherwise appro-  
5 priated for the fiscal year involved.

6 SEC. 702. No part of any appropriation contained in  
7 this Act shall remain available for obligation beyond the  
8 current fiscal year unless expressly so provided herein.

9 SEC. 703. Unless otherwise provided for by this Act,  
10 the additional amounts appropriated by this Act to appro-  
11 priations accounts shall be available under the authorities  
12 and conditions applicable to such appropriations accounts  
13 for fiscal year 2024.

14 SEC. 704. Not later than 45 days after the date of  
15 enactment of this Act, the Secretary of State and the Sec-  
16 retary of Defense, in consultation with the heads of other  
17 relevant Federal agencies, as appropriate, shall submit to  
18 the Committees on Appropriations, Armed Services, and  
19 Foreign Relations of the Senate and the Committees on  
20 Appropriations, Armed Services, and Foreign Affairs of  
21 the House of Representatives a strategy regarding United  
22 States support for Ukraine against aggression by the Rus-  
23 sian Federation: *Provided*, That such strategy shall be  
24 multi-year, establish specific and achievable objectives, de-  
25 fine and prioritize United States national security inter-

1 ests, and include the metrics to be used to measure  
2 progress in achieving such objectives: *Provided further,*  
3 That such strategy shall include an estimate, on a fiscal  
4 year-by-fiscal year basis, of the resources required by the  
5 United States to achieve such objectives, including to help  
6 hasten Ukrainian victory against Russia's invasion forces  
7 in a manner most favorable to United States interests and  
8 objectives, and a description of the national security impli-  
9 cations for the United States if those objectives are not  
10 met: *Provided further,* That such strategy shall describe  
11 how each specific aspect of U.S. assistance, including de-  
12 fense articles and U.S. foreign assistance, is intended at  
13 the tactical, operational, and strategic level to help  
14 Ukraine end the conflict as a democratic, independent,  
15 and sovereign country capable of deterring and defending  
16 its territory against future aggression: *Provided further,*  
17 That such strategy shall include a classified independent  
18 assessment from the Commander, U.S. European Com-  
19 mand, describing any specific defense articles and services  
20 not yet provided to Ukraine that would result in meaning-  
21 ful battlefield gains in alignment with the strategy: *Pro-*  
22 *vided further,* That such strategy shall include a classified  
23 assessment from the Chairman of the Joint Chiefs of Staff  
24 that the provision of specific defense articles and services  
25 provided to Ukraine does not pose significant risk to the

1 defense capabilities of the United States military: *Provided*  
2 *further*, That the Under Secretary of Defense for Acquisi-  
3 tion & Sustainment in coordination with the Director, Cost  
4 Assessment and Program Evaluation provide an assess-  
5 ment of the executability and a production schedule for  
6 any specific defense articles recommended by the Com-  
7 mander, U.S. European Command that require procure-  
8 ment: *Provided further*, That such strategy shall include  
9 information on support to the Government of the Russian  
10 Federation from the Islamic Republic of Iran, the People's  
11 Republic of China, and the Democratic People's Republic  
12 of Korea, related to the Russian campaign in Ukraine, and  
13 its impact on such strategy: *Provided further*, That such  
14 strategy shall be updated not less than quarterly, as ap-  
15 propriate, until September 30, 2025, and such updates  
16 shall be submitted to such committees: *Provided further*,  
17 That unless otherwise specified by this section, such strat-  
18 egy shall be submitted in unclassified form but may in-  
19 clude a classified annex.

20 SEC. 705. (a) Not later than 45 days after the date  
21 of enactment of this Act, the Secretary of State, in con-  
22 sultation with the heads of other relevant Federal agen-  
23 cies, as appropriate, shall brief the appropriate congres-  
24 sional committees, in classified form, if necessary, on the  
25 status and welfare of hostages being held in Gaza.

1 (b) For purposes of this section, the term “appro-  
2 priate congressional committees” means the following:

3 (1) The Committees on Appropriations, Armed  
4 Services, and Foreign Relations of the Senate.

5 (2) The Select Committee on Intelligence of the  
6 Senate.

7 (3) The Committees on Appropriations, Armed  
8 Services, and Foreign Affairs of the House of Rep-  
9 resentatives.

10 (4) The Permanent Select Committee on Intel-  
11 ligence of the House of Representatives.

12 SEC. 706. Funds appropriated by this division and  
13 division B of this Act for foreign assistance (including for-  
14 eign military sales), for the Department of State, for  
15 broadcasting subject to supervision of United States Agen-  
16 cy for Global Media, and for intelligence or intelligence  
17 related activities are deemed to be specifically authorized  
18 by the Congress for the purposes of section 10 of Public  
19 Law 91–672 (22 U.S.C. 2412), section 15 of the State  
20 Department Basic Authorities Act of 1956 (22 U.S.C.  
21 2680), section 313 of the Foreign Relations Authorization  
22 Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and  
23 section 504(a)(1) of the National Security Act of 1947  
24 (50 U.S.C. 3094(a)(1)).

1       SEC. 707. Each amount designated in this Act by the  
2 Congress as being for an emergency requirement pursuant  
3 to section 251(b)(2)(A)(i) of the Balanced Budget and  
4 Emergency Deficit Control Act of 1985 shall be available  
5 (or repurposed or rescinded, if applicable) only if the  
6 President subsequently so designates all such amounts  
7 and transmits such designations to the Congress.

8       SEC. 708. Any amount appropriated by this Act, des-  
9 ignated by the Congress as an emergency requirement  
10 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
11 et and Emergency Deficit Control Act of 1985, and subse-  
12 quently so designated by the President, and transferred  
13 pursuant to transfer authorities provided by this Act shall  
14 retain such designation.

15       This division may be cited as the “National Security  
16 Supplemental Appropriations Act, 2024”.

1 **DIVISION B—BORDER SECURITY AND**  
2 **COMBATTING FENTANYL SUPPLE-**  
3 **MENTAL APPROPRIATIONS ACT, 2024**

4 The following sums are appropriated, out of any  
5 money in the Treasury not otherwise appropriated, for the  
6 fiscal year ending September 30, 2024, and for other pur-  
7 poses, namely:

8 TITLE I

9 DEPARTMENT OF JUSTICE

10 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

11 For an additional amount for “Executive Office for  
12 Immigration Review”, \$440,000,000, to remain available  
13 until September 30, 2026: *Provided*, That of the total  
14 amounts provided under this heading in this Act,  
15 \$404,000,000 shall be for Immigration Judge Teams, in-  
16 cluding appropriate attorneys, law clerks, paralegals, court  
17 administrators, and other support staff, as well as nec-  
18 essary court and adjudicatory costs, and \$36,000,000  
19 shall be for representation for certain incompetent adults  
20 pursuant to section 240(e) of the Immigration and Na-  
21 tionality Act (8 U.S.C. 1229a(e)): *Provided further*, That  
22 not more than 3 percent of the funds available for rep-  
23 resentation for certain incompetent adults in the preceding  
24 proviso shall be available for necessary administrative ex-  
25 penses: *Provided further*, That with the exception of immi-

1 gration judges appointed pursuant to section 1003.10 of  
2 title 8, Code of Federal Regulations, amounts provided  
3 under this heading in this Act for Immigration Judge  
4 Teams may not be used to increase the number of perma-  
5 nent positions: *Provided further*, That the Executive Office  
6 for Immigration Review shall submit a spending plan to  
7 the Committees on Appropriations of the House of Rep-  
8 resentatives and the Senate within 45 days after the date  
9 of enactment of this Act: *Provided further*, That such  
10 amount is designated by the Congress as being for an  
11 emergency requirement pursuant to section  
12 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
13 Deficit Control Act of 1985.

14 LEGAL ACTIVITIES

15 SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

16 For an additional amount for “Salaries and Ex-  
17 penses, General Legal Activities”, \$11,800,000, to remain  
18 available until September 30, 2026, for necessary expenses  
19 of the Criminal Division associated with the Joint Task  
20 Force Alpha’s efforts to combat human trafficking and  
21 smuggling in the Western Hemisphere: *Provided*, That  
22 such amount is designated by the Congress as being for  
23 an emergency requirement pursuant to section  
24 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
25 Deficit Control Act of 1985.

## 1 UNITED STATES MARSHALS SERVICE

## 2 FEDERAL PRISONER DETENTION

3 For an additional amount for “United States Mar-  
4 shals Service—Federal Prisoner Detention”,  
5 \$210,000,000, to remain available until expended, for de-  
6 tention costs due to enforcement activities along the south-  
7 ern and northern borders: *Provided*, That such amount is  
8 designated by the Congress as being for an emergency re-  
9 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
10 anced Budget and Emergency Deficit Control Act of 1985.

## 11 FEDERAL BUREAU OF INVESTIGATION

## 12 SALARIES AND EXPENSES

13 For an additional amount for “Federal Bureau of In-  
14 vestigation—Salaries and Expenses”, \$204,000,000, to  
15 remain available until September 30, 2026, for expenses  
16 related to the analysis of DNA samples, including those  
17 samples collected from migrants detained by the United  
18 States Border Patrol: *Provided*, That such amount is des-  
19 ignated by the Congress as being for an emergency re-  
20 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
21 anced Budget and Emergency Deficit Control Act of 1985.

## 22 DRUG ENFORCEMENT ADMINISTRATION

## 23 SALARIES AND EXPENSES

24 For an additional amount for “Drug Enforcement  
25 Administration—Salaries and Expenses”, \$23,200,000, to



1 remain available until September 30, 2026, to enhance  
2 laboratory analysis of illicit fentanyl samples to trace illicit  
3 fentanyl supplies back to manufacturers, to support Oper-  
4 ation Overdrive, and to bolster criminal drug network tar-  
5 geting efforts through data system improvements: *Pro-*  
6 *vided*, That such amount is designated by the Congress  
7 as being for an emergency requirement pursuant to sec-  
8 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
9 gency Deficit Control Act of 1985.

1 TITLE II  
2 DEPARTMENT OF HOMELAND SECURITY  
3 DEPARTMENTAL MANAGEMENT, INTEL-  
4 LIGENCE, SITUATIONAL AWARENESS, AND  
5 OVERSIGHT  
6 OFFICE OF THE SECRETARY AND EXECUTIVE  
7 MANAGEMENT  
8 OPERATIONS AND SUPPORT

9 For an additional amount for “Office of the Secretary  
10 and Executive Management—Operations and Support”,  
11 \$33,000,000, to remain available until September 30,  
12 2026, of which \$30,000,000 shall be for necessary ex-  
13 penses relating to monitoring, recording, analyzing, public  
14 reporting on, and projecting migration flows and the im-  
15 pacts policy changes and funding have on flows and re-  
16 lated resource requirements for border security, immigra-  
17 tion enforcement, and immigration services and of which  
18 \$3,000,000 shall be for the Office of the Immigration De-  
19 tention Ombudsman for reporting and oversight relating  
20 to expanded detention capacity: *Provided*, That such  
21 amount is designated by the Congress as being for an  
22 emergency requirement pursuant to section  
23 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
24 Deficit Control Act of 1985.

1                   SECURITY, ENFORCEMENT, AND  
2                   INVESTIGATIONS  
3                   U.S. CUSTOMS AND BORDER PROTECTION  
4                   OPERATIONS AND SUPPORT  
5                   (INCLUDING TRANSFER OF FUNDS)

6           For an additional amount for “U.S. Customs and  
7 Border Protection—Operations and Support”,  
8 \$6,008,479,000, to remain available until September 30,  
9 2026: *Provided*, That of the total amount provided under  
10 this heading in this Act, \$3,860,363,000 shall be for oper-  
11 ational requirements relating to migration surges along  
12 the southwest border, counter-fentanyl activities, nec-  
13 essary expenses at ports of entry, reimbursement to the  
14 Department of Defense for border operations support, and  
15 other related expenses, of which \$3,148,262,000 shall re-  
16 main available until September 30, 2024; \$584,116,000  
17 shall be for the hiring of U.S. Customs and Border Protec-  
18 tion personnel; \$139,000,000 shall be for overtime costs  
19 for U.S. Border Patrol; \$25,000,000 shall be for familial  
20 DNA testing; and \$1,400,000,000 shall be transferred to  
21 “Federal Emergency Management Agency—Federal As-  
22 sistance” to support sheltering and related activities pro-  
23 vided by non-Federal entities through the Shelter and  
24 Services Program: *Provided further*, That such amount is  
25 designated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3       PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

4       For an additional amount for “U.S. Customs and  
5 Border Protection—Procurement, Construction, and Im-  
6 provements”, \$758,500,000, to remain available until Sep-  
7 tember 30, 2026: *Provided*, That of the total amount pro-  
8 vided under this heading in this Act, \$424,500,000 shall  
9 be for acquisition and deployment of non-intrusive inspec-  
10 tion technology, \$260,000,000 shall be for acquisition and  
11 deployment of border security technology, and  
12 \$74,000,000 shall be for acquisition and deployment of air  
13 assets: *Provided further*, That such amount is designated  
14 by the Congress as being for an emergency requirement  
15 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
16 et and Emergency Deficit Control Act of 1985.

17       U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

18                       OPERATIONS AND SUPPORT

19       For an additional amount for “U.S. Immigration and  
20 Customs Enforcement—Operations and Support”,  
21 \$7,600,833,000, to remain available until September 30,  
22 2026: *Provided*, That of the total amount provided under  
23 this heading in this Act, \$3,230,648,000 shall be for in-  
24 creased custodial detention capacity, \$2,548,401,000 shall  
25 be for increased removal flights and related activities, in-

1 cluding short-term staging facilities, \$534,682,000 shall  
2 be for hiring U.S. Immigration and Customs Enforcement  
3 personnel, and \$1,287,102,000 shall be for increased en-  
4 rollment capabilities and related activities within the Al-  
5 ternatives to Detention program: *Provided further*, That  
6 such amount is designated by the Congress as being for  
7 an emergency requirement pursuant to section  
8 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
9 Deficit Control Act of 1985.

10 PROTECTION, PREPAREDNESS, RESPONSE, AND

11 RECOVERY

12 FEDERAL EMERGENCY MANAGEMENT AGENCY

13 FEDERAL ASSISTANCE

14 For an additional amount for “Federal Emergency  
15 Management Agency—Federal Assistance”,  
16 \$100,000,000, to remain available until September 30,  
17 2025, for Operation Stonegarden: *Provided*, That not less  
18 than 25 percent of the total amount provided under this  
19 heading in this Act shall be for States other than those  
20 located along the southwest border: *Provided further*, That  
21 such amount is designated by the Congress as being for  
22 an emergency requirement pursuant to section  
23 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
24 Deficit Control Act of 1985.

1 RESEARCH, DEVELOPMENT, TRAINING, AND  
2 SERVICES

3 U.S. CITIZENSHIP AND IMMIGRATION SERVICES  
4 OPERATIONS AND SUPPORT

5 For an additional amount for “U.S. Citizenship and  
6 Immigration Services—Operations and Support”,  
7 \$3,995,842,000, to remain available until September 30,  
8 2026: *Provided*, That of the total amount provided under  
9 this heading in this Act, \$3,383,262,000 shall be for hir-  
10 ing and associated costs, \$112,580,000 shall be for non-  
11 personnel operations, including transcription services, and  
12 \$500,000,000 shall be for facilities: *Provided further*, That  
13 such amounts shall be in addition to any other amounts  
14 made available for such purposes, and shall not be con-  
15 strued to require any reduction of any fee described in  
16 section 286(m) of the Immigration and Nationality Act  
17 (8 U.S.C. 1356(m)): *Provided further*, That such amount  
18 is designated by the Congress as being for an emergency  
19 requirement pursuant to section 251(b)(2)(A)(i) of the  
20 Balanced Budget and Emergency Deficit Control Act of  
21 1985.

22 FEDERAL LAW ENFORCEMENT TRAINING CENTERS  
23 OPERATIONS AND SUPPORT

24 For an additional amount for “Federal Law Enforce-  
25 ment Training Centers—Operations and Support”,

1 \$50,703,000, to remain available until September 30,  
2 2026: *Provided*, That of the total amount provided under  
3 this heading in this Act, \$49,603,000 shall be for training-  
4 related expenses, to include instructors, tuition, and over-  
5 head costs associated with the delivery of basic law en-  
6 forcement training and \$1,100,000 shall be for the nec-  
7 essary mission support activities and facility maintenance  
8 required for law enforcement training: *Provided further*,  
9 That such amount is designated by the Congress as being  
10 for an emergency requirement pursuant to section  
11 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
12 Deficit Control Act of 1985.

13 PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

14 For an additional amount for “Federal Law Enforce-  
15 ment Training Centers—Procurement, Construction, and  
16 Improvements”, \$6,000,000, to remain available until  
17 September 30, 2026, for necessary expenses of construc-  
18 tion and improvements to existing facilities required to  
19 conduct training for Federal law enforcement personnel:  
20 *Provided*, That such amount is designated by the Congress  
21 as being for an emergency requirement pursuant to sec-  
22 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
23 gency Deficit Control Act of 1985.

1           GENERAL PROVISIONS—THIS TITLE

2           SEC. 201. (a) The Secretary shall, by March 1, 2025,  
3 and quarterly thereafter, provide to the Committees on  
4 Appropriations of the House of Representatives and the  
5 Senate a report describing changes in performance metrics  
6 and operational capabilities relating to border security, im-  
7 migration enforcement, and immigration services, and the  
8 relationship of those changes to actual and projected en-  
9 counters on the southwest border.

10          (b) The report required by subsection (a) shall also  
11 include an analytic assessment of how policy changes and  
12 resources provided in this title of this Act impact effi-  
13 ciencies and resource needs for—

- 14           (1) other programs within the Department; and  
15           (2) other Federal Departments and agencies.

16          SEC. 202. (a) Amounts made available in this Act  
17 under the heading “U.S. Customs and Border Protec-  
18 tion—Procurement, Construction, and Improvements” for  
19 acquisition and deployment of border security technology  
20 shall be available only as follows:

- 21           (1) \$170,000,000 for the procurement and de-  
22           ployment of autonomous surveillance towers systems  
23           in locations that are not currently covered by such  
24           systems or technology, as defined in subsection (d);



1           (2) \$47,500,000 for the procurement and de-  
2           ployment of mobile surveillance capabilities, includ-  
3           ing mobile video surveillance systems and for obso-  
4           lete mobile surveillance equipment replacement,  
5           counter-UAS, and small unmanned aerial systems;

6           (3) \$25,000,000 for subterranean detection ca-  
7           pabilities;

8           (4) \$7,500,000 for seamless integrated commu-  
9           nications to extend connectivity for Border Patrol  
10          agents; and

11          (5) \$10,000,000 for the acquisition of data  
12          from long duration unmanned surface vehicles in  
13          support of maritime border security.

14          (b) None of the funds available under subsection  
15          (a)(1) shall be used for the procurement or deployment  
16          of border security technology that is not autonomous.

17          (c) For the purposes of this section, “autonomous”  
18          and “autonomous surveillance tower systems” are defined  
19          as integrated software and/or hardware systems that uti-  
20          lize sensors, onboard computing, and artificial intelligence  
21          to identify items of interest that would otherwise be manu-  
22          ally identified by personnel.

23          (d) Not later than 90 days after the date of enact-  
24          ment of this Act, and monthly thereafter, U.S. Customs  
25          and Border Protection shall provide to the Committees on

1 Appropriations of the House of Representatives and the  
2 Senate an expenditure plan for the use of the funds avail-  
3 able under subsection (a)(1) and such expenditure plan  
4 shall include the following:

5 (1) the number and type of systems that will be  
6 procured;

7 (2) the U.S. Border Patrol sectors where each  
8 system will be deployed;

9 (3) a timeline for system deployments, including  
10 a timeline for securing necessary approvals and land  
11 rights;

12 (4) estimated annual sustainment costs for the  
13 systems; and

14 (5) other supporting information.

15 SEC. 203. (a) Amounts made available in this Act  
16 under the heading “U.S. Customs and Border Protec-  
17 tion—Procurement, Construction, and Improvements” for  
18 acquisition and deployment of non-intrusive inspection  
19 technology shall be available only through an open com-  
20 petition occurring after the date of enactment of this Act  
21 to acquire innovative technologies that improve perform-  
22 ance, including through the integration of artificial intel-  
23 ligence and machine learning capabilities.

24 (b) Beginning on March 1, 2025, the Commissioner  
25 of U.S. Customs and Border Protection shall provide to

1 the Committees on Appropriations of the House of Rep-  
2 resentatives and the Senate a quarterly update on the im-  
3 pacts of deployments of additional non-intrusive inspection  
4 technology on key performance metrics and operational ca-  
5 pabilities and such expenditure plan shall include the fol-  
6 lowing:

7 (1) the percentage of passenger and cargo vehi-  
8 cles scanned;

9 (2) the percentage of seizures of narcotics, cur-  
10 rency, weapons, and ammunition, and other illicit  
11 items at inbound and outbound operations at ports  
12 of entry, checkpoints, and other locations as applica-  
13 ble; and

14 (3) the impact on U.S. Customs and Border  
15 Protection workforce requirements resulting from  
16 the deployment of additional non-intrusive inspection  
17 technology.

18 SEC. 204. (a) Not later than 30 days after the date  
19 of enactment of this Act, the Under Secretary for Manage-  
20 ment at the Department of Homeland Security shall pro-  
21 vide to the Committees on Appropriations of the House  
22 of Representatives and the Senate an expenditure and hir-  
23 ing plan for amounts made available in this title of this  
24 Act.

1 (b) The plan required in subsection (a) shall not  
2 apply to funds made available in this Act under the head-  
3 ing “Federal Emergency Management Agency—Federal  
4 Assistance” or to funds transferred by this Act to such  
5 heading.

6 (c) The plan required in subsection (a) shall be up-  
7 dated and submitted to the Committees on Appropriations  
8 of the House of Representatives and the Senate every 30  
9 days and no later than the 5th day of each month to re-  
10 flect changes to the plan and expenditures of funds until  
11 all funds made available in this title of this Act are ex-  
12 pended or have expired.

13 (d) None of the funds made available in this title of  
14 this Act may be obligated prior to the submission of such  
15 plan.

16 SEC. 205. The remaining unobligated balances, as of  
17 the date of enactment of this Act, from amounts made  
18 available under the heading “U.S. Customs and Border  
19 Protection—Procurement, Construction, and Improve-  
20 ments” in division D of the Consolidated Appropriations  
21 Act, 2020 (Public Law 116–93) and described in section  
22 209(a)(1) of such division of that Act and division F of  
23 the Consolidated Appropriations Act, 2021 (Public Law  
24 116–260) and described in section 210 of such division  
25 of that Act are hereby rescinded, and an amount of addi-

1 tional new budget authority equivalent to the amount re-  
2 scinded pursuant to this section is hereby appropriated,  
3 for an additional amount for fiscal year 2024, to remain  
4 available until September 30, 2028, and shall be available  
5 for the same purposes and under the same authorities and  
6 conditions for which such amounts were originally pro-  
7 vided in such Acts: *Provided*, That none of the funds allo-  
8 cated for pedestrian physical barriers pursuant to this sec-  
9 tion may be made available for any purpose other than  
10 the construction of steel bollard pedestrian barrier built  
11 at least 18 to 30 feet in effective height and augmented  
12 with anti-climb and anti-dig features: *Provided further*,  
13 That for purposes of this section, the term “effective  
14 height” refers to the height above the level of the adjacent  
15 terrain features: *Provided further*, That none of the funds  
16 allocated for pedestrian physical barriers pursuant to this  
17 section may be made available for any purpose other than  
18 construction of pedestrian barriers consistent with the de-  
19 scription in the first proviso at locations identified in the  
20 Border Security Improvement Plan submitted to Congress  
21 on August 1, 2020: *Provided further*, That the Commis-  
22 sioner of U.S. Customs and Border Protection may  
23 reprioritize the construction of physical barriers outlined  
24 in the Border Security Improvement Plan and, with prior  
25 approval of the Committees on Appropriations of the

1 House of Representatives and the Senate, add additional  
2 miles of pedestrian physical barriers where no such bar-  
3 riers exist, prioritized by operational requirements devel-  
4 oped in coordination with U.S. Border Patrol leadership:  
5 *Provided further*, That within 180 days of the date of en-  
6 actment of this Act, the Secretary shall submit a report  
7 to the Committees on Appropriations of the House of Rep-  
8 resentatives and the Senate detailing how the funds will  
9 be used, by sector, to include the number of miles to be  
10 built: *Provided further*, That none of the funds made avail-  
11 able pursuant to this section shall be available for obliga-  
12 tion until the Secretary submits the report detailed in the  
13 preceding proviso.

14       SEC. 206. (a) Not later than 60 days after the date  
15 of the enactment of this Act and monthly thereafter, the  
16 Director of U.S. Immigration and Customs Enforcement  
17 (in this section, referred to as the “Director”) shall pro-  
18 vide to the Committees on Appropriations of the House  
19 of Representatives and the Senate data detailing the num-  
20 ber of weekly removal flights conducted by U.S. Immigra-  
21 tion and Customs Enforcement, the cost per flight, the  
22 number of individuals by nationality on each flight, the  
23 average length of time by nationality between when the  
24 individual was removed and when the individual’s final

1 order of removal was issued, and the number of empty  
2 seats on each flight.

3 (b) The Director shall also provide to the Committees  
4 on Appropriations of the House of Representatives and the  
5 Senate data detailing the number of voluntary repatri-  
6 ations coordinated by U.S. Immigration and Customs En-  
7 forcement, the costs associated with each repatriation, the  
8 number of individuals by nationality, the average length  
9 of time by nationality between when the individual was  
10 removed and when the individual's final order of removal  
11 was issued, and the number of individuals that have opted  
12 into this program still awaiting repatriation.

13 SEC. 207. (a) Not later than 30 days after the date  
14 of enactment of this Act and weekly thereafter, the Direc-  
15 tor of U.S. Immigration and Customs Enforcement (in  
16 this section referred to as the "Director") shall provide  
17 to the Committees on Appropriations of the House of Rep-  
18 resentatives and the Senate a plan to increase custodial  
19 detention capacity using the funds provided for such pur-  
20 pose in this title of this Act, until such funds are ex-  
21 pended.

22 (b) The plan required by subsection (a) shall also in-  
23 clude data on all detention capacity to which U.S. Immi-  
24 gration and Customs Enforcement has access but cannot

1 use, the reason that the capacity cannot be used, and a  
2 course of action for mitigating utilization issues.

3 (c) The Director shall provide notice to the Commit-  
4 tees on Appropriations of the House of Representatives  
5 and the Senate in the plan required by subsection (a) of  
6 any planned facility acquisitions, cost data, utilization  
7 rates, increase of average daily population, and notice of  
8 any termination or reduction of a contract for detention  
9 space, whether such actions are funded by this Act or any  
10 other Act for this or prior fiscal years.

11 (d) The Director shall notify the Committees on Ap-  
12 propriations of the House of Representatives and the Sen-  
13 ate not less than 30 days prior to the planned date of  
14 a contract termination or implementation of a reduction  
15 in detention capacity.

16 SEC. 208. None of the funds provided in this title  
17 of this Act for “U.S. Immigration and Customs Enforce-  
18 ment—Operations Support” may be used for community-  
19 based residential facilities.

20 SEC. 209. (a) Prior to the Secretary of Homeland Se-  
21 curity (in this section referred to as the “Secretary”) re-  
22 questing assistance from the Department of Defense for  
23 border security operations, the Secretary shall ensure that  
24 an alternatives analysis and cost-benefit analysis is con-  
25 ducted that includes data on the cost effectiveness of ob-



1 taining such assistance from the Department of Defense  
2 in lieu of other options.

3 (b) The Secretary shall submit to the Committees on  
4 Appropriations of the House of Representatives and the  
5 Senate, a report detailing the types of support sought by  
6 the Secretary in any request for assistance from the De-  
7 partment of Defense for border security operations and  
8 the operational impact of such request on Department of  
9 Homeland Security operations within 30 days of the date  
10 of enactment of this Act and quarterly thereafter.

11 (c) The Secretary shall include with the data re-  
12 quested in subsection (b) the results of the alternatives  
13 analysis and cost-benefit analysis required under sub-  
14 section (a).

15 SEC. 210. Eligibility for funding made available by  
16 this title of this Act for transfer from “U.S. Customs and  
17 Border Protection—Operations and Support” to “Federal  
18 Emergency Management Agency—Federal Assistance”  
19 for the Shelter and Services Program shall not be limited  
20 to entities that previously received or applied for funding  
21 for the Shelter and Services Program or the Emergency  
22 Food and Shelter-Humanitarian program.

23 SEC. 211. Of the total amount provided under the  
24 heading “U.S. Customs and Border Protection—Oper-  
25 ations and Support” in this title of this Act for transfer

1 to “Federal Emergency Management Agency—Federal  
2 Assistance” for the Shelter and Services Program—

3 (1) not more than \$933,333,333 shall be avail-  
4 able for transfer immediately upon enactment of this  
5 Act;

6 (2) an additional \$350,000,000 shall be avail-  
7 able for transfer upon submission of a written cer-  
8 tification by the Secretary of Homeland Security, to  
9 the Committees on Appropriations of the House of  
10 Representatives and the Senate, that U.S. Immigra-  
11 tion and Customs Enforcement has—

12 (A) the ability to detain 46,500 individuals  
13 and has increased the total number of Enforce-  
14 ment and Removal Operations deportation offi-  
15 cers by 200 above the current on board levels  
16 as of the date of enactment of this Act;

17 (B) increased the total number of U.S.  
18 Customs and Border Protection officers by 200  
19 above the current on board levels as of the date  
20 of enactment of this Act; and

21 (C) increased the total number of U.S.  
22 Citizenship and Immigration Services asylum  
23 officers by 800 above the current on board lev-  
24 els as of the date of enactment of this Act; and

1           (3) an additional \$116,666,667 shall be avail-  
2           able for transfer upon submission of a written cer-  
3           tification by the Secretary of Homeland Security, to  
4           the Committees on Appropriations of the House of  
5           Representatives and the Senate, that U.S. Immigra-  
6           tion and Customs Enforcement has—

7                   (A) conducted a total of 1,500 removal  
8                   flights since the date of enactment of this Act;  
9                   and

10                   (B) ensured that at least 75 percent of  
11                   Border Patrol agents assigned to duty along the  
12                   southwest land border have been trained on the  
13                   procedures included in sections 235B and 244B  
14                   of the Immigration and Nationality Act.

1 TITLE III  
2 DEPARTMENT OF HEALTH AND HUMAN  
3 SERVICES  
4 ADMINISTRATION FOR CHILDREN AND FAMILIES  
5 REFUGEE AND ENTRANT ASSISTANCE

6 For an additional amount for “Refugee and Entrant  
7 Assistance”, \$350,000,000, to remain available until ex-  
8 pended, for carrying out section 235(c)(5)(B) of the Wil-  
9 liam Wilberforce Trafficking Victims Protection Reauthor-  
10 ization Act of 2008 (8 U.S.C. 1232(c)(5)(B)): *Provided,*  
11 That for the purposes of carrying out such section the Sec-  
12 retary of Health and Human Services may use amounts  
13 made available under this heading in this Act to award  
14 grants to, or enter into contracts with, public, private, or  
15 nonprofit organizations, including States: *Provided fur-*  
16 *ther,* That such amount is designated by the Congress as  
17 being for an emergency requirement pursuant to section  
18 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
19 Deficit Control Act of 1985.

1 TITLE IV  
2 DEPARTMENT OF STATE AND RELATED  
3 AGENCY  
4 BILATERAL ECONOMIC ASSISTANCE  
5 FUNDS APPROPRIATED TO THE PRESIDENT  
6 INTERNATIONAL DISASTER ASSISTANCE

7 For an additional amount for “International Disaster  
8 Assistance”, \$850,000,000, to remain available until ex-  
9 pended, to address humanitarian needs in the Western  
10 Hemisphere: *Provided*, That such amount is designated by  
11 the Congress as being for an emergency requirement pur-  
12 suant to section 251(b)(2)(A)(i) of the Balanced Budget  
13 and Emergency Deficit Control Act of 1985.

14 ECONOMIC SUPPORT FUND

15 For an additional amount for “Economic Support  
16 Fund”, \$415,000,000, to remain available until Sep-  
17 tember 30, 2026: *Provided*, That of the total amount made  
18 available under this heading in this Act, \$230,000,000  
19 shall be made available to increase foreign country capac-  
20 ity to accept and integrate returned and removed individ-  
21 uals, which shall be administered in consultation with the  
22 Secretary of Homeland Security, including to address  
23 partner government requests that enable the achievement  
24 of such objectives, as appropriate: *Provided further*, That  
25 of the total amount made available under this heading in

1 this Act, \$185,000,000 shall be made available to reduce  
2 irregular migration within the Western Hemisphere: *Pro-*  
3 *vided further*, That prior to the obligation of funds made  
4 available pursuant to the preceding proviso that are made  
5 available to support the repatriation operations of a for-  
6 eign government, the Secretary of State shall submit to  
7 the appropriate congressional committees a monitoring  
8 and oversight plan for the use of such funds, and such  
9 funds shall be subject to prior consultation with such com-  
10 mittees and the regular notification procedures of the  
11 Committees on Appropriations: *Provided further*, That the  
12 Secretary of State shall submit to such committees the  
13 text of any agreements or awards related to such oper-  
14 ations, which may include documents submitted in classi-  
15 fied form, as appropriate, including any agreement with  
16 a foreign government, nongovernment entity, or inter-  
17 national organization, as applicable, not later than 5 days  
18 after the effective date of such document: *Provided further*,  
19 That funds appropriated under this heading in this Act  
20 may be made available as contributions: *Provided further*,  
21 That funds appropriated under this heading in this Act  
22 shall not be used to support the refoulement of migrants  
23 or refugees: *Provided further*, That such amount is des-  
24 ignated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3 INTERNATIONAL SECURITY ASSISTANCE

4 DEPARTMENT OF STATE

5 INTERNATIONAL NARCOTICS CONTROL AND LAW

6 ENFORCEMENT

7 For an additional amount for “International Nar-  
8 cotics Control and Law Enforcement”, \$25,000,000, to re-  
9 main available until September 30, 2025, to counter the  
10 flow of fentanyl, fentanyl precursors, and other synthetic  
11 drugs into the United States, following consultation with  
12 the Committees on Appropriations: *Provided*, That such  
13 amount is designated by the Congress as being for an  
14 emergency requirement pursuant to section  
15 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
16 Deficit Control Act of 1985..

## 1 TITLE V

## 2 GENERAL PROVISIONS—THIS ACT

3 SEC. 501. Each amount appropriated or made avail-  
4 able by this Act is in addition to amounts otherwise appro-  
5 priated for the fiscal year involved.

6 SEC. 502. No part of any appropriation contained in  
7 this Act shall remain available for obligation beyond the  
8 current fiscal year unless expressly so provided herein.

9 SEC. 503. Unless otherwise provided for by this Act,  
10 the additional amounts appropriated by this Act to appro-  
11 priations accounts shall be available under the authorities  
12 and conditions applicable to such appropriations accounts  
13 for fiscal year 2024.

14 SEC. 504. Each amount designated in this Act by the  
15 Congress as being for an emergency requirement pursuant  
16 to section 251(b)(2)(A)(i) of the Balanced Budget and  
17 Emergency Deficit Control Act of 1985 shall be available  
18 (or repurposed or rescinded, if applicable) only if the  
19 President subsequently so designates all such amounts  
20 and transmits such designations to the Congress.

21 SEC. 505. Any amount appropriated by this Act, des-  
22 ignated by the Congress as an emergency requirement  
23 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
24 et and Emergency Deficit Control Act of 1985, and subse-  
25 quently so designated by the President, and transferred



1 pursuant to transfer authorities provided by this Act shall  
2 retain such designation.

3       This division may be cited as the “Border Security  
4 and Combatting Fentanyl Supplemental Appropriations  
5 Act, 2024”.

1           **DIVISION C—BORDER ACT**

2   **SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.**

3           (a) SHORT TITLE.—This division may be cited as the  
4 “Border Act”.

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

DIVISION C—BORDER ACT

Sec. 3001. Short title; table of contents.

Sec. 3002. Definitions.

TITLE I—CAPACITY BUILDING

Subtitle A—Hiring, Training, and Systems Modernization

CHAPTER 1—HIRING AUTHORITIES

Sec. 3101. USCIS direct hire authority.

Sec. 3102. ICE direct hire authority.

Sec. 3103. Reemployment of civilian retirees to meet exceptional employment  
needs.

Sec. 3104. Establishment of special pay rate for asylum officers.

CHAPTER 2—HIRING WAIVERS

Sec. 3111. Hiring flexibility.

Sec. 3112. Supplemental Commissioner authority and definitions.

CHAPTER 3—ALTERNATIVES TO DETENTION IMPROVEMENTS AND TRAINING  
FOR U.S. BORDER PATROL

Sec. 3121. Alternatives to detention improvements.

Sec. 3122. Training for U.S. Border Patrol.

CHAPTER 4—MODERNIZING NOTICES TO APPEAR

Sec. 3131. Electronic notices to appear.

Sec. 3132. Authority to prepare and issue notices to appear.

Subtitle B—Asylum Processing at the Border

Sec. 3141. Provisional noncustodial removal proceedings.

Sec. 3142. Protection merits removal proceedings.

Sec. 3143. Voluntary departure after noncustodial processing; withdrawal of  
application for admission.

Sec. 3144. Voluntary repatriation.

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- Sec. 3319. Ten-year statute of limitations for violations of sanctions.
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## CHAPTER 3—EXCEPTION RELATING TO IMPORTATION OF GOODS

- Sec. 3326. Exception relating to importation of goods.

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- Sec. 3402. Additional visas.
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## TITLE V—SELF-SUFFICIENCY AND DUE PROCESS

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- Sec. 3501. Work authorization.
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- Sec. 3511. Access to counsel.
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## TITLE VI—ACCOUNTABILITY AND METRICS

- Sec. 3601. Employment authorization compliance.
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- Sec. 3606. Accountability in provisional removal proceedings.
- Sec. 3607. Accountability in voluntary repatriation, withdrawal, and departure.
- Sec. 3608. GAO analysis of immigration judge and asylum officer decision-making regarding asylum, withholding of removal, and protection under the Convention Against Torture.
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## TITLE VII—OTHER MATTERS

- Sec. 3701. Severability.

## TITLE VIII—BUDGETARY EFFECTS

- Sec. 3801. Budgetary effects.

**1 SEC. 3002. DEFINITIONS.****2 In this division:**

1           (1) APPROPRIATE COMMITTEES OF CON-  
2           GRESS.—Except as otherwise explicitly provided, the  
3           term “appropriate committees of Congress”  
4           means—

5                   (A) the Committee on Appropriations of  
6           the Senate;

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

9                   (C) the Committee on Homeland Security  
10          and Governmental Affairs of the Senate;

11                   (D) the Committee on Appropriations of  
12          the House of Representatives;

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

15                   (F) the Committee on Homeland Security  
16          of the House of Representatives.

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

19           **TITLE I—CAPACITY BUILDING**  
20           **Subtitle A—Hiring, Training, and**  
21           **Systems Modernization**

22           **CHAPTER 1—HIRING AUTHORITIES**

23           **SEC. 3101. USCIS DIRECT HIRE AUTHORITY.**

24           (a) IN GENERAL.—The Secretary may appoint, with-  
25          out regard to the provisions of sections 3309 through

1 3319 of title 5, United States Code, candidates needed for  
2 positions within the Refugee, Asylum and International  
3 Operations Directorate, the Field Operations Directorate,  
4 and the Service Center Operations Directorate of U.S.  
5 Citizenship and Immigration Services for which—

6 (1) public notice has been given;

7 (2) the Secretary has determined that a critical  
8 hiring need exists; and

9 (3) the Secretary has consulted with the Direc-  
10 tor of the Office of Personnel Management regard-  
11 ing—

12 (A) the positions for which the Secretary  
13 plans to recruit;

14 (B) the quantity of candidates Secretary is  
15 seeking; and

16 (C) the assessment and selection policies  
17 the Secretary plans to utilize.

18 (b) DEFINITION OF CRITICAL HIRING NEED.—In  
19 this section, the term “critical hiring need” means per-  
20 sonnel necessary for the implementation of this Act and  
21 associated work.

22 (c) REPORTING.—Not later than 1 year after the date  
23 of enactment of this Act, and annually thereafter for the  
24 following 4 years, the Secretary, in consultation with the

1 Director of the Office of Personnel Management, shall  
2 submit to Congress a report that includes—

3 (1) demographic data, including veteran status,  
4 regarding individuals hired pursuant to the authority  
5 under subsection (a);

6 (2) salary information of individuals hired pur-  
7 suant to such authority; and

8 (3) how the Department of Homeland Security  
9 exercised such authority consistently with merit sys-  
10 tem principles.

11 (d) SUNSET.—The authority to make an appointment  
12 under this section shall terminate on the date that is 5  
13 years after the date of the enactment of this Act.

14 **SEC. 3102. ICE DIRECT HIRE AUTHORITY.**

15 (a) IN GENERAL.—The Secretary may appoint, with-  
16 out regard to the provisions of sections 3309 through  
17 3319 of title 5, United States Code, candidates needed for  
18 positions within Enforcement and Removal Operations of  
19 U.S. Immigration and Customs Enforcement as a deporta-  
20 tion officer or with duties exclusively relating to the En-  
21 forcement and Removal, Custody Operations, Alternatives  
22 to Detention, or Transportation and Removal program for  
23 which—

24 (1) public notice has been given;

1           (2) the Secretary has determined that a critical  
2 hiring need exists; and

3           (3) the Secretary has consulted with the Direc-  
4 tor of the Office of Personnel Management regard-  
5 ing—

6           (A) the positions for which the Secretary  
7 plans to recruit;

8           (B) the quantity of candidates the Sec-  
9 retary is seeking; and

10           (C) the assessment and selection policies  
11 the Secretary plans to utilize.

12       (b) DEFINITION OF CRITICAL HIRING NEED.—In  
13 this section, the term “critical hiring need” means per-  
14 sonnel necessary for the implementation of this Act and  
15 associated work.

16       (c) REPORTING.—Not later than 1 year after the date  
17 of the enactment of this Act, and annually thereafter for  
18 the following 4 years, the Secretary, in consultation with  
19 the Director of the Office of Personnel Management, shall  
20 submit to Congress a report that includes—

21           (1) demographic data, including veteran status,  
22 regarding individuals hired pursuant to the authority  
23 under subsection (a);

24           (2) salary information of individuals hired pur-  
25 suant to such authority; and



1           (3) how the Department of Homeland Security  
2           exercised such authority consistently with merit sys-  
3           tem principles.

4           (d) SUNSET.—The authority to make an appointment  
5           under this section shall terminate on the date that is 5  
6           years after the date of the enactment of this Act.

7   **SEC. 3103. REEMPLOYMENT OF CIVILIAN RETIREES TO**  
8                           **MEET EXCEPTIONAL EMPLOYMENT NEEDS.**

9           (a) AUTHORITY.—The Secretary, after consultation  
10          with the Director of the Office of Personnel Management,  
11          may waive, with respect to any position in U.S. Immigra-  
12          tion and Customs Enforcement, U.S. Customs and Border  
13          Protection, or U.S. Citizenship and Immigration Services,  
14          the application of section 8344 or 8468 of title 5, United  
15          States Code, on a case-by-case basis, for employment of  
16          an annuitant in a position necessary to implement this Act  
17          and associated work, for which there is exceptional dif-  
18          ficulty in recruiting or retaining a qualified employee, or  
19          when a temporary emergency hiring need exists.

20          (b) PROCEDURES.—The Secretary, after consultation  
21          with the Director of the Office of Personnel Management,  
22          shall prescribe procedures for the exercise of the authority  
23          under subsection (a), including procedures for a delegation  
24          of authority.

1 (c) ANNUITANTS NOT TREATED AS EMPLOYEES FOR  
2 PURPOSES OF RETIREMENT BENEFITS.—An employee for  
3 whom a waiver under this section is in effect shall not  
4 be considered an employee for purposes of subchapter III  
5 of chapter 83 or chapter 84 of title 5, United States Code.

6 **SEC. 3104. ESTABLISHMENT OF SPECIAL PAY RATE FOR**  
7 **ASYLUM OFFICERS.**

8 (a) IN GENERAL.—Subchapter III of chapter 53 of  
9 title 5, United States Code, is amended by inserting after  
10 section 5332 the following:

11 **“§ 5332a. Special base rates of pay for asylum officers**

12 “(a) DEFINITIONS.—In this section—

13 “(1) the term ‘asylum officer’ has the meaning  
14 given such term in section 235(b)(1) of the Immi-  
15 gration and Nationality Act (8 U.S.C. 1225(b)(1));

16 “(2) the term ‘General Schedule base rate’  
17 means an annual rate of basic pay established under  
18 section 5332 before any additions, such as a locality-  
19 based comparability payment under section 5304 or  
20 5304a or a special rate supplement under section  
21 5305; and

22 “(3) the term ‘special base rate’ means an an-  
23 nual rate of basic pay payable to an asylum officer,  
24 before any additions or reductions, that replaces the  
25 General Schedule base rate otherwise applicable to

1 the asylum officer and that is administered in the  
2 same manner as a General Schedule base rate.

3 “(b) SPECIAL BASE RATES OF PAY.—

4 “(1) ENTITLEMENT TO SPECIAL RATE.—Not-  
5 withstanding section 5332, an asylum officer is enti-  
6 tled to a special base rate at grades 1 through 15,  
7 which shall—

8 “(A) replace the otherwise applicable Gen-  
9 eral Schedule base rate for the asylum officer;

10 “(B) be basic pay for all purposes, includ-  
11 ing the purpose of computing a locality-based  
12 comparability payment under section 5304 or  
13 5304a; and

14 “(C) be computed as described in para-  
15 graph (2) and adjusted at the time of adjust-  
16 ments in the General Schedule.

17 “(2) COMPUTATION.—The special base rate for  
18 an asylum officer shall be derived by increasing the  
19 otherwise applicable General Schedule base rate for  
20 the asylum officer by 15 percent for the grade of the  
21 asylum officer and rounding the result to the nearest  
22 whole dollar.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
24 for subchapter III of chapter 53 of title 5, United States

1 Code, is amended by inserting after the item relating to  
2 section 5332 the following:

“5332a. Special base rates of pay for asylum officers.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect on the first day of the first  
5 applicable pay period beginning 30 days after the date of  
6 the enactment of this Act.

## 7 **CHAPTER 2—HIRING WAIVERS**

### 8 **SEC. 3111. HIRING FLEXIBILITY.**

9 Section 3 of the Anti-Border Corruption Act of 2010  
10 (6 U.S.C. 221) is amended by striking subsection (b) and  
11 inserting the following new subsections:

12 “(b) **WAIVER AUTHORITY.**—The Commissioner of  
13 U.S. Customs and Border Protection may waive the appli-  
14 cation of subsection (a)(1) in the following circumstances:

15 “(1) In the case of a current, full-time law en-  
16 forcement officer employed by a State or local law  
17 enforcement agency, if such officer—

18 “(A) has served as a law enforcement offi-  
19 cer for not fewer than three years with no  
20 break in service;

21 “(B) is authorized by law to engage in or  
22 supervise the prevention, detection, investiga-  
23 tion, or prosecution of, or the incarceration of  
24 any person for, any violation of law, and has  
25 statutory powers for arrest or apprehension;

1           “(C) is not currently under investigation,  
2           does not have disciplinary, misconduct, or de-  
3           rogatory records, has not been found to have  
4           engaged in a criminal offense or misconduct,  
5           has not resigned from a law enforcement officer  
6           position under investigation or in lieu of termi-  
7           nation, and has not been dismissed from a law  
8           enforcement officer position; and

9           “(D) has, within the past ten years, suc-  
10          cessfully completed a polygraph examination as  
11          a condition of employment with such officer’s  
12          current law enforcement agency.

13          “(2) In the case of a current, full-time Federal  
14          law enforcement officer, if such officer—

15                 “(A) has served as a law enforcement offi-  
16                 cer for not fewer than three years with no  
17                 break in service;

18                 “(B) has authority to make arrests, con-  
19                 duct investigations, conduct searches, make sei-  
20                 zures, carry firearms, and serve orders, war-  
21                 rants, and other processes;

22                 “(C) is not currently under investigation,  
23                 does not have disciplinary, misconduct, or de-  
24                 rogatory records, has not been found to have  
25                 engaged in a criminal offense or misconduct,

1 has not resigned from a law enforcement officer  
2 position under investigation or in lieu of termi-  
3 nation, and has not been dismissed from a law  
4 enforcement officer position; and

5 “(D) holds a current background investiga-  
6 tion, in accordance with current standards re-  
7 quired for access to Top Secret or Top Secret/  
8 Sensitive Compartmented Information.

9 “(3) In the case of an individual who is a mem-  
10 ber of the Armed Forces (or a reserve component  
11 thereof) or a veteran, if such individual—

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

14 “(B) holds, or has held within the past five  
15 years, Top Secret or Top Secret/Sensitive Com-  
16 partmented Information clearance;

17 “(C) holds, or has undergone within the  
18 past five years, a current background investiga-  
19 tion in accordance with current standards re-  
20 quired for access to Top Secret or Top Secret/  
21 Sensitive Compartmented Information;

22 “(D) received, or is eligible to receive, an  
23 honorable discharge from service in the Armed  
24 Forces, has not engaged in a criminal offense,  
25 has not committed a military offense under the

1 Uniform Code of Military Justice, and does not  
2 have disciplinary, misconduct, or derogatory  
3 records; and

4 “(E) was not granted any waivers to ob-  
5 tain the clearance referred to subparagraph  
6 (B).

7 “(c) **TERMINATION OF WAIVER AUTHORITY.**—The  
8 authority to issue a waiver under subsection (b) shall ter-  
9minate on the date that is 3 years after the date of the  
10 enactment of the Border Act.”.

11 **SEC. 3112. SUPPLEMENTAL COMMISSIONER AUTHORITY**  
12 **AND DEFINITIONS.**

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

16 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

17 “(a) **NON-EXEMPTION.**—An individual who receives a  
18 waiver under subsection (b) of section 3 is not exempt  
19 from other hiring requirements relating to suitability for  
20 employment and eligibility to hold a national security des-  
21 ignated position, as determined by the Commissioner of  
22 U.S. Customs and Border Protection.

23 “(b) **BACKGROUND INVESTIGATIONS.**—Any indi-  
24 vidual who receives a waiver under subsection (b) of sec-  
25 tion 3 who holds a background investigation in accordance

1 with current standards required for access to Top Secret  
2 or Top Secret/Sensitive Compartmented Information shall  
3 be subject to an appropriate background investigation.

4 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-  
5 TION.—The Commissioner of U.S. Customs and Border  
6 Protection is authorized to administer a polygraph exam-  
7 ination to an applicant or employee who is eligible for or  
8 receives a waiver under subsection (b) of section 3 if infor-  
9 mation is discovered prior to the completion of a back-  
10 ground investigation that results in a determination that  
11 a polygraph examination is necessary to make a final de-  
12 termination regarding suitability for employment or con-  
13 tinued employment, as the case may be.”.

14 (b) REPORT.—The Anti-Border Corruption Act of  
15 2010 (Public Law 111–376; 124 Stat. 4104) is amended  
16 by adding at the end the following new section:

17 **“SEC. 5. REPORTING REQUIREMENTS.**

18 “(a) ANNUAL REPORT.—Not later than one year  
19 after the date of the enactment of this section, and annu-  
20 ally thereafter for three years, the Commissioner of U.S.  
21 Customs and Border Protection shall submit a report to  
22 Congress that includes, with respect to the reporting pe-  
23 riod—

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



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

2 “(3) the percentage of applicants who were  
3 hired after receiving a waiver;

4 “(4) the number of instances that a polygraph  
5 was administered to an applicant who initially re-  
6 ceived a waiver and the results of such polygraph;

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

10 “(6) additional authorities needed by U.S. Cus-  
11 toms and Border Protection to better utilize the  
12 polygraph waiver program for its intended goals; and

13 “(7) any disciplinary actions taken against law  
14 enforcement officers hired under the waiver author-  
15 ity authorized under section 3(b).

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

18 “(1) an analysis of other methods of employ-  
19 ment suitability tests that detect deception and could  
20 be used in conjunction with traditional background  
21 investigations to evaluate potential employees for  
22 suitability; and

23 “(2) a recommendation regarding whether a  
24 test referred to in paragraph (1) should be adopted  
25 by U.S. Customs and Border Protection when the

1 polygraph examination requirement is waived pursu-  
2 ant to section 3(b).”.

3 (c) GAO REPORT.—The Anti-Border Corruption Act  
4 of 2010 (Public Law 111–376; 124 Stat. 4104), as  
5 amended by subsection (b) of this section, is further  
6 amended by adding at the end the following new section:

7 **“SEC. 6. GAO REPORT.**

8 “(a) IN GENERAL.—Not later than five years after  
9 the date of the enactment of this section, and every five  
10 years thereafter, the Comptroller General of the United  
11 States shall—

12 “(1) conduct a review of the disciplinary, mis-  
13 conduct, or derogatory records of all individuals  
14 hired using the waiver authority under subsection  
15 (b) of section 3—

16 “(A) to determine the rates of disciplinary  
17 actions taken against individuals hired using  
18 such waiver authority, as compared to individ-  
19 uals hired after passing the polygraph as re-  
20 quired under subsection (a) of that section; and

21 “(B) to address any other issue relating to  
22 discipline by U.S. Customs and Border Protec-  
23 tion; and

24 “(2) submit to the Committee on Homeland Se-  
25 curity and Governmental Affairs of the Senate and

1 the Committee on Homeland Security of the House  
2 of Representatives a report that appropriately pro-  
3 tects sensitive information and describes the results  
4 of the review conducted under paragraph (1).

5 “(b) SUNSET.—The requirement under this section  
6 shall terminate on the date on which the third report re-  
7 quired by subsection (a) is submitted.”.

8 (d) DEFINITIONS.—The Anti-Border Corruption Act  
9 of 2010 (Public Law 111–376; 124 Stat. 4104), as  
10 amended by subsection (c) of this section, is further  
11 amended by adding at the end the following new section:

12 **“SEC. 7. DEFINITIONS.**

13 “In this Act:

14 “(1) CRIMINAL OFFENSE.—The term ‘criminal  
15 offense’ means—

16 “(A) any felony punishable by a term of  
17 imprisonment of more than one year; and

18 “(B) any other crime for which an essen-  
19 tial element involves fraud, deceit, or misrepre-  
20 sentation to obtain an advantage or to dis-  
21 advantage another.

22 “(2) FEDERAL LAW ENFORCEMENT OFFICER.—  
23 The term ‘Federal law enforcement officer’ means a  
24 ‘law enforcement officer’, as defined in section  
25 8331(20) or 8401(17) of title 5, United States Code.

1           “(3) MILITARY OFFENSE.—The term ‘military  
2 offense’ means—

3           “(A) an offense for which—

4                   “(i) a member of the Armed Forces  
5 may be discharged or separated from serv-  
6 ice in the Armed Forces; or

7                   “(ii) a punitive discharge is, or would  
8 be, authorized for the same or a closely re-  
9 lated offense under the Manual for Courts-  
10 Martial, as pursuant to Army Regulation  
11 635–200 chapter 14–12; and

12           “(B) an action for which a member of the  
13 Armed Forces received a demotion in military  
14 rank as punishment for a crime or wrongdoing,  
15 imposed by a court martial or other authority.

16           “(4) VETERAN.—The term ‘veteran’ has the  
17 meaning given such term in section 101(2) of title  
18 38, United States Code.”.

19 **CHAPTER 3—ALTERNATIVES TO DETEN-**  
20 **TION IMPROVEMENTS AND TRAINING**  
21 **FOR U.S. BORDER PATROL**

22 **SEC. 3121. ALTERNATIVES TO DETENTION IMPROVEMENTS.**

23           (a) CERTIFICATION.—Not later than 90 days after  
24 the date of the enactment of this Act, the Director of U.S.

1 Immigration and Customs Enforcement shall certify to the  
2 appropriate committees of Congress that—

3 (1) with respect to the alternatives to detention  
4 programs, U.S. Immigration and Customs Enforce-  
5 ment's processes that release aliens under any type  
6 of supervision, consistent and standard policies are  
7 in place across all U.S. Immigration and Customs  
8 Enforcement field offices;

9 (2) the U.S. Immigration and Customs En-  
10 forcement's alternatives to detention programs use  
11 escalation and de-escalation techniques; and

12 (3) reports on the use of, and policies with re-  
13 spect to, such escalation and de-escalation tech-  
14 niques are provided to the public appropriately pro-  
15 tecting sensitive information.

16 (b) ANNUAL POLICY REVIEW.—

17 (1) IN GENERAL.—Not less frequently than an-  
18 nually, the Director shall conduct a review of U.S.  
19 Immigration and Customs Enforcement policies with  
20 respect to the alternatives to detention programs so  
21 as to ensure standardization and evidence-based de-  
22 cision making.

23 (2) SUBMISSION OF POLICY REVIEWS.—Not  
24 later than 14 days after the completion of each re-  
25 view required by paragraph (1), the Director shall

1 submit to the appropriate committees of Congress a  
2 report on the results of the review.

3 (c) INDEPENDENT VERIFICATION AND VALIDA-  
4 TION.—Not less frequently than every 5 years, the Direc-  
5 tor shall ensure that an independent verification and vali-  
6 dation of U.S. Immigration and Customs Enforcement  
7 policies with respect to the alternatives to detention pro-  
8 grams is conducted.

9 **SEC. 3122. TRAINING FOR U.S. BORDER PATROL.**

10 (a) IN GENERAL.—The Commissioner of U.S. Cus-  
11 toms and Border Protection shall require all U.S. Border  
12 Patrol agents and other employees or contracted employ-  
13 ees designated by the Commissioner to participate in an-  
14 nual continuing training to maintain and update their un-  
15 derstanding of—

16 (1) Department of Homeland Security policies,  
17 procedures, and guidelines;

18 (2) the fundamentals of law (including the  
19 Fourth Amendment to the Constitution of the  
20 United States), ethics, and professional conduct;

21 (3) applicable Federal law and regulations;

22 (4) applicable migration trends that the Com-  
23 missioner determines are relevant;

24 (5) best practices for coordinating with commu-  
25 nity stakeholders;

1 (6) de-escalation training; and

2 (7) any other information the Commissioner de-  
3 termines to be relevant to active duty agents.

4 (b) TRAINING SUBJECTS.—Continuing training  
5 under this section shall include training regarding—

6 (1) the non-lethal use of force policies available  
7 to U.S. Border Patrol agents and de-escalation  
8 strategies and methods;

9 (2) identifying, screening, and responding to  
10 vulnerable populations, such as children, persons  
11 with diminished mental capacity, victims of human  
12 trafficking, pregnant mothers, victims of gender-  
13 based violence, victims of torture or abuse, and the  
14 acutely ill;

15 (3) trends in transnational criminal organiza-  
16 tion activities that impact border security and mi-  
17 gration;

18 (4) policies, strategies, and programs—

19 (A) to protect due process, the civil,  
20 human, and privacy rights of individuals, and  
21 the private property rights of land owners;

22 (B) to reduce the number of migrant and  
23 agent deaths; and

24 (C) to improve the safety of agents on pa-  
25 trol;

1 (5) personal resilience;

2 (6) anti-corruption and officer ethics training;

3 (7) current migration trends, including updated  
4 cultural and societal issues of countries that are a  
5 significant source of migrants who are—

6 (A) arriving to seek humanitarian protec-  
7 tion; or

8 (B) encountered at a United States inter-  
9 national boundary while attempting to enter  
10 without inspection;

11 (8) the impact of border security operations on  
12 natural resources and the environment, including  
13 strategies to limit the impact of border security op-  
14 erations on natural resources and the environment;

15 (9) relevant cultural, societal, racial, and reli-  
16 gious training, including cross-cultural communica-  
17 tion skills;

18 (10) training required under the Prison Rape  
19 Elimination Act of 2003 (42 U.S.C. 15601 et seq.);

20 (11) risk management and safety training that  
21 includes agency protocols for ensuring public safety,  
22 personal safety, and the safety of persons in the cus-  
23 tody of the Department of Homeland Security; and



1           (12) any other training that meets the require-  
2           ments to maintain and update the subjects identified  
3           in subsection (a).

4           (c) COURSE REQUIREMENTS.—Courses offered under  
5 this section—

6           (1) shall be administered by U.S. Customs and  
7           Border Protection; and

8           (2) shall be approved in advance by the Com-  
9           missioner of U.S. Customs and Border Protection to  
10          ensure that such courses satisfy the requirements for  
11          training under this section.

12          (d) ASSESSMENT.—Not later than 2 years after the  
13          date of the enactment of this Act, the Comptroller General  
14          of the United States shall submit to the Committee on  
15          Homeland Security and Governmental Affairs of the Sen-  
16          ate and the Committee on Homeland Security of the  
17          House of Representatives a report that assesses the train-  
18          ing and education provided pursuant to this section, in-  
19          cluding continuing education.

20         **CHAPTER 4—MODERNIZING NOTICES TO**  
21   **APPEAR**

22         **SEC. 3131. ELECTRONIC NOTICES TO APPEAR.**

23           Section 239 of the Immigration and Nationality Act  
24           (8 U.S.C. 1229) is amended—

25           (1) in subsection (a)—

1 (A) in paragraph (1), in the matter pre-  
2 ceding subparagraph (A), by inserting “or, if  
3 elected by the alien in writing, by email or other  
4 electronic means to the extent feasible, if the  
5 alien, or the alien’s counsel of record, volun-  
6 tarily elects such service or otherwise accepts  
7 service electronically” after “mail”; and

8 (B) in paragraph (2)(A), in the matter  
9 preceding clause (i), by inserting “or, if elected  
10 by the alien in writing, by email or other elec-  
11 tronic means to the extent feasible, if the alien,  
12 or the alien’s counsel of record, voluntarily  
13 elects such service or otherwise accepts service  
14 electronically” after “mail”; and

15 (2) in subsection (c)—

16 (A) by inserting “the alien, or to the  
17 alien’s counsel of record, at” after “delivery  
18 to”; and

19 (B) by inserting “, or to the email address  
20 or other electronic address at which the alien  
21 elected to receive notice under paragraph (1) or  
22 (2) of subsection (a)” before the period at the  
23 end.

1 **SEC. 3132. AUTHORITY TO PREPARE AND ISSUE NOTICES**  
2 **TO APPEAR.**

3 Section 239(a) of the Immigration and Nationality  
4 Act (8 U.S.C. 1229(a)) is amended by adding at the end  
5 the following:

6 “(4) **AUTHORITY FOR CERTAIN PERSONNEL TO**  
7 **SERVE NOTICES TO APPEAR.**—Any mission support  
8 personnel within U.S. Customs and Border Protec-  
9 tion or U.S. Immigration and Customs Enforcement  
10 who reports directly to an immigration officer with  
11 authority to issue a notice to appear, and who has  
12 received the necessary training to issue such a no-  
13 tice, shall be authorized to prepare a notice to ap-  
14 pear under this section for review and issuance by  
15 the immigration officer.”.

16 **Subtitle B—Asylum Processing at**  
17 **the Border**

18 **SEC. 3141. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**  
19 **CEEDINGS.**

20 (a) **IN GENERAL.**—Chapter 4 of title II of the Immi-  
21 gration and Nationality Act (8 U.S.C. 1221 et seq.) is  
22 amended by inserting after section 235A the following:

23 **“SEC. 235B. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**  
24 **CEEDINGS.**

25 “(a) **GENERAL RULES.**—

1           “(1) CIRCUMSTANCES WARRANTING NONCUSTO-  
2           DIAL PROCEEDINGS.—The Secretary, based upon  
3           operational circumstances, may refer an alien appli-  
4           cant for admission for proceedings described in this  
5           section if the alien—

6                   “(A) indicates an intention to apply for a  
7                   protection determination; or

8                   “(B) expresses a credible fear of persecu-  
9                   tion (as defined in section 235(b)(1)(B)(v)) or  
10                  torture.

11           “(2) RELEASE FROM CUSTODY.—Aliens re-  
12           ferred for proceedings under this section shall be re-  
13           leased from physical custody and processed in ac-  
14           cordance with the procedures described in this sec-  
15           tion.

16           “(3) ALTERNATIVES TO DETENTION.—An adult  
17           alien, including a head of household, who has been  
18           referred for a proceeding under this section shall be  
19           supervised under the Alternatives to Detention pro-  
20           gram of U.S. Immigration and Customs Enforce-  
21           ment immediately upon release from physical cus-  
22           tody and continuing for the duration of such pro-  
23           ceeding.

24           “(4) FAMILY UNITY.—The Secretary shall en-  
25           sure, to the greatest extent practicable, that the re-

1 ferral of a family unit for proceedings under this  
2 section includes all members of such family unit who  
3 are traveling together.

4 “(5) EXCEPTIONS.—

5 “(A) UNACCOMPANIED ALIEN CHIL-  
6 DREN.—The provisions under this section may  
7 not be applied to unaccompanied alien children  
8 (as defined in section 462(g) of the Homeland  
9 Security Act of 2002 (6 U.S.C. 279(g))).

10 “(B) APPLICABILITY LIMITATION.—

11 “(i) IN GENERAL.—The Secretary  
12 shall only refer for proceedings under this  
13 section an alien described in clause (ii).

14 “(ii) ALIEN DESCRIBED.— An alien  
15 described in this clause is an alien who—

16 “(I) has not affirmatively shown,  
17 to the satisfaction of an immigration  
18 officer, that the alien has been phys-  
19 ically present in the United States for  
20 more than the 14-day period imme-  
21 diately prior to the date on which the  
22 alien was encountered by U.S. Cus-  
23 toms and Border Protection; and

1                   “(II) was encountered within 100  
2                   air miles of the international land bor-  
3                   ders of the United States.

4                   “(6) TIMING.—The provisional noncustodial re-  
5                   moval proceedings described in this section shall  
6                   conclude, to the maximum extent practicable, not  
7                   later than 90 days after the date the alien is in-  
8                   spected and determined inadmissible.

9                   “(b) PROCEDURES FOR PROVISIONAL NONCUSTO-  
10                  DIAL REMOVAL PROCEEDINGS.—

11                  “(1) COMMENCEMENT.—

12                   “(A) IN GENERAL.—Provisional noncusto-  
13                   dial removal proceedings shall commence under  
14                   this section with respect to an alien immediately  
15                   after the Secretary properly serves a notice of  
16                   removal proceedings on the alien.

17                   “(B) 90-DAY TIMEFRAME.—The 90-day  
18                   period under subsection (a)(6) with respect to  
19                   an alien shall commence upon an inspection and  
20                   inadmissibility determination of the alien.

21                   “(2) SERVICE AND NOTICE OF INTERVIEW RE-  
22                   QUIREMENTS.—In provisional noncustodial removal  
23                   proceedings conducted under this section, the Sec-  
24                   retary shall—

1           “(A) serve notice to the alien or, if per-  
2           sonal service is not practicable, to the alien’s  
3           counsel of record;

4           “(B) ensure that such notice, to the max-  
5           imum extent practicable, is in the alien’s native  
6           language or in a language the alien under-  
7           stands; and

8           “(C) include in such notice—

9                   “(i) the nature of the proceedings  
10                  against the alien;

11                  “(ii) the legal authority under which  
12                  such proceedings will be conducted; and

13                  “(iii) the charges against the alien  
14                  and the statutory provisions the alien is al-  
15                  leged to have violated;

16           “(D) inform the alien of his or her obliga-  
17           tion—

18                   “(i) to immediately provide (or have  
19                   provided) to the Secretary, in writing, the  
20                   mailing address, contact information, email  
21                   address or other electronic address, and  
22                   telephone number (if any), at which the  
23                   alien may be contacted respecting the pro-  
24                   ceeding under this section; and

1           “(ii) to provide to the Secretary, in  
2           writing, any change of the alien’s mailing  
3           address or telephone number shortly after  
4           any such change;

5           “(E) include in such notice—

6           “(i) the time and place at which the  
7           proceeding under this section will be held,  
8           which shall be communicated, to the extent  
9           practicable, before or during the alien’s re-  
10          lease from physical custody; or

11          “(ii) immediately after release, the  
12          time and place of such proceeding, which  
13          shall be provided not later than 10 days  
14          before the scheduled protection determina-  
15          tion interview and shall be considered  
16          proper service of the commencement of  
17          proceedings; and

18          “(F) inform the alien of—

19          “(i) the consequences to which the  
20          alien would be subject pursuant to section  
21          240(b)(5) if the alien fails to appear at  
22          such proceeding, absent exceptional cir-  
23          cumstances;

24          “(ii) the alien’s right to be rep-  
25          resented, at no expense to the Federal



1 Government, by any counsel or accredited  
2 representative selected by the alien who is  
3 authorized to represent an alien in such a  
4 proceeding; and

5 “(G) the information described in section  
6 235(b)(1)(B)(iv)(II).

7 “(3) PROTECTION DETERMINATION.—

8 “(A) IN GENERAL.—To the maximum ex-  
9 tent practicable, within 90 days after the date  
10 on which an alien is referred for proceedings  
11 under this section, an asylum officer shall con-  
12 duct a protection determination of such alien in  
13 person or through a technology appropriate for  
14 protection determinations.

15 “(B) ACCESS TO COUNSEL.—In any pro-  
16 ceeding under this section or section 240D be-  
17 fore U.S. Citizenship and Immigration Services  
18 and in any appeal of the result of such a pro-  
19 ceeding, an alien shall have the privilege of  
20 being represented, at no expense to the Federal  
21 Government, by counsel authorized to represent  
22 an alien in such a proceeding.

23 “(C) PROCEDURES AND EVIDENCE.—The  
24 asylum officer may receive into evidence any  
25 oral or written statement that is material and

1 relevant to any matter in the protection deter-  
2 mination. The testimony of the alien shall be  
3 under oath or affirmation administered by the  
4 asylum officer.

5 “(D) INTERPRETERS.—Whenever nec-  
6 essary, the asylum officer shall procure the as-  
7 sistance of an interpreter, to the maximum ex-  
8 tent practicable, in the alien’s native language  
9 or in a language the alien understands, during  
10 any protection determination.

11 “(E) LOCATION.—

12 “(i) IN GENERAL.—Any protection de-  
13 termination authorized under this section  
14 shall occur in—

15 “(I) a U.S. Citizenship and Im-  
16 migration Services office;

17 “(II) a facility managed, leased,  
18 or operated by U.S. Citizenship and  
19 Immigration Services;

20 “(III) any other location des-  
21 ignated by the Director of U.S. Citi-  
22 zenship and Immigration Services; or

23 “(IV) any other federally owned  
24 or federally leased building that—

1                   “(aa) the Director has au-  
2                   thorized or entered into a memo-  
3                   randum of agreement to be used  
4                   for such purpose; and

5                   “(bb) meets the special rules  
6                   under clause (ii) and the min-  
7                   imum requirements under clause  
8                   (iii).

9                   “(ii) SPECIAL RULES.—

10                   “(I) LOCATION.—A protection  
11                   determination may not be conducted  
12                   in a facility that is managed, leased,  
13                   owned, or operated by U.S. Immigra-  
14                   tion and Customs Enforcement or  
15                   U.S. Customs and Border Protection.

16                   “(II) REASONABLE TIME.—The  
17                   Secretary shall ensure that a protec-  
18                   tion determination is conducted dur-  
19                   ing a reasonable time of the day.

20                   “(III) GEOGRAPHICAL LIMITA-  
21                   TION.—The Secretary shall ensure  
22                   that each protection determination for  
23                   an alien is scheduled at a facility that  
24                   is a reasonable distance from the cur-  
25                   rent residence of such alien.

1                   “(IV) PROTECTION FOR CHIL-  
2                   DREN.—In the case of a family unit,  
3                   the Secretary shall ensure that the  
4                   best interests of the child or children  
5                   are considered when conducting a pro-  
6                   tection determination of the child’s  
7                   family unit.

8                   “(iii) MINIMUM LOCATION REQUIRE-  
9                   MENT.—Each facility that the Director au-  
10                  thorizes to be used to conduct protection  
11                  determinations shall—

12                   “(I) have adequate security  
13                   measures to protect Federal employ-  
14                   ees, aliens, and beneficiaries for bene-  
15                   fits; and

16                   “(II) ensure the best interests of  
17                   the child or children are prioritized  
18                   pursuant to clause (ii)(IV) if such  
19                   children are present at the protection  
20                   determination.

21                   “(F) WRITTEN RECORD.—The asylum offi-  
22                   cer shall prepare a written record of each pro-  
23                   tection determination, which—

1 “(i) shall be provided to the alien, or  
2 to the alien’s counsel of record, upon a de-  
3 cision; and

4 “(ii) shall include—

5 “(I) a summary of the material  
6 facts stated by the alien;

7 “(II) any additional facts relied  
8 upon by the asylum officer;

9 “(III) the asylum officer’s anal-  
10 ysis of why, in the light of the facts  
11 referred to in subclauses (I) and (II),  
12 the alien has or has not established a  
13 positive or negative outcome from the  
14 protection determination; and

15 “(IV) a copy of the asylum offi-  
16 cer’s interview notes.

17 “(G) RESCHEDULING.—

18 “(i) IN GENERAL.—The Secretary  
19 shall promulgate regulations that permit  
20 an alien to reschedule a protection deter-  
21 mination in the event of exceptional cir-  
22 cumstances.

23 “(ii) TOLLING OF TIME LIMITA-  
24 TION.—If an interview is rescheduled at  
25 the request of an alien, the period between

1 the date on which the protection deter-  
2 mination was originally scheduled and the  
3 date of the rescheduled interview shall not  
4 count toward the 90-day period referred to  
5 in subsection (a)(6).

6 “(H) WITHDRAWAL OF APPLICATION, VOL-  
7 UNTARY DEPARTURE, AND VOLUNTARY REPA-  
8 TRIATION.—

9 “(i) VOLUNTARY DEPARTURE.—The  
10 Secretary may permit an alien to volun-  
11 tarily depart in accordance with section  
12 240E.

13 “(ii) WITHDRAWAL OF APPLICA-  
14 TION.—The Secretary may permit an alien,  
15 at any time before the protection merits  
16 interview, to withdraw his or her applica-  
17 tion and depart immediately from the  
18 United States in accordance with section  
19 240F.

20 “(iii) VOLUNTARY REPATRIATION.—  
21 The Secretary may permit an alien to vol-  
22 untarily repatriate in accordance with sec-  
23 tion 240G.

24 “(I) CONVERSION TO REMOVAL PRO-  
25 CEEDINGS UNDER SECTION 240.—The asylum

1 officer or immigration officer may refer or place  
2 an alien into removal proceedings under section  
3 240 by issuing a notice to appear for the pur-  
4 pose of initiating such proceedings if either  
5 such officer determines that—

6 “(i) such proceedings are required in  
7 order to permit the alien to seek an immi-  
8 gration benefit for which the alien is le-  
9 gally entitled to apply; and

10 “(ii) such application requires such  
11 alien to be placed in, or referred to pro-  
12 ceedings under section 240 that are not  
13 available to such alien under this section.

14 “(J) PROTECTION OF INFORMATION.—

15 “(i) SENSITIVE OR LAW ENFORCE-  
16 MENT INFORMATION.—Nothing in this sec-  
17 tion may be construed to compel any em-  
18 ployee of the Department of Homeland Se-  
19 curity to disclose any information that is  
20 otherwise protected from disclosure by law.

21 “(ii) PROTECTION OF CERTAIN INFOR-  
22 MATION.—Before providing the record de-  
23 scribed in subparagraph (F) to the alien or  
24 to the alien’s counsel of record, the Direc-

1           tor shall protect any information that is  
2           prohibited by law from being disclosed.

3           “(c) PROTECTION DETERMINATION.—

4           “(1) IDENTITY VERIFICATION.—The Secretary  
5           may not conduct the protection determination with  
6           respect to an alien until the identity of the alien has  
7           been checked against all appropriate records and  
8           databases maintained by the Attorney General, the  
9           Secretary of State, or the Secretary.

10          “(2) IN GENERAL.—

11           “(A) ELIGIBILITY.—Upon the establishing  
12           the identity of an alien pursuant to paragraph  
13           (1), the asylum officer shall conduct a protec-  
14           tion determination in a location selected in ac-  
15           cordance with this section.

16           “(B) OUTCOME.—

17           “(i) POSITIVE PROTECTION DETER-  
18           MINATION OUTCOME.—If the protection de-  
19           termination conducted pursuant to sub-  
20           paragraph (A) results in a positive protec-  
21           tion determination outcome, the alien shall  
22           be referred to protection merits removal  
23           proceedings in accordance with the proce-  
24           dures described in paragraph (4).



1                   “(ii) NEGATIVE PROTECTION DETER-  
2                   MINATION OUTCOME.—If such protection  
3                   determination results in a negative protec-  
4                   tion determination outcome, the alien shall  
5                   be subject to the process described in sub-  
6                   section (d).

7                   “(3) RECORD.—

8                   “(A) USE OF RECORD.—In each protection  
9                   determination, or any review of such determina-  
10                  tion, the record of the alien’s protection deter-  
11                  mination required under subsection (b)(3)(F)  
12                  shall constitute the underlying application for  
13                  the alien’s application for asylum, withholding  
14                  of removal under section 241(b)(3), or protec-  
15                  tion under the Convention Against Torture for  
16                  purposes of the protection merits interview.

17                  “(B) DATE OF FILING.—The date on  
18                  which the Secretary issues a notification of a  
19                  positive protection determination pursuant to  
20                  paragraph (2)(B)(i) shall be considered, for all  
21                  purposes, the date of filing and the date of re-  
22                  ceipt of the alien’s application for asylum, with-  
23                  holding of removal under section 241(b)(3), or  
24                  protection under the Convention Against Tor-  
25                  ture, as applicable.

1           “(4) REFERRAL FOR PROTECTION MERITS RE-  
2           MOVAL PROCEEDINGS.—

3           “(A) IN GENERAL.—If the alien receives a  
4           positive protection determination—

5           “(i) the alien shall be issued employ-  
6           ment authorization pursuant to section  
7           235C; and

8           “(ii) subject to paragraph (5), the  
9           asylum officer shall refer the alien for pro-  
10          tection merits removal proceedings de-  
11          scribed in section 240D.

12          “(B) NOTIFICATIONS.—As soon as prac-  
13          ticable after a positive protection determination,  
14          the Secretary shall—

15          “(i) issue a written notification to the  
16          alien of the outcome of such determination;

17          “(ii) include all of the information de-  
18          scribed in subsection (b)(2); and

19          “(iii) ensure that such notification  
20          and information concerning the procedures  
21          under section 240D, shall be made, at a  
22          minimum, not later than 30 days before  
23          the date on which the required protection  
24          merits interview under section 240D oc-  
25          curs.

1           “(5) AUTHORITY TO GRANT RELIEF OR PRO-  
2           TECTION.—

3           “(A) IN GENERAL.—If an alien dem-  
4           onstrates, by clear and convincing evidence,  
5           that the alien is eligible for asylum, withholding  
6           of removal under section 241(b)(3), or protec-  
7           tion under the Convention Against Torture dur-  
8           ing the protection determination, the asylum of-  
9           ficer, subject to the procedures under subpara-  
10          graph (B), may grant an application for such  
11          relief or protection submitted by such alien  
12          without referring the alien to protection merits  
13          removal proceedings under section 240D.

14          “(B) SUPERVISORY REVIEW.—

15          “(i) IN GENERAL.—An application  
16          granted by an asylum officer under sub-  
17          paragraph (A) shall be reviewed by a su-  
18          pervisory asylum officer to determine  
19          whether such grant is warranted.

20          “(ii) LIMITATION.—A decision by an  
21          asylum officer to grant an application  
22          under subparagraph (A) shall not be final,  
23          and the alien shall not be notified of such  
24          decision, unless a supervisory asylum offi-  
25          cer first determines, based on the review

1 conducted pursuant to clause (i), that such  
2 a grant is warranted.

3 “(iii) EFFECT OF APPROVAL.—If the  
4 supervisor determines that granting an  
5 alien’s application for relief or protection is  
6 warranted—

7 “(I) such application shall be ap-  
8 proved; and

9 “(II) the alien shall receive writ-  
10 ten notification of such decision as  
11 soon as practicable.

12 “(iv) EFFECT OF NON-APPROVAL.—If  
13 the supervisor determines that the grant is  
14 not warranted, the alien shall be referred  
15 for protection merits removal proceedings  
16 under section 240D.

17 “(C) SPECIAL RULES.—Notwithstanding  
18 any other provision of law—

19 “(i) if an alien’s application for asy-  
20 lum is approved pursuant to subparagraph  
21 (B)(iii), the asylum officer may not issue  
22 an order of removal; and

23 “(ii) if an alien’s application for with-  
24 holding of removal under section 241(b)(3)  
25 or for withholding or deferral of removal

1 under the Convention Against Torture is  
2 approved pursuant to subparagraph  
3 (B)(iii), the asylum officer shall issue a  
4 corresponding order of removal.

5 “(D) BIENNIAL REPORT.—The Director  
6 shall submit a biennial report to the relevant  
7 committees of Congress that includes, for the  
8 relevant period—

9 “(i) the number of cases described in  
10 subparagraph (A) that were referred to a  
11 supervisor pursuant to subparagraph (B),  
12 disaggregated by asylum office;

13 “(ii) the number of cases described in  
14 clause (i) that were approved subsequent  
15 to the referral to a supervisor pursuant to  
16 subparagraph (B);

17 “(iii) the number of cases described in  
18 clause (i) that were not approved subse-  
19 quent to the referral to a supervisor pursu-  
20 ant to subparagraph (B);

21 “(iv) a summary of the benefits for  
22 which any aliens described in subpara-  
23 graph (A) were considered amenable and  
24 whose cases were referred to a supervisor  
25 pursuant to subparagraph (B),

1 disaggregated by case outcome referred to  
2 in clauses (ii) and (iii);

3 “(v) a description of any anomalous  
4 case outcomes for aliens described in sub-  
5 paragraph (A) whose cases were referred  
6 to a supervisor pursuant subparagraph  
7 (B); and

8 “(vi) a description of any actions  
9 taken to remedy the anomalous case out-  
10 comes referred to in clause (v).

11 “(E) PROTECTION OF PERSONALLY IDEN-  
12 TIFIABLE INFORMATION.—In preparing each re-  
13 port pursuant to subparagraph (D), the Direc-  
14 tor shall—

15 “(i) protect any personally identifiable  
16 information associated with aliens de-  
17 scribed in subparagraph (A); and

18 “(ii) comply with all applicable pri-  
19 vacy laws.

20 “(6) EMPLOYMENT AUTHORIZATION.—An alien  
21 whose application for relief or protection has been  
22 approved by a supervisor pursuant to paragraph  
23 (5)(B) shall be issued employment authorization  
24 under section 235C.

25 “(d) NEGATIVE PROTECTION DETERMINATION.—

1           “(1) IN GENERAL.—If an alien receives a nega-  
2           tive protection determination, the asylum officer  
3           shall—

4                   “(A) provide such alien with written notifi-  
5                   cation of such determination; and

6                   “(B) subject to paragraph (2), order the  
7                   alien removed from the United States without  
8                   hearing or review.

9           “(2) OPPORTUNITY TO REQUEST RECONSIDER-  
10           ATION OR APPEAL.—The Secretary shall notify any  
11           alien described in paragraph (1) immediately after  
12           receiving notification of a negative protection deter-  
13           mination under this subsection that he or she—

14                   “(A) may request reconsideration of such  
15                   determination in accordance with paragraph  
16                   (3); and

17                   “(B) may request administrative review of  
18                   such protection determination decision in ac-  
19                   cordance with paragraph (4).

20           “(3) REQUEST FOR RECONSIDERATION.—

21                   “(A) IN GENERAL.—Any alien with respect  
22                   to whom a negative protection determination  
23                   has been made may submit a request for recon-  
24                   sideration to U.S. Citizenship and Immigration

1 Services not later than 5 days after such deter-  
2 mination.

3 “(B) DECISION.—The Director, or des-  
4 ignee, in the Director’s unreviewable discretion,  
5 may grant or deny a request for reconsideration  
6 made pursuant to subparagraph (A), which de-  
7 cision shall not be subject to review.

8 “(4) ADMINISTRATIVE REVIEW.—

9 “(A) IN GENERAL.—Except as provided in  
10 subparagraph (B), the administrative review of  
11 a protection determination with respect to an  
12 alien under this subsection shall be based on  
13 the record before the asylum officer at the time  
14 at which such protection determination was  
15 made.

16 “(B) EXCEPTION.—An alien referred to in  
17 subparagraph (A), or the alien’s counsel of  
18 record, may submit such additional evidence or  
19 testimony in accordance with such policies and  
20 procedures as the Secretary may prescribe.

21 “(C) REVIEW.—Each review described in  
22 subparagraph (A) shall be conducted by the  
23 Protection Appellate Board.

24 “(D) STANDARD OF REVIEW.—In accord-  
25 ance with the procedures prescribed by the Sec-



1           retary, the Protection Appellate Board, upon  
2           the request of an alien, or the alien’s counsel of  
3           record, shall conduct a de novo review of the  
4           record of the protection determination carried  
5           out pursuant to this section with respect to the  
6           alien.

7                   “(E) DETERMINATION.—

8                           “(i) TIMING.—The Protection Appel-  
9                           late Board shall complete a review under  
10                           this paragraph, to the maximum extent  
11                           practicable, not later than 72 hours after  
12                           receiving a request from an alien pursuant  
13                           to subparagraph (D).

14                           “(ii) EFFECT OF POSITIVE DETER-  
15                           MINATION.—If, after conducting a review  
16                           under this paragraph, the Protection Ap-  
17                           pellate Board determines that an alien has  
18                           a positive protection determination, the  
19                           alien shall be referred for protection merits  
20                           removal proceedings under section 240D.

21                           “(iii) EFFECT OF NEGATIVE DETER-  
22                           MINATION.—If, after conducting a review  
23                           under this paragraph, the Protection Ap-  
24                           pellate Board determines that an alien has  
25                           a negative protection determination, the

1 alien shall be ordered removed from the  
2 United States without additional review.

3 “(5) JURISDICTIONAL MATTERS.—In any action  
4 brought against an alien under section 275(a) or  
5 276, the court shall not have jurisdiction to hear any  
6 claim attacking the validity of an order of removal  
7 entered pursuant to subsection (c)(5)(C)(ii).

8 “(e) SERVICE OF PROTECTION DETERMINATION DE-  
9 CISION.—

10 “(1) PROTECTION DETERMINATION DECI-  
11 SION.—

12 “(A) IN GENERAL.—Upon reaching a deci-  
13 sion regarding a protection determination, the  
14 Secretary shall—

15 “(i) immediately notify the alien, and  
16 the alien’s counsel of record, if applicable,  
17 that a determination decision has been  
18 made; and

19 “(ii) schedule the service of the pro-  
20 tection determination decision, which shall  
21 take place, to the maximum extent prac-  
22 ticable, not later than 5 days after such  
23 notification.

24 “(B) SPECIAL RULES.—

1           “(i) LOCATION.—Each service of a  
2           protection determination decision sched-  
3           uled pursuant to subparagraph (A)(ii) may  
4           occur at—

5                   “(I) a U.S. Immigration and  
6                   Customs Enforcement facility;

7                   “(II) an Immigration Court; or

8                   “(III) any other federally owned  
9                   or federally leased building that—

10                           “(aa) the Secretary has au-  
11                           thorized or entered into a memo-  
12                           randum of agreement to be used  
13                           for such purpose; and

14                           “(bb) meets the minimum  
15                           requirements under this subpara-  
16                           graph.

17           “(ii) MINIMUM REQUIREMENTS.—In  
18           conducting each service of a protection de-  
19           termination decision, the Director shall en-  
20           sure compliance with the requirements set  
21           forth in clauses (ii)(II), (ii)(III), (ii)(IV),  
22           and (iii) of subsection (b)(3)(E).

23                   “(2) PROCEDURES FOR SERVICE OF PROTEC-  
24                   TION DETERMINATION DECISIONS.—

1           “(A) WRITTEN DECISION.—The Secretary  
2           shall ensure that each alien and the alien’s  
3           counsel of record, if applicable, attending a de-  
4           termination decision receives a written decision  
5           that includes, at a minimum, the articulated  
6           basis for the denial of the protection benefit  
7           sought by the alien.

8           “(B) LANGUAGE ACCESS.—The Secretary  
9           shall ensure that each written decision required  
10          under subparagraph (A) is delivered to the alien  
11          in—

12                   “(i) the alien’s native language, to the  
13                   maximum extent practicable; or

14                   “(ii) another language the alien un-  
15                   derstands.

16          “(C) ACCESS TO COUNSEL.—An alien who  
17          has obtained the services of counsel shall be  
18          represented by such counsel, at no expense to  
19          the Federal Government, at the service of the  
20          protection determination. Nothing in this sub-  
21          paragraph may be construed to create a sub-  
22          stantive due process right or to unreasonably  
23          delay the scheduling of the service of the pro-  
24          tection determination.

1           “(D) ASYLUM OFFICER.—A protection de-  
2           termination decision may only be served by an  
3           asylum officer.

4           “(E) PROTECTIONS FOR ASYLUM OFFICER  
5           DECISIONS BASED ON THE MERITS OF THE  
6           CASE.—The Secretary may not impose restric-  
7           tions on an asylum officer’s ability to grant or  
8           deny relief sought by an alien in a protection  
9           determination or protection merits interview  
10          based on a numerical limitation.

11          “(3) NEGATIVE PROTECTION DETERMINA-  
12          TION.—

13               “(A) ADVISEMENT OF RIGHTS AND OPPOR-  
14               TUNITIES.—If an alien receives a negative pro-  
15               tection determination decision, the asylum offi-  
16               cer shall—

17                       “(i) advise the alien if an alternative  
18                       option of return is available to the alien,  
19                       including—

20                               “(I) voluntary departure;

21                               “(II) withdrawal of the alien’s  
22                               application for admission; or

23                               “(III) voluntary repatriation; and

24                       “(ii) provide written or verbal infor-  
25                       mation to the alien regarding the process,

1           procedures, and timelines for appealing  
2           such denial, to the maximum extent prac-  
3           ticable, in the alien’s native language, or in  
4           a language the alien understands.

5           “(4) PROTECTION FOR CHILDREN.—In the case  
6           of a family unit, the Secretary shall ensure that the  
7           best interests of the child or children are considered  
8           when conducting a protection determination of the  
9           child’s family unit.

10          “(5) FINAL ORDER OF REMOVAL.—If an alien  
11          receives a negative protection determination decision,  
12          an alien shall be removed in accordance with section  
13          241 upon a final order of removal.

14          “(f) FAILURE TO CONDUCT PROTECTION DETER-  
15          MINATION.—

16          “(1) IN GENERAL.—If the Secretary fails to  
17          conduct a protection determination for an alien dur-  
18          ing the 90-day period set forth in subsection  
19          (b)(3)(A), such alien shall be referred for protection  
20          merits removal proceedings in accordance with  
21          240D.

22          “(2) NOTICE OF PROTECTION MERITS INTER-  
23          VIEW.—

24          “(A) IN GENERAL.—If an alien is referred  
25          for protection merits removal proceedings pur-

1           suant to paragraph (1), the Secretary shall  
2           properly file with U.S. Citizenship and Immi-  
3           gration Services and serve upon the alien, or  
4           the alien’s counsel of record, a notice of a pro-  
5           tection merits interview, in accordance with  
6           subsection (b)(2).

7           “(B) CONTENTS.—Each notice of protec-  
8           tion merits interview served pursuant to sub-  
9           paragraph (A)—

10                   “(i) shall include each element de-  
11                   scribed in subsection (b)(2); and

12                   “(ii) shall—

13                           “(I) inform the alien that an ap-  
14                           plication for protection relief shall be  
15                           submitted to the Secretary not later  
16                           than 30 days before the date on which  
17                           the alien’s protection merits interview  
18                           is scheduled;

19                           “(II) inform the alien that he or  
20                           she shall receive employment author-  
21                           ization, pursuant to section 235C, not  
22                           later than 30 days after filing the ap-  
23                           plication required under subclause (I);

24                           “(III) inform the alien that he or  
25                           she may submit evidence into the

1 record not later than 30 days before  
2 the date on which the alien’s protec-  
3 tion merits interview is scheduled;

4 “(IV) describe—

5 “(aa) the penalties resulting  
6 from the alien’s failure to file the  
7 application required under sub-  
8 clause (I); and

9 “(bb) the terms and condi-  
10 tions for redressing such failure  
11 to file; and

12 “(V) describe the penalties re-  
13 sulting from the alien’s failure to ap-  
14 pear for a scheduled protection merits  
15 interview.

16 “(3) DATE OF FILING.—The date on which an  
17 application for protection relief is received by the  
18 Secretary shall be considered the date of filing and  
19 receipt for all purposes.

20 “(4) EFFECT OF FAILURE TO FILE.—

21 “(A) IN GENERAL.—Failure to timely file  
22 an application for protection relief under this  
23 subsection will result in an order of removal,  
24 absent exceptional circumstances.

25 “(B) OPPORTUNITY FOR REDRESS.—



1                   “(i) IN GENERAL.—The Secretary  
2                   shall promulgate regulations authorizing a  
3                   15-day opportunity for redress to file an  
4                   application for protection relief if there are  
5                   exceptional circumstances regarding the  
6                   alien’s failure to timely file an application  
7                   for protection relief.

8                   “(ii) CONTENTS.—Each application  
9                   submitted pursuant to clause (i) shall—

10                           “(I) describe the basis for such  
11                           request;

12                           “(II) include supporting evidence;  
13                           and

14                           “(III) identify the exceptional  
15                           circumstances that led to the alien’s  
16                           failure to file the application for pro-  
17                           tection relief in a timely manner.

18                   “(C) DECISION .—In evaluating a request  
19                   for redress submitted pursuant to subparagraph  
20                   (B)(i), the Director, or designee—

21                           “(i) shall determine whether such re-  
22                           quest rises to the level of exceptional cir-  
23                           cumstances; and

24                           “(ii) may schedule a protection deter-  
25                           mination interview.

1 “(5) EMPLOYMENT AUTHORIZATION.—

2 “(A) IN GENERAL.—Employment author-  
3 ization shall be provided to aliens described in  
4 this subsection in accordance with section  
5 235C.

6 “(B) REVOCATION.—The Secretary may  
7 revoke the employment authorization provided  
8 to any alien processed under this section or sec-  
9 tion 240D if such alien—

10 “(i) has obtained authorization for  
11 employment pursuant to the procedures  
12 described in section 235C; and

13 “(ii) absent exceptional circumstances,  
14 subsequently fails to appear for a protec-  
15 tion determination under subsection (b)(3)  
16 or a protection merits interview under  
17 240D(c)(3).

18 “(g) FAILURE TO APPEAR.—

19 “(1) PROTECTION MERITS INTERVIEW.—The  
20 provisions of section 240(b)(5) shall apply to pro-  
21 ceedings under this section.

22 “(2) OPPORTUNITY TO REDRESS.—

23 “(A) IN GENERAL.—Not later than 15  
24 days after the date on which an alien fails to  
25 appear for a scheduled protection determination

1 or protection merits interview, the alien may  
2 submit a written request for a rescheduled pro-  
3 tection determination or protection merits inter-  
4 view.

5 “(B) CONTENTS.—Each request submitted  
6 pursuant to subparagraph (A) shall—

7 “(i) describe the basis for such re-  
8 quest;

9 “(ii) include supporting evidence; and

10 “(iii) identify the exceptional cir-  
11 cumstances that led to the alien’s failure to  
12 appear.

13 “(C) DECISION.—In evaluating a request  
14 submitted pursuant to subparagraph (A), the  
15 Director, or designee shall determine whether  
16 the evidence included in such request rises to  
17 the level of exceptional circumstances. Such de-  
18 cision shall not be reviewable.

19 “(h) RULEMAKING.—

20 “(1) IN GENERAL.—The Secretary may promul-  
21 gate such regulations as are necessary to implement  
22 this section in compliance with the requirements of  
23 section 553 of title 5, United States Code.

24 “(2) INITIAL IMPLEMENTATION.—Until the  
25 date that is 180 days after the date of the enact-

1       ment of this section, the Secretary may issue any in-  
2       terim final rules necessary to implement this section  
3       without having to satisfy the requirements of section  
4       553(b)(B) of title 5, United States Code, provided  
5       that any such interim final rules shall include a 30-  
6       day post promulgation notice and comment period  
7       prior to finalization in the Federal Register.

8               “(3) REQUIREMENT.—All regulations promul-  
9       gated to implement this section beginning on the  
10      date that is 180 days after the date of the enact-  
11      ment of this section, shall be issued pursuant to the  
12      requirements set forth in section 553 of title 5,  
13      United States Code.

14              “(i) SAVINGS PROVISIONS.—

15               “(1) EXPEDITED REMOVAL.—Nothing in this  
16      section may be construed to expand or restrict the  
17      Secretary’s discretion to carry out expedited remov-  
18      als pursuant to section 235 to the extent authorized  
19      by law. The Secretary shall not refer or place an  
20      alien in proceedings under section 235 if the alien  
21      has already been placed in or referred to proceedings  
22      under this section or section 240D.

23               “(2) DETENTION.—Nothing in this section may  
24      be construed to affect the authority of the Secretary

1 to detain an alien released pursuant to this section  
2 if otherwise authorized by law.

3 “(3) SETTLEMENT AGREEMENTS.—Nothing in  
4 this section may be construed—

5 “(A) to expand or restrict any settlement  
6 agreement in effect as of the date of the enact-  
7 ment of this section; or

8 “(B) to abrogate any provision of the stip-  
9 ulated settlement agreement in *Reno v. Flores*,  
10 as filed in the United States District Court for  
11 the Central District of California on January  
12 17, 1997 (CV-85-4544-RJK), including all  
13 subsequent court decisions, orders, agreements,  
14 and stipulations.

15 “(4) IMPACT ON OTHER REMOVAL PRO-  
16 CEEDINGS.—The provisions of this section may not  
17 be interpreted to apply to any other form of removal  
18 proceedings.

19 “(5) SPECIAL RULE.—For aliens who are na-  
20 tives or citizens of Cuba released pursuant to this  
21 section and who are otherwise eligible for adjust-  
22 ment of status under the first section of Public Law  
23 89-732 (8 U.S.C. 1255 note) (commonly known as  
24 the ‘Cuban Adjustment Act’), the requirement that  
25 an alien has been inspected and admitted or paroled

1 into the United States shall not apply. Aliens who  
2 are natives or citizens of Cuba or Haiti and have  
3 been released pursuant to section 240 (8 U.S.C.  
4 1229) shall be considered to be individuals described  
5 in section 501(e)(1) of the Refugee Education As-  
6 sistance Act of 1980 (8 U.S.C. 1522 note).

7 “(6) REVIEW OF PROTECTION DETERMINA-  
8 TIONS.—Except for reviews of constitutional claims,  
9 no court shall have jurisdiction to review a protec-  
10 tion determination issued by U.S. Citizenship and  
11 Immigration Services under this section.

12 “(7) FINAL REMOVAL ORDERS.—No court shall  
13 have jurisdiction to review a final order of removal  
14 issued under this section.

15 “(j) JUDICIAL REVIEW.—Notwithstanding any other  
16 provision of this Act, judicial review of any decision or ac-  
17 tion in this section shall be governed only by the United  
18 States District Court for the District of Columbia, which  
19 shall have sole and original jurisdiction to hear challenges,  
20 whether constitutional or otherwise, to the validity of this  
21 section or any written policy directive, written policy  
22 guideline, written procedure, or the implementation there-  
23 of, issued by or under the authority of the Secretary to  
24 implement this section.

1       “(k) REPORTS ON ASYLUM OFFICER GRANT  
2 RATES.—

3           “(1) PUBLICATION OF ANNUAL REPORT.—Not  
4 later than 1 year after the date of the enactment of  
5 the Border Act, and annually thereafter, the Direc-  
6 tor of U.S. Citizenship and Immigration Services  
7 shall publish a report, on a publicly accessible  
8 website of U.S. Citizenship and Immigration Serv-  
9 ices, which includes, for the reporting period—

10           “(A) the number of protection determina-  
11 tions that were approved or denied; and

12           “(B) a description of any anomalous inci-  
13 dents identified by the Director, including any  
14 action taken by the Director to address such an  
15 incident.

16           “(2) SEMIANNUAL REPORT TO CONGRESS.—

17           “(A) IN GENERAL.—Not less frequently  
18 than twice each year, the Director of U.S. Citi-  
19 zenship and Immigration Services shall submit  
20 a report to the relevant committees of Congress  
21 that includes, for the preceding reporting pe-  
22 riod, and aggregated for the applicable calendar  
23 year—

1 “(i) the number of cases in which a  
2 protection determination or protection mer-  
3 its interview has been completed; and

4 “(ii) for each asylum office or duty  
5 station to which more than 20 asylum offi-  
6 cers are assigned—

7 “(I) the median percentage of  
8 positive determinations and protection  
9 merits interviews in the cases de-  
10 scribed in clause (i);

11 “(II) the mean percentage of  
12 negative determinations and protec-  
13 tion merits interviews in such cases;  
14 and

15 “(III) the number of cases de-  
16 scribed in subsection (c)(5) in which  
17 an alien was referred to a supervisor  
18 after demonstrating, by clear and con-  
19 vincing evidence, eligibility for asylum,  
20 withholding of removal, or protection  
21 under the Convention Against Tor-  
22 ture, disaggregated by benefit type;

23 “(IV) the number of cases de-  
24 scribed in clause (i) that were ap-  
25 proved by a supervisor; and



1                   “(V) the number of cases de-  
2                   scribed in clause (i) that were not ap-  
3                   proved by a supervisor.

4                   “(B) PRESENTATION OF DATA.—The in-  
5                   formation described in subparagraph (A) shall  
6                   be provided in the format of aggregate totals by  
7                   office or duty station.

8                   “(1) DEFINITIONS.—In this section:

9                   “(1) APPLICATION FOR PROTECTION RELIEF.—  
10                  The term ‘application for protection relief’ means  
11                  any request, application or petition authorized by  
12                  the Secretary for asylum, withholding of removal, or  
13                  protection under the Convention Against Torture.

14                  “(2) ASYLUM OFFICER.—The term ‘asylum offi-  
15                  cer’ has the meaning given such term in section  
16                  235(b)(1)(E).

17                  “(3) CONVENTION AGAINST TORTURE.—The  
18                  term ‘Convention Against Torture’ means the  
19                  United Nations Convention Against Torture and  
20                  Other Cruel, Inhuman or Degrading Treatment or  
21                  Punishment, done at New York December 10, 1984,  
22                  including any implementing regulations.

23                  “(4) DIRECTOR.—The term ‘Director’ means  
24                  the Director of U.S. Citizenship and Immigration  
25                  Services.

1           “(5) EXCEPTIONAL CIRCUMSTANCES.—The  
2 term ‘exceptional circumstances’ has the meaning  
3 given such term in section 240(e)(1).

4           “(6) FINAL ORDER OF REMOVAL.—The term  
5 ‘final order of removal’ means an order of removal  
6 made by an asylum officer at the conclusion of a  
7 protection determination, and any appeal of such  
8 order, as applicable.

9           “(7) PROTECTION APPELLATE BOARD.—The  
10 term ‘Protection Appellate Board’ means the Protec-  
11 tion Appellate Board established under section 463  
12 of the Homeland Security Act of 2002.

13           “(8) PROTECTION DETERMINATION DECI-  
14 SION.—The term ‘protection determination decision’  
15 means the service of a negative or positive protection  
16 determination outcome.

17           “(9) RELEVANT COMMITTEES OF CONGRESS.—  
18 The term ‘relevant committees of Congress’ means—

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

21                   “(B) the Committee on the Judiciary of  
22 the Senate;

23                   “(C) the Committee on Appropriations of  
24 the Senate;

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

3 “(E) the Committee on the Judiciary of  
4 the House of Representatives;

5 “(F) the Committee on Appropriations of  
6 the House of Representatives; and

7 “(G) the Committee on Oversight and Ac-  
8 countability of the House of Representatives.

9 “(10) SECRETARY.—The term ‘Secretary’  
10 means the Secretary of Homeland Security.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 of the Immigration and Nationality Act (8 U.S.C. 1101  
13 note) is amended by inserting after the item relating to  
14 section 235A the following:

“Sec. 235B. Provisional noncustodial removal proceedings.”.

15 **SEC. 3142. PROTECTION MERITS REMOVAL PROCEEDINGS.**

16 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
17 gration and Nationality Act (8 U.S.C. 1221 et seq.) is  
18 amended by inserting after section 240C the following:

19 **“SEC. 240D. PROTECTION MERITS REMOVAL PROCEEDINGS.**

20 “(a) COMMENCEMENT OF PROCEEDINGS.—Removal  
21 proceedings under this section shall commence imme-  
22 diately after the Secretary properly serves notice on an  
23 alien who was—

24 “(1) processed under section 235B and referred  
25 under subsection (c)(4) of that section after having

1       been issued a notice of a positive protection deter-  
2       mination under such subsection; or

3               “(2) referred under section 235B(f).

4       “(b) DURATION OF PROCEEDINGS.—To the max-  
5       imum extent practicable, proceedings under this section  
6       shall conclude not later than 90 days after the date on  
7       which such proceedings commence.

8       “(c) PROCEDURES.—

9               “(1) SERVICE AND NOTICE REQUIREMENTS.—

10       Upon the commencement of proceedings under this  
11       section, the Secretary shall provide notice of removal  
12       proceedings to the alien, or if personal service is not  
13       practicable, to the alien’s counsel of record. Such no-  
14       tice shall be provided, to the maximum extent prac-  
15       ticable, in the alien’s native language, or in a lan-  
16       guage the alien understands, and shall specify or  
17       provide—

18               “(A) the nature of the proceedings against  
19       the alien;

20               “(B) the legal authority under which such  
21       proceedings will be conducted;

22               “(C) the charges against the alien and the  
23       statutory provisions alleged to have been vio-  
24       lated by the alien;

25               “(D) that the alien shall—

1           “(i) immediately provide (or have pro-  
2           vided) to the Secretary, in writing, the  
3           mailing address, contact information, email  
4           address or other electronic address, and  
5           telephone number (if any) at which the  
6           alien may be contacted respecting the pro-  
7           ceeding under this section; and

8           “(ii) provide to the Secretary, in writ-  
9           ing, any change of the alien’s mailing ad-  
10          dress or telephone number after any such  
11          change;

12          “(E)(i) the time and place at which the  
13          proceeding under this section will be held,  
14          which information shall be communicated, to  
15          the extent practicable, before or during the  
16          alien’s release from physical custody; or

17          “(ii) immediately after release, the time  
18          and place of such proceeding shall be provided  
19          to the alien, or to the alien’s counsel of record,  
20          not later than 10 days before the scheduled pro-  
21          tection determination interview, which shall be  
22          considered proper service of the commencement  
23          of proceedings;

24          “(F) the consequences for the alien’s fail-  
25          ure to appear at such proceeding pursuant to

1 section 240(b)(5)(A), absent exceptional cir-  
2 cumstances;

3 “(G) the alien’s right to be represented, at  
4 no expense to the Federal Government, by any  
5 counsel, or an accredited representative, se-  
6 lected by the alien who is authorized to practice  
7 in such a proceeding; and

8 “(H) information described in section  
9 235(b)(1)(B)(iv)(II).

10 “(2) ALTERNATIVES TO DETENTION.—An adult  
11 alien, including a head of household, who has been  
12 referred for proceedings under this section, shall be  
13 supervised under the Alternatives to Detention pro-  
14 gram of U.S. Immigration and Customs Enforce-  
15 ment for the duration of such proceedings.

16 “(3) PROTECTION MERITS INTERVIEW.—

17 “(A) IN GENERAL.—An asylum officer  
18 shall conduct a protection merits interview of  
19 each alien processed under this section.

20 “(B) ACCESS TO COUNSEL.—Section  
21 235B(b)(3)(B) shall apply to proceedings under  
22 this section.

23 “(C) PROCEDURES AND EVIDENCE.—The  
24 asylum officer may receive into evidence any  
25 oral or written statement that is material and

1 relevant to any matter in the protection merits  
2 interview. The testimony of the alien shall be  
3 under oath or affirmation, which shall be ad-  
4 ministered by the asylum officer.

5 “(D) TRANSLATION OF DOCUMENTS.—Any  
6 foreign language document offered by a party  
7 in proceedings under this section shall be ac-  
8 companied by an English language translation  
9 and a certification signed by the translator,  
10 which shall be printed legibly or typed. Such  
11 certification shall include a statement that the  
12 translator is competent to translate the docu-  
13 ment, and that the translation is true and accu-  
14 rate to the best of the translator’s abilities.

15 “(E) INTERPRETERS.—An interpreter may  
16 be provided to the alien for the proceedings  
17 under this section, in accordance with section  
18 235B(b)(3)(D).

19 “(F) LOCATION.—The location for the pro-  
20 tection merits interview described in this section  
21 shall be determined in accordance with the  
22 terms and conditions described in section  
23 235B(b)(3)(E).

24 “(G) WRITTEN RECORD.—The asylum offi-  
25 cer shall prepare a written record of each pro-

1           tection merits interview, which shall be provided  
2           to the alien or the alien’s counsel, that in-  
3           cludes—

4                   “(i) a summary of the material facts  
5                   stated by the alien;

6                   “(ii) any additional facts relied upon  
7                   by the asylum officer;

8                   “(iii) the asylum officer’s analysis of  
9                   why, in light of the facts referred to in  
10                  clauses (i) and (ii), the alien has or has  
11                  not established eligibility for asylum under  
12                  section 208, withholding of removal under  
13                  section 241(b)(3), or protection under the  
14                  Convention Against Torture; and

15                  “(iv) a copy of the asylum officer’s  
16                  interview notes.

17                  “(H) PROTECTION OF CERTAIN INFORMA-  
18                  TION.—Before providing the record described in  
19                  subparagraph (G) to the alien or the alien’s  
20                  counsel of record, the Director shall protect any  
21                  information the disclosure of which is prohib-  
22                  ited by law.

23                  “(I) RULEMAKING.—The Secretary shall  
24                  promulgate regulations that permit an alien to



1 request a rescheduled interview due to excep-  
2 tional circumstances.

3 “(J) WITHDRAWAL OF APPLICATION, VOL-  
4 UNTARY DEPARTURE, AND VOLUNTARY REPA-  
5 TRIATION.—

6 “(i) VOLUNTARY DEPARTURE.—The  
7 Secretary may permit an alien to volun-  
8 tarily depart in accordance with section  
9 240E.

10 “(ii) WITHDRAWAL OF APPLICA-  
11 TION.—The Secretary may permit an alien,  
12 at any time before the protection merits  
13 interview, to withdraw his or her applica-  
14 tion and depart immediately from the  
15 United States in accordance with section  
16 240F.

17 “(iii) VOLUNTARY REPATRIATION.—  
18 The Secretary may permit an alien to vol-  
19 untarily repatriate in accordance with sec-  
20 tion 240G.

21 “(4) SPECIAL RULE RELATING TO ONE-YEAR  
22 BAR.—An alien subject to proceedings under this  
23 section shall not be subject to the one-year bar  
24 under section 208(a)(2)(B).

1           “(5) TIMING OF PROTECTION MERITS INTER-  
2 VIEW.—A protection merits interview may not be  
3 conducted on a date that is earlier than 30 days  
4 after the date on which notice is served under para-  
5 graph (1).

6           “(d) PROTECTION MERITS DETERMINATION.—

7           “(1) IN GENERAL.—After conducting an alien’s  
8 protection merits interview, the asylum officer shall  
9 make a determination on the merits of the alien’s  
10 application for asylum under section 208, with-  
11 holding of removal under section 241(b)(3), or pro-  
12 tection under the Convention Against Torture.

13           “(2) POSITIVE PROTECTION MERITS DETER-  
14 MINATION.—In the case of an alien who the asylum  
15 officer determines meets the criteria for a positive  
16 protection merits determination, the asylum officer  
17 shall approve the alien’s application for asylum  
18 under section 208, withholding of removal under sec-  
19 tion 241(b)(3), or protection under the Convention  
20 Against Torture.

21           “(3) NEGATIVE PROTECTION MERITS DETER-  
22 MINATION.—

23           “(A) IN GENERAL.—In the case of an alien  
24 who the asylum officer determines does not

1 meet the criteria for a positive protection merits  
2 determination—

3 “(i) the asylum officer shall deny the  
4 alien’s application for asylum under section  
5 208, withholding of removal under section  
6 241(b)(3), or protection under the Conven-  
7 tion Against Torture; and

8 “(ii) the Secretary shall—

9 “(I) provide the alien with writ-  
10 ten notice of the decision; and

11 “(II) subject to subparagraph  
12 (B) and subsection (e), order the re-  
13 moval of the alien from the United  
14 States.

15 “(B) REQUEST FOR RECONSIDERATION.—

16 Any alien with respect to whom a negative pro-  
17 tection merits determination has been made  
18 may submit a request for reconsideration to  
19 U.S. Citizenship and Immigration Services not  
20 later than 5 days after such determination, in  
21 accordance with the procedures set forth in sec-  
22 tion 235B(d)(3).

23 “(e) APPEALS.—

24 “(1) IN GENERAL.—An alien with respect to  
25 whom a negative protection merits determination

1 has been made may submit to the Protection Appel-  
2 late Board a written petition for review of such de-  
3 termination, together with additional evidence sup-  
4 porting the alien’s claim, as applicable, not later  
5 than 7 days after the date on which a request for  
6 reconsideration under subsection (d)(3)(B) has been  
7 denied.

8 “(2) SWORN STATEMENT.—A petition for re-  
9 view submitted under this subsection shall include a  
10 sworn statement by the alien.

11 “(3) RESPONSIBILITIES OF THE DIRECTOR.—

12 “(A) IN GENERAL.—After the filing of a  
13 petition for review by an alien, the Director  
14 shall—

15 “(i) refer the alien’s petition for re-  
16 view to the Protection Appellate Board;  
17 and

18 “(ii) before the date on which the  
19 Protection Appellate Board commences re-  
20 view, subject to subparagraph (B), provide  
21 a full record of the alien’s protection mer-  
22 its interview, including a transcript of such  
23 interview—

24 “(I) to the Protection Appellate  
25 Board; and

1                   “(II) to the alien, or the alien’s  
2                   counsel of record.

3                   “(B) PROTECTION OF CERTAIN INFORMA-  
4                   TION.—Before providing the record described in  
5                   subparagraph (A)(ii)(II) to the alien or the  
6                   alien’s counsel of record, the Director shall pro-  
7                   tect any information the disclosure of which is  
8                   prohibited by law.

9                   “(4) STANDARD OF REVIEW.—

10                   “(A) IN GENERAL.—In reviewing a protec-  
11                   tion merits determination under this subsection,  
12                   the Protection Appellate Board shall—

13                   “(i) with respect to questions of fact,  
14                   determine whether the decision reached by  
15                   the asylum officer with initial jurisdiction  
16                   regarding the alien’s eligibility for relief or  
17                   protection was clear error; and

18                   “(ii) with respect to questions of law,  
19                   discretion, and judgement, make a de novo  
20                   determination with respect to the alien’s  
21                   eligibility for relief or protection.

22                   “(B) in making a determination under  
23                   clause (i) or (ii) of subparagraph (A), take into  
24                   account the credibility of the statements made  
25                   by the alien in support of the alien’s claim and

1           such other facts as are known to the Protection  
2           Appellate Board.

3           “(5) COMPLETION.—To the maximum extent  
4           practicable, not later than 7 days after the date on  
5           which an alien files a petition for review with the  
6           Protection Appellate Board, the Protection Appellate  
7           Board shall conclude the review.

8           “(6) OPPORTUNITY TO SUPPLEMENT.—The  
9           Protection Appellate Board shall establish a process  
10          by which an alien, or the alien’s counsel of record,  
11          may supplement the record for purposes of a review  
12          under this subsection not less than 30 days before  
13          the Protection Appellate Board commences the re-  
14          view.

15          “(7) RESULT OF REVIEW.—

16                 “(A) VACATUR OF ORDER OF REMOVAL.—  
17                 In the case of a determination by the Protection  
18                 Appellate Board that the application of an alien  
19                 for asylum warrants approval, the Protection  
20                 Appellate Board shall vacate the order of re-  
21                 moval issued by the asylum officer and grant  
22                 such application.

23                 “(B) WITHHOLDING OF REMOVAL AND  
24                 CONVENTION AGAINST TORTURE ORDER OF RE-  
25                 MOVAL.—In the case of a determination by the

1 Protection Appellate Board that the application  
2 of an alien for withholding of removal under  
3 section 241(b)(3) or protection under the Con-  
4 vention Against Torture warrants approval, the  
5 Protection Appellate Board—

6 “(i) shall not vacate the order of re-  
7 moval issued by the asylum officer; and

8 “(ii) shall grant the application for  
9 withholding of removal under section  
10 241(b)(3) or protection under the Conven-  
11 tion Against Torture, as applicable.

12 “(C) AFFIRMATION OF ORDER OF RE-  
13 MOVAL.—In the case of a determination by the  
14 Protection Appellate Board that the petition for  
15 review of a protection merits interview does not  
16 warrant approval, the Protection Appellate  
17 Board shall affirm the denial of such applica-  
18 tion and the order of removal shall become  
19 final.

20 “(D) NOTIFICATION.—Upon making a de-  
21 termination with respect to a review under this  
22 subsection, the Protection Appellate Board shall  
23 expeditiously provide notice of the determina-  
24 tion to the alien and, as applicable, to the  
25 alien’s counsel of record.

1           “(8) MOTION TO REOPEN OR MOTION TO RE-  
2           CONSIDER.—

3           “(A) MOTION TO REOPEN.—A motion to  
4           reopen a review conducted by the Protection  
5           Appellate Board shall state new facts and shall  
6           be supported by documentary evidence. The re-  
7           submission of previously provided evidence or  
8           reassertion of previously stated facts shall not  
9           be sufficient to meet the requirements of a mo-  
10          tion to reopen under this subparagraph. An  
11          alien with a pending motion to reopen may be  
12          removed if the alien’s order of removal is final,  
13          pending a decision on a motion to reopen.

14          “(B) MOTION TO RECONSIDER.—

15                 “(i) IN GENERAL.—A motion to re-  
16                 consider a decision of the Protection Ap-  
17                 pellate Board—

18                         “(I) shall establish that—

19                                 “(aa) the Protection Appel-  
20                                 late Board based its decision on  
21                                 an incorrect application of law or  
22                                 policy; and

23   “(bb) the decision was incor-  
24   rect based on the evidence in the



1 record of proceedings at the time  
2 of the decision; and

3 “(II) shall be filed not later than  
4 30 days after the date on which the  
5 decision was issued.

6 “(ii) LIMITATION.—The Protection  
7 Appellate Board shall not consider new  
8 facts or evidence submitted in support of a  
9 motion to reconsider.

10 “(f) ORDER OF REMOVAL.—

11 “(1) IN GENERAL.—The Secretary—

12 “(A) shall have exclusive and final jurisdic-  
13 tion over the denial of an application for relief  
14 or protection under this section; and

15 “(B) may remove an alien to a country  
16 where the alien is a subject, national, or citizen,  
17 or in the case of an alien having no nationality,  
18 the country of the alien’s last habitual resi-  
19 dence, or in accordance with the processes es-  
20 tablished under section 241, unless removing  
21 the alien to such country would be prejudicial  
22 to the interests of the United States.

23 “(2) DETENTION; REMOVAL.—The terms and  
24 conditions under section 241 shall apply to the de-

1           tention and removal of aliens ordered removed from  
2           the United States under this section.

3           “(g) LIMITATION ON JUDICIAL REVIEW.—

4                   “(1) DENIALS OF PROTECTION.—Except for re-  
5           view of constitutional claims, no court shall have ju-  
6           risdiction to review a decision issued by U.S. Citi-  
7           zenship and Immigration Services under this section  
8           denying an alien’s application for asylum under sec-  
9           tion 208, withholding of removal under section  
10          241(b)(3), or protection under the Convention  
11          Against Torture.

12                   “(2) FINAL REMOVAL ORDERS.—No court shall  
13          have jurisdiction to review a final order of removal  
14          issued under this section.

15           “(h) RULEMAKING.—

16                   “(1) IN GENERAL.—The Secretary may promul-  
17          gate such regulations as are necessary to implement  
18          this section in compliance with the requirements of  
19          section 553 of title 5, United States Code.

20                   “(2) INITIAL IMPLEMENTATION.—Until the  
21          date that is 180 days after the date of the enact-  
22          ment of this section, the Secretary may issue any in-  
23          terim final rules necessary to implement this section  
24          without having to satisfy the requirements of section  
25          553(b)(B) of title 5, United States Code, provided

1 that any such interim final rules shall include a 30-  
2 day post promulgation notice and comment period  
3 prior to finalization in the Federal Register.

4 “(3) REQUIREMENT.—All regulations promul-  
5 gated to implement this section beginning on the  
6 date that is 180 days after the date of the enact-  
7 ment of this section, shall be issued pursuant to the  
8 requirements set forth in section 553 of title 5,  
9 United States Code.

10 “(i) SAVINGS PROVISIONS.—

11 “(1) DETENTION.—Nothing in this section may  
12 be construed to affect the authority of the Secretary  
13 to detain an alien who is processed, including for re-  
14 lease, under this section if otherwise authorized by  
15 law.

16 “(2) SETTLEMENT AGREEMENTS.—Nothing in  
17 this section may be construed—

18 “(A) to expand or restrict any settlement  
19 agreement in effect on the date of the enact-  
20 ment of this section; or

21 “(B) to abrogate any provision of the stip-  
22 ulated settlement agreement in *Reno v. Flores*,  
23 as filed in the United States District Court for  
24 the Central District of California on January  
25 17, 1997 (CV-85-4544-RJK), including all

1           subsequent court decisions, orders, agreements,  
2           and stipulations.

3           “(3) IMPACT ON OTHER REMOVAL PRO-  
4           CEEDINGS.—The provisions of this section may not  
5           be interpreted to apply to any other form of removal  
6           proceedings.

7           “(4) CONVERSION TO REMOVAL PROCEEDINGS  
8           UNDER SECTION 240.—The asylum officer or immi-  
9           gration officer may refer or place an alien into re-  
10          moval proceedings under section 240 by issuing a  
11          notice to appear for the purpose of initiating such  
12          proceedings if either such officer determines that—

13                 “(A) such proceedings are required in  
14                 order to permit the alien to seek an immigra-  
15                 tion benefit for which the alien is legally enti-  
16                 tled to apply; and

17                 “(B) such application requires such alien  
18                 to be placed in, or referred to proceedings  
19                 under section 240 that are not available to such  
20                 alien under this section.

21          “(j) FAMILY UNITY.—In the case of an alien with  
22          a minor child in the United States who has been ordered  
23          removed pursuant to this section, the Secretary shall en-  
24          sure that such alien is removed with the minor child, if  
25          the alien elects.

1           “(k) JUDICIAL REVIEW.—Notwithstanding any other  
2 provision of this Act, judicial review of any decision or ac-  
3 tion in this section shall be governed only by the United  
4 States District Court for the District of Columbia, which  
5 shall have sole and original jurisdiction to hear challenges,  
6 whether constitutional or otherwise, to the validity of this  
7 section or any written policy directive, written policy  
8 guideline, written procedure, or the implementation there-  
9 of, issued by or under the authority of the Secretary to  
10 implement this section.

11           “(l) DEFINITIONS.—In this section:

12                   “(1) ASYLUM OFFICER.—The term ‘asylum offi-  
13 cer’ has the meaning given such term in section  
14 235(b)(1)(E).

15                   “(2) CONVENTION AGAINST TORTURE.—The  
16 term ‘Convention Against Torture’—means the  
17 United Nations Convention Against Torture and  
18 Other Cruel, Inhuman or Degrading Treatment or  
19 Punishment, done at New York December 10, 1984,  
20 including any implementing regulations.

21                   “(3) DIRECTOR.—The term ‘Director’ means  
22 the Director of U.S. Citizenship and Immigration  
23 Services.

1           “(4) EXCEPTIONAL CIRCUMSTANCES.—The  
2 term ‘exceptional circumstances’ has the meaning  
3 given such term in section 240(e)(1).

4           “(5) FINAL ORDER OF REMOVAL.—The term  
5 ‘final order of removal’ means an order of removal  
6 made by an asylum officer at the conclusion of a  
7 protection determination, and any appeal of such  
8 order, as applicable.

9           “(6) PROTECTION APPELLATE BOARD.—The  
10 term ‘Protection Appellate Board’ means the Protec-  
11 tion Appellate Board established under section 463  
12 of the Homeland Security Act of 2002.

13           “(7) PROTECTION DETERMINATION DECI-  
14 SION.—The term ‘protection determination decision’  
15 means the service of a negative or positive protection  
16 determination outcome.

17           “(8) SECRETARY.—The term ‘Secretary’ means  
18 the Secretary of Homeland Security.”.

19           (b) CLERICAL AMENDMENT.—The table of contents  
20 of the Immigration and Nationality Act (8 U.S.C. 1101  
21 et seq.) is amended by inserting after the item relating  
22 to section 240C the following:

“Sec. 240D. Protection merits removal proceedings.”.

1 **SEC. 3143. VOLUNTARY DEPARTURE AFTER NONCUSTO-**  
2 **DIAL PROCESSING; WITHDRAWAL OF APPLI-**  
3 **CATION FOR ADMISSION.**

4 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
5 gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
6 amended by section 3142(a), is further amended by insert-  
7 ing after section 240D the following:

8 **“SEC. 240E. VOLUNTARY DEPARTURE AFTER NONCUSTO-**  
9 **DIAL PROCESSING.**

10 “(a) CONDITIONS.—

11 “(1) IN GENERAL.—The Secretary of Homeland  
12 Security (referred to in this section as the ‘Sec-  
13 retary’) may permit an alien to voluntarily depart  
14 the United States under this subsection, at the  
15 alien’s own expense, instead of being subject to pro-  
16 ceedings under section 235B or 240D or before the  
17 completion of such proceedings, if such alien is not  
18 deportable under paragraph (2)(A)(iii) or (4)(B) of  
19 section 237(a).

20 “(2) PERIOD OF VALIDITY.—Permission to de-  
21 part voluntarily under this subsection shall be valid  
22 for a period not to exceed 120 days.

23 “(3) DEPARTURE BOND.—The Secretary may  
24 require an alien permitted to depart voluntarily  
25 under this subsection to post a voluntary departure  
26 bond, which shall be surrendered upon proof that

1 the alien has departed the United States within the  
2 time specified in such bond.

3 “(b) AT CONCLUSION OF PROCEEDINGS.—

4 “(1) IN GENERAL.—The Secretary may permit  
5 an alien to voluntarily depart the United States  
6 under this subsection, at the alien’s own expense, if,  
7 at the conclusion of a proceeding under section  
8 240D, the asylum officer—

9 “(A) enters an order granting voluntary  
10 departure instead of removal; and

11 “(B) determines that the alien—

12 “(i) has been physically present in the  
13 United States for not less than 60 days  
14 immediately preceding the date on which  
15 proper notice was served in accordance  
16 with section 235B(e)(2);

17 “(ii) is, and has been, a person of  
18 good moral character for at least 5 years  
19 immediately preceding the alien’s applica-  
20 tion for voluntary departure;

21 “(iii) is not deportable under para-  
22 graph (2)(A)(iii) or (4) of section 237(a);  
23 and

24 “(iv) has established, by clear and  
25 convincing evidence, that he or she has the



1 means to depart the United States and in-  
2 tends to do so.

3 “(2) DEPARTURE BOND.—The Secretary shall  
4 require any alien permitted to voluntarily depart  
5 under this subsection to post a voluntary departure  
6 bond, in an amount necessary to ensure that such  
7 alien will depart, which shall be surrendered upon  
8 proof that the alien has departed the United States  
9 within the time specified in such bond.

10 “(c) INELIGIBLE ALIENS.—The Secretary shall not  
11 permit an alien to voluntarily depart under this section  
12 if such alien was previously permitted to voluntarily depart  
13 after having been found inadmissible under section  
14 212(a)(6)(A).

15 “(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

16 “(1) IN GENERAL.—Subject to paragraph (2),  
17 an alien who was permitted to voluntarily depart the  
18 United States under this section and fails to volun-  
19 tarily depart within the period specified by the Sec-  
20 retary—

21 “(A) shall be subject to a civil penalty of  
22 not less than \$1,000 and not more than  
23 \$5,000; and

24 “(B) shall be ineligible, during the 10-year  
25 period beginning on the last day such alien was



1 retary'), in the discretion of the Secretary, may permit any  
2 alien for admission to withdraw his or her application—

3 “(1) instead of being placed into removal pro-  
4 ceedings under section 235B or 240D; or

5 “(2) at any time before the alien’s protection  
6 merits interview occurs under section 240D.

7 “(b) CONDITIONS.—An alien’s decision to withdraw  
8 his or her application for admission under subsection (a)  
9 shall be made voluntarily. Permission to withdraw an ap-  
10 plication for admission may not be granted unless the  
11 alien intends and is able to depart the United States with-  
12 in a period determined by the Secretary.

13 “(c) CONSEQUENCE FOR FAILURE TO DEPART.—An  
14 alien who is permitted to withdraw his or her application  
15 for admission under this section and fails to voluntarily  
16 depart the United States within the period specified by  
17 the Secretary pursuant to subsection (b) shall be ineligible,  
18 during the 5-year period beginning on the last day of such  
19 period, to receive any further relief under this section and  
20 section 240A.

21 “(d) FAMILY UNITY.—In the case of an alien with  
22 a minor child in the United States who has been ordered  
23 removed after withdrawing an application under this sec-  
24 tion, the Secretary shall ensure that such alien is removed  
25 with the minor child, if the alien elects.

1       “(e) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
2 tion may be construed to affect any withdrawal require-  
3 ments in any other section of this Act.”.

4       (b) **CLERICAL AMENDMENT.**—The table of contents  
5 of the Immigration and Nationality Act (8 U.S.C. 1101  
6 et seq.), as amended by section 3142(b), is further amend-  
7 ed by inserting after the item relating to section 240D  
8 the following:

“Sec. 240E. Voluntary departure after noncustodial processing.  
“Sec. 240F. Withdrawal of application for admission.”.

9       **SEC. 3144. VOLUNTARY REPATRIATION.**

10       (a) **IN GENERAL.**—Chapter 4 of title II of the Immi-  
11 gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
12 amended by section 3143(a), is further amended by insert-  
13 ing after section 240F, the following:

14       **“SEC. 240G. VOLUNTARY REPATRIATION.**

15       “(a) **ESTABLISHMENT.**—The Secretary of Homeland  
16 Security (referred to in this section as the ‘Secretary’)  
17 shall establish a voluntary repatriation program in accord-  
18 ance with the terms and conditions of this section.

19       “(b) **VOLUNTARY REPATRIATION IN LIEU OF PRO-**  
20 **CEEDINGS.**—Under the voluntary repatriation program es-  
21 tablished under subsection (a), the Secretary may permit  
22 an alien to elect, at any time during proceedings under  
23 section 235B or before the alien’s protection merits deter-  
24 mination under section 240D(d), voluntary repatriation in

1 lieu of continued proceedings under section 235B or  
2 240D.

3 “(c) PERIOD OF VALIDITY.—An alien who elects vol-  
4 untary repatriation shall depart the United States within  
5 a period determined by the Secretary, which may not ex-  
6 ceed 120 days.

7 “(d) PROCEDURES.—Consistent with subsection (b),  
8 the Secretary may permit an alien to elect voluntary repa-  
9 triation if the asylum officer—

10 “(1) enters an order granting voluntary repatri-  
11 ation instead of an order of removal; and

12 “(2) determines that the alien—

13 “(A) has been physically present in the  
14 United States immediately preceding the date  
15 on which the alien elects voluntary repatriation;

16 “(B) is, and has been, a person of good  
17 moral character for the entire period the alien  
18 is physically present in the United States;

19 “(C) is not described in paragraph  
20 (2)(A)(iii) or (4) of section 237(a);

21 “(D) meets the applicable income require-  
22 ments, as determined by the Secretary; and

23 “(E) has not previously elected voluntary  
24 repatriation.

25 “(e) MINIMUM REQUIREMENTS.—

1           “(1) NOTICE.—The notices required to be pro-  
2           vided to an alien under sections 235B(b)(2) and  
3           240D(c)(1) shall include information on the vol-  
4           untary repatriation program.

5           “(2) VERBAL REQUIREMENTS.—The asylum of-  
6           ficer shall verbally provide the alien with information  
7           about the opportunity to elect voluntary repatri-  
8           ation—

9                   “(A) at the beginning of a protection de-  
10                  termination under section 235B(c)(2); and

11                   “(B) at the beginning of the protection  
12                  merits interview under section 240D(b)(3).

13           “(3) WRITTEN REQUEST.—An alien subject to  
14           section 235B or 240D—

15                   “(A) may elect voluntary repatriation at  
16                  any time during proceedings under 235B or be-  
17                  fore the protection merits determination under  
18                  section 240D(d); and

19                   “(B) may only elect voluntary repatri-  
20                  ation—

21                           “(i) knowingly and voluntarily; and

22                           “(ii) in a written format, to the max-  
23                  imum extent practicable, in the alien’s na-  
24                  tive language or in a language the alien

1                   understands, or in an alternative record if  
2                   the alien is unable to write.

3           “(f) REPATRIATION.—The Secretary is authorized to  
4 provide transportation to aliens, including on commercial  
5 flights, if such aliens elect voluntary repatriation.

6           “(g) REINTEGRATION.—Upon election of voluntary  
7 repatriation, the Secretary shall advise the alien of any  
8 applicable reintegration or reception program available in  
9 the alien’s country of nationality.

10          “(h) FAMILY UNITY.—In the case of an alien with  
11 a minor child in the United States who has been permitted  
12 to voluntarily repatriate pursuant to this section, the Sec-  
13 retary shall ensure that such alien is repatriated with the  
14 minor child, if the alien elects.

15          “(i) IMMIGRATION CONSEQUENCES.—

16               “(1) ELECTION TIMING.—In the case of an  
17 alien who elects voluntary repatriation at any time  
18 during proceeding under section 235B or before the  
19 protection merits interview, a final order of removal  
20 shall not be entered against the alien.

21               “(2) FAILURE TO TIMELY DEPART.—In the  
22 case of an alien who elects voluntary repatriation  
23 and fails to depart the United States before the end  
24 of the period of validity under subsection (c)—

1           “(A) the alien shall be subject to a civil  
2           penalty in an amount equal to the cost of the  
3           commercial flight or the ticket, or tickets, to the  
4           country of nationality;

5           “(B) during the 10-year period beginning  
6           on the date on which the period of validity  
7           under subsection (c) ends, the alien shall be in-  
8           eligible for relief under—

9                   “(i) this section;

10                   “(ii) section 240A; and

11                   “(iii) section 240E; and

12           “(C) a final order of removal shall be en-  
13           tered against the alien.

14           “(3) EXCEPTIONS.—Paragraph (2) shall not  
15           apply to a child of an adult alien who elected vol-  
16           untary repatriation.

17           “(j) CLERICAL MATTERS.—

18                   “(1) RULE OF CONSTRUCTION.—Nothing in  
19           this section may be construed to affect any voluntary  
20           departure under any other section of this Act.

21                   “(2) SAVINGS CLAUSE.—Nothing in this section  
22           may be construed to supersede the requirements of  
23           section 241(b)(3).

24                   “(3) JUDICIAL REVIEW.—No court shall have  
25           jurisdiction of the Secretary’s decision, in the Sec-



1       retary’s sole discretion, to permit an alien to elect  
2       voluntary repatriation. No court may order a stay of  
3       an alien’s removal pending consideration of any  
4       claim with respect to voluntary repatriation.

5               “(4) APPROPRIATIONS.—There are authorized  
6       to be appropriated to the Secretary such sums as  
7       necessary to carry out this section.

8               “(k) VOLUNTARY REPATRIATION DEFINED.—The  
9       term ‘voluntary repatriation’ means the free and voluntary  
10      return of an alien to the alien’s country of nationality (or  
11      in the case of an alien having no nationality, the country  
12      of the alien’s last habitual residence) in a safe and dig-  
13      nified manner, consistent with the obligations of the  
14      United States under the Convention Relating to the Sta-  
15      tus of Refugees, done at Geneva July 28, 1952 (as made  
16      applicable by the 1967 Protocol Relating to the Status of  
17      Refugees, done at New York January 31, 1967 (19 UST  
18      6223)).”.

19              (b) CLERICAL AMENDMENT.—The table of contents  
20      of the Immigration and Nationality Act (8 U.S.C. 1101  
21      et seq.), as amended by section 3143(b), is further amend-  
22      ed by inserting after the item relating to section 240F the  
23      following:

“Sec. 240G. Voluntary repatriation.”.

1 **SEC. 3145. IMMIGRATION EXAMINATIONS FEE ACCOUNT.**

2 Section 286 of the Immigration and Nationality Act  
3 (8 U.S.C. 1356) is amended—

4 (1) in subsection (m), by striking “collected.”  
5 and inserting “collected: *Provided further*, That such  
6 fees may not be set to recover any costs associated  
7 with the implementation of sections 235B and  
8 240D, are appropriated by Congress, and are not  
9 subject to the fees collected.”; and

10 (2) in subsection (n), by adding at the end the  
11 following: “Funds deposited in the ‘Immigration Ex-  
12 aminations Fee Account’ shall not be used to reim-  
13 burse any appropriation for expenses associated with  
14 the implementation of sections 235B and 240D.”.

15 **SEC. 3146. BORDER REFORMS.**

16 (a) **SPECIAL RULES FOR CONTIGUOUS CONTINENTAL**  
17 **LAND BORDERS.—**

18 (1) **IN GENERAL.—**Chapter 4 of title II of the  
19 Immigration and Nationality Act (8 U.S.C. 1221 et  
20 seq.) is amended by adding at the end the following:

21 **“SEC. 244A. SPECIAL RULES FOR CONTIGUOUS CONTI-**  
22 **NENTAL LAND BORDERS.**

23 “(a) **IN GENERAL.—**An alien described in section 235  
24 or 235B who arrives by land from a contiguous conti-  
25 nental land border (whether or not at a designated port  
26 of arrival), absent unusual circumstances, shall be prompt-

1 ly subjected to the mandatory provisions of such sections  
2 unless the Secretary of Homeland Security (referred to in  
3 this section as the ‘Secretary’) determines, on a case-by-  
4 case basis, that there is—

5 “(1) an exigent medical circumstance involving  
6 the alien that requires the alien’s physical presence  
7 in the United States;

8 “(2) a significant law enforcement or intel-  
9 ligence purpose warranting the alien’s presence in  
10 the United States;

11 “(3) an urgent humanitarian reason directly  
12 pertaining to the individual alien, according to spe-  
13 cific criteria determined by the Secretary;

14 “(4) a Tribal religious ceremony, cultural ex-  
15 change, celebration, subsistence use, or other cul-  
16 turally important purpose warranting the alien’s  
17 presence in the United States on Tribal land located  
18 at or near an international land border;

19 “(5) an accompanying alien whose presence in  
20 the United States is necessary for the alien who  
21 meets the criteria described in any of the paragraphs  
22 (1) through (4) to further the purposes of such pro-  
23 visions; or

24 “(6) an alien who, while in the United States,  
25 had an emergent personal or bona fide reason to

1 travel temporarily abroad and received approval for  
2 Advance Parole from the Secretary.

3 “(b) RULES OF CONSTRUCTION.—Nothing in this  
4 section may be construed—

5 “(1) to preclude the execution of section  
6 235(a)(4) or 241(a)(5);

7 “(2) to expand or restrict the authority to grant  
8 parole under section 212(d)(5), including for aliens  
9 arriving at a port of entry by air or sea, other than  
10 an alien arriving by land at a contiguous continental  
11 land border for whom a special rule described in  
12 subsection (a) applies; or

13 “(3) to refer to or place an alien in removal  
14 proceedings pursuant to section 240, or in any other  
15 proceedings, if such referral is not otherwise author-  
16 ized under this Act.

17 “(c) TRANSITION RULES.—

18 “(1) MANDATORY PROCESSING.—Beginning on  
19 the date that is 90 days after the date of the enact-  
20 ment of this section, the Secretary shall require any  
21 alien described in subsection (a) who does not meet  
22 any of the criteria described in paragraphs (1)  
23 through (6) of that subsection to be processed in ac-  
24 cordance with section 235 or 235B, as applicable,

1 unless such alien is subject to removal proceedings  
2 under subsection (b)(3).

3 “(2) PRE-CERTIFICATION REFERRALS AND  
4 PLACEMENTS.—Before the Comptroller General of  
5 the United States has certified that sections 235B  
6 and 240D are fully operational pursuant to section  
7 3146(d) of the Border Act, the Secretary shall refer  
8 or place aliens described in subsection (a) in pro-  
9 ceedings under section 240 based upon operational  
10 considerations regarding the capacity of the Sec-  
11 retary to process aliens under section 235 or section  
12 235B, as applicable.

13 “(3) POST-CERTIFICATION REFERRALS AND  
14 PLACEMENTS.—After the Comptroller General  
15 makes the certification referred to in paragraph (2),  
16 the Secretary may only refer aliens described in sub-  
17 section (a) to, or place such aliens in, proceedings  
18 under section 235(b) or 235B, as applicable, unless  
19 such alien is subject to removal proceedings under  
20 subsection (b)(3).”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents of the Immigration and Nationality Act (8  
23 U.S.C. 1101 et seq.) is amended by inserting after  
24 the item relating to section 244 the following:

“Sec. 244A. Special rules for contiguous continental land borders.”.

1 (b) MODIFICATION OF AUTHORITY TO ARREST, DE-  
2 TAIN, AND RELEASE ALIENS.—

3 (1) IN GENERAL.—Section 236(a)(2) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1226(a)(2))  
5 is amended—

6 (A) in the matter preceding subparagraph  
7 (A), by striking “on”;

8 (B) in subparagraph (A), by inserting  
9 “on” before “bond”; and

10 (C) by amending subparagraph (B) to read  
11 as follows:

12 “(B)(i) in the case of an alien encountered  
13 in the interior, on conditional parole; or

14 “(ii) in the case of an alien encountered at  
15 the border—

16 “(I) pursuant to the procedures under  
17 235B; or

18 “(II) on the alien’s own recognizance  
19 with placement into removal proceedings  
20 under 240; and”.

21 (2) EFFECTIVE DATE.—The amendments made  
22 by paragraph (1) shall take effect immediately after  
23 the Comptroller General of the United States cer-  
24 tifies, in accordance with subsection (d), that sec-  
25 tions 235B and 240D of the Immigration and Na-

1           tionality Act, as added by sections 3141 and 3142,  
2           are fully operational.

3           (c) REPORTING REQUIREMENT.—

4                 (1) IN GENERAL.—Section 236 of the Immigra-  
5           tion and Nationality Act (8 U.S.C. 1226) is amend-  
6           ed by adding at the end the following:

7           “(f) SEMIANNUAL REPORT.—

8                 “(1) IN GENERAL.—Not later than 180 days  
9           after the date on which the Comptroller General  
10          makes the certification described in section 3146(d)  
11          of the Border Act, and every 180 days thereafter,  
12          the Secretary of Homeland Security shall publish, on  
13          a publicly accessible internet website in a  
14          downloadable and searchable format, a report that  
15          describes each use of the authority of the Secretary  
16          under subsection (a)(2)(B)(ii)(II).

17                 “(2) ELEMENTS.—Each report required by  
18          paragraph (1) shall include, for the applicable 180-  
19          day reporting period—

20                         “(A) the number of aliens released pursu-  
21                         ant to the authority of the Secretary of Home-  
22                         land Security under subsection (a)(2)(B)(ii)(II);

23                         “(B) with respect to each such release—

24                                 “(i) the rationale;

1 “(ii) the Border Patrol sector in  
2 which the release occurred; and

3 “(iii) the number of days between the  
4 scheduled date of the protection determina-  
5 tion and the date of release from physical  
6 custody.

7 “(3) PRIVACY PROTECTION.—Each report pub-  
8 lished under paragraph (1)—

9 “(A) shall comply with all applicable Fed-  
10 eral privacy laws; and

11 “(B) shall not disclose any information  
12 contained in, or pertaining to, a protection de-  
13 termination.”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) shall take effect immediately after  
16 the Comptroller General of the United States cer-  
17 tifies, in accordance with subsection (d), that sec-  
18 tions 235B and 240D of the Immigration and Na-  
19 tionality Act, as added by sections 3141 and 3142,  
20 are fully operational.

21 (d) CERTIFICATION PROCESS.—

22 (1) DEFINITIONS.—In this subsection:

23 (A) FULLY OPERATIONAL.—The term  
24 “fully operational” means the Secretary has the  
25 necessary resources, capabilities, and personnel



1 to process all arriving aliens referred to in sec-  
2 tions 235B and 240D of the Immigration and  
3 Nationality Act, as added by sections 3141 and  
4 3142, within the timeframes required by such  
5 sections.

6 (B) REQUIRED PARTIES.—The term “re-  
7 quired parties” means—

8 (i) the President;

9 (ii) the Secretary;

10 (iii) the Attorney General;

11 (iv) the Director of the Office of Man-  
12 agement and Budget;

13 (v) the Committee on Homeland Secu-  
14 rity and Governmental Affairs of the Sen-  
15 ate;

16 (vi) the Committee on the Judiciary of  
17 the Senate;

18 (vii) the Committee on Appropriations  
19 of the Senate;

20 (viii) the Committee on Homeland Se-  
21 curity of the House of Representatives;

22 (ix) the Committee on the Judiciary  
23 of the House of Representatives; and

24 (x) the Committee on Appropriations  
25 of the House of Representatives.

1 (2) REVIEW.—

2 (A) IN GENERAL.—Not later than 180  
3 days after the date of the enactment of this  
4 Act, the Comptroller General of the United  
5 States shall review the implementation of sec-  
6 tions 235B and 240D of the Immigration and  
7 Nationality Act, as added by sections 3141 and  
8 3142, to determine whether such sections are  
9 fully operational.

10 (B) REVIEW ELEMENTS.—In completing  
11 the review required under subparagraph (A),  
12 the Comptroller General shall assess, in com-  
13 parison to the available resources, capabilities,  
14 and personnel on the date of the enactment of  
15 this Act, whether there are sufficient—

16 (i) properly trained personnel, includ-  
17 ing support personnel;

18 (ii) real property assets and other re-  
19 quired capabilities;

20 (iii) information technology infrastruc-  
21 ture;

22 (iv) field manuals and guidance, regu-  
23 lations, and policies;

24 (v) other investments that the Comp-  
25 troller General considers necessary; and

1                   (vi) asylum officers to effectively proc-  
2                   ess all aliens who are considered amenable  
3                   for processing under section 235(b), sec-  
4                   tion 235B, section 240, and section 240D  
5                   of the Immigration and Nationality Act.

6                   (3) CERTIFICATION OF FULL IMPLEMENTA-  
7                   TION.—If the Comptroller General determines, after  
8                   completing the review required under paragraph (2),  
9                   that sections 235B and 240D of the Immigration  
10                  and Nationality Act are fully operational, the Comp-  
11                  troller General shall immediately submit to the re-  
12                  quired parties a certification of such determination.

13                  (4) NONCERTIFICATION AND SUBSEQUENT RE-  
14                  VIEWS.—If the Comptroller General determines,  
15                  after completing the review required under para-  
16                  graph (2), that such sections 235B and 240D are  
17                  not fully operational, the Comptroller General  
18                  shall—

19                         (A) notify the required parties of such de-  
20                         termination, including the reasons for such de-  
21                         termination;

22                         (B) conduct a subsequent review in accord-  
23                         ance with paragraph (2)(A) not later than 180  
24                         days after each previous review that concluded

1           that such sections 235B and 240D were not  
2           fully operational; and

3           (C) conduct a subsequent review not later  
4           than 90 days after each time Congress appro-  
5           priates additional funding to fully implement  
6           such sections 235B and 240D.

7           (5) DETERMINATION OF THE SECRETARY.—Not  
8           later than 7 days after receiving a certification de-  
9           scribed in paragraph (3), the Secretary shall confirm  
10          or reject the certification of the Comptroller General.

11          (6) EFFECT OF REJECTION.—

12           (A) NOTIFICATION.—If the Secretary re-  
13           jects a certification of the of the Comptroller  
14           General pursuant to paragraph (A), the Sec-  
15           retary shall immediately—

16           (i) notify the President, the Comp-  
17           troller General, and the congressional com-  
18           mittees listed in paragraph (1) of such re-  
19           jection; and

20           (ii) provide such entities with a ra-  
21           tionale for such rejection.

22           (B) SUBSEQUENT REVIEWS.—If the Comp-  
23           troller General receives a notification of rejec-  
24           tion from the Secretary pursuant to subpara-  
25           graph (A), the Comptroller General shall con-

1           duct a subsequent review in accordance with  
2           paragraph (4)(B).

3 **SEC. 3147. PROTECTION APPELLATE BOARD.**

4           (a) IN GENERAL.—Subtitle E of title IV of the  
5 Homeland Security Act of 2002 (6 U.S.C. 271 et seq.)  
6 is amended by adding at the end the following:

7 **“SEC. 463. PROTECTION APPELLATE BOARD.**

8           “(a) ESTABLISHMENT.—The Secretary shall estab-  
9 lish within the U.S. Citizenship and Immigration Services  
10 an appellate authority to conduct administrative appellate  
11 reviews of protection merits determinations made under  
12 section 240D of the Immigration and Nationality Act in  
13 which the alien is denied relief or protection, to be known  
14 as the ‘Protection Appellate Board’.

15           “(b) COMPOSITION.—Each panel of the Protection  
16 Appellate Board shall be composed of 3 U.S. Citizenship  
17 and Immigration Services asylum officers (as defined in  
18 section 235(b)(1)(E) of the Immigration and Nationality  
19 Act (8 U.S.C. 1225(b)(1)(E))), assigned to the panel at  
20 random, who—

21           “(1) possess the necessary experience adjudi-  
22 cating asylum claims; and

23           “(2) are from diverse geographic regions.

24           “(c) DUTIES OF ASYLUM OFFICERS.—In conducting  
25 a review under section 240D(e) of the Immigration and

1 Nationality Act, each asylum officer assigned to a panel  
2 of the Protection Appellate Board shall independently re-  
3 view the file of the alien concerned, including—

4           “(1) the record of the alien’s protection deter-  
5 mination (as defined in section 101(a) of the Immi-  
6 gration and Nationality Act (8 U.S.C. 1101(a))), as  
7 applicable;

8           “(2) the alien’s application for a protection  
9 merits interview (as defined in section 240D(l) of  
10 that Act);

11           “(3) a transcript of the alien’s protection merits  
12 interview;

13           “(4) the final record of the alien’s protection  
14 merits interview;

15           “(5) a sworn statement from the alien identi-  
16 fying new evidence or alleged error and any accom-  
17 panying information the alien or the alien’s legal  
18 representative considers important; and

19           “(6) any additional materials, information, or  
20 facts inserted into the record.

21           “(d) DECISIONS.—Any final determination made by  
22 a panel of the Protection Appellate Board shall be by ma-  
23 jority decision, independently submitted by each member  
24 of the panel.

1           “(e) EXCLUSIVE JURISDICTION.—The Protection Ap-  
2 pellate Board shall have exclusive jurisdiction to review  
3 appeals of negative protections merits determinations.

4           “(f) PROTECTIONS FOR DECISIONS BASED ON MER-  
5 ITS OF CASE.—The Director of U.S. Citizenship and Im-  
6 migration Services may not impose restrictions on an asy-  
7 lum officer’s ability to grant or deny relief or protection  
8 based on a numerical limitation.

9           “(g) REPORTS.—

10           “(1) IN GENERAL.—Not later than 1 year after  
11 the date of the enactment of this section, and annu-  
12 ally thereafter, the Secretary—

13           “(A) shall submit a report to the appro-  
14 priate committees of the Congress that in-  
15 cludes, for the preceding year—

16           “(i) the number of petitions for review  
17 submitted by aliens under section 240D(e)  
18 of the Immigration and Nationality Act;

19           “(ii) the number of appeals considered  
20 by the Protection Appellate Board under  
21 such section that resulted in a grant of re-  
22 lief or protection;

23           “(iii) the number of appeals consid-  
24 ered by the Protection Appellate Board

1 under such section that resulted in a denial  
2 of relief or protection;

3 “(iv) the geographic regions in which  
4 the members of the Protection Appellate  
5 Board held their primary duty station;

6 “(v) the tenure of service of the mem-  
7 bers of the Protection Appellate Board;

8 “(vi) a description of any anomalous  
9 case outcome identified by the Secretary  
10 and the resolution of any such case out-  
11 come;

12 “(vii) the number of unanimous deci-  
13 sions by the Protection Appellate Board;

14 “(viii) an identification of the number  
15 of cases the Protection Appellate Board  
16 was unable to complete in the timelines  
17 specified under section 240D(e) of the Im-  
18 migration and Nationality Act; and

19 “(ix) a description of any steps taken  
20 to remediate any backlog identified under  
21 clause (viii), as applicable; and

22 “(B) in submitting each such report, shall  
23 protect all personally identifiable information of  
24 Federal employees and aliens who are subject to  
25 the reporting under this subsection.



1           “(2) APPROPRIATE COMMITTEES OF CONGRESS  
2           DEFINED.—In this subsection, the term ‘appropriate  
3           committees of Congress’ means—

4                   “(A) the Committee on Appropriations of  
5           the Senate;

6                   “(B) the Committee on the Judiciary of  
7           the Senate;

8                   “(C) the Committee on Homeland Security  
9           and Governmental Affairs of the Senate;

10                   “(D) the Committee on Appropriations of  
11           the House of Representatives;

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

14                   “(F) the Committee on Homeland Security  
15           of the House of Representatives.”.

16           (b) CLERICAL AMENDMENT.—The table of contents  
17           of the Homeland Security Act of 2002 (6 U.S.C. 101 et  
18           seq.) is amended by inserting after the item relating to  
19           section 462 the following:

          “Sec. 463. Protection Appellate Board.”.

20           **TITLE II—ASYLUM PROCESSING**  
21                   **ENHANCEMENTS**

22           **SEC. 3201. COMBINED SCREENINGS.**

23           Section 101(a) of the Immigration and Nationality  
24           Act (8 U.S.C. 1101(a)) is amended by adding at the end  
25           the following:

1 “(53) The term ‘protection determination’ means—

2 “(A) a screening conducted pursuant to section  
3 235(b)(1)(B)(v); or

4 “(B) a screening to determine whether an alien  
5 is eligible for—

6 “(i) withholding of removal under section  
7 241(b)(3); or

8 “(ii) protection under the Convention  
9 against Torture and Other Cruel, Inhuman or  
10 Degrading Treatment or Punishment, done at  
11 New York December 10, 1984, which includes  
12 the regulations implementing any law enacted  
13 pursuant to Article 3 of such convention.

14 “(54) The term ‘protection merits interview’ means  
15 an interview to determine whether an alien—

16 “(A) meets the definition of refugee under  
17 paragraph (42), in accordance with the terms and  
18 conditions under section 208;

19 “(B) is eligible for withholding of removal  
20 under section 241(b)(3); or

21 “(C) is eligible for protection under the Conven-  
22 tion against Torture and Other Cruel, Inhuman or  
23 Degrading Treatment or Punishment, done at New  
24 York December 10, 1984, which includes the regula-

1 tions implementing any law enacted pursuant to Ar-  
2 ticle 3 of such convention.”.

3 **SEC. 3202. CREDIBLE FEAR STANDARD AND ASYLUM BARS**  
4 **AT SCREENING INTERVIEW.**

5 Section 235(b)(1)(B) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1225(b)(1)(B)) is amended—

7 (1) in clause (v), by striking “significant possi-  
8 bility” and inserting “reasonable possibility”; and

9 (2) by adding at the end, the following:

10 “(vi) ASYLUM EXCEPTIONS.—An asy-  
11 lum officer, during the credible fear screen-  
12 ing of an alien—

13 “(I) shall determine whether any  
14 of the asylum exceptions under section  
15 208(b)(2) disqualify the alien from re-  
16 ceiving asylum; and

17 “(II) may determine that the  
18 alien does not meet the definition of  
19 credible fear of persecution under  
20 clause (v) if any such exceptions  
21 apply, including whether any such ex-  
22 emptions to such disqualifying excep-  
23 tions may apply.”.

1 **SEC. 3203. INTERNAL RELOCATION.**

2 (a) IN GENERAL.—Section 208(b)(2)(A) of the Im-  
3 migration and Nationality Act (8 U.S.C. 1158(b)(2)(A))  
4 is amended—

5 (1) in clause (v), by striking “or” at the end;

6 (2) in clause (vi), by striking the period at the  
7 end and inserting “; or”; and

8 (3) by adding at the end the following:

9 “(vii) there are reasonable grounds for  
10 concluding that the alien could avoid perse-  
11 cution by relocating to—

12 “(I) another location in the  
13 alien’s country of nationality; or

14 “(II) in the case of an alien hav-  
15 ing no nationality, another location in  
16 the alien’s country of last habitual  
17 residence.”.

18 (b) INAPPLICABILITY.—Section 244(c)(2)(B)(ii) of  
19 the Immigration and Nationality Act (8 U.S.C.  
20 1254a(c)(2)(B)(ii)) is amended by inserting “clauses (i)  
21 through (vi) of” after “described in”.

22 **SEC. 3204. ASYLUM OFFICER CLARIFICATION.**

23 Section 235(b)(1)(E) of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

1 (1) in clause (i), by striking “comparable to”  
2 and all that follows and inserting “, including non-  
3 adversarial techniques;”;

4 (2) in clause (ii), by striking the period at the  
5 end and inserting “; and”; and

6 (3) by adding at the end the following:

7 “(iii)(I) is an employee of U.S. Citi-  
8 zenship and Immigration Services; and

9 “(II) is not a law enforcement offi-  
10 cer.”.

## 11 **TITLE III—SECURING AMERICA**

### 12 **Subtitle A—Border Emergency**

#### 13 **Authority**

##### 14 **SEC. 3301. BORDER EMERGENCY AUTHORITY.**

15 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
16 gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
17 amended by section 3146(a), is further amended by add-  
18 ing at the end the following:

##### 19 **“SEC. 244B. BORDER EMERGENCY AUTHORITY.**

20 “(a) USE OF AUTHORITY.—

21 “(1) IN GENERAL.—In order to respond to ex-  
22 traordinary migration circumstances, there shall be  
23 available to the Secretary, notwithstanding any other  
24 provision of law, a border emergency authority.

1           “(2) EXCEPTIONS.—The border emergency au-  
2           thority shall not be activated with respect to any of  
3           the following:

4                   “(A) A citizen or national of the United  
5           States.

6                   “(B) An alien who is lawfully admitted for  
7           permanent residence.

8                   “(C) An unaccompanied alien child.

9                   “(D) An alien who an immigration officer  
10          determines, with the approval of a supervisory  
11          immigration officer, should be excepted from  
12          the border emergency authority based on the to-  
13          tality of the circumstances, including consider-  
14          ation of significant law enforcement, officer and  
15          public safety, humanitarian, and public health  
16          interests, or an alien who an immigration offi-  
17          cer determines, in consultation with U.S. Immi-  
18          gration and Customs Enforcement, should be  
19          excepted from the border emergency authority  
20          due to operational considerations.

21                  “(E) An alien who is determined to be a  
22          victim of a severe form of trafficking in persons  
23          (as defined in section 103 of the Trafficking  
24          Victims Protection Act of 2000 (22 U.S.C.  
25          7102)).

1           “(F) An alien who has a valid visa or other  
2 lawful permission to enter the United States,  
3 including—

4           “(i) a member of the Armed Forces of  
5 the United States and associated per-  
6 sonnel, United States Government employ-  
7 ees or contractors on orders abroad, or  
8 United States Government employees or  
9 contractors, and an accompanying family  
10 member who is on orders or is a member  
11 of the alien’s household, subject to re-  
12 quired assurances;

13           “(ii) an alien who holds a valid travel  
14 document upon arrival at a port of entry;

15           “(iii) an alien from a visa waiver pro-  
16 gram country under section 217 who is not  
17 otherwise subject to travel restrictions and  
18 who arrives at a port of entry; or

19           “(iv) an alien who presents at a port  
20 of entry pursuant to a process approved by  
21 the Secretary to allow for safe and orderly  
22 entry into the United States.

23           “(3) APPLICABILITY.—The border emergency  
24 authority shall only be activated as to aliens who are  
25 not subject to an exception under paragraph (2),

1 and who are, after the authority is activated, within  
2 100 miles of the United States southwest land bor-  
3 der and within the 14-day period after entry.

4 “(b) BORDER EMERGENCY AUTHORITY DE-  
5 SCRIBED.—

6 “(1) IN GENERAL.—Whenever the border emer-  
7 gency authority is activated, the Secretary shall have  
8 the authority, in the Secretary’s sole and  
9 unreviewable discretion, to summarily remove from  
10 and prohibit, in whole or in part, entry into the  
11 United States of any alien identified in subsection  
12 (a)(3) who is subject to such authority in accordance  
13 with this subsection.

14 “(2) TERMS AND CONDITIONS.—

15 “(A) SUMMARY REMOVAL.—Notwith-  
16 standing any other provision of this Act, subject  
17 to subparagraph (B), the Secretary shall issue  
18 a summary removal order and summarily re-  
19 move an alien to the country of which the alien  
20 is a subject, national, or citizen (or, in the case  
21 of an alien having no nationality, the country of  
22 the alien’s last habitual residence), or in accord-  
23 ance with the processes established under sec-  
24 tion 241, unless the summary removal of the



1 alien to such country would be prejudicial to  
2 the interests of the United States.

3 “(B) WITHHOLDING AND CONVENTION  
4 AGAINST TORTURE INTERVIEWS.—

5 “(i) IN GENERAL.—In the case of an  
6 alien subject to the border emergency au-  
7 thority who manifests a fear of persecution  
8 or torture with respect to a proposed coun-  
9 try of summary removal, an asylum officer  
10 (as defined in section 235(b)(1)(E)) shall  
11 conduct an interview, during which the  
12 asylum officer shall determine that, if such  
13 alien demonstrates during the interview  
14 that the alien has a reasonable possibility  
15 of persecution or torture, such alien shall  
16 be referred to or placed in proceedings  
17 under section 240 or 240D, as appro-  
18 priate.

19 “(ii) SOLE MECHANISM TO REQUEST  
20 PROTECTION.—An interview under this  
21 subparagraph conducted by an asylum offi-  
22 cer shall be the sole mechanism by which  
23 an alien described in clause (i) may make  
24 a claim for protection under—

25 “(I) section 241(b)(3); and

1                   “(II) the Convention Against  
2                   Torture.

3                   “(iii) ALIEN REFERRED FOR ADDI-  
4                   TIONAL PROCEEDINGS.—In the case of an  
5                   alien interviewed under clause (i) who dem-  
6                   onstrates that the alien is eligible to apply  
7                   for protection under section 241(b)(3) or  
8                   the Convention Against Torture, the  
9                   alien—

10                   “(I) shall not be summarily re-  
11                   moved; and

12                   “(II) shall instead be processed  
13                   under section 240 or 240D, as appro-  
14                   priate.

15                   “(iv) ADDITIONAL REVIEW.—

16                   “(I) OPPORTUNITY FOR SEC-  
17                   ONDARY REVIEW.—A supervisory asy-  
18                   lum officer shall review any case in  
19                   which the asylum officer who inter-  
20                   viewed the alien under the procedures  
21                   in clause (iii) finds that the alien is  
22                   not eligible for protection under sec-  
23                   tion 241(b)(3) or the Convention  
24                   Against Torture.

1                   “(II) VACATUR.—If, in con-  
2                   ducting such a secondary review, the  
3                   supervisory asylum officer determines  
4                   that the alien demonstrates eligibility  
5                   for such protection—

6                               “(aa) the supervisory asylum  
7                               officer shall vacate the previous  
8                               negative determination; and

9                               “(bb) the alien shall instead  
10                              be processed under section 240  
11                              or 240D.

12                   “(III) SUMMARY REMOVAL.—If  
13                   an alien does not seek such a sec-  
14                   ondary review, or if the supervisory  
15                   asylum officer finds that such alien is  
16                   not eligible for such protection, the  
17                   supervisory asylum officer shall order  
18                   the alien summarily removed without  
19                   further review.

20                   “(3) ACTIVATIONS OF AUTHORITY.—

21                               “(A) DISCRETIONARY ACTIVATION.—The  
22                   Secretary may activate the border emergency  
23                   authority if, during a period of 7 consecutive  
24                   calendar days, there is an average of 4,000 or  
25                   more aliens who are encountered each day.

1           “(B) MANDATORY ACTIVATION.—The Sec-  
2           retary shall activate the border emergency au-  
3           thority if—

4                   “(i) during a period of 7 consecutive  
5                   calendar days, there is an average of 5,000  
6                   or more aliens who are encountered each  
7                   day; or

8                   “(ii) on any 1 calendar day, a com-  
9                   bined total of 8,500 or more aliens are en-  
10                  countered.

11           “(C) CALCULATION OF ACTIVATION.—

12                   “(i) IN GENERAL.—For purposes of  
13                   subparagraphs (A) and (B), the average  
14                   for the applicable 7-day period shall be cal-  
15                   culated using—

16                           “(I) the sum of—

17                                   “(aa) the number of encoun-  
18                                   ters that occur between the  
19                                   southwest land border ports of  
20                                   entry of the United States;

21                                   “(bb) the number of encoun-  
22                                   ters that occur between the ports  
23                                   of entry along the southern  
24                                   coastal borders; and

1                   “(cc) the number of inad-  
2                   missible aliens encountered at a  
3                   southwest land border port of  
4                   entry as described in subsection  
5                   (a)(2)(F)(iv); divided by

6                   “(II) 7.

7                   “(ii) LIMITATION.—Aliens described  
8                   in subsection (a)(2)(C) from noncontiguous  
9                   countries shall not be included in calcu-  
10                  lating the sum of aliens encountered.

11                  “(4) LIMITATIONS.—

12                  “(A) IN GENERAL.—For purposes of para-  
13                  graph (3), the Secretary shall not activate the  
14                  border emergency authority—

15                  “(i) during the first calendar year  
16                  after the effective date, for more than 270  
17                  calendar days;

18                  “(ii) during the second calendar year  
19                  after the effective date, for more than 225  
20                  days; and

21                  “(iii) during the third calendar year,  
22                  for more than 180 calendar days.

23                  “(B) IMPLEMENTATION.—When the au-  
24                  thority is activated, the Secretary shall imple-

1           ment the authority within 24 hours of such ac-  
2           tivation.

3           “(5) SUSPENSIONS OF AUTHORITY.—The Sec-  
4           retary shall suspend activation of the border emer-  
5           gency authority, and the procedures under sub-  
6           sections (a), (b), (c), and (d), not later than 14 cal-  
7           endar days after the date on which the following oc-  
8           curs, as applicable:

9                   “(A) In the case of an activation under  
10                   subparagraph (A) of paragraph (3), there is  
11                   during a period of 7 consecutive calendar days  
12                   an average of less than 75 percent of the en-  
13                   counter level used for activation.

14                   “(B) In the case of an activation under  
15                   clause (i) or (ii) of paragraph (3)(B), there is  
16                   during a period of 7 consecutive calendar days  
17                   an average of less than 75 percent of the en-  
18                   counter level described in such clause (i).

19           “(6) WAIVERS OF ACTIVATION OF AUTHOR-  
20           ITY.—

21                   “(A) FIRST CALENDAR YEAR.—Notwith-  
22                   standing paragraph (3), beginning the first cal-  
23                   endar year after the effective date, the Sec-  
24                   retary shall only have the authority to activate  
25                   the border emergency authority for 270 cal-

1           endar days during the calendar year, provided  
2           that—

3                   “(i) for the first 90 calendar days in  
4                   which any of the requirements of para-  
5                   graph (3) have been satisfied, the Sec-  
6                   retary shall be required to activate such  
7                   authority;

8                   “(ii) for the remaining 180 days that  
9                   the authority is available in the calendar  
10                  year, the Secretary may, in the sole,  
11                  unreviewable, and exclusive discretion of  
12                  the Secretary, determine whether to acti-  
13                  vate the requirements of the border emer-  
14                  gency authority under paragraph (3)(B)  
15                  until the number of days that the authority  
16                  has not been activated is equal to the num-  
17                  ber of days left in the calendar year; and

18                  “(iii) when the number of calendar  
19                  days remaining in the calendar year is  
20                  equal to the number of days that the au-  
21                  thority has not been activated, the Sec-  
22                  retary shall be required to activate the bor-  
23                  der emergency authority for the remainder  
24                  of the calendar year on days during which

1           the requirements of paragraph (3)(B) have  
2           been satisfied.

3           “(B) SECOND CALENDAR YEAR.—Notwith-  
4           standing paragraph (3), beginning the second  
5           calendar year after the effective date, the Sec-  
6           retary shall only have the authority to activate  
7           the border emergency authority for 225 cal-  
8           endar days during the calendar year, provided  
9           that—

10           “(i) during the first 75 calendar days  
11           during which any of the requirements of  
12           paragraph (3) have been satisfied, the Sec-  
13           retary shall be required to activate the au-  
14           thority;

15           “(ii) for the remaining 150 days that  
16           the authority is available in the calendar  
17           year, the Secretary may, in the sole,  
18           unreviewable, and exclusive discretion of  
19           the Secretary, determine whether to acti-  
20           vate the requirements of the border emer-  
21           gency authority under paragraph (3)(B)  
22           until the number of days that the authority  
23           has not been activated is equal to the num-  
24           ber of days left in the calendar year; and



1           “(iii) when the number of calendar  
2           days remaining in the calendar year is  
3           equal to the number of days that the au-  
4           thority has not been activated, the Sec-  
5           retary shall be required to activate the bor-  
6           der emergency authority for the remainder  
7           of the calendar year on days during which  
8           the requirements of paragraph (3)(B) have  
9           been satisfied.

10           “(C) THIRD CALENDAR YEAR.—Notwith-  
11           standing paragraph (3), beginning the third cal-  
12           endar year after the effective date, the Sec-  
13           retary shall only have the authority to activate  
14           the border emergency authority for 180 cal-  
15           endar days during the calendar year, provided  
16           that—

17           “(i) during the first 60 calendar days  
18           during which any of the requirements of  
19           paragraph (3) have been satisfied, the Sec-  
20           retary shall be required to activate the au-  
21           thority;

22           “(ii) for the remaining 120 days that  
23           the authority is available in each calendar  
24           year, the Secretary may, in the sole,  
25           unreviewable, and exclusive discretion of

1           the Secretary, determine whether to acti-  
2           vate the requirements of the border emer-  
3           gency authority under paragraph (3)(B)  
4           until the number of days that the authority  
5           has not been activated is equal to the num-  
6           ber of days left in the calendar year; and  
7           “(iii) when the number of calendar  
8           days remaining in the calendar year is  
9           equal to the number of days that the au-  
10          thority has not been activated, the Sec-  
11          retary shall be required to activate the bor-  
12          der emergency authority for the remainder  
13          of the calendar year on days during which  
14          the requirements of paragraph (3)(B) have  
15          been satisfied.

16           “(7) EMERGENCY SUSPENSION OF AUTHOR-  
17          ITY.—

18           “(A) IN GENERAL.—If the President finds  
19          that it is in the national interest to temporarily  
20          suspend the border emergency authority, the  
21          President may direct the Secretary to suspend  
22          use of the border emergency authority on an  
23          emergency basis.

24           “(B) DURATION.—In the case of a direc-  
25          tion from the President under subparagraph

1           (A), the Secretary shall suspend the border  
2           emergency authority for not more than 45 cal-  
3           endar days within a calendar year, notwith-  
4           standing any limitations on the use of the au-  
5           thority described in this subsection.

6           “(c) CONTINUED ACCESS TO SOUTHWEST LAND  
7   BORDER PORTS OF ENTRY.—

8           “(1) IN GENERAL.—During any activation of  
9           the border emergency authority under subsection  
10          (b), the Secretary shall maintain the capacity to  
11          process, and continue processing, under section 235  
12          or 235B a minimum of 1,400 inadmissible aliens  
13          each calendar day cumulatively across all southwest  
14          land border ports of entry in a safe and orderly  
15          process developed by the Secretary.

16          “(2) SPECIAL RULES.—

17                 “(A) UNACCOMPANIED ALIEN CHILDREN  
18                 EXCEPTION.—For the purpose of calculating  
19                 the number under paragraph (1), the Secretary  
20                 shall count all unaccompanied alien children,  
21                 who are nationals of contiguous countries, proc-  
22                 essed at southwest land border ports of entry,  
23                 but shall not count such children who are na-  
24                 tionals of noncontiguous countries.

1                   “(B) TRANSITION RULES.—The provisions  
2                   of section 244A(c) shall apply to this section.

3                   “(d) BAR TO ADMISSION.—Any alien who, during a  
4 period of 365 days, has 2 or more summary removals pur-  
5 suant to the border emergency authority, shall be inadmis-  
6 sible for a period of 1 year beginning on the date of the  
7 alien’s most recent summary removal.

8                   “(e) SAVINGS PROVISIONS.—

9                   “(1) UNACCOMPANIED ALIEN CHILDREN.—  
10 Nothing in this section may be construed to interfere  
11 with the processing of unaccompanied alien children  
12 and such children are not subject to this section.

13                   “(2) SETTLEMENT AGREEMENTS.—Nothing in  
14 this section may be construed to interfere with any  
15 rights or responsibilities established through a settle-  
16 ment agreement in effect before the date of the en-  
17 actment of this section.

18                   “(3) RULE OF CONSTRUCTION.—For purposes  
19 of the Convention Relating to the Status of Refu-  
20 gees, done at Geneva July 28, 1952 (as made appli-  
21 cable by the 1967 Protocol Relating to the Status of  
22 Refugees, done at New York January 31, 1967 (19  
23 UST 6223)), the Convention Against Torture, and  
24 any other applicable treaty, as applied to this sec-

1           tion, the interview under this section shall occur only  
2           in the context of the border emergency authority.

3           “(f) JUDICIAL REVIEW.—Judicial review of any deci-  
4           sion or action applying the border emergency authority  
5           shall be governed only by this subsection as follows:

6                   “(1) Notwithstanding any other provision of  
7           law, except as provided in paragraph (2), no court  
8           or judge shall have jurisdiction to review any cause  
9           or claim by an individual alien arising from the deci-  
10          sion to enter a summary removal order against such  
11          alien under this section, or removing such alien pur-  
12          suant to such summary removal order.

13                   “(2) The United States District Court for the  
14          District of Columbia shall have sole and original ju-  
15          risdiction to hear challenges, whether constitutional  
16          or otherwise, to the validity of this section or any  
17          written policy directive, written policy guideline,  
18          written procedure, or the implementation thereof,  
19          issued by or under the authority of the Secretary to  
20          implement this section.

21           “(g) EFFECTIVE DATE.—

22                   “(1) IN GENERAL.—This section shall take ef-  
23          fect on the day after the date of the enactment of  
24          this section.

1           “(2) 7-DAY PERIOD.—The initial activation of  
2           the authority under subparagraph (A) or (B)(i) of  
3           subsection (b)(3) shall take into account the average  
4           number of encounters during the preceding 7 con-  
5           secutive calendar days, as described in such subpara-  
6           graphs, which may include the 6 consecutive cal-  
7           endar days immediately preceding the date of the  
8           enactment of this section.

9           “(h) RULEMAKING.—

10           “(1) IN GENERAL.—The Secretary may promul-  
11           gate such regulations as are necessary to implement  
12           this section in compliance with the requirements of  
13           section 553 of title 5, United States Code.

14           “(2) INITIAL IMPLEMENTATION.—Until the  
15           date that is 180 days after the date of the enact-  
16           ment of this section, the Secretary may issue any in-  
17           terim final rules necessary to implement this section  
18           without having to satisfy the requirements of section  
19           553(b)(B) of title 5, United States Code, provided  
20           that any such interim final rules shall include a 30-  
21           day post promulgation notice and comment period  
22           prior to finalization in the Federal Register.

23           “(3) REQUIREMENT.—All regulations promul-  
24           gated to implement this section beginning on the  
25           date that is 180 days after the date of the enact-

1       ment of this section shall be issued pursuant to the  
2       requirements set forth in section 553 of title 5,  
3       United States Code.

4       “(i) DEFINITIONS.—In this section:

5               “(1) BORDER EMERGENCY AUTHORITY.—The  
6       term ‘border emergency authority’ means all au-  
7       thorities and procedures under this section.

8               “(2) CONVENTION AGAINST TORTURE.—The  
9       term ‘Convention Against Torture’ means the Con-  
10      vention against Torture and Other Cruel, Inhuman  
11      or Degrading Treatment or Punishment, done at  
12      New York December 10, 1984, and includes the reg-  
13      ulations implementing any law enacted pursuant to  
14      Article 3 of the Convention against Torture and  
15      Other Cruel, Inhuman or Degrading Treatment or  
16      Punishment, done at New York December 10, 1984.

17              “(3) ENCOUNTER.—With respect to an alien,  
18      the term ‘encounter’ means an alien who—

19                      “(A) is physically apprehended by U.S.  
20      Customs and Border Protection personnel—

21                              “(i) within 100 miles of the southwest  
22                              land border of the United States during  
23                              the 14-day period immediately after entry  
24                              between ports of entry; or

1                   “(ii) at the southern coastal borders  
2                   during the 14-day period immediately after  
3                   entry between ports of entry; or

4                   “(B) is seeking admission at a southwest  
5                   land border port of entry and is determined to  
6                   be inadmissible, including an alien who utilizes  
7                   a process approved by the Secretary to allow for  
8                   safe and orderly entry into the United States.

9                   “(4) SECRETARY.—The term ‘Secretary’ means  
10                  the Secretary of Homeland Security.

11                  “(5) SOUTHERN COASTAL BORDERS.—The term  
12                  ‘southern coastal borders’ means all maritime bor-  
13                  ders in California, Texas, Louisiana, Mississippi,  
14                  Alabama, and Florida.

15                  “(6) UNACCOMPANIED ALIEN CHILD.—The  
16                  term ‘unaccompanied alien child’ has the meaning  
17                  given such term in section 462(g)(2) of the Home-  
18                  land Security Act of 2002 (6 U.S.C. 279(g)(2)).

19                  “(j) SUNSET.—This section—

20                  “(1) shall take effect on the date of the enact-  
21                  ment of this section; and

22                  “(2) shall be repealed effective as of the date  
23                  that is 3 years after such date of enactment.”.

24                  (b) CLERICAL AMENDMENT.—The table of contents  
25                  of the Immigration and Nationality Act (8 U.S.C. 1101



1 et seq.), as amended by section 3146(b), is further amend-  
2 ed by inserting after the item relating to section 244A the  
3 following:

“Sec. 244B Border emergency authority.”.

## 4 **Subtitle B—FEND Off Fentanyl Act**

### 5 **SEC. 3311. SHORT TITLES.**

6 This subtitle may be cited as the “Fentanyl Eradi-  
7 cation and Narcotics Deterrence Off Fentanyl” or the  
8 “FEND Off Fentanyl Act”.

### 9 **SEC. 3312. SENSE OF CONGRESS.**

10 It is the sense of Congress that—

11 (1) the proliferation of fentanyl is causing an  
12 unprecedented surge in overdose deaths in the  
13 United States, fracturing families and communities,  
14 and necessitating a comprehensive policy response to  
15 combat its lethal flow and to mitigate the drug’s  
16 devastating consequences;

17 (2) the trafficking of fentanyl into the United  
18 States is a national security threat that has killed  
19 hundreds of thousands of United States citizens;

20 (3) transnational criminal organizations, includ-  
21 ing cartels primarily based in Mexico, are the main  
22 purveyors of fentanyl into the United States and  
23 must be held accountable;

24 (4) precursor chemicals sourced from the Peo-  
25 ple’s Republic of China are—

1 (A) shipped from the People's Republic of  
2 China by legitimate and illegitimate means;

3 (B) transformed through various synthetic  
4 processes to produce different forms of  
5 fentanyl; and

6 (C) crucial to the production of illicit  
7 fentanyl by transnational criminal organiza-  
8 tions, contributing to the ongoing opioid crisis;

9 (5) the United States Government must remain  
10 vigilant to address all new forms of fentanyl precur-  
11 sors and drugs used in combination with fentanyl,  
12 such as Xylazine, which attribute to overdose deaths  
13 of people in the United States;

14 (6) to increase the cost of fentanyl trafficking,  
15 the United States Government should work collabo-  
16 ratively across agencies and should surge analytic  
17 capability to impose sanctions and other remedies  
18 with respect to transnational criminal organizations  
19 (including cartels), including foreign nationals who  
20 facilitate the trade in illicit fentanyl and its precur-  
21 sors from the People's Republic of China; and

22 (7) the Department of the Treasury should  
23 focus on fentanyl trafficking and its facilitators as  
24 one of the top national security priorities for the De-  
25 partment.

1 **SEC. 3313. DEFINITIONS.**

2 In this subtitle:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
4 **TEES.**—The term “appropriate congressional com-  
5 mittees” means—

6 (A) the Committee on Banking, Housing,  
7 and Urban Affairs of the Senate;

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

10 (C) the Committee on Financial Services of  
11 the House of Representatives; and

12 (D) the Committee on Foreign Affairs of  
13 the House of Representatives.

14 (2) **FOREIGN PERSON.**—The term “foreign per-  
15 son”—

16 (A) means—

17 (i) any citizen or national of a foreign  
18 country; or

19 (ii) any entity not organized under the  
20 laws of the United States or a jurisdiction  
21 within the United States; and

22 (B) does not include the government of a  
23 foreign country.

24 (3) **KNOWINGLY.**—The term “knowingly”, with  
25 respect to conduct, a circumstance, or a result,  
26 means that a person has actual knowledge, or should

1        have known, of the conduct, the circumstance, or the  
2        result.

3            (4) TRAFFICKING.—The term “trafficking”,  
4        with respect to fentanyl, fentanyl precursors, or  
5        other related opioids, has the meaning given the  
6        term “opioid trafficking” in section 7203(8) of the  
7        Fentanyl Sanctions Act (21 U.S.C. 2302(8)).

8            (5) TRANSNATIONAL CRIMINAL ORGANIZA-  
9        TION.—The term “transnational criminal organiza-  
10       tion” includes—

11            (A) any organization designated as a sig-  
12        nificant transnational criminal organization  
13        under part 590 of title 31, Code of Federal  
14        Regulations;

15            (B) any of the organizations known as—  
16                    (i) the Sinaloa Cartel;  
17                    (ii) the Jalisco New Generation Car-  
18        tel;  
19                    (iii) the Gulf Cartel;  
20                    (iv) the Los Zetas Cartel;  
21                    (v) the Juarez Cartel;  
22                    (vi) the Tijuana Cartel;  
23                    (vii) the Beltran-Leyva Cartel; or  
24                    (viii) La Familia Michoacana; or

1 (C) any successor organization to an orga-  
2 nization described in subparagraph (B) or as  
3 otherwise determined by the President.

4 (6) UNITED STATES PERSON.—The term  
5 “United States person” means—

6 (A) a United States citizen or an alien law-  
7 fully admitted for permanent residence to the  
8 United States;

9 (B) an entity organized under the laws of  
10 the United States or of any jurisdiction within  
11 the United States, including a foreign branch of  
12 such an entity; or

13 (C) any person in the United States.

14 **CHAPTER 1—SANCTIONS MATTERS**

15 **Subchapter A—Sanctions in Response to Na-**  
16 **tional Emergency Relating to Fentanyl**  
17 **Trafficking**

18 **SEC. 3314. FINDING; POLICY.**

19 (a) FINDING.—Congress finds that international  
20 trafficking of fentanyl, fentanyl precursors, or other re-  
21 lated opioids constitutes an unusual and extraordinary  
22 threat to the national security, foreign policy, and econ-  
23 omy of the United States, and is a national emergency.

24 (b) POLICY.—It shall be the policy of the United  
25 States to apply economic and other financial sanctions to

1 those who engage in the international trafficking of  
2 fentanyl, fentanyl precursors, or other related opioids to  
3 protect the national security, foreign policy, and economy  
4 of the United States.

5 **SEC. 3315. USE OF NATIONAL EMERGENCY AUTHORITIES;**  
6 **REPORTING.**

7 (a) **IN GENERAL.**—The President may exercise all  
8 authorities provided under sections 203 and 205 of the  
9 International Emergency Economic Powers Act (50  
10 U.S.C. 1702 and 1704) to carry out this subchapter.

11 (b) **REPORT REQUIRED.**—

12 (1) **IN GENERAL.**—Not later than 180 days  
13 after the date of the enactment of this Act, and an-  
14 nually thereafter, the President shall submit to the  
15 appropriate congressional committees a report on ac-  
16 tions taken by the executive branch pursuant to this  
17 subchapter and any national emergency declared  
18 with respect to the trafficking of fentanyl and trade  
19 in other illicit drugs, including—

20 (A) the issuance of any new or revised reg-  
21 ulations, policies, or guidance;

22 (B) the imposition of sanctions;

23 (C) the collection of relevant information  
24 from outside parties;

1 (D) the issuance or closure of general li-  
2 censes, specific licenses, and statements of li-  
3 censing policy by the Office of Foreign Assets  
4 Control;

5 (E) a description of any pending enforce-  
6 ment cases; and

7 (F) the implementation of mitigation pro-  
8 cedures.

9 (2) FORM OF REPORT.—Each report required  
10 under paragraph (1) shall be submitted in unclassi-  
11 fied form, but may include the matters required  
12 under subparagraphs (C), (D), (E), and (F) of such  
13 paragraph in a classified annex.

14 **SEC. 3316. IMPOSITION OF SANCTIONS WITH RESPECT TO**  
15 **FENTANYL TRAFFICKING BY**  
16 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

17 (a) IN GENERAL.—The President shall impose the  
18 sanctions described in subsection (b) with respect to any  
19 foreign person the President determines—

20 (1) is knowingly involved in the significant traf-  
21 ficking of fentanyl, fentanyl precursors, or other re-  
22 lated opioids, including such trafficking by a  
23 transnational criminal organization; or

24 (2) otherwise is knowingly involved in signifi-  
25 cant activities of a transnational criminal organiza-

1           tion relating to the trafficking of fentanyl, fentanyl  
2           precursors, or other related opioids.

3           (b) **SANCTIONS DESCRIBED.**—The President, pursu-  
4           ant to the International Emergency Economic Powers Act  
5           (50 U.S.C. 1701 et seq.), may block and prohibit all trans-  
6           actions in property and interests in property of a foreign  
7           person described in subsection (a) if such property and  
8           interests in property are in the United States, come within  
9           the United States, or are or come within the possession  
10          or control of a United States person.

11          (c) **REPORT REQUIRED.**—Not later than 180 days  
12          after the date of the enactment of this Act, and annually  
13          thereafter, the President shall submit to the appropriate  
14          congressional committees a report on actions taken by the  
15          executive branch with respect to the foreign persons iden-  
16          tified under subsection (a).

17          **SEC. 3317. PENALTIES; WAIVERS; EXCEPTIONS.**

18          (a) **PENALTIES.**—Any person that violates, attempts  
19          to violate, conspires to violate, or causes a violation of this  
20          subchapter or any regulation, license, or order issued to  
21          carry out this subchapter shall be subject to the penalties  
22          set forth in subsections (b) and (c) of section 206 of the  
23          International Emergency Economic Powers Act (50  
24          U.S.C. 1705) to the same extent as a person that commits  
25          an unlawful act described in subsection (a) of that section.



1           (b) NATIONAL SECURITY WAIVER.—The President  
2 may waive the application of sanctions under this sub-  
3 chapter with respect to a foreign person if the President  
4 determines that such waiver is in the national security in-  
5 terest of the United States.

6           (c) EXCEPTIONS.—

7           (1) EXCEPTION FOR INTELLIGENCE ACTIVI-  
8 TIES.—This subchapter shall not apply with respect  
9 to activities subject to the reporting requirements  
10 under title V of the National Security Act of 1947  
11 (50 U.S.C. 3091 et seq.) or any authorized intel-  
12 ligence activities of the United States.

13           (2) EXCEPTION FOR COMPLIANCE WITH INTER-  
14 NATIONAL OBLIGATIONS AND LAW ENFORCEMENT  
15 ACTIVITIES.—Sanctions under this subchapter shall  
16 not apply with respect to an alien if admitting or pa-  
17 roling the alien into the United States is nec-  
18 essary—

19           (A) to permit the United States to comply  
20 with the Agreement regarding the Head-  
21 quarters of the United Nations, signed at Lake  
22 Success on June 26, 1947, and entered into  
23 force November 21, 1947, between the United  
24 Nations and the United States, or other appli-

1 cable international obligations of the United  
2 States; or

3 (B) to carry out or assist law enforcement  
4 activity of the United States.

5 (3) HUMANITARIAN EXEMPTION.—The Presi-  
6 dent may not impose sanctions under this sub-  
7 chapter with respect to any person for conducting or  
8 facilitating a transaction for the sale of agricultural  
9 commodities, food, medicine, or medical devices or  
10 for the provision of humanitarian assistance.

11 **SEC. 3318. TREATMENT OF FORFEITED PROPERTY OF**  
12 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

13 (a) TRANSFER OF FORFEITED PROPERTY TO FOR-  
14 FEITURE FUNDS.—

15 (1) IN GENERAL.—Any covered forfeited prop-  
16 erty shall be deposited into the Department of the  
17 Treasury Forfeiture Fund established under section  
18 9705 of title 31, United States Code, or the Depart-  
19 ment of Justice Assets Forfeiture Fund established  
20 under section 524(c) of title 28, United States Code.

21 (2) REPORT REQUIRED.—Not later than 180  
22 days after the date of the enactment of this Act, and  
23 every 180 days thereafter, the President shall sub-  
24 mit to the appropriate congressional committees a  
25 report on any deposits made under paragraph (1)

1 during the 180-day period preceding submission of  
2 the report.

3 (3) COVERED FORFEITED PROPERTY DE-  
4 FINED.—In this subsection, the term “covered for-  
5 feited property” means property—

6 (A) forfeited to the United States under  
7 chapter 46 or section 1963 of title 18, United  
8 States Code; and

9 (B) that belonged to or was possessed by  
10 an individual affiliated with or connected to a  
11 transnational criminal organization subject to  
12 sanctions under—

13 (i) this subchapter;

14 (ii) the Fentanyl Sanctions Act (21  
15 U.S.C. 2301 et seq.); or

16 (iii) Executive Order 14059 (50  
17 U.S.C. 1701 note; relating to imposing  
18 sanctions on foreign persons involved in  
19 the global illicit drug trade).

20 (b) BLOCKED ASSETS UNDER TERRORISM RISK IN-  
21 SURANCE ACT OF 2002.—Nothing in this subchapter may  
22 be construed to affect the treatment of blocked assets of  
23 a terrorist party described in section 201(a) of the Ter-  
24 rorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note).

1                   **Subchapter B—Other Matters**

2   **SEC. 3319. TEN-YEAR STATUTE OF LIMITATIONS FOR VIOLA-**  
3                   **TIONS OF SANCTIONS.**

4           (a) INTERNATIONAL EMERGENCY ECONOMIC POW-  
5   ERS ACT.—Section 206 of the International Emergency  
6   Economic Powers Act (50 U.S.C. 1705) is amended by  
7   adding at the end the following:

8           “(d) STATUTE OF LIMITATIONS.—

9                   “(1) TIME FOR COMMENCING PROCEEDINGS.—

10                           “(A) IN GENERAL.—An action, suit, or  
11                           proceeding for the enforcement of any civil fine,  
12                           penalty, or forfeiture, pecuniary or otherwise,  
13                           under this section shall not be entertained un-  
14                           less commenced within 10 years after the latest  
15                           date of the violation upon which the civil fine,  
16                           penalty, or forfeiture is based.

17                           “(B) COMMENCEMENT.—For purposes of  
18                           this paragraph, the commencement of an ac-  
19                           tion, suit, or proceeding includes the issuance of  
20                           a pre-penalty notice or finding of violation.

21                   “(2) TIME FOR INDICTMENT.—No person shall  
22                   be prosecuted, tried, or punished for any offense  
23                   under subsection (c) unless the indictment is found  
24                   or the information is instituted within 10 years after

1 the latest date of the violation upon which the in-  
2 dictment or information is based.”.

3 (b) TRADING WITH THE ENEMY ACT.—Section 16  
4 of the Trading with the Enemy Act (50 U.S.C. 4315) is  
5 amended by adding at the end the following:

6 “(d) STATUTE OF LIMITATIONS.—

7 “(1) TIME FOR COMMENCING PROCEEDINGS.—

8 “(A) IN GENERAL.—An action, suit, or  
9 proceeding for the enforcement of any civil fine,  
10 penalty, or forfeiture, pecuniary or otherwise,  
11 under this section shall not be entertained un-  
12 less commenced within 10 years after the latest  
13 date of the violation upon which the civil fine,  
14 penalty, or forfeiture is based.

15 “(B) COMMENCEMENT.—For purposes of  
16 this paragraph, the commencement of an ac-  
17 tion, suit, or proceeding includes the issuance of  
18 a pre-penalty notice or finding of violation.

19 “(2) TIME FOR INDICTMENT.—No person shall  
20 be prosecuted, tried, or punished for any offense  
21 under subsection (a) unless the indictment is found  
22 or the information is instituted within 10 years after  
23 the latest date of the violation upon which the in-  
24 dictment or information is based.”.

1 **SEC. 3320. CLASSIFIED REPORT AND BRIEFING ON STAFF-**  
2 **ING OF OFFICE OF FOREIGN ASSETS CON-**  
3 **TROL.**

4 Not later than 180 days after the date of the enact-  
5 ment of this Act, the Director of the Office of Foreign  
6 Assets Control shall provide to the appropriate congres-  
7 sional committees a classified report and briefing on the  
8 staffing of the Office of Foreign Assets Control,  
9 disaggregated by staffing dedicated to each sanctions pro-  
10 gram and each country or issue.

11 **SEC. 3321. REPORT ON DRUG TRANSPORTATION ROUTES**  
12 **AND USE OF VESSELS WITH MISLABELED**  
13 **CARGO.**

14 Not later than 180 days after the date of the enact-  
15 ment of this Act, the Secretary of the Treasury, in con-  
16 junction with the heads of other relevant Federal agencies,  
17 shall provide to the appropriate congressional committees  
18 a classified report and briefing on efforts to target drug  
19 transportation routes and modalities, including an assess-  
20 ment of the prevalence of false cargo labeling and ship-  
21 ment of precursor chemicals without accurate tracking of  
22 the customers purchasing the chemicals.

1 **SEC. 3322. REPORT ON ACTIONS OF PEOPLE’S REPUBLIC OF**  
2 **CHINA WITH RESPECT TO PERSONS IN-**  
3 **VOLVED IN FENTANYL SUPPLY CHAIN.**

4 Not later than 180 days after the date of the enact-  
5 ment of this Act, the Secretary of the Treasury, in con-  
6 junction with the heads of other relevant Federal agencies,  
7 shall provide to the appropriate congressional committees  
8 a classified report and briefing on actions taken by the  
9 Government of the People’s Republic of China with respect  
10 to persons involved in the shipment of fentanyl, fentanyl  
11 analogues, fentanyl precursors, precursors for fentanyl  
12 analogues, and equipment for the manufacturing of  
13 fentanyl and fentanyl-laced counterfeit pills.

14 **CHAPTER 2—ANTI-MONEY LAUNDERING**  
15 **MATTERS**

16 **SEC. 3323. DESIGNATION OF ILLICIT FENTANYL TRANS-**  
17 **ACTIONS OF SANCTIONED PERSONS AS OF**  
18 **PRIMARY MONEY LAUNDERING CONCERN.**

19 (a) IN GENERAL.—Subtitle A of the Fentanyl Sanc-  
20 tions Act (21 U.S.C. 2311 et seq.) is amended by inserting  
21 after section 7213 the following:

22 **“SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANC-**  
23 **TIONED PERSONS AS OF PRIMARY MONEY**  
24 **LAUNDERING CONCERN.**

25 “(a) IN GENERAL.—If the Secretary of the Treasury  
26 determines that reasonable grounds exist for concluding

1 that 1 or more financial institutions operating outside of  
2 the United States, 1 or more classes of transactions with-  
3 in, or involving, a jurisdiction outside of the United States,  
4 or 1 or more types of accounts within, or involving, a juris-  
5 diction outside of the United States, is of primary money  
6 laundering concern in connection with illicit opioid traf-  
7 ficking, the Secretary of the Treasury may, by order, regu-  
8 lation, or otherwise as permitted by law—

9           “(1) require domestic financial institutions and  
10 domestic financial agencies to take 1 or more of the  
11 special measures provided for in section 9714(a)(1)  
12 of the National Defense Authorization Act for Fiscal  
13 Year 2021 (Public Law 116–283; 31 U.S.C. 5318A  
14 note); or

15           “(2) prohibit, or impose conditions upon, cer-  
16 tain transmittals of funds (to be defined by the Sec-  
17 retary) by any domestic financial institution or do-  
18 mestic financial agency, if such transmittal of funds  
19 involves any such institution, class of transaction, or  
20 type of accounts.

21           “(b) CLASSIFIED INFORMATION.—In any judicial re-  
22 view of a finding of the existence of a primary money laun-  
23 dering concern, or of the requirement for 1 or more special  
24 measures with respect to a primary money laundering con-  
25 cern made under this section, if the designation or imposi-



1 tion, or both, were based on classified information (as de-  
2 fined in section 1(a) of the Classified Information Proce-  
3 dures Act (18 U.S.C. App.)), such information may be  
4 submitted by the Secretary to the reviewing court ex parte  
5 and in camera. This subsection does not confer or imply  
6 any right to judicial review of any finding made or any  
7 requirement imposed under this section.

8 “(c) AVAILABILITY OF INFORMATION.—The exemp-  
9 tions from, and prohibitions on, search and disclosure re-  
10 ferred to in section 9714(c) of the National Defense Au-  
11 thorization Act for Fiscal Year 2021 (Public Law 116–  
12 283; 31 U.S.C. 5318A note) shall apply to any report or  
13 record of report filed pursuant to a requirement imposed  
14 under subsection (a). For purposes of section 552 of title  
15 5, United States Code, this subsection shall be considered  
16 a statute described in subsection (b)(3)(B) of such section.

17 “(d) PENALTIES.—The penalties referred to in sec-  
18 tion 9714(d) of the National Defense Authorization Act  
19 for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C.  
20 5318A note) shall apply to violations of any order, regula-  
21 tion, special measure, or other requirement imposed under  
22 subsection (a), in the same manner and to the same extent  
23 as described in such section 9714(d).

24 “(e) INJUNCTIONS.—The Secretary of the Treasury  
25 may bring a civil action to enjoin a violation of any order,

1 regulation, special measure, or other requirement imposed  
2 under subsection (a) in the same manner and to the same  
3 extent as described in section 9714(e) of the National De-  
4 fense Authorization Act for Fiscal Year 2021 (Public Law  
5 116–283; 31 U.S.C. 5318A note).”.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 for the National Defense Authorization Act for Fiscal  
8 Year 2020 (Public Law 116–92) is amended by inserting  
9 after the item relating to section 7213 the following:

“Sec. 7213A. Designation of transactions of sanctioned persons as of primary  
money laundering concern.”.

10 **SEC. 3324. TREATMENT OF TRANSNATIONAL CRIMINAL OR-**  
11 **GANIZATIONS IN SUSPICIOUS TRANSACTIONS**  
12 **REPORTS OF THE FINANCIAL CRIMES EN-**  
13 **FORCEMENT NETWORK.**

14 (a) FILING INSTRUCTIONS.—Not later than 180 days  
15 after the date of the enactment of this Act, the Director  
16 of the Financial Crimes Enforcement Network shall issue  
17 guidance or instructions to United States financial institu-  
18 tions for filing reports on suspicious transactions required  
19 under section 1010.320 of title 31, Code of Federal Regu-  
20 lations, related to suspected fentanyl trafficking by  
21 transnational criminal organizations.

22 (b) PRIORITIZATION OF REPORTS RELATING TO  
23 FENTANYL TRAFFICKING OR TRANSNATIONAL CRIMINAL  
24 ORGANIZATIONS.—The Director shall prioritize research

1 into reports described in subsection (a) that indicate a  
2 connection to trafficking of fentanyl or related synthetic  
3 opioids or financing of suspected transnational criminal  
4 organizations.

5 **SEC. 3325. REPORT ON TRADE-BASED MONEY LAUNDERING**  
6 **IN TRADE WITH MEXICO, THE PEOPLE'S RE-**  
7 **PUBLIC OF CHINA, AND BURMA.**

8 (a) IN GENERAL.—In the first update to the national  
9 strategy for combating the financing of terrorism and re-  
10 lated forms of illicit finance submitted to Congress after  
11 the date of the enactment of this Act, the Secretary of  
12 the Treasury shall include a report on trade-based money  
13 laundering originating in Mexico or the People's Republic  
14 of China and involving Burma.

15 (b) DEFINITION.—In this section, the term “national  
16 strategy for combating the financing of terrorism and re-  
17 lated forms of illicit finance” means the national strategy  
18 for combating the financing of terrorism and related forms  
19 of illicit finance required under section 261 of the Coun-  
20 tering America's Adversaries Through Sanctions Act  
21 (Public Law 115–44; 131 Stat. 934), as amended by sec-  
22 tion 6506 of the National Defense Authorization Act for  
23 Fiscal Year 2022 (Public Law 117–81; 135 Stat. 2428).

1       **CHAPTER 3—EXCEPTION RELATING TO**  
2                               **IMPORTATION OF GOODS**

3       **SEC. 3326. EXCEPTION RELATING TO IMPORTATION OF**  
4                               **GOODS.**

5           (a) **IN GENERAL.**—The authority or a requirement  
6 to block and prohibit all transactions in all property and  
7 interests in property under this subtitle shall not include  
8 the authority or a requirement to impose sanctions on the  
9 importation of goods.

10          (b) **GOOD DEFINED.**—In this section, the term  
11 “good” means any article, natural or manmade substance,  
12 material, supply or manufactured product, including in-  
13 spection and test equipment, and excluding technical data.

14       **Subtitle C—Fulfilling Promises to**  
15                               **Afghan Allies**

16       **SEC. 3331. DEFINITIONS.**

17           In this subtitle:

18                   (1) **APPROPRIATE COMMITTEES OF CON-**  
19                   **GRESS.**—The term “appropriate committees of Con-  
20                   gress” means—

21                               (A) the Committee on the Judiciary of the  
22                               Senate;

23                               (B) the Committee on Foreign Relations of  
24                               the Senate;

1 (C) the Committee on Armed Services of  
2 the Senate;

3 (D) the Committee on Appropriations of  
4 the Senate;

5 (E) the Committee on Homeland Security  
6 and Governmental Affairs of the Senate;

7 (F) the Committee on the Judiciary of the  
8 House of Representatives;

9 (G) the Committee on Foreign Affairs of  
10 the House of Representatives;

11 (H) the Committee on Armed Services of  
12 the House of Representatives;

13 (I) the Committee on Appropriations of the  
14 House of Representatives; and

15 (J) the Committee on Homeland Security  
16 of the House of Representatives.

17 (2) IMMIGRATION LAWS.—The term “immigra-  
18 tion laws” has the meaning given such term in sec-  
19 tion 101(a)(17) of the Immigration and Nationality  
20 Act (8 U.S.C. 1101(a)(17)).

21 (3) SECRETARY.—The term “Secretary” means  
22 the Secretary of Homeland Security.

23 (4) SPECIAL IMMIGRANT STATUS.—The term  
24 “special immigrant status” means special immigrant  
25 status provided under—

1 (A) the Afghan Allies Protection Act of  
2 2009 (8 U.S.C. 1101 note; Public Law 111–8);

3 (B) section 1059 of the National Defense  
4 Authorization Act for Fiscal Year 2006 (8  
5 U.S.C. 1101 note; Public Law 109–163); or

6 (C) subparagraph (N) of section  
7 101(a)(27) of the Immigration and Nationality  
8 Act (8 U.S.C. 1101(a)(27)), as added by sec-  
9 tion 3336(a).

10 (5) SPECIFIED APPLICATION.—The term “spec-  
11 ified application” means—

12 (A) a pending, documentarily complete ap-  
13 plication for special immigrant status; and

14 (B) a case in processing in the United  
15 States Refugee Admissions Program for an in-  
16 dividual who has received a Priority 1 or Pri-  
17 ority 2 referral to such program.

18 (6) UNITED STATES REFUGEE ADMISSIONS  
19 PROGRAM.—The term “United States Refugee Ad-  
20 missions Program” means the program to resettle  
21 refugees in the United States pursuant to the au-  
22 thorities provided in sections 101(a)(42), 207, and  
23 412 of the Immigration and Nationality Act (8  
24 U.S.C. 1101(a)(42), 1157, and 1522).

1 **SEC. 3332. SUPPORT FOR AFGHAN ALLIES OUTSIDE THE**  
2 **UNITED STATES.**

3 (a) **RESPONSE TO CONGRESSIONAL INQUIRIES.**—The  
4 Secretary of State shall respond to inquiries by Members  
5 of Congress regarding the status of a specified application  
6 submitted by, or on behalf of, a national of Afghanistan,  
7 including any information that has been provided to the  
8 applicant, in accordance with section 222(f) of the Immi-  
9 gration and Nationality Act (8 U.S.C. 1202(f)).

10 (b) **OFFICE IN LIEU OF EMBASSY.**—During the pe-  
11 riod in which there is no operational United States em-  
12 bassy in Afghanistan, the Secretary of State shall des-  
13 ignate an appropriate office within the Department of  
14 State—

15 (1) to review specified applications submitted by  
16 nationals of Afghanistan residing in Afghanistan, in-  
17 cluding by conducting any required interviews;

18 (2) to issue visas or other travel documents to  
19 such nationals, in accordance with the immigration  
20 laws;

21 (3) to provide services to such nationals, to the  
22 greatest extent practicable, that would normally be  
23 provided by an embassy; and

24 (4) to carry out any other function the Sec-  
25 retary of State considers necessary.

1 **SEC. 3333. CONDITIONAL PERMANENT RESIDENT STATUS**  
2 **FOR ELIGIBLE INDIVIDUALS.**

3 (a) DEFINITIONS.—In this section:

4 (1) CONDITIONAL PERMANENT RESIDENT STA-  
5 TUS.—The term “conditional permanent resident  
6 status” means conditional permanent resident status  
7 under section 216 and 216A of the Immigration and  
8 Nationality Act (8 U.S.C. 1186a, 1186b), subject to  
9 the provisions of this section.

10 (2) ELIGIBLE INDIVIDUAL.—The term “eligible  
11 individual” means an alien who—

12 (A) is present in the United States;

13 (B) is a citizen or national of Afghanistan  
14 or, in the case of an alien having no nationality,  
15 is a person who last habitually resided in Af-  
16 ghanistan;

17 (C) has not been granted permanent resi-  
18 dent status;

19 (D)(i) was inspected and admitted to the  
20 United States on or before the date of the en-  
21 actment of this Act; or

22 (ii) was paroled into the United States  
23 during the period beginning on July 30, 2021,  
24 and ending on the date of the enactment of this  
25 Act, provided that such parole has not been ter-



1           minated by the Secretary upon written notice;  
2           and

3           (E) is admissible to the United States as  
4           an immigrant under the immigration laws, in-  
5           cluding eligibility for waivers of grounds of in-  
6           admissibility to the extent provided by the im-  
7           migration laws and subject to the terms of sub-  
8           section (c) of this section.

9           (b) **CONDITIONAL PERMANENT RESIDENT STATUS**  
10 **FOR ELIGIBLE INDIVIDUALS.—**

11           (1) **ADJUSTMENT OF STATUS TO CONDITIONAL**  
12 **PERMANENT RESIDENT STATUS.—**Beginning on the  
13 date of the enactment of this Act, the Secretary  
14 may—

15           (A) adjust the status of each eligible indi-  
16           vidual to that of an alien lawfully admitted for  
17           permanent residence status, subject to the pro-  
18           cedures established by the Secretary to deter-  
19           mine eligibility for conditional permanent resi-  
20           dent status; and

21           (B) create for each eligible individual a  
22           record of admission to such status as of the  
23           date on which the eligible individual was ini-  
24           tially inspected and admitted or paroled into

1 the United States, or July 30, 2021, whichever  
2 is later,

3 unless the Secretary determines, on a case-by-  
4 case basis, that such individual is subject to any  
5 ground of inadmissibility under section 212 (other  
6 than subsection (a)(4)) of the Immigration and Na-  
7 tionality Act (8 U.S.C. 1182) and is not eligible for  
8 a waiver of such grounds of inadmissibility as pro-  
9 vided by this subtitle or by the immigration laws.

10 (2) **CONDITIONAL BASIS.**—An individual who  
11 obtains lawful permanent resident status under this  
12 section shall be considered, at the time of obtaining  
13 the status of an alien lawfully admitted for perma-  
14 nent residence, to have obtained such status on a  
15 conditional basis subject to the provisions of this  
16 section.

17 (c) **CONDITIONAL PERMANENT RESIDENT STATUS**  
18 **DESCRIBED.**—

19 (1) **ASSESSMENT.**—

20 (A) **IN GENERAL.**—Before granting condi-  
21 tional permanent resident status to an eligible  
22 individual under subsection (b)(1), the Sec-  
23 retary shall conduct an assessment with respect  
24 to the eligible individual, which shall be equiva-  
25 lent in rigor to the assessment conducted with

1           respect to refugees admitted to the United  
2           States through the United States Refugee Ad-  
3           missions Program, for the purpose of deter-  
4           mining whether the eligible individual is subject  
5           to any ground of inadmissibility under section  
6           212 (other than subsection (a)(4)) of the Immi-  
7           gration and Nationality Act (8 U.S.C. 1182).

8                   (B) CONSULTATION.—In conducting an as-  
9                   sessment under subparagraph (A), the Sec-  
10                   retary may consult with the head of any other  
11                   relevant agency and review the holdings of any  
12                   such agency.

13           (2) REMOVAL OF CONDITIONS.—

14                   (A) IN GENERAL.—Not earlier than the  
15                   date described in subparagraph (B), the Sec-  
16                   retary may remove the conditional basis of the  
17                   status of an individual granted conditional per-  
18                   manent resident status under this section un-  
19                   less the Secretary determines, on a case-by-case  
20                   basis, that such individual is subject to any  
21                   ground of inadmissibility under paragraph (2)  
22                   or (3) of section 212(a) of the Immigration and  
23                   Nationality Act (8 U.S.C. 1182(a)), and is not  
24                   eligible for a waiver of such grounds of inadmis-

1 sibility as provided by this subtitle or by the im-  
2 migration laws.

3 (B) DATE DESCRIBED.—The date de-  
4 scribed in this subparagraph is the earlier of—

5 (i) the date that is 4 years after the  
6 date on which the individual was admitted  
7 or paroled into the United States; or

8 (ii) July 1, 2027.

9 (C) WAIVER.—

10 (i) IN GENERAL.—Except as provided  
11 in clause (ii), with respect to an eligible in-  
12 dividual, the Secretary may waive the ap-  
13 plication of the grounds of inadmissibility  
14 under 212(a) of the Immigration and Na-  
15 tionality Act (8 U.S.C. 1182(a)) for hu-  
16 manitarian purposes or to ensure family  
17 unity.

18 (ii) EXCEPTIONS.—The Secretary may  
19 not waive under clause (i) the application  
20 of subparagraphs (C) through (E) and (G)  
21 through (H) of paragraph (2), or para-  
22 graph (3), of section 212(a) of the Immi-  
23 gration and Nationality Act (8 U.S.C.  
24 1182(a)).

1 (iii) RULE OF CONSTRUCTION.—Noth-  
2 ing in this subparagraph may be construed  
3 to expand or limit any other waiver author-  
4 ity applicable under the immigration laws  
5 to an applicant for adjustment of status.

6 (D) TIMELINE.—Not later than 180 days  
7 after the date described in subparagraph (B),  
8 the Secretary shall endeavor to remove condi-  
9 tions as to all individuals granted conditional  
10 permanent resident status under this section  
11 who are eligible for removal of conditions.

12 (3) TREATMENT OF CONDITIONAL BASIS OF  
13 STATUS PERIOD FOR PURPOSES OF NATURALIZA-  
14 TION.—An individual in conditional permanent resi-  
15 dent status under this section, or who otherwise  
16 meets the requirements under (a)(1) of this section,  
17 shall be considered—

18 (A) to have been admitted to the United  
19 States as an alien lawfully admitted for perma-  
20 nent residence; and

21 (B) to be present in the United States as  
22 an alien lawfully admitted to the United States  
23 for permanent residence, provided that, no alien  
24 shall be naturalized unless the alien's conditions  
25 have been removed under this section.

1 (d) TERMINATION OF CONDITIONAL PERMANENT  
2 RESIDENT STATUS.—

3 (1) IN GENERAL.—Conditional permanent resi-  
4 dent status shall terminate on, as applicable—

5 (A) the date on which the Secretary re-  
6 moves the conditions pursuant to subsection  
7 (c)(2), on which date the alien shall be lawfully  
8 admitted for permanent residence without con-  
9 ditions;

10 (B) the date on which the Secretary deter-  
11 mines that the alien was not an eligible indi-  
12 vidual under subsection (a)(2) as of the date  
13 that such conditional permanent resident status  
14 was granted, on which date of the Secretary's  
15 determination the alien shall no longer be an  
16 alien lawfully admitted for permanent residence;  
17 or

18 (C) the date on which the Secretary deter-  
19 mines pursuant to subsection (c)(2) that the  
20 alien is not eligible for removal of conditions, on  
21 which date the alien shall no longer be an alien  
22 lawfully admitted for permanent residence.

23 (2) NOTIFICATION.—If the Secretary termi-  
24 nates status under this subsection, the Secretary

1 shall so notify the individual in writing and state the  
2 reasons for the termination.

3 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
4 tion shall be construed to limit the authority of the Sec-  
5 retary at any time to place in removal proceedings under  
6 section 240 of the Immigration and Nationality Act (8  
7 U.S.C. 1229a) any alien who has conditional permanent  
8 resident status under this section, if the alien is deportable  
9 under section 237 of such Act (8 U.S.C. 1227) under a  
10 ground of deportability applicable to an alien who has been  
11 lawfully admitted for permanent residence.

12 (f) PAROLE EXPIRATION TOLLED.—The expiration  
13 date of a period of parole shall not apply to an individual  
14 under consideration for conditional permanent resident  
15 status under this section, until such time as the Secretary  
16 has determined whether to issue conditional permanent  
17 resident status.

18 (g) PERIODIC NONADVERSARIAL MEETINGS.—

19 (1) IN GENERAL.—Not later than 180 days  
20 after the date on which an individual is conferred  
21 conditional permanent resident status under this  
22 section, and periodically thereafter, the Office of  
23 Refugee Resettlement shall make available opportu-  
24 nities for the individual to participate in a nonadver-  
25 sarial meeting, during which an official of the Office

1 of Refugee Resettlement (or an agency funded by  
2 the Office) shall—

3 (A) on request by the individual, assist the  
4 individual in a referral or application for appli-  
5 cable benefits administered by the Department  
6 of Health and Human Services and completing  
7 any applicable paperwork; and

8 (B) answer any questions regarding eligi-  
9 bility for other benefits administered by the  
10 United States Government.

11 (2) NOTIFICATION OF REQUIREMENTS.—Not  
12 later than 7 days before the date on which a meeting  
13 under paragraph (1) is scheduled to occur, the Sec-  
14 retary of Health and Human Services shall provide  
15 notice to the individual that includes the date of the  
16 scheduled meeting and a description of the process  
17 for rescheduling the meeting.

18 (3) CONDUCT OF MEETING.—The Secretary of  
19 Health and Human Services shall implement prac-  
20 tices to ensure that—

21 (A) meetings under paragraph (1) are con-  
22 ducted in a nonadversarial manner; and

23 (B) interpretation and translation services  
24 are provided to individuals granted conditional



1 permanent resident status under this section  
2 who have limited English proficiency.

3 (4) RULES OF CONSTRUCTION.—Nothing in  
4 this subsection shall be construed—

5 (A) to prevent an individual from electing  
6 to have counsel present during a meeting under  
7 paragraph (1); or

8 (B) in the event that an individual declines  
9 to participate in such a meeting, to affect the  
10 individual's conditional permanent resident sta-  
11 tus under this section or eligibility to have con-  
12 ditions removed in accordance with this section.

13 (h) CONSIDERATION.—Except with respect to an ap-  
14 plication for naturalization and the benefits described in  
15 subsection (p), an individual in conditional permanent  
16 resident status under this section shall be considered to  
17 be an alien lawfully admitted for permanent residence for  
18 purposes of the adjudication of an application or petition  
19 for a benefit or the receipt of a benefit.

20 (i) NOTIFICATION OF REQUIREMENTS.—Not later  
21 than 90 days after the date on which the status of an  
22 individual is adjusted to that of conditional permanent  
23 resident status under this section, the Secretary shall pro-  
24 vide notice to such individual with respect to the provisions  
25 of this section, including subsection (c)(1) (relating to the

1 conduct of assessments) and subsection (g) (relating to  
2 periodic nonadversarial meetings).

3 (j) APPLICATION FOR NATURALIZATION.—The Sec-  
4 retary shall establish procedures whereby an individual  
5 who would otherwise be eligible to apply for naturalization  
6 but for having conditional permanent resident status, may  
7 be considered for naturalization coincident with removal  
8 of conditions under subsection (c)(2).

9 (k) ADJUSTMENT OF STATUS DATE.—

10 (1) IN GENERAL.—An alien described in para-  
11 graph (2) shall be regarded as lawfully admitted for  
12 permanent residence as of the date the alien was ini-  
13 tially inspected and admitted or paroled into the  
14 United States, or July 30, 2021, whichever is later.

15 (2) ALIEN DESCRIBED.—An alien described in  
16 this paragraph is an alien who—

17 (A) is described in subparagraph (A), (B),  
18 or (D) of subsection (a)(2), and whose status  
19 was adjusted to that of an alien lawfully admit-  
20 ted for permanent residence on or after July  
21 30, 2021, but on or before the date of the en-  
22 actment of this Act; or

23 (B) is an eligible individual whose status is  
24 then adjusted to that of an alien lawfully admit-  
25 ted for permanent residence after the date of

1           the enactment of this Act under any provision  
2           of the immigration laws other than this section.

3           (1) PARENTS AND LEGAL GUARDIANS OF UNACCOM-  
4 PANIED CHILDREN.—A parent or legal guardian of an eli-  
5 gible individual shall be eligible to obtain status as an alien  
6 lawfully admitted for permanent residence on a conditional  
7 basis if—

8           (1) the eligible individual—

9           (A) was under 18 years of age on the date  
10          on which the eligible individual was granted  
11          conditional permanent resident status under  
12          this section; and

13          (B) was not accompanied by at least one  
14          parent or guardian on the date the eligible indi-  
15          vidual was admitted or paroled into the United  
16          States; and

17          (2) such parent or legal guardian was admitted  
18          or paroled into the United States after the date re-  
19          ferred to in paragraph (1)(B).

20          (m) GUIDANCE.—

21          (1) INTERIM GUIDANCE.—

22          (A) IN GENERAL.—Not later than 120  
23          days after the date of the enactment of this  
24          Act, the Secretary shall issue guidance imple-  
25          menting this section.

1 (B) PUBLICATION.—Notwithstanding sec-  
2 tion 553 of title 5, United States Code, guid-  
3 ance issued pursuant to subparagraph (A)—

4 (i) may be published on the internet  
5 website of the Department of Homeland  
6 Security; and

7 (ii) shall be effective on an interim  
8 basis immediately upon such publication  
9 but may be subject to change and revision  
10 after notice and an opportunity for public  
11 comment.

12 (2) FINAL GUIDANCE.—

13 (A) IN GENERAL.—Not later than 180  
14 days after the date of issuance of guidance  
15 under paragraph (1), the Secretary shall final-  
16 ize the guidance implementing this section.

17 (B) EXEMPTION FROM THE ADMINISTRA-  
18 TIVE PROCEDURES ACT.—Chapter 5 of title 5,  
19 United States Code (commonly known as the  
20 “Administrative Procedures Act”), or any other  
21 law relating to rulemaking or information col-  
22 lection, shall not apply to the guidance issued  
23 under this paragraph.

24 (n) ASYLUM CLAIMS.—

1           (1) IN GENERAL.—With respect to the adju-  
2           dication of an application for asylum submitted by  
3           an eligible individual, section 2502(c) of the Extend-  
4           ing Government Funding and Delivering Emergency  
5           Assistance Act (8 U.S.C. 1101 note; Public Law  
6           117–43) shall not apply.

7           (2) RULE OF CONSTRUCTION.—Nothing in this  
8           section may be construed to prohibit an eligible indi-  
9           vidual from seeking or receiving asylum under sec-  
10          tion 208 of the Immigration and Nationality Act (8  
11          U.S.C. 1158).

12          (o) PROHIBITION ON FEES.—The Secretary may not  
13          charge a fee to any eligible individual in connection with  
14          the initial issuance under this section of—

15                (1) a document evidencing status as an alien  
16                lawfully admitted for permanent residence or condi-  
17                tional permanent resident status; or

18                (2) an employment authorization document.

19          (p) ELIGIBILITY FOR BENEFITS.—

20                (1) IN GENERAL.—Notwithstanding any other  
21                provision of law—

22                        (A) an individual described in subsection  
23                        (a) of section 2502 of the Afghanistan Supple-  
24                        mental Appropriations Act, 2022 (8 U.S.C.  
25                        1101 note; Public Law 117–43) shall retain his

1 or her eligibility for the benefits and services  
2 described in subsection (b) of such section if the  
3 individual has a pending application, or is  
4 granted adjustment of status, under this sec-  
5 tion; and

6 (B) such benefits and services shall remain  
7 available to the individual to the same extent  
8 and for the same periods of time as such bene-  
9 fits and services are otherwise available to refu-  
10 gees who acquire such status.

11 (2) EXCEPTION FROM 5-YEAR LIMITED ELIGI-  
12 BILITY FOR MEANS-TESTED PUBLIC BENEFITS.—  
13 Section 403(b)(1) of the Personal Responsibility and  
14 Work Opportunity Reconciliation Act of 1996 (8  
15 U.S.C. 1613(b)(1)) is amended by adding at the end  
16 the following:

17 “(F) An alien whose status is adjusted  
18 under section 3333 of the Border Act to that  
19 of an alien lawfully admitted for permanent res-  
20 idence or to that of an alien lawfully admitted  
21 for permanent residence on a conditional  
22 basis.”.

23 (q) RULE OF CONSTRUCTION.—Nothing in this sec-  
24 tion may be construed to preclude an eligible individual

1 from applying for or receiving any immigration benefit to  
2 which the individual is otherwise entitled.

3 (r) EXEMPTION FROM NUMERICAL LIMITATIONS.—

4 (1) IN GENERAL.—Aliens granted conditional  
5 permanent resident status or lawful permanent resi-  
6 dent status under this section shall not be subject to  
7 the numerical limitations under sections 201, 202,  
8 and 203 of the Immigration and Nationality Act (8  
9 U.S.C. 1151, 1152, and 1153).

10 (2) SPOUSE AND CHILDREN BENEFICIARIES.—

11 A spouse or child who is the beneficiary of an immi-  
12 grant petition under section 204 of the Immigration  
13 and Nationality Act (8 U.S.C. 1154) filed by an  
14 alien who has been granted conditional permanent  
15 resident status or lawful permanent resident status  
16 under this section, seeking classification of the  
17 spouse or child under section 203(a)(2)(A) of that  
18 Act (8 U.S.C. 1153(a)(2)(A)) shall not be subject to  
19 the numerical limitations under sections 201, 202,  
20 and 203 of the Immigration and Nationality Act (8  
21 U.S.C. 1151, 1152, and 1153).

22 (s) EFFECT ON OTHER APPLICATIONS.—Notwith-  
23 standing any other provision of law, in the interest of effi-  
24 ciency, the Secretary may pause consideration of any ap-  
25 plication or request for an immigration benefit pending

1 adjudication so as to prioritize an application for adjust-  
2 ment of status to an alien lawfully admitted for permanent  
3 residence under this section.

4 (t) AUTHORIZATION FOR APPROPRIATIONS.—There  
5 is authorized to be appropriated to the Attorney General,  
6 the Secretary of Health and Human Services, the Sec-  
7 retary, and the Secretary of State such sums as are nec-  
8 essary to carry out this section.

9 **SEC. 3334. REFUGEE PROCESSES FOR CERTAIN AT-RISK AF-**  
10 **GHAN ALLIES.**

11 (a) DEFINITION OF AFGHAN ALLY.—

12 (1) IN GENERAL.—In this section, the term  
13 “Afghan ally” means an alien who is a citizen or na-  
14 tional of Afghanistan, or in the case of an alien hav-  
15 ing no nationality, an alien who last habitually re-  
16 sided in Afghanistan, who—

17 (A) was—

18 (i) a member of—

19 (I) the special operations forces  
20 of the Afghanistan National Defense  
21 and Security Forces;

22 (II) the Afghanistan National  
23 Army Special Operations Command;

24 (III) the Afghan Air Force; or



1 (IV) the Special Mission Wing of  
2 Afghanistan;

3 (ii) a female member of any other en-  
4 tity of the Afghanistan National Defense  
5 and Security Forces, including—

6 (I) a cadet or instructor at the  
7 Afghanistan National Defense Univer-  
8 sity; and

9 (II) a civilian employee of the  
10 Ministry of Defense or the Ministry of  
11 Interior Affairs;

12 (iii) an individual associated with  
13 former Afghan military and police human  
14 intelligence activities, including operators  
15 and Department of Defense sources;

16 (iv) an individual associated with  
17 former Afghan military counterintelligence,  
18 counterterrorism, or counternarcotics;

19 (v) an individual associated with the  
20 former Afghan Ministry of Defense, Min-  
21 istry of Interior Affairs, or court system,  
22 and who was involved in the investigation,  
23 prosecution or detention of combatants or  
24 members of the Taliban or criminal net-  
25 works affiliated with the Taliban; or

1 (vi) a senior military officer, senior  
2 enlisted personnel, or civilian official who  
3 served on the staff of the former Ministry  
4 of Defense or the former Ministry of Inte-  
5 rior Affairs of Afghanistan; or

6 (B) provided service to an entity or organi-  
7 zation described in subparagraph (A) for not  
8 less than 1 year during the period beginning on  
9 December 22, 2001, and ending on September  
10 1, 2021, and did so in support of the United  
11 States mission in Afghanistan.

12 (2) INCLUSIONS.—For purposes of this section,  
13 the Afghanistan National Defense and Security  
14 Forces includes members of the security forces  
15 under the Ministry of Defense and the Ministry of  
16 Interior Affairs of the Islamic Republic of Afghani-  
17 stan, including the Afghanistan National Army, the  
18 Afghan Air Force, the Afghanistan National Police,  
19 and any other entity designated by the Secretary of  
20 Defense as part of the Afghanistan National De-  
21 fense and Security Forces during the relevant period  
22 of service of the applicant concerned.

23 (b) REFUGEE STATUS FOR AFGHAN ALLIES.—

24 (1) DESIGNATION AS REFUGEES OF SPECIAL  
25 HUMANITARIAN CONCERN.—Afghan allies shall be

1 considered refugees of special humanitarian concern  
2 under section 207 of the Immigration and Nation-  
3 ality Act (8 U.S.C. 1157), until the later of 10 years  
4 after the date of enactment of this Act or upon de-  
5 termination by the Secretary of State, in consulta-  
6 tion with the Secretary of Defense and the Sec-  
7 retary, that such designation is no longer in the in-  
8 terest of the United States.

9 (2) THIRD COUNTRY PRESENCE NOT RE-  
10 QUIRED.—Notwithstanding section 101(a)(42) of the  
11 Immigration and Nationality Act (8 U.S.C.  
12 1101(a)(42)), the Secretary of State and the Sec-  
13 retary shall, to the greatest extent possible, conduct  
14 remote refugee processing for an Afghan ally located  
15 in Afghanistan.

16 (c) AFGHAN ALLIES REFERRAL PROGRAM.—

17 (1) IN GENERAL.—Not later than 180 days  
18 after the date of the enactment of this Act—

19 (A) the Secretary of Defense, in consulta-  
20 tion with the Secretary of State, shall establish  
21 a process by which an individual may apply to  
22 the Secretary of Defense for classification as an  
23 Afghan ally and request a referral to the United  
24 States Refugee Admissions Program; and

1 (B) the head of any appropriate depart-  
2 ment or agency that conducted operations in  
3 Afghanistan during the period beginning on De-  
4 cember 22, 2001, and ending on September 1,  
5 2021, in consultation with the Secretary of  
6 State, may establish a process by which an indi-  
7 vidual may apply to the head of the appropriate  
8 department or agency for classification as an  
9 Afghan ally and request a referral to the United  
10 States Refugee Admissions Program.

11 (2) APPLICATION SYSTEM.—

12 (A) IN GENERAL.—The process established  
13 under paragraph (1) shall—

14 (i) include the development and main-  
15 tenance of a secure online portal through  
16 which applicants may provide information  
17 verifying their status as Afghan allies and  
18 upload supporting documentation; and

19 (ii) allow—

20 (I) an applicant to submit his or  
21 her own application;

22 (II) a designee of an applicant to  
23 submit an application on behalf of the  
24 applicant; and

1 (III) in the case of an applicant  
2 who is outside the United States, the  
3 submission of an application regard-  
4 less of where the applicant is located.

5 (B) USE BY OTHER AGENCIES.—The Sec-  
6 retary of Defense may enter into arrangements  
7 with the head of any other appropriate depart-  
8 ment or agency so as to allow the application  
9 system established under subparagraph (A) to  
10 be used by such department or agency.

11 (3) REVIEW PROCESS.—As soon as practicable  
12 after receiving a request for classification and refer-  
13 ral described in paragraph (1), the head of the ap-  
14 propriate department or agency shall—

15 (A) review—

16 (i) the service record of the applicant,  
17 if available;

18 (ii) if the applicant provides a service  
19 record or other supporting documentation,  
20 any information that helps verify the serv-  
21 ice record concerned, including information  
22 or an attestation provided by any current  
23 or former official of the department or  
24 agency who has personal knowledge of the

1 eligibility of the applicant for such classi-  
2 fication and referral; and

3 (iii) the data holdings of the depart-  
4 ment or agency and other cooperating  
5 interagency partners, including biographic  
6 and biometric records, iris scans, finger-  
7 prints, voice biometric information, hand  
8 geometry biometrics, other identifiable in-  
9 formation, and any other information re-  
10 lated to the applicant, including relevant  
11 derogatory information; and

12 (B)(i) in a case in which the head of the  
13 department or agency determines that the ap-  
14 plicant is an Afghan ally without significant de-  
15 rogatory information, refer the Afghan ally to  
16 the United States Refugee Admissions Program  
17 as a refugee; and

18 (ii) include with such referral—

19 (I) any service record concerned,  
20 if available;

21 (II) if the applicant provides a  
22 service record, any information that  
23 helps verify the service record con-  
24 cerned; and

1 (III) any biometrics for the appli-  
2 cant.

3 (4) REVIEW PROCESS FOR DENIAL OF REQUEST  
4 FOR REFERRAL.—

5 (A) IN GENERAL.—In the case of an appli-  
6 cant with respect to whom the head of the ap-  
7 propriate department or agency denies a re-  
8 quest for classification and referral based on a  
9 determination that the applicant is not an Af-  
10 ghan ally or based on derogatory information—

11 (i) the head of the department or  
12 agency shall provide the applicant with a  
13 written notice of the denial that provides,  
14 to the maximum extent practicable, a de-  
15 scription of the basis for the denial, includ-  
16 ing the facts and inferences, or evidentiary  
17 gaps, underlying the individual determina-  
18 tion; and

19 (ii) the applicant shall be provided an  
20 opportunity to submit not more than 1  
21 written appeal to the head of the depart-  
22 ment or agency for each such denial.

23 (B) DEADLINE FOR APPEAL.—An appeal  
24 under clause (ii) of subparagraph (A) shall be  
25 submitted—

1 (i) not more than 120 days after the  
2 date on which the applicant concerned re-  
3 ceives notice under clause (i) of that sub-  
4 paragraph; or

5 (ii) on any date thereafter, at the dis-  
6 cretion of the head of the appropriate de-  
7 partment or agency.

8 (C) REQUEST TO REOPEN.—

9 (i) IN GENERAL.—An applicant who  
10 receives a denial under subparagraph (A)  
11 may submit a request to reopen a request  
12 for classification and referral under the  
13 process established under paragraph (1) so  
14 that the applicant may provide additional  
15 information, clarify existing information,  
16 or explain any unfavorable information.

17 (ii) LIMITATION.—After considering 1  
18 such request to reopen from an applicant,  
19 the head of the appropriate department or  
20 agency may deny subsequent requests to  
21 reopen submitted by the same applicant.

22 (5) FORM AND CONTENT OF REFERRAL.—To  
23 the extent practicable, the head of the appropriate  
24 department or agency shall ensure that referrals  
25 made under this subsection—



1 (A) conform to requirements established by  
2 the Secretary of State for form and content;  
3 and

4 (B) are complete and include sufficient  
5 contact information, supporting documentation,  
6 and any other material the Secretary of State  
7 or the Secretary consider necessary or helpful  
8 in determining whether an applicant is entitled  
9 to refugee status.

10 (6) TERMINATION.—The application process  
11 and referral system under this subsection shall ter-  
12minate upon the later of 1 year before the termi-  
13nation of the designation under subsection (b)(1) or  
14on the date of a joint determination by the Secretary  
15of State and the Secretary of Defense, in consulta-  
16tion with the Secretary, that such termination is in  
17the national interest of the United States.

18 (d) GENERAL PROVISIONS.—

19 (1) PROHIBITION ON FEES.—The Secretary,  
20 the Secretary of Defense, or the Secretary of State  
21 may not charge any fee in connection with a request  
22 for a classification and referral as a refugee under  
23 this section.

24 (2) DEFENSE PERSONNEL.—Any limitation in  
25 law with respect to the number of personnel within

1 the Office of the Secretary of Defense, the military  
2 departments, or a Defense Agency (as defined in  
3 section 101(a) of title 10, United States Code) shall  
4 not apply to personnel employed for the primary  
5 purpose of carrying out this section.

6 (3) REPRESENTATION.—An alien applying for  
7 admission to the United States under this section  
8 may be represented during the application process,  
9 including at relevant interviews and examinations,  
10 by an attorney or other accredited representative.  
11 Such representation shall not be at the expense of  
12 the United States Government.

13 (4) PROTECTION OF ALIENS.—The Secretary of  
14 State, in consultation with the head of any other ap-  
15 propriate Federal agency, shall make a reasonable  
16 effort to provide an alien who has been classified as  
17 an Afghan ally and has been referred as a refugee  
18 under this section protection or to immediately re-  
19 move such alien from Afghanistan, if possible.

20 (5) OTHER ELIGIBILITY FOR IMMIGRANT STA-  
21 TUS.—No alien shall be denied the opportunity to  
22 apply for admission under this section solely because  
23 the alien qualifies as an immediate relative or is eli-  
24 gible for any other immigrant classification.

1           (6) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated such sums  
3           as necessary for each of fiscal years 2024 through  
4           2034 to carry out this section.

5           (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
6           tion may be construed to inhibit the Secretary of State  
7           from accepting refugee referrals from any entity.

8   **SEC. 3335. IMPROVING EFFICIENCY AND OVERSIGHT OF**  
9                           **REFUGEE AND SPECIAL IMMIGRANT PROC-**  
10                          **ESSING.**

11          (a) ACCEPTANCE OF FINGERPRINT CARDS AND SUB-  
12          MISSIONS OF BIOMETRICS.—In addition to the methods  
13          authorized under the heading relating to the Immigration  
14          and Naturalization Service under title I of the Depart-  
15          ments of Commerce, Justice, and State, the Judiciary, and  
16          Related Agencies Appropriations Act of 1998 (Public Law  
17          105–119, 111 Stat. 2448; 8 U.S.C. 1103 note), and other  
18          applicable law, and subject to such safeguards as the Sec-  
19          retary, in consultation with the Secretary of State or the  
20          Secretary of Defense, as appropriate, shall prescribe to en-  
21          sure the integrity of the biometric collection (which shall  
22          include verification of identity by comparison of such fin-  
23          gerprints with fingerprints taken by or under the direct  
24          supervision of the Secretary prior to or at the time of the  
25          individual’s application for admission to the United

1 States), the Secretary may, in the case of any application  
2 for any benefit under the Immigration and Nationality Act  
3 (8 U.S.C. 1101 et seq.), accept fingerprint cards or any  
4 other submission of biometrics—

5 (1) prepared by international or nongovern-  
6 mental organizations under an appropriate agree-  
7 ment with the Secretary or the Secretary of State;

8 (2) prepared by employees or contractors of the  
9 Department of Homeland Security or the Depart-  
10 ment of State; or

11 (3) provided by an agency (as defined under  
12 section 3502 of title 44, United States Code).

13 (b) STAFFING.—

14 (1) VETTING.—The Secretary of State, the Sec-  
15 retary, the Secretary of Defense, and any other  
16 agency authorized to carry out the vetting process  
17 under this subtitle, shall each ensure sufficient staff-  
18 ing, and request the resources necessary, to effi-  
19 ciently and adequately carry out the vetting of appli-  
20 cants for—

21 (A) referral to the United States Refugee  
22 Admissions Program, consistent with the deter-  
23 minations established under section 207 of the  
24 Immigration and Nationality Act (8 U.S.C.  
25 1157); and

1 (B) special immigrant status.

2 (2) REFUGEE RESETTLEMENT.—The Secretary  
3 of Health and Human Services shall ensure suffi-  
4 cient staffing to efficiently provide assistance under  
5 chapter 2 of title IV of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1521 et seq.) to refugees reset-  
7 tled in the United States.

8 (c) REMOTE PROCESSING.—Notwithstanding any  
9 other provision of law, the Secretary of State and the Sec-  
10 retary shall employ remote processing capabilities for ref-  
11 ugee processing under section 207 of the Immigration and  
12 Nationality Act (8 U.S.C. 1157), including secure digital  
13 file transfers, videoconferencing and teleconferencing ca-  
14 pabilities, remote review of applications, remote inter-  
15 views, remote collection of signatures, waiver of the appli-  
16 cant’s appearance or signature (other than a final appear-  
17 ance and verification by the oath of the applicant prior  
18 to or at the time of the individual’s application for admis-  
19 sion to the United States), waiver of signature for individ-  
20 uals under 5 years old, and any other capability the Sec-  
21 retary of State and the Secretary consider appropriate, se-  
22 cure, and likely to reduce processing wait times at par-  
23 ticular facilities.

24 (d) MONTHLY ARRIVAL REPORTS.—With respect to  
25 monthly reports issued by the Secretary of State relating

1 to United States Refugee Admissions Program arrivals,  
2 the Secretary of State shall report—

3 (1) the number of monthly admissions of refu-  
4 gees, disaggregated by priorities; and

5 (2) the number of Afghan allies admitted as  
6 refugees.

7 (e) INTERAGENCY TASK FORCE ON AFGHAN ALLY  
8 STRATEGY.—

9 (1) ESTABLISHMENT.—Not later than 180 days  
10 after the date of the enactment of this Act, the  
11 President shall establish an Interagency Task Force  
12 on Afghan Ally Strategy (referred to in this section  
13 as the “Task Force”)—

14 (A) to develop and oversee the implementa-  
15 tion of the strategy and contingency plan de-  
16 scribed in subparagraph (A)(i) of paragraph  
17 (4); and

18 (B) to submit the report, and provide a  
19 briefing on the report, as described in subpara-  
20 graphs (A) and (B) of paragraph (4).

21 (2) MEMBERSHIP.—

22 (A) IN GENERAL.—The Task Force shall  
23 include—

24 (i) 1 or more representatives from  
25 each relevant Federal agency, as des-

1                   ignated by the head of the applicable rel-  
2                   evant Federal agency; and

3                   (ii) any other Federal Government of-  
4                   ficial designated by the President.

5                   (B) RELEVANT FEDERAL AGENCY DE-  
6                   FINED.—In this paragraph, the term “relevant  
7                   Federal agency” means—

8                   (i) the Department of State;

9                   (ii) the Department Homeland Secu-  
10                  rity;

11                  (iii) the Department of Defense;

12                  (iv) the Department of Health and  
13                  Human Services;

14                  (v) the Federal Bureau of Investiga-  
15                  tion; and

16                  (vi) the Office of the Director of Na-  
17                  tional Intelligence.

18                  (3) CHAIR.—The Task Force shall be chaired  
19                  by the Secretary of State.

20                  (4) DUTIES.—

21                  (A) REPORT.—

22                  (i) IN GENERAL.—Not later than 180  
23                  days after the date on which the Task  
24                  Force is established, the Task Force, act-  
25                  ing through the chair of the Task Force,

1 shall submit a report to the appropriate  
2 committees of Congress that includes—

3 (I) a strategy for facilitating the  
4 resettlement of nationals of Afghani-  
5 stan outside the United States who,  
6 during the period beginning on Octo-  
7 ber 1, 2001, and ending on September  
8 1, 2021, directly and personally sup-  
9 ported the United States mission in  
10 Afghanistan, as determined by the  
11 Secretary of State in consultation  
12 with the Secretary of Defense; and

13 (II) a contingency plan for future  
14 emergency operations in foreign coun-  
15 tries involving foreign nationals who  
16 have worked directly with the United  
17 States Government, including the  
18 Armed Forces of the United States  
19 and United States intelligence agen-  
20 cies.

21 (ii) ELEMENTS.—The report required  
22 under clause (i) shall include—

23 (I) the total number of nationals  
24 of Afghanistan who have pending



1 specified applications, disaggregated  
2 by—

3 (aa) such nationals in Af-  
4 ghanistan and such nationals in  
5 a third country;

6 (bb) type of specified appli-  
7 cation; and

8 (cc) applications that are  
9 documentarily complete and ap-  
10 plications that are not  
11 documentarily complete;

12 (II) an estimate of the number of  
13 nationals of Afghanistan who may be  
14 eligible for special immigrant status;

15 (III) with respect to the strategy  
16 required under subparagraph  
17 (A)(i)(I)—

18 (aa) the estimated number  
19 of nationals of Afghanistan de-  
20 scribed in such subparagraph;

21 (bb) a description of the  
22 process for safely resettling such  
23 nationals of Afghanistan;

24 (cc) a plan for processing  
25 such nationals of Afghanistan for

1 admission to the United States  
2 that—

3 (AA) discusses the fea-  
4 sibility of remote processing  
5 for such nationals of Af-  
6 ghanistan residing in Af-  
7 ghanistan;

8 (BB) includes any  
9 strategy for facilitating ref-  
10 ugee and consular proc-  
11 essing for such nationals of  
12 Afghanistan in third coun-  
13 tries, and the timelines for  
14 such processing;

15 (CC) includes a plan  
16 for conducting rigorous and  
17 efficient vetting of all such  
18 nationals of Afghanistan for  
19 processing;

20 (DD) discusses the  
21 availability and capacity of  
22 sites in third countries to  
23 process applications and  
24 conduct any required vetting  
25 for such nationals of Af-

1 ghanistan, including the po-  
2 tential to establish addi-  
3 tional sites; and

4 (EE) includes a plan  
5 for providing updates and  
6 necessary information to af-  
7 fected individuals and rel-  
8 evant nongovernmental or-  
9 ganizations;

10 (dd) a description of consid-  
11 erations, including resource con-  
12 straints, security concerns, miss-  
13 ing or inaccurate information,  
14 and diplomatic considerations,  
15 that limit the ability of the Sec-  
16 retary of State or the Secretary  
17 to increase the number of such  
18 nationals of Afghanistan who can  
19 be safely processed or resettled;

20 (ee) an identification of any  
21 resource or additional authority  
22 necessary to increase the number  
23 of such nationals of Afghanistan  
24 who can be processed or reset-  
25 tled;

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1 (ff) an estimate of the cost  
2 to fully implement the strategy;  
3 and

4 (gg) any other matter the  
5 Task Force considers relevant to  
6 the implementation of the strat-  
7 egy;

8 (IV) with respect to the contin-  
9 gency plan required by clause  
10 (i)(II)—

11 (aa) a description of the  
12 standard practices for screening  
13 and vetting foreign nationals con-  
14 sidered to be eligible for resettle-  
15 ment in the United States, in-  
16 cluding a strategy for vetting,  
17 and maintaining the records of,  
18 such foreign nationals who are  
19 unable to provide identification  
20 documents or biographic details  
21 due to emergency circumstances;

22 (bb) a strategy for facili-  
23 tating refugee or consular proc-  
24 essing for such foreign nationals  
25 in third countries;

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1 (cc) clear guidance with re-  
2 spect to which Federal agency  
3 has the authority and responsi-  
4 bility to coordinate Federal reset-  
5 tlement efforts;

6 (dd) a description of any re-  
7 source or additional authority  
8 necessary to coordinate Federal  
9 resettlement efforts, including  
10 the need for a contingency fund;

11 (ee) any other matter the  
12 Task Force considers relevant to  
13 the implementation of the contin-  
14 gency plan; and

15 (V) a strategy for the efficient  
16 processing of all Afghan special immi-  
17 grant visa applications and appeals,  
18 including—

19 (aa) a review of current  
20 staffing levels and needs across  
21 all interagency offices and offi-  
22 cials engaged in the special immi-  
23 grant visa process;

24 (bb) an analysis of the ex-  
25 pected Chief of Mission approvals

1 and denials of applications in the  
2 pipeline in order to project the  
3 expected number of visas nec-  
4 essary to provide special immi-  
5 grant status to all approved ap-  
6 plicants under this subtitle dur-  
7 ing the several years after the  
8 date of the enactment of this  
9 Act;

10 (cc) an assessment as to  
11 whether adequate guidelines exist  
12 for reconsidering or reopening  
13 applications for special immi-  
14 grant visas in appropriate cir-  
15 cumstances and consistent with  
16 applicable laws; and

17 (dd) an assessment of the  
18 procedures throughout the special  
19 immigrant visa application proc-  
20 ess, including at the Portsmouth  
21 Consular Center, and the effec-  
22 tiveness of communication be-  
23 tween the Portsmouth Consular  
24 Center and applicants, including  
25 an identification of any area in

1 which improvements to the effi-  
2 ciency of such procedures and  
3 communication may be made.

4 (iii) FORM.—The report required  
5 under clause (i) shall be submitted in un-  
6 classified form but may include a classified  
7 annex.

8 (B) BRIEFING.—Not later than 60 days  
9 after submitting the report required by clause  
10 (i), the Task Force shall brief the appropriate  
11 committees of Congress on the contents of the  
12 report.

13 (5) TERMINATION.—The Task Force shall re-  
14 main in effect until the later of—

15 (A) the date on which the strategy re-  
16 quired under paragraph (4)(A)(i)(I) has been  
17 fully implemented;

18 (B) the date of a determination by the  
19 Secretary of State, in consultation with the Sec-  
20 retary of Defense and the Secretary, that a task  
21 force is no longer necessary for the implementa-  
22 tion of subparagraphs (A) and (B) of para-  
23 graph (1); or

24 (C) the date that is 10 years after the date  
25 of the enactment of this Act.

1 (f) IMPROVING CONSULTATION WITH CONGRESS.—  
2 Section 207 of the Immigration and Nationality Act (8  
3 U.S.C. 1157) is amended—

4 (1) in subsection (a), by amending paragraph  
5 (4) to read as follows:

6 “(4)(A) In the determination made under this sub-  
7 section for each fiscal year (beginning with fiscal year  
8 1992), the President shall enumerate, with the respective  
9 number of refugees so determined, the number of aliens  
10 who were granted asylum in the previous year.

11 “(B) In making a determination under paragraph  
12 (1), the President shall consider the information in the  
13 most recently published projected global resettlement  
14 needs report published by the United Nations High Com-  
15 missioner for Refugees.”;

16 (2) in subsection (e), by amending paragraph  
17 (2) to read as follows:

18 “(2) A description of the number and allocation  
19 of the refugees to be admitted, including the ex-  
20 pected allocation by region, and an analysis of the  
21 conditions within the countries from which they  
22 came.”; and

23 (3) by adding at the end the following—

24 “(g) QUARTERLY REPORTS ON ADMISSIONS.—Not  
25 later than 30 days after the last day of each quarter begin-



1 ning the fourth quarter of fiscal year 2024, the President  
2 shall submit to the Committee on Homeland Security and  
3 Governmental Affairs, the Committee on the Judiciary,  
4 and the Committee on Foreign Relations of the Senate  
5 and the Committee on Homeland Security, the Committee  
6 on the Judiciary, and the Committee on Foreign Affairs  
7 of the House of Representatives a report that includes the  
8 following:

9           “(1) REFUGEES ADMITTED.—

10                   “(A) The number of refugees admitted to  
11 the United States during the preceding quarter.

12                   “(B) The cumulative number of refugees  
13 admitted to the United States during the appli-  
14 cable fiscal year, as of the last day of the pre-  
15 ceding quarter.

16                   “(C) The number of refugees expected to  
17 be admitted to the United States during the re-  
18 mainder of the applicable fiscal year.

19                   “(D) The number of refugees from each  
20 region admitted to the United States during the  
21 preceding quarter.

22           “(2) ALIENS WITH PENDING SECURITY  
23 CHECKS.—With respect only to aliens processed  
24 under section 101(a)(27)(N), subtitle C of title III  
25 of the Border Act, or section 602(b)(2)(A)(ii)(II) of

1 the Afghan Allies Protection Act of 2009 (8 U.S.C.  
2 1101 note; Public Law 111–8)—

3 “(A) the number of aliens, by nationality,  
4 security check, and responsible vetting agency,  
5 for whom a National Vetting Center or other  
6 security check has been requested during the  
7 preceding quarter, and the number of aliens, by  
8 nationality, for whom the check was pending  
9 beyond 30 days; and

10 “(B) the number of aliens, by nationality,  
11 security check, and responsible vetting agency,  
12 for whom a National Vetting Center or other  
13 security check has been pending for more than  
14 180 days.

15 “(3) CIRCUIT RIDES.—

16 “(A) For the preceding quarter—

17 “(i) the number of Refugee Corps of-  
18 ficers deployed on circuit rides and the  
19 overall number of Refugee Corps officers;

20 “(ii) the number of individuals inter-  
21 viewed—

22 “(I) on each circuit ride; and

23 “(II) at each circuit ride location;

24 “(iii) the number of circuit rides; and

1                   “(iv) for each circuit ride, the dura-  
2                   tion of the circuit ride.

3                   “(B) For the subsequent 2 quarters, the  
4                   number of circuit rides planned.

5                   “(4) PROCESSING.—

6                   “(A) For refugees admitted to the United  
7                   States during the preceding quarter, the aver-  
8                   age number of days between—

9                   “(i) the date on which an individual  
10                  referred to the United States Government  
11                  as a refugee applicant is interviewed by the  
12                  Secretary of Homeland Security; and

13                  “(ii) the date on which such individual  
14                  is admitted to the United States.

15                  “(B) For refugee applicants interviewed by  
16                  the Secretary of Homeland Security in the pre-  
17                  ceding quarter, the approval, denial, rec-  
18                  ommended approval, recommended denial, and  
19                  hold rates for the applications for admission of  
20                  such individuals, disaggregated by nationality.”.

1 **SEC. 3336. SUPPORT FOR CERTAIN VULNERABLE AFGHANS**  
2 **RELATING TO EMPLOYMENT BY OR ON BE-**  
3 **HALF OF THE UNITED STATES.**

4 (a) SPECIAL IMMIGRANT VISAS FOR CERTAIN REL-  
5 ATIVES OF CERTAIN MEMBERS OF THE ARMED  
6 FORCES.—

7 (1) IN GENERAL.—Section 101(a)(27) of the  
8 Immigration and Nationality Act (8 U.S.C.  
9 1101(a)(27)) is amended—

10 (A) in subparagraph (L)(iii), by adding a  
11 semicolon at the end;

12 (B) in subparagraph (M), by striking the  
13 period at the end and inserting “; and”; and

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

15 “(N) a citizen or national of Afghanistan  
16 who is the parent or brother or sister of—

17 “(i) a member of the armed forces (as  
18 defined in section 101(a) of title 10,  
19 United States Code); or

20 “(ii) a veteran (as defined in section  
21 101 of title 38, United States Code).”.

22 (2) NUMERICAL LIMITATIONS.—

23 (A) IN GENERAL.—Subject to subpara-  
24 graph (C), the total number of principal aliens  
25 who may be provided special immigrant visas  
26 under subparagraph (N) of section 101(a)(27)

1 of the Immigration and Nationality Act (8  
2 U.S.C. 1101(a)(27)), as added by paragraph  
3 (1), may not exceed 2,500 each fiscal year.

4 (B) CARRYOVER.—If the numerical limita-  
5 tion specified in subparagraph (A) is not  
6 reached during a given fiscal year, the numer-  
7 ical limitation specified in such subparagraph  
8 for the following fiscal year shall be increased  
9 by a number equal to the difference between—

10 (i) the numerical limitation specified  
11 in subparagraph (A) for the given fiscal  
12 year; and

13 (ii) the number of principal aliens pro-  
14 vided special immigrant visas under sub-  
15 subparagraph (N) of section 101(a)(27) of the  
16 Immigration and Nationality Act (8 U.S.C.  
17 1101(a)(27)) during the given fiscal year.

18 (C) MAXIMUM NUMBER OF VISAS.—The  
19 total number of aliens who may be provided  
20 special immigrant visas under subparagraph  
21 (N) of section 101(a)(27) of the Immigration  
22 and Nationality Act (8 U.S.C. 1101(a)(27))  
23 shall not exceed 10,000.

24 (D) DURATION OF AUTHORITY.—The au-  
25 thority to issue visas under subparagraph (N)

1 of section 101(a)(27) of the Immigration and  
2 Nationality Act (8 U.S.C. 1101(a)(27)) shall—

3 (i) commence on the date of the en-  
4 actment of this Act; and

5 (ii) terminate on the date on which all  
6 such visas are exhausted.

7 (b) CERTAIN AFGHANS INJURED OR KILLED IN THE  
8 COURSE OF EMPLOYMENT.—Section 602(b) of the Af-  
9 ghan Allies Protection Act of 2009 (8 U.S.C. 1101 note;  
10 Public Law 111–8) is amended—

11 (1) in paragraph (2)(A)—

12 (A) by amending clause (ii) to read as fol-  
13 lows:

14 “(ii)(I) was or is employed in Afghan-  
15 istan on or after October 7, 2001, for not  
16 less than 1 year—

17 “(aa) by, or on behalf of, the  
18 United States Government; or

19 “(bb) by the International Secu-  
20 rity Assistance Force (or any suc-  
21 cessor name for such Force) in a ca-  
22 pacity that required the alien—

23 “(AA) while traveling off-  
24 base with United States military  
25 personnel stationed at the Inter-

1 national Security Assistance  
2 Force (or any successor name for  
3 such Force), to serve as an inter-  
4 preter or translator for such  
5 United States military personnel;  
6 or

7 “(BB) to perform activities  
8 for the United States military  
9 personnel stationed at Inter-  
10 national Security Assistance  
11 Force (or any successor name for  
12 such Force); or

13 “(II) in the case of an alien who was  
14 wounded or seriously injured in connection  
15 with employment described in subclause  
16 (I), was employed for any period until the  
17 date on which such wound or injury oc-  
18 curred, if the wound or injury prevented  
19 the alien from continuing such employ-  
20 ment;”; and

21 (B) in clause (iii), by striking “clause (ii)”  
22 and inserting “clause (ii)(I)”;

23 (2) in paragraph (13)(A)(i), by striking “sub-  
24 clause (I) or (II)(bb) of paragraph (2)(A)(ii)” and

1 inserting “item (aa) or (bb)(BB) of paragraph  
2 (2)(A)(ii)(I)”;

3 (3) in paragraph (14)(C), by striking “para-  
4 graph (2)(A)(ii)” and inserting “paragraph  
5 (2)(A)(ii)(I)”;

6 (4) in paragraph (15), by striking “paragraph  
7 (2)(A)(ii)” and inserting “paragraph (2)(A)(ii)(I)”.

8 (c) EXTENSION OF SPECIAL IMMIGRANT VISA PRO-  
9 GRAM UNDER AFGHAN ALLIES PROTECTION ACT OF  
10 2009.—Section 602(b) of the Afghan Allies Protection Act  
11 of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is  
12 amended—

13 (1) in paragraph (3)(F)—

14 (A) in the subparagraph heading, by strik-  
15 ing “FISCAL YEARS 2015 THROUGH 2022” and  
16 inserting “FISCAL YEARS 2015 THROUGH 2029”;  
17 and

18 (B) in clause (i), by striking “December  
19 31, 2024” and inserting “December 31, 2029”;  
20 and

21 (C) in clause (ii), by striking “December  
22 31, 2024” and inserting “December 31, 2029”;  
23 and



1           (2) in paragraph (13), in the matter preceding  
2           subparagraph (A), by striking “January 31, 2024”  
3           and inserting “January 31, 2030”.

4           (d) AUTHORIZATION OF VIRTUAL INTERVIEWS.—  
5           Section 602(b)(4) of the Afghan Allies Protection Act of  
6           2009 ( 8 U.S.C. 1101 note; Public Law 111–8;) is amend-  
7           ed by adding at the end the following:

8                   “(D) VIRTUAL INTERVIEWS.—Notwith-  
9                   standing section 222(e) of the Immigration and  
10                   Nationality Act (8 U.S.C. 1202(e)), an applica-  
11                   tion for an immigrant visa under this section  
12                   may be signed by the applicant through a vir-  
13                   tual video meeting before a consular officer and  
14                   verified by the oath of the applicant adminis-  
15                   tered by the consular officer during a virtual  
16                   video meeting.”.

17           (e) QUARTERLY REPORTS.—Paragraph (12) of sec-  
18           tion 602(b) of the Afghan Allies Protection Act of 2009  
19           (8 U.S.C. 1101 note; Public Law 111–8) is amended is  
20           amended to read as follows:

21                   “(12) QUARTERLY REPORTS.—

22                   “(A) REPORT TO CONGRESS.—Not later  
23                   than 120 days after the date of enactment of  
24                   the Border Act and every 90 days thereafter,  
25                   the Secretary of State and the Secretary of

1 Homeland Security, in consultation with the  
2 Secretary of Defense, shall submit to the appro-  
3 priate committees of Congress a report that in-  
4 cludes the following:

5 “(i) For the preceding quarter—

6 “(I) a description of improve-  
7 ments made to the processing of spe-  
8 cial immigrant visas and refugee proc-  
9 essing for citizens and nationals of Af-  
10 ghanistan;

11 “(II) the number of new Afghan  
12 referrals to the United States Refugee  
13 Admissions Program, disaggregated  
14 by referring entity;

15 “(III) the number of interviews  
16 of Afghans conducted by U.S. Citizen-  
17 ship and Immigration Services,  
18 disaggregated by the country in which  
19 such interviews took place;

20 “(IV) the number of approvals  
21 and the number of denials of refugee  
22 status requests for Afghans;

23 “(V) the number of total admis-  
24 sions to the United States of Afghan  
25 refugees;

1                   “(VI) number of such admis-  
2                   sions, disaggregated by whether the  
3                   refugees come from within, or outside  
4                   of, Afghanistan;

5                   “(VII) the average processing  
6                   time for citizens and nationals of Af-  
7                   ghanistan who are applicants for re-  
8                   ferral under section 3334 of the Bor-  
9                   der Act;

10                  “(VIII) the number of such cases  
11                  processed within such average proe-  
12                  essing time; and

13                  “(IX) the number of denials  
14                  issued with respect to applications by  
15                  citizens and nationals of Afghanistan  
16                  for referrals under section 3334 of the  
17                  Border Act.

18                  “(ii) The number of applications by  
19                  citizens and nationals of Afghanistan for  
20                  refugee referrals pending as of the date of  
21                  submission of the report.

22                  “(iii) A description of the efficiency  
23                  improvements made in the process by  
24                  which applications for special immigrant  
25                  visas under this subsection are processed,

1 including information described in clauses  
2 (iii) through (viii) of paragraph (11)(B).

3 “(B) FORM OF REPORT.—Each report re-  
4 quired by subparagraph (A) shall be submitted  
5 in unclassified form but may contain a classi-  
6 fied annex.

7 “(C) PUBLIC POSTING.—The Secretary of  
8 State shall publish on the website of the De-  
9 partment of State the unclassified portion of  
10 each report submitted under subparagraph  
11 (A).”.

12 (f) GENERAL PROVISIONS.—

13 (1) PROHIBITION ON FEES.—The Secretary,  
14 the Secretary of Defense, or the Secretary of State  
15 may not charge any fee in connection with an appli-  
16 cation for, or issuance of, a special immigrant visa  
17 or special immigrant status under—

18 (A) section 602 of the Afghan Allies Pro-  
19 tection Act of 2009 (8 U.S.C. 1101 note; Public  
20 Law 111–8);

21 (B) section 1059 of the National Defense  
22 Authorization Act for Fiscal Year 2006 (8  
23 U.S.C. 1101 note; Public Law 109–163); or

24 (C) subparagraph (N) of section  
25 101(a)(27) of the Immigration and Nationality

1 Act (8 U.S.C. 1101(a)(27)), as added by sub-  
2 section (a)(1).

3 (2) DEFENSE PERSONNEL.—Any limitation in  
4 law with respect to the number of personnel within  
5 the Office of the Secretary of Defense, the military  
6 departments, or a Defense Agency (as defined in  
7 section 101(a) of title 10, United States Code) shall  
8 not apply to personnel employed for the primary  
9 purpose of carrying out this section.

10 (3) PROTECTION OF ALIENS.—The Secretary of  
11 State, in consultation with the head of any other ap-  
12 propriate Federal agency, shall make a reasonable  
13 effort to provide an alien who is seeking status as  
14 a special immigrant under subparagraph (N) of sec-  
15 tion 101(a)(27) of the Immigration and Nationality  
16 Act (8 U.S.C. 1101(a)(27)), as added by subsection  
17 (a)(1), protection or to immediately remove such  
18 alien from Afghanistan, if possible.

19 (4) RESETTLEMENT SUPPORT.—A citizen or  
20 national of Afghanistan who is admitted to the  
21 United States under this section or an amendment  
22 made by this section shall be eligible for resettlement  
23 assistance, entitlement programs, and other benefits  
24 available to refugees admitted under section 207 of  
25 the Immigration and Nationality Act (8 U.S.C.

1 1157) to the same extent, and for the same periods  
2 of time, as such refugees.

3 **SEC. 3337. SUPPORT FOR ALLIES SEEKING RESETTLEMENT**  
4 **IN THE UNITED STATES.**

5 Notwithstanding any other provision of law, during  
6 the period beginning on the date of the enactment of this  
7 Act and ending on the date that is 10 years thereafter,  
8 the Secretary and the Secretary of State may waive any  
9 fee or surcharge or exempt individuals from the payment  
10 of any fee or surcharge collected by the Department of  
11 Homeland Security and the Department of State, respec-  
12 tively, in connection with a petition or application for, or  
13 issuance of, an immigrant visa to a national of Afghani-  
14 stan under section 201(b)(2)(A)(i) or 203(a) of the Immi-  
15 gration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)  
16 and 1153(a)), respectively.

17 **SEC. 3338. REPORTING.**

18 (a) QUARTERLY REPORTS.—Beginning on January  
19 1, 2028, not less frequently than quarterly, the Secretary  
20 shall submit to the Committee on the Judiciary of the Sen-  
21 ate and the Committee on the Judiciary of the House of  
22 Representatives a report that includes, for the preceding  
23 quarter—

24 (1) the number of individuals granted condi-  
25 tional permanent resident status under section 3333,

1 disaggregated by the number of such individuals for  
2 whom conditions have been removed;

3 (2) the number of individuals granted condi-  
4 tional permanent resident status under section 3333  
5 who have been determined to be ineligible for re-  
6 moval of conditions (and the reasons for such deter-  
7 mination); and

8 (3) the number of individuals granted condi-  
9 tional permanent resident status under section 3333  
10 for whom no such determination has been made  
11 (and the reasons for the lack of such determination).

12 (b) ANNUAL REPORTS.—Not less frequently than an-  
13 nually, the Secretary, in consultation with the Attorney  
14 General, shall submit to the appropriate committees of  
15 Congress a report that includes for the preceding year,  
16 with respect to individuals granted conditional permanent  
17 resident status under section 3333—

18 (1) the number of such individuals who are  
19 placed in removal proceedings under section 240 of  
20 the Immigration and Nationality Act (8 U.S.C.  
21 1229a) charged with a ground of deportability under  
22 subsection (a)(2) of section 237 of that Act (8  
23 U.S.C. 1227), disaggregated by each applicable  
24 ground under that subsection;

1           (2) the number of such individuals who are  
2 placed in removal proceedings under section 240 of  
3 the Immigration and Nationality Act (8 U.S.C.  
4 1229a) charged with a ground of deportability under  
5 subsection (a)(3) of section 237 of that Act (8  
6 U.S.C. 1227), disaggregated by each applicable  
7 ground under that subsection;

8           (3) the number of final orders of removal issued  
9 pursuant to proceedings described in paragraphs (1)  
10 and (2), disaggregated by each applicable ground of  
11 deportability;

12           (4) the number of such individuals for whom  
13 such proceedings are pending, disaggregated by each  
14 applicable ground of deportability; and

15           (5) a review of the available options for removal  
16 from the United States, including any changes in  
17 the feasibility of such options during the preceding  
18 year.



1     **TITLE IV—PROMOTING LEGAL**  
2                     **IMMIGRATION**

3     **SEC. 3401. EMPLOYMENT AUTHORIZATION FOR FIANCÉS,**  
4                     **FIANCÉES, SPOUSES, AND CHILDREN OF**  
5                     **UNITED STATES CITIZENS AND SPECIALTY**  
6                     **WORKERS.**

7             Section 214(c) of the Immigration and Nationality  
8 Act (8 U.S.C. 1184(c)) is amended by adding at the end  
9 the following:

10            “(15) The Secretary of Homeland Security shall au-  
11 thorize an alien fiancé, fiancée, or spouse admitted pursu-  
12 ant to clause (i) or (ii) of section 101(a)(15)(K), or any  
13 child admitted pursuant to section 101(a)(15)(K)(iii) to  
14 engage in employment in the United States incident to  
15 such status and shall provide the alien with an ‘employ-  
16 ment authorized’ endorsement during the period of au-  
17 thorized admission.

18            “(16) Upon the receipt of a completed petition de-  
19 scribed in subparagraph (E) or (F) of section 204(a)(1)  
20 for a principal alien who has been admitted pursuant to  
21 section 101(a)(15)(H)(i)(b), the Secretary of Homeland  
22 Security shall authorize the alien spouse or child of such  
23 principal alien who has been admitted under section  
24 101(a)(15)(H) to accompany or follow to join a principal  
25 alien admitted under such section, to engage in employ-

1 ment in the United States incident to such status and  
2 shall provide the alien with an ‘employment authorized’  
3 endorsement during the period of authorized admission.”.

4 **SEC. 3402. ADDITIONAL VISAS.**

5 Section 201 of the Immigration and Nationality Act  
6 (8 U.S.C. 1151) is amended—

7 (1) in subsection (c)—

8 (A) by adding at the end the following:

9 “(6)(A) For fiscal years 2025, 2026, 2027, 2028, and  
10 2029—

11 “(i) 512,000 shall be substituted for 480,000 in  
12 paragraph (1)(A)(i); and

13 “(ii) 258,000 shall be substituted for 226,000  
14 in paragraph (1)(B)(i)(i) of that paragraph.

15 “(B) The additional visas authorized under subpara-  
16 graph (A)—

17 “(i) shall be issued each fiscal year;

18 “(ii) shall remain available in any fiscal year  
19 until issued; and

20 “(iii) shall be allocated in accordance with sec-  
21 tions 201, 202, and 203.”; and

22 (2) in subsection (d), by adding at the end the  
23 following:

1 “(3)(A) For fiscal years 2025, 2026, 2027, 2028, and  
2 2029, 158,000 shall be substituted for 140,000 in para-  
3 graph (1)(A).

4 “(B) The additional visas authorized under subpara-  
5 graph (A)—

6 “(i) shall be issued each fiscal year;

7 “(ii) shall remain available in any fiscal year  
8 until issued; and

9 “(iii) shall be allocated in accordance with sec-  
10 tions 201, 202, and 203.”.

11 **SEC. 3403. CHILDREN OF LONG-TERM VISA HOLDERS.**

12 (a) MAINTAINING FAMILY UNITY FOR CHILDREN OF  
13 LONG-TERM H-1B NONIMMIGRANTS AFFECTED BY  
14 DELAYS IN VISA AVAILABILITY.—Section 203(h) of the  
15 Immigration and Nationality Act (8 U.S.C. 1153(h)) is  
16 amended by adding at the end the following:

17 “(6) CHILD STATUS DETERMINATION FOR CER-  
18 TAIN DEPENDENT CHILDREN OF H-1B NON-  
19 IMMIGRANTS.—

20 “(A) DETERMINATIVE FACTORS.—For  
21 purposes of subsection (d), the determination of  
22 whether an alien described in subparagraph (B)  
23 satisfies the age and marital status require-  
24 ments set forth in section 101(b)(1) shall be  
25 made using the alien’s age and marital status

1 on the date on which an initial petition as a  
2 nonimmigrant described in section  
3 101(a)(15)(H)(i)(b) was filed on behalf of the  
4 alien's parent, if such petition was approved.

5 “(B) ALIEN DESCRIBED.—An alien is de-  
6 scribed in this subparagraph if such alien—

7 “(i) maintained, for an aggregate pe-  
8 riod of at least 8 years before reaching 21  
9 years of age, the status of a dependent  
10 child of a nonimmigrant described in sec-  
11 tion 101(a)(15)(H)(i)(b) pursuant to a  
12 lawful admission; and

13 “(ii)(I) sought to acquire the status of  
14 an alien lawfully admitted for permanent  
15 residence during the 2-year period begin-  
16 ning on the date on which an immigrant  
17 visa became available to such alien; or

18 “(II) demonstrates, by clear and con-  
19 vincing evidence, that the alien's failure to  
20 seek such status during such 2-year period  
21 was due to extraordinary circumstances.”.

22 (b) NONIMMIGRANT DEPENDENT CHILDREN OF H-  
23 1B NONIMMIGRANTS.—Section 214 of the Immigration  
24 and Nationality Act (8 U.S.C. 1184) is amended by add-  
25 ing at the end the following:

1       “(s) CHILD DERIVATIVE BENEFICIARIES OF H-1B  
2 NONIMMIGRANTS.—

3           “(1) AGE DETERMINATION.—In the case of an  
4 alien who maintained, for an aggregate period of at  
5 least 8 years before reaching 21 years of age, the  
6 status of a dependent child of a nonimmigrant de-  
7 scribed in section 101(a)(15)(H)(i)(b) pursuant to a  
8 lawful admission, such alien’s age shall be deter-  
9 mined based on the date on which an initial petition  
10 for classification under such section was filed on be-  
11 half of the alien’s parent, if such petition is ap-  
12 proved.

13           “(2) LONG-TERM DEPENDENTS.—Notwith-  
14 standing the alien’s actual age or marital status, an  
15 alien who is determined to be a child under para-  
16 graph (1) and is otherwise eligible may change sta-  
17 tus to, or extend status as, a dependent child of a  
18 nonimmigrant described in section  
19 101(a)(15)(H)(i)(b) if the alien’s parent—

20           “(A) maintains lawful status under such  
21 section;

22           “(B) has an employment-based immigrant  
23 visa petition that has been approved pursuant  
24 to section 203(b); and

1           “(C) has not yet had an opportunity to  
2           seek an immigrant visa or adjust status under  
3           section 245.

4           “(3) EMPLOYMENT AUTHORIZATION.—An alien  
5           who is determined to be a child under paragraph (1)  
6           is authorized to engage in employment in the United  
7           States incident to the status of his or her non-  
8           immigrant parent.

9           “(4) SURVIVING RELATIVE CONSIDERATION.—  
10          Notwithstanding the death of the qualifying relative,  
11          an alien who is determined to be a child under para-  
12          graph (1) is authorized to extend status as a de-  
13          pendent child of a nonimmigrant described in section  
14          101(a)(15)(H)(i)(b).”.

15          (c) MOTION TO REOPEN OR RECONSIDER.—

16                 (1) IN GENERAL.—A motion to reopen or re-  
17                 consider the denial of a petition under section 204  
18                 of the Immigration and Nationality Act (8 U.S.C.  
19                 1154) and a subsequent application for an immi-  
20                 grant visa or adjustment of status under section 245  
21                 of the Immigration and Nationality Act (8 U.S.C.  
22                 1255), may be granted if—

23                         (A) such petition or application would have  
24                         been approved if—

1 (i) section 203(h)(6) of the Immigra-  
2 tion and Nationality Act, as added by sub-  
3 section (a), had been in effect when the pe-  
4 tition or application was adjudicated; and

5 (ii) the person concerned remains eli-  
6 gible for the requested benefit;

7 (B) the individual seeking relief pursuant  
8 to such motion was in the United States at the  
9 time the underlying petition or application was  
10 filed; and

11 (C) such motion is filed with the Secretary  
12 or the Attorney General not later than the date  
13 that is 2 years after the date of the enactment  
14 of this Act.

15 (2) PROTECTION FROM REMOVAL.—Notwith-  
16 standing any other provision of the law, the Attor-  
17 ney General and the Secretary—

18 (A) may not initiate removal proceedings  
19 against or remove any alien who has a pending  
20 nonfrivolous motion under paragraph (1) or is  
21 seeking to file such a motion unless—

22 (i) the alien is a danger to the com-  
23 munity or a national security risk; or

1 (ii) initiating a removal proceeding  
2 with respect to such alien is in the public  
3 interest; and

4 (B) shall provide aliens with a reasonable  
5 opportunity to file such a motion.

6 (3) EMPLOYMENT AUTHORIZATION.—An alien  
7 with a pending, nonfrivolous motion under this sub-  
8 section shall be authorized to engage in employment  
9 through the date on which a final administrative de-  
10 cision regarding such motion has been made.

11 **SEC. 3404. MILITARY NATURALIZATION MODERNIZATION.**

12 (a) IN GENERAL.—Chapter 2 of title III of the Immi-  
13 gration and Nationality Act (8 U.S.C. 1421 et seq.) is  
14 amended—

15 (1) by striking section 328 (8 U.S.C. 1439);

16 and

17 (2) in section 329 (8 U.S.C. 1440)—

18 (A) by amending the section heading to  
19 read as follows: “**NATURALIZATION**  
20 **THROUGH SERVICE IN THE SELECTED RE-**  
21 **SERVE OR IN ACTIVE-DUTY STATUS.—**”;

22 (B) in subsection (a)—

23 (i) in the matter preceding paragraph  
24 (1), by striking “during either” and all  
25 that follows through “foreign force”;



1 (ii) in paragraph (1)—

2 (I) by striking “America Samoa,  
3 or Swains Island” and inserting  
4 “American Samoa, Swains Island, or  
5 any of the freely associated States (as  
6 defined in section 611(b)(1)(C) of the  
7 Individuals with Disabilities Edu-  
8 cation Act (20 U.S.C.  
9 1411(b)(1)(C)),”; and

10 (II) by striking “he” and insert-  
11 ing “such person”; and

12 (iii) in paragraph (2), by striking “in  
13 an active-duty status, and whether separa-  
14 tion from such service was under honorable  
15 conditions” and inserting “in accordance  
16 with subsection (b)(3)”; and

17 (C) in subsection (b)—

18 (i) in paragraph (1), by striking “he”  
19 and inserting “such person”; and

20 (ii) in paragraph (3), by striking “an  
21 active-duty status” and all that follows  
22 through “foreign force, and” and inserting  
23 “in an active status (as defined in section  
24 101(d) of title 10, United States Code), in  
25 the Selected Reserve of the Ready Reserve,

1 or on active duty (as defined in such sec-  
2 tion) and, if separated”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 for the Immigration and Nationality Act (8 U.S.C. 1101  
5 et seq.) is amended by striking the items relating to sec-  
6 tions 328 and 329 and inserting the following:

“Sec. 329. Naturalization through service in the Selected Reserve or in active-  
duty status.”.

7 **SEC. 3405. TEMPORARY FAMILY VISITS.**

8 (a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA  
9 SUBCATEGORY.—Section 101(a)(15)(B) of the Immigra-  
10 tion and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is  
11 amended by striking “temporarily for business or tempo-  
12 rarily for pleasure;” and inserting “temporarily for—

13 “(i) business;

14 “(ii) pleasure; or

15 “(iii) family purposes;”.

16 (b) REQUIREMENTS APPLICABLE TO FAMILY PUR-  
17 POSES VISAS.—Section 214 of the Immigration and Na-  
18 tionality Act (8 U.S.C. 1184), as amended by section  
19 3403(b), is further amended by adding at the end the fol-  
20 lowing:

21 “(t) REQUIREMENTS APPLICABLE TO FAMILY PUR-  
22 POSES VISAS.—

23 “(1) DEFINED TERM.—In this subsection and  
24 in section 101(a)(15)(B)(iii), the term ‘family pur-

1 poses' means any visit by a relative for a social, oc-  
2 casional, major life, or religious event, or for any  
3 other purpose.

4 “(2) FAMILY PURPOSES VISA.—Except as pro-  
5 vided in paragraph (3), family travel for pleasure is  
6 authorized pursuant to the policies, terms, and con-  
7 ditions in effect on the day before the date of the  
8 enactment of the Border Act.

9 “(3) SPECIAL RULES FOR FAMILY PURPOSES  
10 VISAS FOR ALIENS AWAITING IMMIGRANT VISAS.—

11 “(A) NOTIFICATION OF APPROVED PETI-  
12 TION.—A visa may not be issued to a relative  
13 under section 101(a)(15)(B)(iii) until after the  
14 consular officer is notified that the Secretary of  
15 Homeland Security has approved a petition  
16 filed in the United States by a family member  
17 of the relative who is a United States citizen or  
18 lawful permanent resident.

19 “(B) PETITION.—A petition referred to in  
20 subparagraph (A) shall—

21 “(i) be in such form and contain such  
22 information as the Secretary may prescribe  
23 by regulation; and

24 “(ii) shall include—

1                   “(I) a declaration of financial  
2                   support, affirming that the petitioner  
3                   will provide financial support to the  
4                   relative for the duration of his or her  
5                   temporary stay in the United States;

6                   “(II) evidence that the relative  
7                   has—

8                   “(aa) obtained, for the dura-  
9                   tion of his or her stay in the  
10                  United States, a short-term trav-  
11                  el medical insurance policy; or

12                  “(bb) an existing health in-  
13                  surance policy that provides cov-  
14                  erage for international medical  
15                  expenses; and

16                  “(III) a declaration from the rel-  
17                  ative, under penalty of perjury, af-  
18                  firming the relative’s—

19                  “(aa) intent to depart the  
20                  United States at the conclusion  
21                  of the relative’s period of author-  
22                  ized admission; and

23                  “(bb) awareness of the pen-  
24                  alties for overstaying such period  
25                  of authorized admission.

1 “(4) PETITIONER ELIGIBILITY.—

2 “(A) IN GENERAL.—Absent extraordinary  
3 circumstances, an individual may not petition  
4 for the admission of a relative as a non-  
5 immigrant described in section  
6 101(a)(15)(B)(iii) if such individual previously  
7 petitioned for the admission of such a relative  
8 who—

9 “(i) was admitted to the United  
10 States pursuant to a visa issued under  
11 such section as a result of such petition;  
12 and

13 “(ii) overstayed his or her period of  
14 authorized admission.

15 “(B) PREVIOUS PETITIONERS.—

16 “(i) IN GENERAL.—An individual fil-  
17 ing a declaration of financial support on  
18 behalf of a relative seeking admission as a  
19 nonimmigrant described in section  
20 101(a)(15)(B)(iii) who has previously pro-  
21 vided a declaration of financial support for  
22 such a relative shall—

23 “(I) certify to the Secretary of  
24 Homeland Security that the relative  
25 whose admission the individual pre-

1                   viously supported did not overstay his  
2                   or her period of authorized admission;  
3                   or

4                   “(II) explain why the relative’s  
5                   overstay was due to extraordinary cir-  
6                   cumstances beyond the control of the  
7                   relative.

8                   “(ii) CRIMINAL PENALTY FOR FALSE  
9                   STATEMENT.—A certification under clause  
10                  (i)(I) shall be subject to the requirements  
11                  under section 1001 of title 18, United  
12                  States Code.

13                  “(C) WAIVER.—The Secretary of Home-  
14                  land Security may waive the application of sec-  
15                  tion 212(a)(9)(B) in the case of a non-  
16                  immigrant described in section  
17                  101(a)(15)(B)(iii) who overstayed his or her pe-  
18                  riod of authorized admission due to extraor-  
19                  dinary circumstances beyond the control of the  
20                  nonimmigrant.”.

21                  (c) RESTRICTION ON CHANGE OF STATUS.—Section  
22                  248(a)(1) of the Immigration and Nationality Act (8  
23                  U.S.C. 1258(a)(1)) is amended by inserting “(B)(iii),”  
24                  after “subparagraph”.

1 (d) FAMILY PURPOSE VISA ELIGIBILITY WHILE  
2 AWAITING IMMIGRANT VISA.—

3 (1) IN GENERAL.—Notwithstanding section  
4 214(b) of the Immigration and Nationality Act (8  
5 U.S.C. 1184(b)), a nonimmigrant described in sec-  
6 tion 101(a)(15)(B)(iii) of such Act, as added by sub-  
7 section (a), who has been classified as an immigrant  
8 under section 201 of such Act (8 U.S.C. 1151) and  
9 is awaiting the availability of an immigrant visa sub-  
10 ject to the numerical limitations under section 203  
11 of such Act (8 U.S.C. 1153) may be admitted pursu-  
12 ant to a family purposes visa, in accordance with  
13 section 214(t) of such Act, as added by subsection  
14 (b), if the individual is otherwise eligible for admis-  
15 sion.

16 (2) LIMITATION.—An alien admitted under sec-  
17 tion 101(a)(15)(B)(iii) of the Immigration and Na-  
18 tionality Act, pursuant to section 214(t)(3) of such  
19 Act, as added by subsection (b), may not be consid-  
20 ered to have been admitted to the United States for  
21 purposes of section 245(a) of such Act (8 U.S.C.  
22 1255(a)).

23 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
24 tion, or in the amendments made by this section, may be  
25 construed as—

1           (1) limiting the authority of immigration offi-  
2           cers to refuse to admit to the United States an ap-  
3           plicant under section 101(a)(15)(B)(iii) of the Immi-  
4           gration and Nationality Act, as added by subsection  
5           (a), who fails to meet 1 or more of the criteria under  
6           section 214(t) of such Act, as added by subsection  
7           (b), or who is inadmissible under section 212(a) of  
8           such Act (8 U.S.C. 1182(a)); or

9           (2) precluding the use of section  
10          101(a)(15)(B)(ii) of the Immigration and Nation-  
11          ality Act, as added by subsection (a), for family  
12          travel for pleasure in accordance with the policies  
13          and procedures in effect on the day before the date  
14          of the enactment of this Act.

15           **TITLE V—SELF-SUFFICIENCY**  
16                   **AND DUE PROCESS**

17           **Subtitle A—Work Authorizations**

18           **SEC. 3501. WORK AUTHORIZATION.**

19           Section 208(d)(2) of the Immigration and Nationality  
20           Act (8 U.S.C. 1158(d)(2)) is amended to read as follows:

21                   “(2) EMPLOYMENT ELIGIBILITY.—Except as  
22                   provided in section 235C—

23                           “(A) an applicant for asylum is not enti-  
24                           tled to employment authorization, but such au-



1 authorization may be provided by the Secretary of  
2 Homeland Security by regulation; and

3 “(B) an applicant who is not otherwise eli-  
4 gible for employment authorization may not be  
5 granted employment authorization under this  
6 section before the date that is 180 days after  
7 the date on which the applicant files an applica-  
8 tion for asylum.”.

9 **SEC. 3502. EMPLOYMENT ELIGIBILITY.**

10 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
11 gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
12 amended by section 3141(a), is further amended by add-  
13 ing at the end the following:

14 **“SEC. 235C. EMPLOYMENT ELIGIBILITY.**

15 **“(a) EXPEDITED EMPLOYMENT ELIGIBILITY.—**

16 **“(1) IN GENERAL.—**The Secretary of Homeland  
17 Security shall authorize employment for any alien  
18 who—

19 **“(A)(i)** is processed under the procedures  
20 described in section 235(b)(1) and receives a  
21 positive protection determination pursuant to  
22 such procedures; or

23 **“(ii)(I)** is processed under the procedures  
24 described in section 235B; and

1           “(II)(aa) receives a positive protection de-  
2           termination and is subsequently referred under  
3           section 235B(c)(2)(B)(i) for a protection merits  
4           interview; or

5           “(bb) is referred under section 235B(f)(1)  
6           for a protection merits interview; and

7           “(B) is released from the physical custody  
8           of the Secretary of Homeland Security.

9           “(2) APPLICATION.—The Secretary of Home-  
10          land Security shall grant employment authorization  
11          to—

12           “(A) an alien described in paragraph  
13           (1)(A)(i) immediately upon such alien’s release  
14           from physical custody;

15           “(B) an alien described in paragraph  
16           (1)(A)(ii)(II)(aa) at the time such alien receives  
17           a positive protection determination or is re-  
18           ferred for a protection merits interview; and

19           “(C) an alien described in paragraph  
20           (1)(A)(ii)(II)(bb) on the date that is 30 days  
21           after the date on which such alien files an ap-  
22           plication pursuant to section 235B(f).

23          “(b) TERM.—Employment authorization under this  
24          section—

1           “(1) shall be for an initial period of 2 years;  
2           and

3           “(2) shall be renewable, as applicable—

4                   “(A) for additional 2-year periods while  
5           the alien is in protection merits removal pro-  
6           ceedings, including while the outcome of the  
7           protection merits interview is under administra-  
8           tive or judicial review; or

9                   “(B) until the date on which—

10                           “(i) the alien receives a negative pro-  
11           tection merits determination; or

12                           “(ii) the alien otherwise receives em-  
13           ployment authorization under any other  
14           provision of this Act.

15           “(c) RULES OF CONSTRUCTION.—

16                   “(1) DETENTION.—Nothing in this section may  
17           be construed to expand or restrict the authority of  
18           the Secretary of Homeland Security to detain or re-  
19           lease from detention an alien, if such detention or  
20           release from detention is authorized by law.

21                   “(2) LIMITATION ON AUTHORITY.—The Sec-  
22           retary of Homeland Security may not authorize for  
23           employment in the United States an alien being  
24           processed under section 235(b)(1) or 235B in any

1 circumstance not explicitly described in this sec-  
2 tion.”.

3 (b) CONFORMING AMENDMENT.—The table of con-  
4 tents for the Immigration and Nationality Act (8 U.S.C.  
5 1101 et seq.) is amended by inserting after the item relat-  
6 ing to section 235B, as added by section 3141(b), the fol-  
7 lowing:

“Sec. 235C. Employment eligibility.”.

## 8 **Subtitle B—Protecting Due Process**

### 9 **SEC. 3511. ACCESS TO COUNSEL.**

10 (a) IN GENERAL.—Section 235(b)(1)(B)(iv) of the  
11 Immigration and Nationality Act (8 U.S.C.  
12 1225(b)(1)(B)(iv)) is amended to read as follows:

13 “(iv) INFORMATION ABOUT PROTEC-  
14 TION DETERMINATIONS.—

15 “(I) IN GENERAL.—The Sec-  
16 retary of Homeland Security shall  
17 provide an alien with information in  
18 plain language regarding protection  
19 determinations conducted under this  
20 section, including the information de-  
21 scribed in subclause (II)—

22 “(aa) at the time of the ini-  
23 tial processing of the alien; and

24 “(bb) to the maximum ex-  
25 tent practicable, in the alien’s na-

325

1                   tive language or in a language  
2                   the alien understands.

3                   “(II)        INFORMATION        DE-  
4                   SCRIBED.—The information described  
5                   in this subclause is information relat-  
6                   ing to—

7                   “(aa) the rights and obliga-  
8                   tions of the alien during a protec-  
9                   tion determination;

10                  “(bb) the process by which a  
11                  protection determination is con-  
12                  ducted;

13                  “(cc) the procedures to be  
14                  followed by the alien in a protec-  
15                  tion determination; and

16                  “(dd) the possible con-  
17                  sequences of—

18                  “(AA) not complying  
19                  with the obligations referred  
20                  to in item (aa); and

21                  “(BB) not cooperating  
22                  with Federal authorities.

23                  “(III) ACCESSIBILITY.—An alien  
24                  who has a limitation that renders the  
25                  alien unable to read written materials

1 provided under subclause (I) shall re-  
2 ceive an interpretation of such mate-  
3 rials in the alien's native language, to  
4 the maximum extent practicable, or in  
5 a language and format the alien un-  
6 derstands.

7 “(IV) TIMING OF PROTECTION  
8 DETERMINATION.—

9 “(aa) IN GENERAL.—The  
10 protection determination of an  
11 alien shall not occur earlier than  
12 72 hours after the provision of  
13 the information described in sub-  
14 clauses (I) and (II).

15 “(bb) WAIVER.—An alien  
16 may—

17 “(AA) waive the 72-  
18 hour requirement under  
19 item (aa) only if the alien  
20 knowingly and voluntarily  
21 does so, only in a written  
22 format or in an alternative  
23 record if the alien is unable  
24 to write, and only after the  
25 alien receives the informa-

1                   tion required to be provided  
2                   under subclause (I); and

3                   “(BB) consult with an  
4                   individual of the alien’s  
5                   choosing in accordance with  
6                   subclause (V) before waiving  
7                   such requirement.

8                   “(V) CONSULTATION.—

9                   “(aa) IN GENERAL.—An  
10                  alien who is eligible for a protec-  
11                  tion determination may consult  
12                  with one or more individuals of  
13                  the alien’s choosing before the  
14                  screening or interview, or any re-  
15                  view of such a screening or inter-  
16                  view, in accordance with regula-  
17                  tions prescribed by the Secretary  
18                  of Homeland Security.

19                  “(bb) LIMITATION.—Con-  
20                  sultation described in item (aa)  
21                  shall be at no expense to the  
22                  Federal Government.

23                  “(cc) PARTICIPATION IN  
24                  INTERVIEW.—An individual cho-  
25                  sen by the alien may participate

1 in the protection determination of  
2 the alien conducted under this  
3 subparagraph.

4 “(dd) ACCESS.—The Sec-  
5 retary of Homeland Security  
6 shall ensure that a detained alien  
7 has effective access to the indi-  
8 viduals chosen by the alien, which  
9 may include physical access, tele-  
10 phonic access, and access by elec-  
11 tronic communication.

12 “(ee) INCLUSIONS.—Con-  
13 sultations under this subclause  
14 may include—

15 “(AA) consultation with  
16 an individual authorized by  
17 the Department of Justice  
18 through the Recognition and  
19 Accreditation Program; and

20 “(BB) consultation  
21 with an attorney licensed  
22 under applicable law.

23 “(ff) RULES OF CONSTRUC-  
24 TION.—Nothing in this subclause  
25 may be construed—



1 “(AA) to require the  
2 Federal Government to pay  
3 for any consultation author-  
4 ized under item (aa);

5 “(BB) to invalidate or  
6 limit the remedies, rights,  
7 and procedures of any Fed-  
8 eral law that provides pro-  
9 tection for the rights of indi-  
10 viduals with disabilities; or

11 “(CC) to contravene or  
12 limit the obligations under  
13 the Vienna Convention on  
14 Consular Relations done at  
15 Vienna April 24, 1963.”.

16 (b) CONFORMING AMENDMENT.—Section 238(a)(2)  
17 of the Immigration and Nationality Act (8 U.S.C.  
18 1228(a)(2)) is amended by striking “make reasonable ef-  
19 forts to ensure that the alien’s access to counsel” and in-  
20 serting “ensure that the alien’s access to counsel, pursu-  
21 ant to section 235(b)(1)(B)(iv),”.

1 **SEC. 3512. COUNSEL FOR CERTAIN UNACCOMPANIED**  
2 **ALIEN CHILDREN.**

3 Section 235(c)(5) of the William Wilberforce Traf-  
4 ficking Victims Protection Reauthorization Act of 2008 (8  
5 U.S.C. 1232(c)(5)) is amended to read as follows:

6 “(5) ACCESS TO COUNSEL.—

7 “(A) IN GENERAL.—Except as provided in  
8 subparagraph (B), the Secretary of Health and  
9 Human Services shall ensure, to the greatest  
10 extent practicable and consistent with section  
11 292 of the Immigration and Nationality Act (8  
12 U.S.C. 1362), that all unaccompanied alien  
13 children who are or have been in the custody of  
14 the Secretary of Health and Human Services or  
15 the Secretary of Homeland Security, and who  
16 are not described in subsection (a)(2)(A), have  
17 counsel to represent them in legal proceedings  
18 or matters and protect them from mistreat-  
19 ment, exploitation, and trafficking. To the  
20 greatest extent practicable, the Secretary of  
21 Health and Human Services shall make every  
22 effort to utilize the services of pro bono counsel  
23 who agree to provide representation to such  
24 children without charge.

25 “(B) EXCEPTION FOR CERTAIN CHIL-  
26 DREN.—

1           “(i) IN GENERAL.—An unaccom-  
2           panied alien child who is 13 years of age  
3           or younger, and who is placed in or re-  
4           ferred to removal proceedings pursuant to  
5           section 240 of the Immigration and Na-  
6           tionality Act (8 U.S.C. 1229a), shall be  
7           represented by counsel subject to clause  
8           (v).

9           “(ii) AGE DETERMINATIONS.—The  
10          Secretary of Health and Human Services  
11          shall ensure that age determinations of un-  
12          accompanied alien children are conducted  
13          in accordance with the procedures devel-  
14          oped pursuant to subsection (b)(4).

15          “(iii) APPEALS.—The rights and  
16          privileges under this subparagraph—

17                  “(I) shall not attach to—

18                          “(aa) an unaccompanied  
19                          alien child after the date on  
20                          which—

21                                  “(AA) the removal pro-  
22                                  ceedings of the child under  
23                                  section 240 of the Immigra-  
24                                  tion and Nationality Act (8  
25                                  U.S.C. 1229a) terminate;

1                   “(BB) an order of re-  
2                   moval with respect to the  
3                   child becomes final; or

4                   “(CC) an immigration  
5                   benefit is granted to the  
6                   child; or

7                   “(bb) an appeal to a district  
8                   court or court of appeals of the  
9                   United States, unless certified by  
10                  the Secretary as a case of ex-  
11                  traordinary importance; and

12                  “(II) shall attach to administra-  
13                  tive reviews and appeals.

14                  “(iv) IMPLEMENTATION.—Not later  
15                  than 90 days after the date of the enact-  
16                  ment of the Border Act, the Secretary of  
17                  Health and Human Services shall imple-  
18                  ment this subparagraph

19                  “(v) REMEDIES.—

20                  “(I) IN GENERAL.—For the pop-  
21                  ulation described in clause (i) of this  
22                  subparagraph and subsection (b)(1) of  
23                  section 292 of the Immigration and  
24                  Nationality Act (8 U.S.C. 1362), de-  
25                  claratory judgment that the unaccom-

1           panied alien child has a right to be re-  
2           ferred to counsel, including pro-bono  
3           counsel, or a continuance of immigra-  
4           tion proceedings, shall be the exclusive  
5           remedies available, other than for  
6           those funds subject to appropriations.

7                           “(II) SETTLEMENTS.—Any set-  
8                           tlement under this subparagraph shall  
9                           be subject to appropriations.”.

10 **SEC. 3513. COUNSEL FOR CERTAIN INCOMPETENT INDIVID-**  
11 **UALS.**

12           Section 240 of the Immigration and Nationality Act  
13 (8 U.S.C. 1229a) is amended—

14                   (1) by redesignating subsection (e) as sub-  
15                   section (f); and

16                   (2) by inserting after subsection (d) the fol-  
17                   lowing:

18                   “(e) REPRESENTATION FOR CERTAIN INCOMPETENT  
19                   ALIENS.—

20                   “(1) IN GENERAL.—The immigration judge is  
21                   authorized to appoint legal counsel or a certified  
22                   representative accredited through the Department of  
23                   Justice to represent an alien in removal proceedings  
24                   if—

25                   “(A) pro bono counsel is not available; and

1 “(B) the alien—

2 “(i) is unrepresented;

3 “(ii) was found by an immigration  
4 judge to be incompetent to represent them-  
5 selves; and

6 “(iii) has been placed in or referred to  
7 removal proceedings pursuant to this sec-  
8 tion.

9 “(2) DETERMINATION ON COMPETENCE.—

10 “(A) PRESUMPTION OF COMPETENCE.—An  
11 alien is presumed to be competent to participate  
12 in removal proceedings and has the duty to  
13 raise the issue of competency. If there are no  
14 indicia of incompetency in an alien’s case, no  
15 further inquiry regarding competency is re-  
16 quired.

17 “(B) DECISION OF THE IMMIGRATION  
18 JUDGE.—

19 “(i) IN GENERAL.—If there are indi-  
20 cia of incompetency, the immigration judge  
21 shall consider whether there is good cause  
22 to believe that the alien lacks sufficient  
23 competency to proceed without additional  
24 safeguards.

1                   “(ii) INCOMPETENCY TEST.—The test  
2                   for determining whether an alien is incom-  
3                   petent to participate in immigration pro-  
4                   ceedings, is not malingering, and con-  
5                   sequently lacks sufficient capacity to pro-  
6                   ceed, is whether the alien, not solely on ac-  
7                   count of illiteracy or language barriers—

8                                 “(I) lacks a rational and factual  
9                                 understanding of the nature and ob-  
10                                ject of the proceedings;

11                               “(II) cannot consult with an  
12                                available attorney or representative;  
13                                and

14                               “(III) does not have a reasonable  
15                                opportunity to examine and present  
16                                evidence and cross-examine witnesses.

17                               “(iii) NO APPEAL.—A decision of an  
18                                immigration judge under this subpara-  
19                                graph may not be appealed administra-  
20                                tively and is not subject to judicial review.

21                               “(C) EFFECT OF FINDING OF INCOM-  
22                                PETENCE.—A finding by an immigration judge  
23                                that an alien is incompetent to represent him-  
24                                self or herself in removal proceedings shall not  
25                                prejudice the outcome of any proceeding under

1           this section or any finding by the immigration  
2           judge with respect to whether the alien is inad-  
3           missible under section 212 or removable under  
4           section 237.

5           “(3) QUARTERLY REPORT.—Not later than 90  
6           days after the effective date of a final rule imple-  
7           menting this subsection, and quarterly thereafter,  
8           the Director of the Executive Office for Immigration  
9           Review shall submit to the appropriate committees  
10          of Congress a report that includes—

11                   “(A)(i) the number of aliens in proceedings  
12                   under this section who claimed during the re-  
13                   porting period to be incompetent to represent  
14                   themselves, disaggregated by immigration court  
15                   and immigration judge; and

16                   “(ii) a description of each reason given for  
17                   such claims, such as mental disease or mental  
18                   defect; and

19                   “(B)(i) the number of aliens in proceedings  
20                   under this section found during the reporting  
21                   period by an immigration judge to be incom-  
22                   petent to represent themselves, disaggregated  
23                   by immigration court and immigration judge;  
24                   and



1           “(ii) a description of each reason upon  
2           which such findings were based, such as mental  
3           disease or mental defect.

4           “(4) RULE OF CONSTRUCTION.—Nothing in  
5           this subsection may be construed—

6           “(A) to require the Secretary of Homeland  
7           Security or the Attorney General to analyze  
8           whether an alien is incompetent to represent  
9           themselves, absent an indicia of incompetency;

10           “(B) to establish a substantive due process  
11           right;

12           “(C) to automatically equate a diagnosis of  
13           a mental illness to a lack of competency;

14           “(D) to limit the ability of the Attorney  
15           General or the immigration judge to prescribe  
16           safeguards to protect the rights and privileges  
17           of the alien;

18           “(E) to limit any authorized representation  
19           program by a State, local, or Tribal govern-  
20           ment;

21           “(F) to provide any statutory right to rep-  
22           resentation in any proceeding authorized under  
23           this Act, unless such right is already authorized  
24           by law; or

1           “(G) to interfere with, create, or expand  
2           any right or responsibility established through a  
3           court order or settlement agreement in effect  
4           before the date of the enactment of the Border  
5           Act.

6           “(5) RULEMAKING.—The Attorney General is  
7           authorized to prescribe regulations to carry out this  
8           subsection.”.

9   **SEC. 3514. CONFORMING AMENDMENT.**

10          Section 292 of the Immigration and Nationality Act  
11   (8 U.S.C. 1362) is amended to read as follows:

12   **“SEC. 292. RIGHT TO COUNSEL.**

13          “(a) IN GENERAL.—In any removal proceeding be-  
14   fore an immigration judge and in any appeal proceeding  
15   before the Attorney General from an order issued through  
16   such removal proceeding, the person concerned shall have  
17   the privilege of being represented (at no expense to the  
18   Federal Government) by any counsel who is authorized to  
19   practice in such proceedings.

20          “(b) EXCEPTIONS FOR CERTAIN POPULATIONS.—  
21   The Federal Government is authorized to provide counsel,  
22   at its own expense, in proceedings described in subsection  
23   (a) for—

24                  “(1) unaccompanied alien children described in  
25   paragraph (5)(B) of section 235(c) of the William

1 Wilberforce Trafficking Victims Protection Reau-  
2 thORIZATION Act of 2008 (8 U.S.C. 1232(c)); and

3 “(2) subject to appropriations, certain incom-  
4 petent aliens described in section 240(e).”.

5 **TITLE VI—ACCOUNTABILITY**  
6 **AND METRICS**

7 **SEC. 3601. EMPLOYMENT AUTHORIZATION COMPLIANCE.**

8 Not later than 1 year and 180 days after the date  
9 of the enactment of this Act, and annually thereafter, the  
10 Secretary shall submit a report to the appropriate commit-  
11 tees of Congress and to the public that describes the ac-  
12 tions taken by Secretary pursuant to section 235C of the  
13 Immigration and Nationality Act, as added by section  
14 3502, including—

15 (1) the number of employment authorization  
16 applications granted or denied pursuant to sub-  
17 section (a)(1) of such section 235C, disaggregated  
18 by whether the alien concerned was processed under  
19 the procedures described in section 235(b)(1) or  
20 235B of such Act;

21 (2) the ability of the Secretary to comply with  
22 the timelines for provision of work authorization pre-  
23 scribed in subparagraphs (A) through (C) of section  
24 235C(a)(2) of such Act, including whether com-  
25 plying with subparagraphs (A) and (B) of such sec-

1       tion 235C(a)(2) has caused delays in the processing  
2       of such aliens;

3           (3) the number of employment authorizations  
4       revoked due to an alien's failure to comply with the  
5       requirements under section 235B(f)(5)(B) of the  
6       Immigration and Nationality Act, as added by sec-  
7       tion 3141, or for any other reason, along with the  
8       articulated basis; and

9           (4) the average time for the revocation of an  
10       employment authorization if an alien is authorized to  
11       work under section 235C of the Immigration and  
12       Nationality Act and is subsequently ordered re-  
13       moved.

14   **SEC. 3602. LEGAL ACCESS IN CUSTODIAL SETTINGS.**

15       Not later than 180 days after the date of the enact-  
16       ment of this Act, and annually thereafter, the Secretary  
17       shall submit a report to the appropriate committees of  
18       Congress and to the public regarding alien access to legal  
19       representation and consultation in custodial settings, in-  
20       cluding—

21           (1) the total number of aliens who secured or  
22       failed to secure legal representation pursuant to sec-  
23       tion 235(b)(1)(B)(iv)(V) of the Immigration and  
24       Nationality Act, as added by section 3511, before  
25       the protection determination under section

1 235(b)(1)(B)(i) of such Act, including the disposi-  
2 tion of such alien's interview;

3 (2) the total number of aliens who waived the  
4 72-hour period pursuant to section  
5 235(b)(1)(B)(iv)(IV)(bb) of such Act, including the  
6 disposition of the alien's protection determination  
7 pursuant to section 235(b)(1)(B)(i) of such Act;

8 (3) the total number of aliens who required a  
9 verbal interpretation of the information about  
10 screenings and interviews pursuant to section  
11 235(b)(1)(B)(iv) of such Act, disaggregated by the  
12 number of aliens who received or did not receive  
13 such an interpretation, respectively, pursuant to sec-  
14 tion 235(b)(1)(B)(iv)(III) of such Act, including the  
15 disposition of their respective protection determina-  
16 tions pursuant to section 235(b)(1)(B)(i) of such  
17 Act;

18 (4) the total number of aliens who received in-  
19 formation, either verbally or in writing, in their na-  
20 tive language; and

21 (5) whether such policies and procedures with  
22 respect to access provided in section  
23 235(b)(1)(B)(iv) have been made available publicly.

1 **SEC. 3603. CREDIBLE FEAR AND PROTECTION DETERMINA-**  
2 **TIONS.**

3 Not later than 1 year and 60 days after the date of  
4 the enactment of this Act, and annually thereafter, the  
5 Director of U.S. Citizenship and Immigration Services  
6 shall submit a report to the appropriate committees of  
7 Congress and to the public that sets forth—

8 (1) the number of aliens who requested or re-  
9 ceived a protection determination pursuant to sec-  
10 tion 235(b)(1)(B) of the Immigration and Nation-  
11 ality Act (8 U.S.C. 1225(b)(1)(B));

12 (2) the number of aliens who requested or re-  
13 ceived a protection determination pursuant to sec-  
14 tion 235B(b) of such Act, as added by section 3141;

15 (3) the number of aliens described in para-  
16 graphs (1) and (2) who are subject to an asylum ex-  
17 ception under section 235(b)(1)(B)(vi) of such Act,  
18 disaggregated by specific asylum exception;

19 (4) the number of aliens for whom an asylum  
20 officer determined that an alien may be eligible for  
21 a waiver under section 235(b)(1)(B)(vi) of such Act  
22 and did not apply such asylum exception to such  
23 alien;

24 (5) the number of aliens described in paragraph  
25 (1) or (2) who—

1 (A) received a positive screening or deter-  
2 mination; or

3 (B) received a negative screening or deter-  
4 mination;

5 (6) the number of aliens described in paragraph  
6 (5)(B) who requested reconsideration or appeal of a  
7 negative screening and the disposition of such re-  
8 quests;

9 (7) the number of aliens described in paragraph  
10 (6) who, upon reconsideration—

11 (A) received a positive screening or deter-  
12 mination, as applicable; or

13 (B) received a negative screening or deter-  
14 mination, as applicable;

15 (8) the number of aliens described in paragraph  
16 (5)(B) who appealed a decision subsequent to a re-  
17 quest for reconsideration;

18 (9) the number of aliens described in paragraph  
19 (5)(B) who, upon appeal of a decision, disaggregated  
20 by whether or not such alien requested reconsider-  
21 ation of a negative screening—

22 (A) received a positive screening or deter-  
23 mination, as applicable; or

24 (B) received negative screening or deter-  
25 mination, as applicable; and

1           (10) the number of aliens who withdraw their  
2 application for admission, including—

3           (A) whether such alien could read or write;

4           (B) whether the withdrawal occurred in  
5 the alien's native language;

6           (C) the age of such alien; and

7           (D) the Federal agency or component that  
8 processed such withdrawal.

9 **SEC. 3604. PUBLICATION OF OPERATIONAL STATISTICS BY**  
10 **U.S. CUSTOMS AND BORDER PROTECTION.**

11       (a) **IN GENERAL.**—Beginning in the second calendar  
12 month beginning after the date of the enactment of this  
13 Act, the Commissioner for U.S. Customs and Border Pro-  
14 tection shall publish, not later than the seventh day of  
15 each month, on a publicly available website of the Depart-  
16 ment, information from the previous month relating to—

17           (1) the number of alien encounters,  
18 disaggregated by—

19           (A) whether such aliens are admissible or  
20 inadmissible, including the basis for such deter-  
21 minations;

22           (B) the U.S. Border Patrol sector and  
23 U.S. Customs and Border Protection field office  
24 that recorded the encounter;



1 (C) any outcomes recorded in the terrorist  
2 screening database (as such term is defined in  
3 section 2101 of the Homeland Security Act of  
4 2002 (6 U.S.C. 621)), including—

5 (i) whether the alien is found to be in-  
6 admissible or removeable due to a specific  
7 ground relating to terrorism;

8 (ii) the alien's country of nationality,  
9 race or ethnic identification, and age; and

10 (iii) whether the alien's alleged ter-  
11 rorism is related to domestic or inter-  
12 national actors, if available;

13 (D) aliens with active Federal or State  
14 warrants for arrest in the United States and  
15 the nature of the crimes justifying such war-  
16 rants;

17 (E) the nationality of the alien;

18 (F) whether the alien encountered is a sin-  
19 gle adult, an individual in a family unit, an un-  
20 accompanied child, or an accompanied child;

21 (G) the average time the alien remained in  
22 custody, disaggregated by demographic infor-  
23 mation;

24 (H) the processing disposition of each alien  
25 described in this paragraph upon such alien's

1 release from the custody of U.S. Customs and  
2 Border Protection, disaggregated by nationality;

3 (I) the number of aliens who are paroled  
4 pursuant to section 212(d)(5) of the Immigra-  
5 tion and Nationality Act (8 U.S.C. 1182(d)(5)),  
6 disaggregated by geographic region or sector;

7 (J) the recidivism rate of aliens described  
8 in this paragraph, including the definition of  
9 “recidivism” and notice of any changes to such  
10 definition; and

11 (K) aliens who have a confirmed gang af-  
12 filiation, including—

13 (i) whether such alien was determined  
14 to be inadmissible or removable due to  
15 such affiliation;

16 (ii) the specific gang affiliation al-  
17 leged;

18 (iii) the basis of such allegation; and

19 (iv) the Federal agency or component  
20 that made such allegation or determina-  
21 tion;

22 (2) seizures, disaggregated by the U.S. Border  
23 Patrol sector and U.S. Customs and Border Protec-  
24 tion field office that recorded the encounter, of—

25 (A) narcotics;

1 (B) firearms, whether inbound or out-  
2 bound, including whether such firearms were  
3 manufactured in the United States, if known;

4 (C) monetary instruments, whether in-  
5 bound and outbound; and

6 (D) other specifically identified contra-  
7 band;

8 (3) with respect to border emergency authority  
9 described in section 244A of the Immigration and  
10 Nationality Act, as added by section 3301—

11 (A) the number of days such authority was  
12 in effect;

13 (B) the number of encounters (as defined  
14 in section 244A(i)(3)) of such Act,  
15 disaggregated by U.S. Border Patrol sector and  
16 U.S. Customs and Border Patrol field office;

17 (C) the number of summary removals  
18 made under such authority;

19 (D) the number of aliens who manifested  
20 a fear of persecution or torture and were  
21 screened for withholding of removal or for pro-  
22 tection under the Convention Against Torture,  
23 and the disposition of each such screening, in-  
24 cluding the processing disposition or outcome;

1           (E) the number of aliens who were  
2 screened at a port of entry in a safe and orderly  
3 manner each day such authority was in effect,  
4 including the processing disposition or outcome;

5           (F) whether such authority was exercised  
6 under subparagraph (A), (B)(i), or (B)(ii) of  
7 section 244A(b)(3) of such Act;

8           (G) a public description of all the methods  
9 by which the Secretary determines if an alien  
10 may be screened in a safe and orderly manner;

11           (H) the total number of languages that are  
12 available for such safe and orderly process;

13           (I) the number of aliens who were returned  
14 to a country that is not their country of nation-  
15 ality;

16           (J) the number of aliens who were re-  
17 turned to any country without a humanitarian  
18 or protection determination during the use of  
19 such authority;

20           (K) the number of United States citizens  
21 who were inadvertently detained, removed, or  
22 affected by such border emergency authority;

23           (L) the number of individuals who have  
24 lawful permission to enter the United States

1 and were inadvertently detained, removed, or  
2 affected by such border emergency authority;

3 (M) a summary of the impact to lawful  
4 trade and travel during the use of such border  
5 emergency authority, disaggregated by port of  
6 entry;

7 (N) the disaggregation of the information  
8 described in subparagraphs (C), (D), (E), (I),  
9 (J), (K), and (L) by the time the alien re-  
10 mained in custody and by citizenship and family  
11 status, including—

12 (i) single adults;

13 (ii) aliens traveling in a family unit;

14 (iii) unaccompanied children;

15 (iv) accompanied children;

16 (4) information pertaining to agricultural in-  
17 spections;

18 (5) border rescues and mortality data;

19 (6) information regarding trade and travel; and

20 (7) with respect to aliens who were transferred  
21 from the physical custody of a State or Federal law  
22 enforcement agency or other State agency to the  
23 physical custody of a Federal agency or compo-  
24 nent—

25 (A) the specific States concerned;

1 (B) whether such alien had initially been  
2 charged with a State crime before the State  
3 transferred such alien to such Federal agency  
4 or component; and

5 (C) the underlying State crime with which  
6 the alien was charged.

7 (b) TOTALS.—The information described in sub-  
8 section (a) shall include the total amount of each element  
9 described in each such paragraph in the relevant unit of  
10 measurement for reporting month.

11 (c) DEFINITIONS.—The monthly publication required  
12 under subsection (a) shall—

13 (1) include the definition of all terms used by  
14 the Commissioner; and

15 (2) specifically note whether the definition of  
16 any term has been changed.

17 (d) PROTECTION OF PERSONALLY IDENTIFIABLE IN-  
18 FORMATION.—In preparing each publication pursuant to  
19 subsection (a), the Secretary shall—

20 (1) protect any personally identifiable informa-  
21 tion associated with aliens described in subsection  
22 (a); and

23 (2) comply with all applicable privacy laws.

1 **SEC. 3605. UTILIZATION OF PAROLE AUTHORITIES.**

2 Section 602(b) of the Illegal Immigration Reform and  
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1182  
4 note) is amended to read as follows:

5 “(b) ANNUAL REPORT TO CONGRESS.—

6 “(1) IN GENERAL.—Not later than 90 days  
7 after the end of each fiscal year, the Secretary of  
8 Homeland Security shall submit a report to the  
9 Committee on the Judiciary of the Senate, the Com-  
10 mittee on Homeland Security and Governmental Af-  
11 fairs of the Senate, the Committee on the Judiciary  
12 of the House of Representatives, the Committee on  
13 Homeland Security of the House of Representatives,  
14 and the public that identifies the number of aliens  
15 paroled into the United States pursuant to section  
16 212(d)(5) of the Immigration and Nationality Act (8  
17 U.S.C. 1182(d)(5)).

18 “(2) CONTENTS.—Each report required under  
19 paragraph (1) shall include—

20 “(A) the total number of aliens—

21 “(i) who submitted applications for  
22 parole;

23 “(ii) whose parole applications were  
24 approved; or

25 “(iii) who were granted parole into  
26 the United States during the fiscal year

1 immediately preceding the fiscal year dur-  
2 ing which such report is submitted;

3 “(B) the elements described in subpara-  
4 graph (A), disaggregated by—

5 “(i) citizenship or nationality;

6 “(ii) demographic categories;

7 “(iii) the component or subcomponent  
8 of the Department of Homeland Security  
9 that granted such parole;

10 “(iv) the parole rationale or class of  
11 admission, if applicable; and

12 “(v) the sector, field office, area of re-  
13 sponsibility, or port of entry where such  
14 parole was requested, approved, or grant-  
15 ed;

16 “(C) the number of aliens who requested  
17 re-parole, disaggregated by the elements de-  
18 scribed in subparagraph (B), and the number of  
19 denials of re-parole requests;

20 “(D) the number of aliens whose parole  
21 was terminated for failing to abide by the terms  
22 of parole, disaggregated by the elements de-  
23 scribed in subparagraph (B);



1           “(E) for any parole rationale or class of  
2 admission which requires sponsorship, the num-  
3 ber of sponsor petitions which were—

4                   “(i) confirmed;

5                   “(ii) confirmed subsequent to a non-  
6 confirmation; or

7                   “(iii) denied;

8           “(F) for any parole rationale or class of  
9 admission in which a foreign government has  
10 agreed to accept returns of third country na-  
11 tionals, the number of returns of such third  
12 country nationals such foreign government has  
13 accepted;

14           “(G) the number of aliens who filed for  
15 asylum after being paroled into the United  
16 States; and

17           “(H) the number of aliens described in  
18 subparagraph (G) who were granted employ-  
19 ment authorization based solely on a grant of  
20 parole.

21           “(3) PROTECTION OF PERSONALLY IDENTIFI-  
22 ABLE INFORMATION.—In preparing each report pur-  
23 suant to paragraph (1), the Secretary shall—

1           “(A) protect any personally identifiable in-  
2           formation associated with aliens described in  
3           paragraph (1); and

4           “(B) comply with all applicable privacy  
5           laws.”.

6   **SEC. 3606. ACCOUNTABILITY IN PROVISIONAL REMOVAL**  
7           **PROCEEDINGS.**

8           (a) **IN GENERAL.**—Not later than 1 year and 30 days  
9           after the date of the enactment of this Act, the Secretary  
10          shall submit a report to the appropriate committees of  
11          Congress and the public regarding the implementation of  
12          sections 235B and 240D of the Immigration and Nation-  
13          ality Act, as added by sections 3141 and 3142 during the  
14          previous 12-month period.

15          (b) **CONTENTS.**—Each report required under sub-  
16          section (a) shall include—

17                  (1) the number of aliens processed pursuant to  
18                  section 235B(b) of the Immigration and Nationality  
19                  Act, disaggregated by—

20                          (A) whether the alien was a single adult or  
21                          a member of a family unit;

22                          (B) the number of aliens who—

23                                  (i) were provided proper service and  
24                                  notice upon release from custody pursuant  
25                                  to section 235B(b)(2) of such Act; or

1 (ii) were not given such proper service  
2 and notice;

3 (C) the number of aliens who received a  
4 protection determination interview pursuant to  
5 section 235B(c) of such Act within the 90-day  
6 period required under section 235B(b)(3)(A) of  
7 such Act;

8 (D) the number of aliens described in sub-  
9 paragraph (C)—

10 (i) who retained legal counsel;

11 (ii) who received a positive protection  
12 determination;

13 (iii) who received a negative protection  
14 determination;

15 (iv) for those aliens described in  
16 clause (iii), the number who—

17 (I) requested reconsideration;

18 (II) whether such reconsideration  
19 resulted in approval or denial;

20 (III) whether an alien upon re-  
21 ceiving a negative motion for reconsid-  
22 eration filed an appeal;

23 (IV) who appealed a negative de-  
24 cision without filing for reconsider-  
25 ation;

1 (V) whether the appeal resulted  
2 in approval or denial, disaggregated  
3 by the elements in subclauses (III)  
4 and (IV); and

5 (VI) whether the alien, upon re-  
6 ceiving a negative decision as de-  
7 scribed in subclauses (III) and (V),  
8 was removed from the United States  
9 upon receiving such negative decision;  
10 (v) who absconded during such pro-  
11 ceedings; and

12 (vi) who failed to receive proper serv-  
13 ice;

14 (E) the number of aliens who were proc-  
15 essed pursuant to section 235B(f) of such Act;  
16 and

17 (F) the number of aliens described in sub-  
18 paragraph (E) who submitted their application  
19 pursuant to section 235B(f)(2)(B)(i) of such  
20 Act;

21 (2) the average time taken by the Department  
22 of Homeland Security—

23 (A) to perform a protection determination  
24 interview pursuant to section 235B(b) of such  
25 Act;

1 (B) to serve notice of a protection deter-  
2 mination pursuant to section 235B(e) of such  
3 Act after a determination has been made pursu-  
4 ant to section 235B(b) of such Act;

5 (C) to provide an alien with a work author-  
6 ization pursuant to section 235C of such Act,  
7 as added by section 3501, disaggregated by the  
8 requirements under subparagraphs (A), (B),  
9 and (C) of section 235C(a)(2) of such Act; and

10 (D) the utilization of the Alternatives to  
11 Detention program authorized under section  
12 235B(a)(3) of such Act, disaggregated by—

13 (i) types of alternatives to detention  
14 used to supervise the aliens after being re-  
15 leased from physical custody;

16 (ii) the level of compliance by the  
17 alien with the rules of the Alternatives to  
18 Detention program; and

19 (iii) the total cost of each Alternatives  
20 to Detention type;

21 (3) the number of aliens processed pursuant to  
22 section 240D(d) of such Act, disaggregated by—

23 (A) whether the alien was a single adult or  
24 a member of a family unit;

1 (B) the number of aliens who were pro-  
2 vided proper service and notice of a protection  
3 determination pursuant to section 235B(e) of  
4 such Act;

5 (C) the number of aliens who received a  
6 protection merits interview pursuant to section  
7 240D(c)(3) of such Act within the 90-day pe-  
8 riod required under section 240D(b) of such  
9 Act;

10 (D) the number of aliens who received a  
11 positive protection merits determination pursu-  
12 ant to section 240D(d)(2) of such Act;

13 (E) the number of aliens who received a  
14 negative protection merits determination pursu-  
15 ant to section 240D(d)(3) of such Act,  
16 disaggregated by the number of aliens who ap-  
17 pealed the determination pursuant to section  
18 240D(e) of such Act and who received a result  
19 pursuant to section 240D(e)(7) of such Act;

20 (F) the number of aliens who were proc-  
21 essed pursuant to section 240D of such Act  
22 who retained legal counsel;

23 (G) the number of aliens who appeared at  
24 such proceedings; and

1 (H) the number of aliens who absconded  
2 during such proceedings; and

3 (4) the average time taken by the Department  
4 of Homeland Security—

5 (A) to perform a protection merits inter-  
6 view pursuant to section 240D(d) of such Act;

7 (B) to serve notice of a protection merits  
8 determination pursuant to section 240D(d) of  
9 such Act; and

10 (C) the utilization of Alternatives to De-  
11 tention program authorized under section  
12 240D(e)(2) of such Act, disaggregated by—

13 (i) types of alternatives to detention  
14 used to supervise the aliens after being re-  
15 leased from physical custody; and

16 (ii) the level of compliance by the  
17 aliens with rules of the Alternatives to De-  
18 tention program.

19 (c) PROTECTION OF PERSONALLY IDENTIFIABLE IN-  
20 FORMATION.—In preparing each report pursuant to sub-  
21 section (a), the Secretary shall—

22 (1) protect any personally identifiable informa-  
23 tion associated with aliens described in subsection  
24 (a); and

25 (2) comply with all applicable privacy laws.

1 **SEC. 3607. ACCOUNTABILITY IN VOLUNTARY REPATRI-**  
2 **ATION, WITHDRAWAL, AND DEPARTURE.**

3 (a) IN GENERAL.—Not later than 1 year and 30 days  
4 after the date of the enactment of this Act, the Secretary  
5 shall submit a report to the appropriate committees of  
6 Congress regarding the implementation of section 240G  
7 of the Immigration and Nationality Act, as added by sec-  
8 tion 3144.

9 (b) CONTENTS.—The report required under sub-  
10 section (a) shall include the number of aliens who utilized  
11 the provisions of such section 240G, disaggregated by—

12 (1) demographic information;

13 (2) the period in which the election took place;

14 (3) the total costs of repatriation flight when  
15 compared to the cost to charter a private, commer-  
16 cial flight for such return;

17 (4) alien use of reintegration or reception pro-  
18 grams in the alien's country of nationality after re-  
19 moval from the United States;

20 (5) the number of aliens who failed to depart  
21 in compliance with section 240G(i)(2) of such Act;

22 (6) the number of aliens to which a civil penalty  
23 and a period of ineligibility was applied; and

24 (7) the number of aliens who did depart.



1 **SEC. 3608. GAO ANALYSIS OF IMMIGRATION JUDGE AND**  
2 **ASYLUM OFFICER DECISION-MAKING RE-**  
3 **GARDING ASYLUM, WITHHOLDING OF RE-**  
4 **MOVAL, AND PROTECTION UNDER THE CON-**  
5 **VENTION AGAINST TORTURE.**

6 (a) IN GENERAL.—Not later than 2 years after the  
7 Comptroller General of the United States submits the cer-  
8 tification described in section 3146(d)(3), the Comptroller  
9 General shall analyze the decision rates of immigration  
10 judges and asylum officers regarding aliens who have re-  
11 ceived a positive protection determination and have been  
12 referred to proceedings under section 240 or 240D of the  
13 Immigration and Nationality Act, as applicable, to deter-  
14 mine—

15 (1) whether the Executive Office for Immigra-  
16 tion Review and U.S. Citizenship and Immigration  
17 Services have any differential in rate of decisions for  
18 cases involving asylum, withholding of removal, or  
19 protection under the Convention Against Torture  
20 and Other Cruel, Inhuman or Degrading Treatment  
21 or Punishment, done at New York December 10,  
22 1984; and

23 (2) the causes for any such differential, includ-  
24 ing any policies, procedures, or other administrative  
25 measures.

1 (b) RECOMMENDATIONS.—Upon completing the anal-  
2 ysis required under subsection (a), the Comptroller Gen-  
3 eral shall submit recommendations to the Director of the  
4 Executive Office for Immigration Review and the Director  
5 of U.S. Citizenship and Immigration Services regarding  
6 any administrative or procedural changes necessary to en-  
7 sure uniformity in decision-making between those agen-  
8 cies, which may not include quotas.

9 **SEC. 3609. REPORT ON COUNSEL FOR UNACCOMPANIED**  
10 **ALIEN CHILDREN.**

11 (a) IN GENERAL.—Not later than 120 days after the  
12 date of the enactment of this Act, and annually thereafter,  
13 the Secretary of Health and Human Services shall submit  
14 a report to the appropriate committees of Congress with  
15 respect to unaccompanied alien children who received ap-  
16 pointed counsel pursuant to section 235(c)(5)(B) of the  
17 William Wilberforce Trafficking Victims Protection Reau-  
18 thorization Act of 2008, as added by section 3512, includ-  
19 ing—

- 20 (1) the number of unaccompanied alien children  
21 who obtained such counsel compared to the number  
22 of such children who did not obtain such counsel;
- 23 (2) the sponsorship category of unaccompanied  
24 alien children who obtained counsel;

1           (3) the age ranges of unaccompanied alien chil-  
2           dren who obtained counsel;

3           (4) the administrative appeals, if any, of unac-  
4           companied alien children who obtained counsel; and

5           (5) the case outcomes of unaccompanied alien  
6           children who obtained counsel.

7           (b) **PROTECTION OF PERSONALLY IDENTIFIABLE IN-**  
8 **FORMATION.**—In preparing each report pursuant to sub-  
9 section (a), the Secretary of Health and Human Services  
10 shall—

11           (1) protect any personally identifiable informa-  
12           tion associated with aliens described in subsection  
13           (a); and

14           (2) comply with all applicable privacy laws.

15 **SEC. 3610. RECALCITRANT COUNTRIES.**

16           Section 243(d) of the Immigration and Nationality  
17 Act (8 U.S.C. 1253(d)) is amended—

18           (1) by striking “On being notified” and insert-  
19           ing the following:

20           “(1) **IN GENERAL.**—On being notified”; and

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

22           “(2) **REPORT ON RECALCITRANT COUNTRIES.**—

23           “(A) **IN GENERAL.**—Not later than 90  
24           days after the last day of each fiscal year, the

1 Secretary of Homeland Security and the Sec-  
2 retary of State shall jointly—

3 “(i) prepare an unclassified annual re-  
4 port, which may include a classified annex,  
5 that includes the information described in  
6 subparagraph (C); and

7 “(ii) submit such report to Committee  
8 on Homeland Security and Governmental  
9 Affairs of the Senate; the Committee on  
10 the Judiciary of the Senate, the Committee  
11 on Foreign Relations of the Senate, the  
12 Committee on Homeland Security of the  
13 House of Representatives, the Committee  
14 on the Judiciary of the House of Rep-  
15 resentatives, and the Committee on For-  
16 eign Affairs of the House of Representa-  
17 tives.

18 “(B) BRIEFING.—Not later than 30 days  
19 after the date on which a report is submitted  
20 pursuant to subparagraph (A), designees of the  
21 Secretary of Homeland Security and of the Sec-  
22 retary of State shall brief the committees re-  
23 ferred to in subparagraph (A)(ii) regarding any  
24 measures taken to encourage countries to ac-  
25 cept the return of their citizens, subjects, or na-

1           tionals, or aliens whose last habitual residence  
2           was within each such country, who have been  
3           ordered removed from the United States.

4           “(C) CONTENTS.—Each report prepared  
5           pursuant to subparagraph (A)(i) shall include—

6           “(i) a list of all countries that—

7                   “(I) deny the acceptance of their  
8                   citizens, subjects, or nationals, or  
9                   aliens whose last habitual residence  
10                  was within such country, who have  
11                  been ordered removed to such country  
12                  from the United States; or

13                   “(II) unreasonably delay the ac-  
14                   ceptance of their citizens, subjects, or  
15                   nationals, or aliens whose last habit-  
16                   ual residence was within such country,  
17                   who have been ordered removed to  
18                   such country from the United States;

19                   “(ii) for each country described in  
20                   clause (i)(II), the average length of delay  
21                   of such citizens, subjects, nationals, or  
22                   aliens acceptance into such country;

23                   “(iii) a list of the foreign countries  
24                   that have placed unreasonable limitations  
25                   upon the acceptance of their citizens, sub-

1                   jects, or nationals, or aliens whose last ha-  
2                   bitual residence was within such country,  
3                   who have been ordered removed to such  
4                   country from the United States;

5                   “(iv) a description of the criteria used  
6                   to determine that a country described  
7                   under clause (iii) has placed such unrea-  
8                   sonable limitations;

9                   “(v) the number of aliens ordered re-  
10                  moved from the United States to a country  
11                  described in clause (i) or (iii) whose re-  
12                  moval from the United States was pending  
13                  as of the last day of the previous fiscal  
14                  year, including—

15                         “(I) the number of aliens who—

16                                 “(aa) received a denial of a  
17                                 work authorization; and

18                                 “(bb) are not eligible to re-  
19                                 quest work authorization;

20                   “(vi) the number of aliens ordered re-  
21                  moved from the United States to a country  
22                  described in clause (i) or (iii) whose re-  
23                  moval from the United States was pending  
24                  as of the last day of the previous fiscal

1           year and who are being detained,  
2           disaggregated by—

3                   “(I) the length of such detention;

4                   “(II) the aliens who requested a  
5                   review of the significant likelihood of  
6                   their removal in the reasonably fore-  
7                   seeable future;

8                   “(III) the aliens for whom the re-  
9                   quest for release under such review  
10                  was denied;

11                  “(IV) the aliens who remain de-  
12                  tained on account of special cir-  
13                  cumstances despite no significant like-  
14                  lihood that such aliens will be re-  
15                  moved in the foreseeable future,  
16                  disaggregated by the specific cir-  
17                  cumstance;

18                  “(V) the aliens described in sub-  
19                  clause (IV) who are being detained  
20                  based on a determination that they  
21                  are specially dangerous;

22                  “(VI) the aliens described in sub-  
23                  clause (V) whose request to review the  
24                  basis for their continued detention  
25                  was denied;

1                   “(VII) demographic categories,  
2                   including part of a family unit, single  
3                   adults, and unaccompanied alien chil-  
4                   dren;

5                   “(vii) the number of aliens referred to  
6                   in clauses (i) through (iii) who—

7                   “(I) have criminal convictions,  
8                   disaggregated by National Crime In-  
9                   formation Center code, whether mis-  
10                  demeanors or felonies;

11                  “(II) are considered national se-  
12                  curity threats to the United States;

13                  “(III) are members of a criminal  
14                  gang or another organized criminal  
15                  organization, if found to be inadmis-  
16                  sible or removable on such grounds; or

17                  “(IV) have been released from  
18                  U.S. Immigration and Customs En-  
19                  forcement custody on an order of su-  
20                  pervision and the type of supervision  
21                  and compliance with such supervision,  
22                  if applicable;

23                  “(viii) a description of the actions  
24                  taken by the Department of Homeland Se-  
25                  curity and the Department of State to en-



1 courage foreign nations to accept the re-  
2 turn of their nationals; and

3 “(ix) the total number of individuals  
4 that such jurisdiction has accepted who are  
5 not citizens, subjects, or nationals, or  
6 aliens who last habitually resided within  
7 such jurisdiction and have been removed  
8 from the United States, if any.”.

## 9 **TITLE VII—OTHER MATTERS**

### 10 **SEC. 3701. SEVERABILITY.**

11 If any provision of this Act, any amendment made  
12 by this Act, or the application of any such provision or  
13 amendment to any person or circumstance is held to be  
14 unconstitutional, the remainder of this Act, the amend-  
15 ments made by this Act, and the application of such provi-  
16 sions or amendments to any other person or circumstance  
17 shall not be affected.

## 18 **TITLE VIII—BUDGETARY**

### 19 **EFFECTS**

#### 20 **SEC. 3801. BUDGETARY EFFECTS.**

21 (a) **STATUTORY PAYGO SCORECARDS.**—The budg-  
22 etary effects of this division shall not be entered on either  
23 PAYGO scorecard maintained pursuant to section 4(d) of  
24 the Statutory Pay-As-You-Go Act of 2010.

1           (b) SENATE PAYGO SCORECARDS.—The budgetary  
2 effects of this division shall not be entered on any PAYGO  
3 scorecard maintained for purposes of section 4106 of H.  
4 Con. Res. 71 (115th Congress).

5           (c) CLASSIFICATION OF BUDGETARY EFFECTS.—  
6 Notwithstanding Rule 3 of the Budget Scorekeeping  
7 Guidelines set forth in the joint explanatory statement of  
8 the committee of conference accompanying Conference Re-  
9 port 105–217 and section 250(c)(8) of the Balanced  
10 Budget and Emergency Deficit Control Act of 1985, the  
11 budgetary effects of this division shall not be estimated—

12                   (1) for purposes of section 251 of such Act;

13                   (2) for purposes of an allocation to the Com-  
14 mittee on Appropriations pursuant to section 302(a)  
15 of the Congressional Budget Act of 1974; and

16                   (3) for purposes of paragraph (4)(C) of section  
17 3 of the Statutory Pay-As-You-Go Act of 2010 as  
18 being included in an appropriation Act.