

Calendar No. 208

115TH CONGRESS
1ST SESSION**S. 1757**

To strengthen border security, increase resources for enforcement of immigration laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2017

Mr. CORNYN (for himself, Mr. BARRASSO, Mr. JOHNSON, Mr. TILLIS, Mr. HELLER, Mr. SCOTT, and Mr. INHOFE) introduced the following bill; which was read the first time

SEPTEMBER 5, 2017

Read the second time and placed on the calendar

A BILL

To strengthen border security, increase resources for enforcement of immigration laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Building America’s Trust Act”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—BORDER SECURITY

- Sec. 101. Definitions.

Subtitle A—Infrastructure and Equipment

- Sec. 102. Strengthening the requirements for barriers along the southern border.
- Sec. 103. Air and marine operations flight hours.
- Sec. 104. Capability deployment to specific sectors and regions.
- Sec. 105. U.S. Border Patrol physical infrastructure improvements.
- Sec. 106. U.S. Border Patrol activities.
- Sec. 107. U.S. Border Patrol forward operating bases.
- Sec. 108. Border security technology program management.
- Sec. 109. Authority to acquire leaseholds.
- Sec. 110. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.
- Sec. 111. Operation Phalanx.
- Sec. 112. Merida Initiative.
- Sec. 113. Prohibitions on actions that impede border security on certain Federal land.
- Sec. 114. Landowner and rancher security enhancement.
- Sec. 115. Limitation on land owner's liability.
- Sec. 116. Eradication of carrizo cane and salt cedar.
- Sec. 117. Prevention, detection, control, and eradication of diseases and pests.
- Sec. 118. Exemption from government contracting and hiring rules.
- Sec. 119. Transnational criminal organization illicit spotter prevention and detection.
- Sec. 120. Southern border threat analysis.

Subtitle B—Personnel

PART I—INCREASES IN IMMIGRATION AND LAW ENFORCEMENT PERSONNEL

- Sec. 131. Additional U.S. Customs and Border Protection agents and officers.
- Sec. 132. U.S. Customs and Border Protection hiring and retention incentives.
- Sec. 133. Anti-Border Corruption Reauthorization Act.
- Sec. 134. Additional U.S. Immigration and Customs Enforcement personnel.
- Sec. 135. Other immigration and law enforcement personnel.

PART II—JUDICIAL RESOURCES

- Sec. 141. Judicial resources for border security.
- Sec. 142. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

Subtitle C—Grants

- Sec. 151. State criminal alien assistance program.
- Sec. 152. Operation Stonegarden.
- Sec. 153. Grants for identification of victims of cross-border human smuggling.
- Sec. 154. Grant accountability.

Subtitle D—Authorization of Appropriations

Sec. 161. Authorization of appropriations.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

Sec. 201. Ports of entry infrastructure.

Sec. 202. Secure communications.

Sec. 203. Border Security Deployment Program.

Sec. 204. Pilot and upgrade of license plate readers at ports of entry.

Sec. 205. Biometric technology.

Sec. 206. Biometric exit data system.

Sec. 207. Sense of Congress on cooperation between agencies.

Sec. 208. Authorization of appropriations.

TITLE III—DOMESTIC SECURITY AND INTERIOR ENFORCEMENT

Subtitle A—General Matters

Sec. 301. Ending catch and release for repeat immigration violators and criminals aliens.

Sec. 302. Deterring visa overstays.

Sec. 303. Increase in immigration detention capacity.

Sec. 304. Collection of DNA from criminal and detained aliens.

Sec. 305. Collection, use, and storage of biometric data.

Sec. 306. Pilot program for electronic field processing.

Sec. 307. Ending abuse of parole authority.

Sec. 308. Stop Dangerous Sanctuary Cities Act.

Sec. 309. Reinstatement of the Secure Communities program.

Sec. 310. Prevention and deterrence of fraud in obtaining relief from removal.

Subtitle B—Protecting Children and America's Homeland Act of 2017

Sec. 320. Short title.

Sec. 321. Repatriation of unaccompanied alien children.

Sec. 322. Expedited due process and screening for unaccompanied alien children.

Sec. 323. Child welfare and law enforcement information sharing.

Sec. 324. Accountability for children and taxpayers.

Sec. 325. Custody of unaccompanied alien children in formal removal proceeding.

Sec. 326. Fraud in connection with the transfer of custody of unaccompanied alien children.

Sec. 327. Notification of States and foreign governments, reporting, and monitoring.

Sec. 328. Emergency immigration judge resources.

Sec. 329. Reports to Congress.

TITLE IV—PENALTIES FOR SMUGGLING, DRUG TRAFFICKING, HUMAN TRAFFICKING, TERRORISM, AND ILLEGAL ENTRY AND REENTRY; BARS TO READMISSION OF REMOVED ALIENS

Sec. 401. Dangerous human smuggling, human trafficking, and human rights violations.

Sec. 402. Putting the Brakes on Human Smuggling Act.

Sec. 403. Drug trafficking and crimes of violence committed by illegal aliens.

Sec. 404. Establishing inadmissibility and deportability.

- Sec. 405. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.
- Sec. 406. Penalties for reentry of removed aliens.
- Sec. 407. Laundering of monetary instruments.
- Sec. 408. Freezing bank accounts of international criminal organizations and money launderers.
- Sec. 409. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
- Sec. 410. Closing the loophole on drug cartel associates engaged in money laundering.

TITLE V—PROTECTING NATIONAL SECURITY AND PUBLIC SAFETY

Subtitle A—General Matters

- Sec. 501. Definition of engaging in terrorist activity.
- Sec. 502. Terrorist grounds of inadmissibility.
- Sec. 503. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 504. Detention of removable aliens.
- Sec. 505. GAO study on deaths in custody.
- Sec. 506. GAO study on migrant deaths.
- Sec. 507. Statute of limitations for visa, naturalization, and other fraud offenses involving war crimes or human rights violations.
- Sec. 508. Criminal detention of aliens to protect public safety.
- Sec. 509. Recruitment of persons to participate in terrorism.
- Sec. 510. Barring and removing persecutors, war criminals, and participants in crimes against humanity from the United States.
- Sec. 511. Gang membership, removal, and increased criminal penalties related to gang violence.
- Sec. 512. Barring aliens with convictions for driving under the influence or while intoxicated.
- Sec. 513. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
- Sec. 514. Protecting immigrants from convicted sex offenders.
- Sec. 515. Enhanced criminal penalties for high speed flight.
- Sec. 516. Prohibition on asylum and cancellation of removal for terrorists.
- Sec. 517. Aggravated felonies.
- Sec. 518. Convictions.
- Sec. 519. Pardons.
- Sec. 520. Failure to obey removal orders.
- Sec. 521. Sanctions for countries that delay or prevent repatriation of their nationals.
- Sec. 522. Enhanced penalties for construction and use of border tunnels.
- Sec. 523. Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- Sec. 524. Expansion of criminal alien repatriation programs.

Subtitle B—Strong Visa Integrity Secures America Act

- Sec. 531. Short title.
- Sec. 532. Visa security.
- Sec. 533. Electronic passport screening and biometric matching.
- Sec. 534. Reporting visa overstays.
- Sec. 535. Student and exchange visitor information system verification.

Sec. 536. Social media review of visa applicants.

Subtitle C—Visa Cancellation and Revocation

Sec. 541. Cancellation of additional visas.

Sec. 542. Visa information sharing.

Sec. 543. Visa interviews.

Sec. 544. Judicial review of visa revocation.

Subtitle D—Secure Visas Act

Sec. 551. Short title.

Sec. 552. Authority of the Secretary of Homeland Security and Secretary of State.

Subtitle E—Other Matters

Sec. 561. Requirement for completion of background checks.

Sec. 562. Withholding of adjudication.

Sec. 563. Access to the National Crime Information Center Interstate Identification Index.

Sec. 564. Appropriate remedies for immigration litigation.

Sec. 565. Use of 1986 IRCA legalization information for national security purposes.

Sec. 566. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.

Sec. 567. Conforming amendment to the definition of racketeering activity.

Sec. 568. Validity of electronic signatures.

TITLE VI—PROHIBITION ON TERRORISTS OBTAINING LAWFUL STATUS IN THE UNITED STATES

Subtitle A—Prohibition on Adjustment to Lawful Permanent Resident Status

Sec. 601. Lawful permanent residents as applicants for admission.

Sec. 602. Date of admission for purposes of adjustment of status.

Sec. 603. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.

Sec. 604. Precluding refugee adjustment of status for persecutors and human rights violators.

Sec. 605. Removal of condition on lawful permanent resident status prior to naturalization.

Sec. 606. Prohibition on terrorists and aliens who pose a threat to national security or public safety from receiving an adjustment of status.

Sec. 607. Treatment of applications for adjustment of status during pending denaturalization proceedings.

Sec. 608. Extension of time limit to permit rescission of permanent resident status.

Sec. 609. Barring persecutors and terrorists from registry.

Subtitle B—Prohibition on Naturalization and United States Citizenship

Sec. 621. Barring terrorists from becoming naturalized United States citizens.

Sec. 622. Terrorist bar to good moral character.

Sec. 623. Prohibition on judicial review of naturalization applications for aliens in removal proceedings.

Sec. 624. Limitation on judicial review when agency has not made decision on naturalization application and on denials.

- Sec. 625. Clarification of denaturalization authority.
- Sec. 626. Denaturalization of terrorists.
- Sec. 627. Treatment of pending applications during denaturalization proceedings.
- Sec. 628. Naturalization document retention.

Subtitle C—Forfeiture of Proceeds From Passport and Visa Offences, and
Passport Revocation.

- Sec. 631. Forfeiture of proceeds from passport and visa offenses.
- Sec. 632. Passport Revocation Act.

TITLE VII—OTHER MATTERS

- Sec. 701. Other Immigration and Nationality Act amendments.
- Sec. 702. Exemption from the Administrative Procedure Act.
- Sec. 703. Exemption from the Paperwork Reduction Act.
- Sec. 704. Ability to fill and retain DHS positions in U.S. territories.
- Sec. 705. Severability.
- Sec. 706. Funding.

TITLE VIII—TECHNICAL AMENDMENTS

- Sec. 801. References to the Immigration and Nationality Act.
- Sec. 802. Title I technical amendments.
- Sec. 803. Title II technical amendments.
- Sec. 804. Title III technical amendments.
- Sec. 805. Title IV technical amendments.
- Sec. 806. Title V technical amendments.
- Sec. 807. Other amendments.
- Sec. 808. Repeals; construction.
- Sec. 809. Miscellaneous technical corrections.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) NORTHERN BORDER.—The term “northern
4 border” means the international border between the
5 United States and Canada.

6 (2) SOUTHERN BORDER.—The term “southern
7 border” means the international border between the
8 United States and Mexico.

9 TITLE I—BORDER SECURITY

10 SEC. 101. DEFINITIONS.

11 In this title:

1 (1) APPROPRIATE CONGRESSIONAL COM-
 2 MITTEE.—The term “appropriate congressional com-
 3 mittee” has the meaning given the term in section
 4 2(2) of the Homeland Security Act of 2002 (6
 5 U.S.C. 101(2)).

6 (2) COMMISSIONER.—The term “Commis-
 7 sioner” means the Commissioner of U.S. Customs
 8 and Border Protection.

9 (3) HIGH TRAFFIC AREAS.—The term “high
 10 traffic areas” has the meaning given that term in
 11 section 102(e)(1) of the Illegal Immigration Reform
 12 and Immigrant Responsibility Act of 1996, as
 13 amended by section 102 of this Act.

14 (4) SITUATIONAL AWARENESS.—The term “sit-
 15 uational awareness” has the meaning given that
 16 term in section 1092(a)(7) of the National Defense
 17 Authorization Act for Fiscal Year 2017 (Public Law
 18 114–328; 6 U.S.C. 223(a)(7)).

19 **Subtitle A—Infrastructure and** 20 **Equipment**

21 **SEC. 102. STRENGTHENING THE REQUIREMENTS FOR BAR-** 22 **RIERS ALONG THE SOUTHERN BORDER.**

23 Section 102 of the Illegal Immigration Reform and
 24 Immigrant Responsibility Act of 1996 (division C of Pub-
 25 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

1 (1) by amending subsection (a) to read as fol-
 2 lows:

3 “(a) IN GENERAL.—The Secretary of Homeland Se-
 4 curity shall take such actions as may be necessary (includ-
 5 ing the removal of obstacles to the detection of illegal en-
 6 trants) to construct, install, deploy, operate, and maintain
 7 tactical infrastructure and border technology in the vicin-
 8 ity of the United States border to deter, impede, and de-
 9 tect illegal activity in high traffic areas.”;

10 (2) in subsection (b)—

11 (A) in the subsection heading, by striking
 12 “FENCING” and inserting “**PHYSICAL BAR-**
 13 **RIERS**”;

14 (B) in paragraph (1)—

15 (i) in subparagraph (A), by inserting
 16 “situational awareness and” before “oper-
 17 ational control”; and

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

20 “(B) TACTICAL INFRASTRUCTURE.—

21 “(i) IN GENERAL.—Not later than
 22 January 20, 2021, the Secretary of Home-
 23 land Security, in carrying out subsection
 24 (a), shall deploy the most practical and ef-
 25 fective tactical infrastructure available

1 along the United States border for achiev-
2 ing situational awareness and operational
3 control.

4 “(ii) TACTICAL INFRASTRUCTURE DE-
5 FINED.—In this subparagraph, the term
6 ‘tactical infrastructure’ includes—

7 “(I) boat ramps, access gates,
8 forward operating bases, checkpoints,
9 lighting, and roads, and

10 “(II) physical barriers (including
11 fencing, border wall system, and levee
12 walls).”; and

13 (iii) in subparagraph (C), by amend-
14 ing clause (i) to read as follows:

15 “(i) IN GENERAL.—In carrying out
16 this section, the Secretary of Homeland
17 Security shall consult with the Secretary of
18 the Interior, the Secretary of Agriculture,
19 Governors of each State on the Southern
20 land border and Northern land border,
21 other States, local governments, Indian
22 tribes, representatives of U.S. Border Pa-
23 trol and U.S. Customs and Border Protec-
24 tion, relevant Federal, State, local, and
25 tribal agencies that have jurisdiction over

1 the Southern land border, or in the mari-
2 time environment, and private property
3 owners in the United States to minimize
4 the impact on the environment, culture,
5 commerce, and quality of life of the com-
6 munities and residents located near the
7 sites at which physical barriers and tactical
8 infrastructure is to be constructed.”;

9 (C) in paragraph (2)—

10 (i) by striking “Attorney General”
11 and inserting “Secretary of Homeland Se-
12 curity”; and

13 (ii) by striking “construction of
14 fences” and inserting “the construction of
15 physical barriers”; and

16 (D) by amending paragraph (3) to read as
17 follows:

18 “(3) AGENT SAFETY.—In carrying out this sec-
19 tion, the Secretary of Homeland Security may not
20 construct reinforced fencing, or tactical infrastruc-
21 ture, as the case may be, that would, in any manner,
22 impede or negatively affect the safety of any officer
23 or agent of the Department of Homeland Security or
24 any other Federal agency.”;

1 (3) in subsection (c), by amending paragraph
2 (1) to read as follows:

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of law, the Secretary of Homeland Security
5 is authorized to waive all legal requirements the Sec-
6 retary of Homeland Security, in the Secretary’s sole
7 discretion, determines necessary to ensure the exp-
8 editious construction, installation, operation, and
9 maintenance of the tactical infrastructure and tech-
10 nology under this section. Any such decision by the
11 Secretary of Homeland Security shall be effective
12 upon publication in the Federal Register.”; and

13 (4) by striking subsection (d) and inserting the
14 following:

15 “(d) CONSTRUCTION, INSTALLATION AND MAINT-
16 NANCE OF TECHNOLOGY.—

17 “(1) IN GENERAL.—Not later than January 20,
18 2021, the Secretary of Homeland Security, in car-
19 rying out subsection (a), shall deploy the most prac-
20 tical and effective technology available along the
21 United States border for achieving situational
22 awareness and operational control of the border.

23 “(2) TECHNOLOGY DEFINED.—In this sub-
24 section, the term ‘technology’ includes border sur-
25 veillance and detection technology, including—

1 “(A) radar surveillance systems;

2 “(B) Vehicle and Dismount Exploitation
3 Radars (VADER);

4 “(C) 3-dimensional, seismic acoustic detec-
5 tion and ranging border tunneling detection
6 technology;

7 “(D) sensors;

8 “(E) unmanned cameras; and

9 “(F) man-portable and mobile vehicle-
10 mounted unmanned aerial vehicles.

11 “(e) DEFINITIONS.—In this section:

12 “(1) HIGH TRAFFIC AREAS.—The term ‘high
13 traffic areas’ means sectors along the northern,
14 southern, or coastal border that—

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

17 “(B) have significant unlawful cross-border
18 activity.

19 “(2) SITUATIONAL AWARENESS.—The term ‘sit-
20 uational awareness’ has the meaning given the term
21 in section 1092(a)(7) of the National Defense Au-
22 thorization Act for Fiscal Year 2017 (Public Law
23 114–328).”.

1 **SEC. 103. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

2 (a) INCREASED FLIGHT HOURS.—The Secretary of
3 Homeland Security shall ensure that not fewer than
4 95,000 annual flight hours are carried out by Air and Ma-
5 rine Operations of U.S. Customs and Border Protection.

6 (b) UNMANNED AERIAL SYSTEM.—The Secretary of
7 Homeland Security shall ensure that Air and Marine Op-
8 erations operate unmanned aerial systems for not less
9 than 24 hours per day for five days per week.

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

14 (d) PRIMARY MISSION.—The Commissioner shall en-
15 sure that—

16 (1) the primary mission for Air and Marine Op-
17 erations is to directly support U.S. Border Patrol
18 activities along the southern border; and

19 (2) the Executive Associate Commissioner of
20 Air and Marine Operations assigns the greatest pri-
21 ority to support missions established by the Commis-
22 sioner to carry out the requirements under this Act.

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

1 (1) identify critical flight hour requirements;
2 and

3 (2) direct Air and Marine Operations to sup-
4 port requests from Sector Chiefs as their primary
5 mission.

6 (f) STUDY AND REPORT.—

7 (1) STUDY.—Not later than 60 days after the
8 date of the enactment of this Act, the Secretary of
9 Homeland Security shall commence a comprehensive
10 study on the realignment of the Air and Marine Of-
11 fice as a directorate of U.S. Border Patrol.

12 (2) REPORT.—Not later than 180 days after
13 the date of the enactment of this Act, the Secretary
14 of Homeland Security shall submit a report to the
15 Committee on Homeland Security and Governmental
16 Affairs of the Senate and the Committee on Home-
17 land Security of the House of Representatives that
18 contains the results of the study under paragraph
19 (1), including recommendations and timeframes for
20 implementing such realignment described in such
21 paragraph.

22 **SEC. 104. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS**
23 **AND REGIONS.**

24 (a) IN GENERAL.—Not later than January 20, 2021,
25 the Secretary of Homeland Security, in implementing sec-

1 tion 102 of the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (as amended by section
3 102 of this Act), and acting through the appropriate com-
4 ponent of the Department of Homeland Security, shall de-
5 ploy to each sector or region of the southern border and
6 the northern border, in a prioritized manner to achieve
7 situational awareness and operational control of such bor-
8 ders, the following additional capabilities:

9 (1) SAN DIEGO SECTOR.—For the San Diego
10 sector, the following:

11 (A) Subterranean surveillance and detec-
12 tion technologies.

13 (B) To increase coastal maritime domain
14 awareness, the following:

15 (i) Deployable, lighter-than-air surface
16 surveillance equipment.

17 (ii) Unmanned aerial vehicles with
18 maritime surveillance capability.

19 (iii) Maritime patrol aircraft.

20 (iv) Coastal radar surveillance sys-
21 tems.

22 (v) Maritime signals intelligence capa-
23 bilities.

24 (C) Ultralight aircraft detection capabili-
25 ties.

1 (D) Advanced unattended surveillance sen-
2 sors.

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

5 (F) Mobile vehicle-mounted and man-port-
6 able surveillance capabilities.

7 (2) EL CENTRO SECTOR.—For the El Centro
8 sector, the following:

9 (A) Tower-based surveillance technology.

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

12 (C) Man-portable unmanned aerial vehi-
13 cles.

14 (D) Ultralight aircraft detection capabili-
15 ties.

16 (E) Advanced unattended surveillance sen-
17 sors.

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

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

22 (A) Tower-based surveillance technology.

23 (B) Mobile vehicle-mounted and man-port-
24 able surveillance systems.

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

3 (D) Ultralight aircraft detection capabili-
4 ties.

5 (E) Advanced unattended surveillance sen-
6 sors.

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

9 (G) Mobile vehicle-mounted and man-port-
10 able surveillance capabilities.

11 (H) Man-portable unmanned aerial vehi-
12 cles.

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

15 (A) Increased flight hours for aerial detec-
16 tion, interdiction, and monitoring operations ca-
17 pability.

18 (B) Man-portable unmanned aerial vehi-
19 cles.

20 (C) Tower-based surveillance technology.

21 (D) Ultralight aircraft detection capabili-
22 ties.

23 (E) Advanced unattended surveillance sen-
24 sors.

1 (F) Deployable, lighter-than-air ground
2 surveillance equipment.

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

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

7 (A) Tower-based surveillance technology.

8 (B) Ultralight aircraft detection capabili-
9 ties.

10 (C) Advanced unattended surveillance sen-
11 sors.

12 (D) Mobile vehicle-mounted and man-port-
13 able surveillance systems.

14 (E) Deployable, lighter-than-air ground
15 surveillance equipment.

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

18 (G) Man-portable surveillance capabilities.

19 (6) BIG BEND SECTOR.—For the Big Bend sec-
20 tor, the following:

21 (A) Tower-based surveillance technology.

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

24 (C) Improved agent communications capa-
25 bilities.

1 (D) Ultralight aircraft detection capabili-
2 ties.

3 (E) Advanced unattended surveillance sen-
4 sors.

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

7 (G) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

9 (H) Man-portable unmanned aerial vehi-
10 cles.

11 (7) DEL RIO SECTOR.—For the Del Rio sector,
12 the following:

13 (A) Increased monitoring for cross-river
14 dams, culverts, and footpaths.

15 (B) Improved agent communications capa-
16 bilities.

17 (C) Improved maritime capabilities in the
18 Amistad National Recreation Area.

19 (D) Advanced unattended surveillance sen-
20 sors.

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

23 (F) Mobile vehicle-mounted and man-port-
24 able surveillance capabilities.

1 (G) Man-portable unmanned aerial vehi-
2 cles.

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

5 (A) Maritime detection resources for the
6 Falcon Lake region.

7 (B) Increased flight hours for aerial detec-
8 tion, interdiction, and monitoring operations ca-
9 pability.

10 (C) Increased monitoring for cross-river
11 dams, culverts, and footpaths.

12 (D) Ultralight aircraft detection capability.

13 (E) Advanced unattended surveillance sen-
14 sors.

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

17 (G) Man-portable unmanned aerial vehi-
18 cles.

19 (9) RIO GRANDE VALLEY SECTOR.—For the Rio
20 Grande Valley sector, the following:

21 (A) Deployable, lighter-than-air ground
22 surveillance equipment.

23 (B) Increased flight hours for aerial detec-
24 tion, interdiction, and monitoring operations ca-
25 pability.

1 (C) Ultralight aircraft detection capability.

2 (D) Advanced unattended surveillance sen-
3 sors.

4 (E) Increased monitoring for cross-river
5 dams, culverts, footpaths.

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

8 (G) Mobile vehicle-mounted and man-port-
9 able surveillance capabilities.

10 (H) Man-portable unmanned aerial vehi-
11 cles.

12 (10) EASTERN PACIFIC MARITIME REGION.—

13 For the Eastern Pacific Maritime region, the fol-
14 lowing:

15 (A) Not later than two years after the date
16 of the enactment of this Act, an increase of not
17 less than ten percent in the number of overall
18 cutter, boat, and aircraft hours spent con-
19 ducting interdiction operations over the average
20 number of such hours during the preceding
21 three fiscal years.

22 (B) Increased maritime signals intelligence
23 capabilities.

24 (C) To increase maritime domain aware-
25 ness, the following:

1 (i) Unmanned aerial vehicles with
2 maritime surveillance capability.

3 (ii) Increased maritime aviation patrol
4 hours.

5 (D) Increased operational hours for mari-
6 time security components dedicated to joint
7 counter-smuggling and interdiction efforts with
8 other Federal agencies, including the
9 Deployable Specialized Forces of the Coast
10 Guard.

11 (11) CARIBBEAN AND GULF MARITIME RE-
12 GION.—For the Caribbean and Gulf Maritime re-
13 gion, the following:

14 (A) Not later than two years after the date
15 of the enactment of this Act, an increase of not
16 less than ten percent in the number of overall
17 cutter, boat, and aircraft hours spent con-
18 ducting interdiction operations over the average
19 number of such hours during the preceding
20 three fiscal years.

21 (B) Increased maritime signals intelligence
22 capabilities.

23 (C) Increased maritime domain awareness
24 and surveillance capabilities, including the fol-
25 lowing:

1 (i) Unmanned aerial vehicles with
2 maritime surveillance capability.

3 (ii) Increased maritime aviation patrol
4 hours.

5 (iii) Coastal radar surveillance sys-
6 tems with long range day and night cam-
7 eras capable of providing 100 percent mar-
8 itime domain awareness of the United
9 States territorial waters surrounding Puer-
10 to Rico, Mona Island, Desecheo Island,
11 Vieques Island, Culebra Island, Saint
12 Thomas, Saint John, and Saint Croix.

13 (D) Increased operational hours for mari-
14 time security components dedicated to joint
15 counter-smuggling and interdiction efforts with
16 other Federal agencies, including the
17 Deployable Specialized Forces of the Coast
18 Guard.

19 (12) BLAINE SECTOR.—For the Blaine sector,
20 the following:

21 (A) Coastal radar surveillance systems.

22 (B) Mobile vehicle-mounted and man-port-
23 able surveillance capabilities.

24 (C) Advanced unattended surveillance sen-
25 sors.

1 (D) Improved agent communications sys-
2 tems.

3 (E) Increased flight hours for aerial detec-
4 tion, interdiction, and monitoring operations ca-
5 pability.

6 (F) Man-portable unmanned aerial vehi-
7 cles.

8 (G) Ultralight aircraft detection capabili-
9 ties.

10 (H) Modernized port of entry surveillance
11 capabilities.

12 (I) Increased maritime interdiction capa-
13 bilities.

14 (13) SPOKANE SECTOR.—For the Spokane sec-
15 tor, the following:

16 (A) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.

18 (B) Advanced unattended surveillance sen-
19 sors.

20 (C) Improved agent communications sys-
21 tems.

22 (D) Increased flight hours for aerial detec-
23 tion, interdiction, and monitoring operations ca-
24 pability.

1 (E) Man-portable unmanned aerial vehi-
2 cles.

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

5 (G) Ultralight aircraft detection capabili-
6 ties.

7 (H) Modernized port of entry surveillance
8 capabilities.

9 (I) Increased maritime interdiction capa-
10 bilities.

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

13 (A) Mobile vehicle-mounted and man-port-
14 able surveillance capabilities.

15 (B) Advanced unattended surveillance sen-
16 sors.

17 (C) Improved agent communications sys-
18 tems.

19 (D) Increased flight hours for aerial detec-
20 tion, interdiction, and monitoring operations ca-
21 pability.

22 (E) Man-portable unmanned aerial vehi-
23 cles.

24 (F) Ultralight aircraft detection capabili-
25 ties.

1 (G) Modernized port of entry surveillance
2 capabilities.

3 (15) GRAND FORKS SECTOR.—For the Grand
4 Forks sector, the following:

5 (A) Mobile vehicle-mounted and man-port-
6 able surveillance capabilities.

7 (B) Advanced unattended surveillance sen-
8 sors.

9 (C) Improved agent communications sys-
10 tems.

11 (D) Increased flight hours for aerial detec-
12 tion, interdiction, and monitoring operations ca-
13 pability.

14 (E) Man-portable unmanned aerial vehi-
15 cles.

16 (F) Ultralight aircraft detection capabili-
17 ties.

18 (G) Modernized port of entry surveillance
19 capabilities.

20 (16) DETROIT SECTOR.—For the Detroit sec-
21 tor, the following:

22 (A) Coastal radar surveillance systems.

23 (B) Mobile vehicle-mounted and man-port-
24 able surveillance capabilities.

1 (C) Advanced unattended surveillance sen-
2 sors.

3 (D) Improved agent communications sys-
4 tems.

5 (E) Increased flight hours for aerial detec-
6 tion, interdiction, and monitoring operations ca-
7 pability.

8 (F) Man-portable unmanned aerial vehi-
9 cles.

10 (G) Ultralight aircraft detection capabili-
11 ties.

12 (H) Modernized port of entry surveillance
13 capabilities.

14 (I) Increased maritime interdiction capa-
15 bilities.

16 (17) BUFFALO SECTOR.—For the Buffalo sec-
17 tor, the following:

18 (A) Coastal radar surveillance systems.

19 (B) Mobile vehicle-mounted and man-port-
20 able surveillance capabilities.

21 (C) Advanced unattended surveillance sen-
22 sors.

23 (D) Improved agent communications sys-
24 tems.

1 (E) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (F) Man-portable unmanned aerial vehi-
5 cles.

6 (G) Ultralight aircraft detection capabili-
7 ties.

8 (H) Modernized port of entry surveillance
9 capabilities.

10 (I) Increased maritime interdiction capa-
11 bilities.

12 (18) SWANTON SECTOR.—For the Swanton sec-
13 tor, the following:

14 (A) Mobile vehicle-mounted and man-port-
15 able surveillance capabilities.

16 (B) Advanced unattended surveillance sen-
17 sors.

18 (C) Improved agent communications sys-
19 tems.

20 (D) Increased flight hours for aerial detec-
21 tion, interdiction, and monitoring operations ca-
22 pability.

23 (E) Man-portable unmanned aerial vehi-
24 cles.

1 (F) Ultralight aircraft detection capabili-
2 ties.

3 (G) Modernized port of entry surveillance
4 capabilities.

5 (19) HOULTON SECTOR.—For the Houlton sec-
6 tor, the following:

7 (A) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

9 (B) Advanced unattended surveillance sen-
10 sors.

11 (C) Improved agent communications sys-
12 tems.

13 (D) Increased flight hours for aerial detec-
14 tion, interdiction, and monitoring operations ca-
15 pability.

16 (E) Man-portable unmanned aerial vehi-
17 cles.

18 (F) Ultralight aircraft detection capabili-
19 ties.

20 (G) Modernized port of entry surveillance
21 capabilities.

22 (b) REIMBURSEMENT RELATED TO THE LOWER RIO
23 GRANDE VALLEY FLOOD CONTROL PROJECT.—The
24 International Boundary and Water Commission is author-
25 ized to reimburse State and local governments for any ex-

1 penses incurred before, on, or after the date of the enact-
2 ment of this Act by such governments in designing, con-
3 structing, and rehabilitating the Lower Rio Grande Valley
4 Flood Control Project of the Commission.

5 (c) TACTICAL FLEXIBILITY.—

6 (1) SOUTHERN AND NORTHERN LAND BOR-
7 DERS.—The Secretary of Homeland Security may
8 alter the capability deployment referred to in this
9 section if the Secretary determines, after notifying
10 the Committee on Homeland Security and Govern-
11 mental Affairs of the Senate and the Committee on
12 Homeland Security of the House of Representatives,
13 that such alteration is required to enhance situa-
14 tional awareness or operational control.

15 (2) MARITIME BORDER.—

16 (A) NOTIFICATION.—The Commandant of
17 the Coast Guard shall notify the Committee on
18 Homeland Security and Governmental Affairs
19 of the Senate, the Committee on Commerce,
20 Science, and Transportation of the Senate, the
21 Committee on Homeland Security of the House
22 of Representatives, and the Committee on
23 Transportation and Infrastructure of the House
24 of Representatives regarding the capability de-

1 ployments referred to in this section, including
2 information relating to—

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

5 (ii) the impact such deployments have
6 on the capability of the Coast Guard to
7 conduct its mission in each of the sectors
8 referred to in paragraphs (10) and (11) of
9 subsection (a).

10 (B) ALTERATION.—The Commandant of
11 the Coast Guard may alter the capability de-
12 ployments referred to in this section if the
13 Commandant—

14 (i) determines, after consultation with
15 the appropriate committees referred to in
16 subparagraph (A), that such alteration is
17 necessary; and

18 (ii) not later than 30 days after mak-
19 ing a determination under clause (i), noti-
20 fies the committees referred to in such
21 subparagraph regarding such alteration,
22 including information relating to—

23 (I) the number and types of as-
24 sets and personnel deployed pursuant
25 to such alteration; and

1 (II) the impact such alteration
2 has on the capability of the Coast
3 Guard to conduct its mission in each
4 of the sectors referred to in subsection
5 (a).

6 **SEC. 105. U.S. BORDER PATROL PHYSICAL INFRASTRUC-**
7 **TURE IMPROVEMENTS.**

8 The Secretary of Homeland Security shall upgrade
9 existing physical infrastructure of the Department of
10 Homeland Security, and construct and acquire additional
11 physical infrastructure, including—

- 12 (1) U.S. Border Patrol stations;
13 (2) U.S. Border Patrol checkpoints;
14 (3) mobile command centers; and
15 (4) other necessary facilities, structures, and
16 properties.

17 **SEC. 106. U.S. BORDER PATROL ACTIVITIES.**

18 The Chief of the U.S. Border Patrol shall direct
19 agents of the U.S. Border Patrol to patrol as close to the
20 physical land border as possible, consistent with the acces-
21 sibility to such areas.

22 **SEC. 107. U.S. BORDER PATROL FORWARD OPERATING**
23 **BASES.**

24 (a) UPGRADES AND MAINTENANCE FOR FORWARD
25 OPERATING BASES.—Not later than January 20, 2021,

1 the Secretary of Homeland Security shall upgrade existing
 2 forward operating bases of U.S. Border Patrol on or near
 3 the southern border to ensure that such bases meet the
 4 minimum requirements set forth in subsection (b).

5 (b) MINIMUM REQUIREMENTS.—Each forward oper-
 6 ating base operated by U.S. Customs and Border Protec-
 7 tion shall be equipped with—

- 8 (1) perimeter security;
- 9 (2) short-term detention space (separate from
 10 existing housing facilities);
- 11 (3) portable generators or shore power suffi-
 12 cient to meet the power requirements for the base;
- 13 (4) interview rooms;
- 14 (5) adequate communications, including wide
 15 area network connectivity;
- 16 (6) cellular service;
- 17 (7) potable water; and
- 18 (8) a helicopter landing zone.

19 **SEC. 108. BORDER SECURITY TECHNOLOGY PROGRAM**
 20 **MANAGEMENT.**

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

1 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

3 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
4 this section, the term ‘major acquisition program’ means
5 an acquisition program of the Department that is esti-
6 mated by the Secretary to require an eventual total ex-
7 penditure of at least \$300,000,000 (based on fiscal year
8 2017 constant dollars) over its life cycle cost.

9 “(b) PLANNING DOCUMENTATION.—For each border
10 security technology acquisition program of the Depart-
11 ment that is determined to be a major acquisition pro-
12 gram, the Secretary shall—

13 “(1) ensure that each such program has a writ-
14 ten acquisition program baseline approved by the
15 relevant acquisition decision authority;

16 “(2) document that each such program is meet-
17 ing cost, schedule, and performance thresholds as
18 specified in such baseline, in compliance with rel-
19 evant departmental acquisition policies and the Fed-
20 eral Acquisition Regulation; and

21 “(3) have a plan for meeting program imple-
22 mentation objectives by managing contractor per-
23 formance.

24 “(c) ADHERENCE TO STANDARDS.—The Secretary,
25 acting through the Under Secretary for Management and
26 the Commissioner of U.S. Customs and Border Protection,

1 shall ensure border security technology acquisition pro-
2 gram managers who are responsible for carrying out this
3 section adhere to relevant internal control standards iden-
4 tified by the Comptroller General of the United States.
5 The Commissioner shall provide information, as needed,
6 to assist the Under Secretary in monitoring management
7 of border security technology acquisition programs under
8 this section.

9 “(d) PLAN.—The Secretary, acting through the
10 Under Secretary for Management, in coordination with
11 the Under Secretary for Science and Technology and the
12 Commissioner of U.S. Customs and Border Protection,
13 shall submit to the appropriate congressional committees
14 a plan for testing and evaluation, as well as the use of
15 independent verification and validation resources, for bor-
16 der security technology so that new border security tech-
17 nologies are evaluated through a series of assessments,
18 processes, and audits to ensure compliance with relevant
19 departmental acquisition policies and the Federal Acquisi-
20 tion Regulation, as well as the effectiveness of taxpayer
21 dollars.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002 is
24 amended by inserting after the item relating to section
25 433 the following new item:

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

1 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
2 OF APPROPRIATIONS.—No additional funds are author-
3 ized to be appropriated to carry out section 434 of the
4 Homeland Security Act of 2002, as added by subsection
5 (a). Such section shall be carried out using amounts other-
6 wise authorized for such purposes.

7 **SEC. 109. AUTHORITY TO ACQUIRE LEASEHOLDS.**

8 Notwithstanding any other provision of law, if the
9 Secretary of Homeland Security determines that the ac-
10 quisition of a leasehold interest in real property and the
11 construction or modification of any facility on the leased
12 property are necessary to facilitate the implementation of
13 this Act, the Secretary may—

- 14 (1) acquire a leasehold interest;
15 (2) construct or modify such facility;
16 (3) accept real or personal property donations
17 of any value through U.S. Customs and Border Pro-
18 tection’s Donations Acceptance Program under the
19 Cross-Border Trade Enhancement Act of 2016
20 (Public Law 114–279) or through other public-pub-
21 lic or public-private partnership arrangements at any
22 location at which U.S. Customs and Border Protec-
23 tion operates; and
24 (4) designate any leasing action as exempt from
25 Federal lease scoring rules.

1 **SEC. 110. NATIONAL GUARD SUPPORT TO SECURE THE**
 2 **SOUTHERN BORDER AND REIMBURSEMENT**
 3 **OF STATES FOR DEPLOYMENT OF THE NA-**
 4 **TIONAL GUARD AT THE SOUTHERN BORDER.**

5 (a) IN GENERAL.—With the approval of the Sec-
 6 retary of Defense, the Secretary of Homeland Security,
 7 or the Governor of a State may order any units or per-
 8 sonnel of the National Guard of such State to perform
 9 operations and missions under section 502(f) of title 32,
 10 United States Code, along the southern border for the
 11 purposes of assisting U.S. Customs and Border Protection
 12 to secure the southern border.

13 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

14 (1) IN GENERAL.—National Guard units and
 15 personnel deployed under subsection (a) may be as-
 16 signed such operations and missions specified in sub-
 17 section (c) as may be necessary to secure the south-
 18 ern border.

19 (2) NATURE OF DUTY.—The duty of National
 20 Guard personnel performing operations and missions
 21 described in paragraph (1) shall be full-time duty
 22 under title 32, United States Code.

23 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-
 24 erations and missions assigned under subsection (b) shall
 25 include the temporary authority to—

1 (1) construct reinforced fencing or other bar-
2 riers;

3 (2) conduct ground-based surveillance systems;

4 (3) operate unmanned and manned aircraft;

5 (4) provide radio communications interoper-
6 ability between U.S. Customs and Border Protection
7 and State, local, and tribal law enforcement agen-
8 cies; and

9 (5) construct checkpoints along the southern
10 border to bridge the gap to long-term permanent
11 checkpoints.

12 (d) MATERIEL AND LOGISTICAL SUPPORT.—The
13 Secretary of Defense shall deploy such materiel and equip-
14 ment, and logistical support as may be necessary to ensure
15 success of the operations and missions conducted by the
16 National Guard under this section.

17 (e) EXCLUSION FROM NATIONAL GUARD PER-
18 SONNEL STRENGTH LIMITATIONS.—National Guard per-
19 sonnel deployed under subsection (a) shall not be included
20 in—

21 (1) the calculation to determine compliance
22 with limits on end strength for National Guard per-
23 sonnel; or

24 (2) limits on the number of National Guard
25 personnel that may be placed on active duty for

1 operational support under section 115 of title 10,
2 United States Code.

3 (f) REIMBURSEMENT REQUIRED.—

4 (1) IN GENERAL.—The Secretary of Defense
5 shall reimburse States for the cost of the deployment
6 of any units or personnel of the National Guard to
7 perform operations and missions in full-time State
8 Active Duty in support of a southern border mission.
9 The Secretary of Defense may not seek reimburse-
10 ment from the Secretary of Homeland Security for
11 any reimbursements to States for the costs of such
12 deployments.

13 (2) LIMITATION.—The total amount of reim-
14 bursements under this section may not exceed
15 \$35,000,000 for any fiscal year.

16 **SEC. 111. OPERATION PHALANX.**

17 (a) IN GENERAL.—The Secretary of Defense, with
18 the concurrence of the Secretary of Homeland Security,
19 shall provide assistance to U.S. Customs and Border Pro-
20 tection for purposes of increasing ongoing efforts to secure
21 the southern border.

22 (b) TYPES OF ASSISTANCE AUTHORIZED.—The as-
23 sistance provided under subsection (a) may include—

24 (1) deployment of manned aircraft, unmanned
25 aerial surveillance systems, and ground-based sur-

1 veillance systems to support continuous surveillance
2 of the southern border; and

3 (2) intelligence analysis support.

4 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
5 retary of Defense may deploy such materiel, equipment,
6 and logistics support as may be necessary to ensure the
7 effectiveness of the assistance provided under subsection
8 (a).

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

15 (e) REPORTS.—

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

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

4 (A) the assistance provided;

5 (B) the sources and amounts of funds used
6 to provide such assistance; and

7 (C) the amounts obligated to provide such
8 assistance.

9 (3) PERIOD SPECIFIED.—The period specified
10 in this paragraph is—

11 (A) in the case of the first report required
12 under paragraph (1), the 90-day period begin-
13 ning on the date of the enactment of this Act;
14 and

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

18 **SEC. 112. MERIDA INITIATIVE.**

19 (a) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that assistance to Mexico, including assistance from
21 the Department of State and the Department of Defense
22 and any aid related to the Merida Initiative, should—

23 (1) focus on providing enhanced border security
24 and judicial reform and support for Mexico’s drug
25 crop eradication efforts; and

1 (2) return to its original focus and prioritize se-
2 curity, training, and acquisition of equipment for
3 Mexican security forces involved in drug crop eradi-
4 cation efforts.

5 (b) ASSISTANCE FOR MEXICO.—The Secretary of
6 State, in coordination with the Secretary of Homeland Se-
7 curity, and the Secretary of Defense shall provide assist-
8 ance to Mexico to—

9 (1) combat drug trafficking and related vio-
10 lence, organized crime, and corruption;

11 (2) build a modern border security system capa-
12 ble of preventing illegal migration;

13 (3) support border security and cooperation
14 with United States law enforcement agencies on bor-
15 der incursions;

16 (4) support judicial reform, institution building,
17 and rule of law activities; and

18 (5) provide for training and equipment for
19 Mexican security forces involved in drug crop eradi-
20 cation efforts.

21 (c) ALLOCATION OF FUNDS; REPORT.—

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law, 50 percent of any assistance appro-
24 priated in any appropriations Act to implement this
25 section shall be withheld until after the Secretary of

1 State submits a written report to the congressional
2 committees specified in paragraph (3) certifying that
3 the Government of Mexico is—

4 (A) significantly reducing illegal migration,
5 drug trafficking, and cross-border criminal ac-
6 tivities; and

7 (B) improving the transparency and ac-
8 countability of Mexican Federal police forces
9 and working with Mexican State and municipal
10 authorities to improve the transparency and ac-
11 countability of Mexican State and municipal po-
12 lice forces.

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

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

19 (B) any instances in which the Secretary
20 of State determines that the actions taken by
21 the Government of Mexico are inadequate to
22 address such matters.

23 (3) CONGRESSIONAL COMMITTEES SPECI-
24 FIED.—The congressional committees specified in
25 this paragraph are—

1 (A) the Committee on Appropriations of
2 the Senate;

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

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

7 (D) the Committee on Appropriations of
8 the House of Representatives;

9 (E) the Committee on Homeland Security
10 of the House of Representatives; and

11 (F) the Committee on the Judiciary of the
12 House of Representatives.

13 (d) NOTIFICATIONS.—Any assistance made available
14 by the Secretary of State under this section shall be sub-
15 ject to—

16 (1) the notification procedures set forth in sec-
17 tion 634A of the Foreign Assistance Act of 1961 (22
18 U.S.C. 2394–1); and

19 (2) the notification requirements of—

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

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

24 (C) the Committee on Homeland Security
25 of the House of Representatives; and

1 (D) the Committee on the Judiciary of the
2 House of Representatives.

3 (e) SPENDING PLAN.—

4 (1) IN GENERAL.—Not later than 45 days after
5 the date of the enactment of this Act, the Secretary
6 of State shall submit, to the congressional commit-
7 tees specified in paragraph (2), a detailed spending
8 plan for assistance to Mexico under this section,
9 which shall include a strategy, developed after con-
10 sulting with relevant authorities of the Government
11 of Mexico for—

12 (A) combating drug trafficking and related
13 violence and organized crime; and

14 (B) anti-corruption and rule of law activi-
15 ties, which shall include concrete goals, actions
16 to be taken, budget proposals, and a description
17 of anticipated results.

18 (2) CONGRESSIONAL COMMITTEES SPECI-
19 FIED.—The congressional committees specified in
20 this paragraph are—

21 (A) the Committee on Appropriations of
22 the Senate;

23 (B) the Committee on Foreign Relations of
24 the Senate;

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

3 (D) the Committee on the Judiciary of the
4 Senate;

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

7 (F) the Committee on Foreign Affairs of
8 the House of Representatives;

9 (G) the Committee on Homeland Security
10 of the House of Representatives; and

11 (H) the Committee on the Judiciary of the
12 House of Representatives.

13 **SEC. 113. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
14 **DER SECURITY ON CERTAIN FEDERAL LAND.**

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

17 (1) IN GENERAL.—The Secretary concerned
18 shall not impede, prohibit, or restrict activities of
19 U.S. Customs and Border Protection on covered
20 Federal land to execute search and rescue operations
21 or to prevent all unlawful entries into the United
22 States, including entries by terrorists, other unlawful
23 aliens, instruments of terrorism, narcotics, and other
24 contraband through the southern border or the
25 northern border.

1 (2) APPLICABILITY.—The authority of U.S.
2 Customs and Border Protection to conduct activities
3 described in paragraph (1) on covered Federal land
4 applies without regard to whether a state of emer-
5 gency exists.

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

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

16 (2) ACTIVITIES DESCRIBED.—The activities de-
17 scribed in this paragraph are—

18 (A) the use of vehicles to patrol the border
19 area, apprehend illegal entrants, and rescue in-
20 dividuals; and

21 (B) the construction, installation, oper-
22 ation and maintenance of tactical infrastructure
23 and border technology as set forth in section
24 102 of the Illegal Immigration Reform and Im-

1 migrant Responsibility Act of 1996 (as amend-
2 ed by section 102 of this Act).

3 (c) EXEMPTION FROM CERTAIN LAWS.—

4 (1) IN GENERAL.—The activities of U.S. Cus-
5 toms and Border Protection described in subsection
6 (b)(2) may be carried out without regard to the pro-
7 visions of law specified in paragraph (2).

8 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
9 visions of law specified in this paragraph are all
10 Federal, State, and other laws, regulations, and
11 legal requirements of, deriving from, or related to
12 the subject of, the following laws:

13 (A) The National Environmental Policy
14 Act (42 U.S.C. 4321 et seq.).

15 (B) The Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.).

17 (C) The Federal Water Pollution Control
18 Act (33 U.S.C. 1251 et seq.) (commonly re-
19 ferred to as the “Clean Water Act”).

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

24 (E) The Migratory Bird Treaty Act (16
25 U.S.C. 703 et seq.).

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

3 (G) The Archeological Resources Protec-
4 tion Act of 1979 (16 U.S.C. 470aa et seq.).

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

7 (I) The Noise Control Act of 1972 (42
8 U.S.C. 4901 et seq.).

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

11 (K) The Comprehensive Environmental
12 Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9601 et seq.).

14 (L) Chapter 3125 of title 54, United
15 States Code (formerly known as the “Archae-
16 ological and Historic Preservation Act”).

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

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

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

24 (P) The Farmland Protection Policy Act
25 (7 U.S.C. 4201 et seq.).

1 (Q) The Coastal Zone Management Act of
2 1972 (16 U.S.C. 1451 et seq.).

3 (R) The Wilderness Act (Pub. L. 88-577,
4 16 U.S.C. 1131 et seq.).

5 (S) The Federal Land Policy and Manage-
6 ment Act of 1976 (43 U.S.C. 1701 et seq.).

7 (T) The National Wildlife Refuge System
8 Administration Act of 1966 (16 U.S.C. 668dd
9 et seq.).

10 (U) The Fish and Wildlife Act of 1956 (16
11 U.S.C. 742a, et seq.).

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

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

17 (X) The Otay Mountain Wilderness Act of
18 1999 (Pub. L. 106–145).

19 (Y) Sections 102(29) and 103 of the Cali-
20 fornia Desert Protection Act of 1994 (Pub. L.
21 103–433).

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

1 (AA) The National Park Service General
2 Authorities Act (16 U.S.C. 1a–1 et seq.).

3 (BB) Sections 401(7), 403, and 404 of the
4 National Parks and Recreation Act of 1978
5 (Pub. L. 95–625).

6 (CC) Subsections (a) through (f) of section
7 301 of the Arizona Desert Wilderness Act of
8 1990 (16 U.S.C. 1132 note).

9 (DD) The Act of March 3, 1899 (33
10 U.S.C. 401 et seq.) (commonly known as the
11 “Rivers and Harbors Appropriation Act of
12 1899”).

13 (EE) The Act of June 8, 1940 (16 U.S.C.
14 668 et seq.) (commonly known as the “Bald
15 and Golden Eagle Protection Act”).

16 (FF) The Native American Graves Protec-
17 tion and Repatriation Act (25 U.S.C. 3001 et
18 seq.).

19 (GG) Public Law 95–341 (42 U.S.C.
20 1996)(commonly known as the “American In-
21 dian Religious Freedom Act”).

22 (HH) The Religious Freedom Restoration
23 Act of 1993 (42 U.S.C. 2000bb et seq.).

24 (II) The National Forest Management Act
25 of 1976 (16 U.S.C. 472a et seq.).

1 (JJ) The Multiple-Use Sustained-Yield Act
2 of 1960 (16 U.S.C. 528 et seq.).

3 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
4 LAWS.—If a provision of law specified in paragraph
5 (2) was repealed and incorporated into title 54,
6 United States Code, after April 1, 2008, and before
7 the date of the enactment of this Act, the waiver de-
8 scribed in paragraph (1) shall apply to the provision
9 of such title that corresponds to the provision of law
10 specified in paragraph (2) to the same extent as the
11 waiver applied to that provision of law.

12 (d) PROTECTION OF LEGAL USES.—This section may
13 not be construed to provide—

14 (1) authority to restrict legal uses, such as
15 grazing, hunting, mining, or recreation or the use of
16 back country airstrips, on land under the jurisdic-
17 tion of the Secretary of the Interior or the Secretary
18 of Agriculture; or

19 (2) any additional authority to restrict legal ac-
20 cess to such land.

21 (e) EFFECT ON STATE AND PRIVATE LAND.—This
22 section shall—

23 (1) have no force or effect on State lands or
24 private lands; and

1 (2) not provide authority on or access to State
2 lands or private lands.

3 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
4 may be construed to supersede, replace, negate, or dimin-
5 ish treaties or other agreements between the United States
6 and Indian tribes.

7 (g) DEFINITIONS.—In this section:

8 (1) COVERED FEDERAL LAND.—The term “cov-
9 ered Federal land” includes all land under the con-
10 trol of the Secretary concerned that is located within
11 100 miles of the southern border or the northern
12 border.

13 (2) SECRETARY CONCERNED.—The term “Sec-
14 retary concerned” means—

15 (A) with respect to land under the jurisdic-
16 tion of the Department of Agriculture, the Sec-
17 retary of Agriculture; and

18 (B) with respect to land under the jurisdic-
19 tion of the Department of the Interior, the Sec-
20 retary of the Interior.

21 **SEC. 114. LANDOWNER AND RANCHER SECURITY ENHANCE-**
22 **MENT.**

23 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
24 RITY ADVISORY COMMITTEE.—The Secretary of Home-

1 land Security shall establish a National Border Security
2 Advisory Committee, which—

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

6 (A) verifying security claims and the bor-
7 der security metrics established by the Depart-
8 ment of Homeland Security under section 1092
9 of the National Defense Authorization Act for
10 Fiscal Year 2017 (Public Law 114-328; 6
11 U.S.C. 223); and

12 (B) discussing ways to improve the secu-
13 rity of high traffic areas along the northern
14 border and the southern border; and

15 (2) may provide, through the Secretary, rec-
16 ommendations to Congress.

17 (b) CONSIDERATION OF VIEWS.—The Secretary of
18 Homeland Security shall consider the information, advice,
19 and recommendations of the National Border Security Ad-
20 visory Committee in formulating policy regarding matters
21 affecting border security.

22 (c) MEMBERSHIP.—The National Border Security
23 Advisory Committee shall consist of at least one member
24 per State who—

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

3 (2) lives and works in the United States within
4 80 miles from the southern border or the northern
5 border.

6 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
7 COMMITTEE ACT.—The Federal Advisory Committee Act
8 (5 U.S.C. App.) shall not apply to the National Border
9 Security Advisory Committee.

10 **SEC. 115. LIMITATION ON LAND OWNER'S LIABILITY.**

11 Section 287 of the Immigration and Nationality Act
12 (8 U.S.C. 1357) is amended by adding at the end the fol-
13 lowing:

14 “(i) INDEMNITY FOR ACTIONS OF LAW ENFORCE-
15 MENT OFFICERS.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, and subject to appropriations, any
18 owner of land located in the United States within
19 100 miles of the southern border of the United
20 States may seek reimbursement from the Depart-
21 ment of Homeland Security and the Secretary of
22 Homeland Security shall pay for any adverse final
23 tort judgment for negligence (excluding attorneys’
24 fees and costs) authorized under Federal or State
25 tort law, arising directly from any border patrol ac-

1 tion, such as apprehensions, tracking, and detention
2 of aliens, that is conducted on privately-owned land
3 if—

4 “(A) such land owner has been found neg-
5 ligent by a Federal or State court in any tort
6 litigation;

7 “(B) such land owner has not already been
8 reimbursed for the final tort judgment, includ-
9 ing outstanding attorneys’ fees and costs;

10 “(C) such land owner did not have or does
11 not have sufficient property insurance to cover
12 the judgment and has had an insurance claim
13 for such coverage denied; and

14 “(D) such tort action was brought against
15 such land owner as a direct result of activity of
16 law enforcement officers of the Department of
17 Homeland Security, acting in their official ca-
18 pacity, on the owner’s land.

19 “(2) DEFINITIONS.—In this subsection—

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

24 “(B) the term ‘owner’ includes the pos-
25 sessor of a fee interest, a tenant, a lessee, an

1 occupant, the possessor of any other interest in
 2 land, and any person having a right to grant
 3 permission to use the land.

4 “(3) EXCEPTIONS.—Nothing in this subsection
 5 may be construed to require the Secretary of Home-
 6 land Security to reimburse, under subparagraph
 7 (i)(1), a land owner for any adverse final tort judg-
 8 ment for negligence or to limit land owner liability
 9 which would otherwise exist for—

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

13 “(B) maintaining an attractive nuisance;

14 “(C) gross negligence; or

15 “(D) direct interference with, or hindrance
 16 of, any agent or officer of the Federal Govern-
 17 ment who is authorized to enforce the immigra-
 18 tion laws of the United States during—

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

20 or

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

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

6 **SEC. 116. ERADICATION OF CARRIZO CANE AND SALT**
 7 **CEDAR.**

8 Not later than January 20, 2021, the Secretary of
 9 Homeland Security, after coordinating with the heads of
 10 the relevant Federal, State, and local agencies, shall begin
 11 eradicating the carrizo cane plant and any salt cedar along
 12 the Rio Grande River.

13 **SEC. 117. PREVENTION, DETECTION, CONTROL, AND ERADI-**
 14 **CATION OF DISEASES AND PESTS.**

15 (a) DEFINITIONS.—

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

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

21 (3) DISEASE.—The term “disease” has the
 22 meaning given the term by the Secretary of Agri-
 23 culture.

24 (4) LIVESTOCK.—The term “livestock” means
 25 all farm-raised animals.

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

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

- 9 (A) A protozoan.
- 10 (B) A plant or plant part.
- 11 (C) A nonhuman animal.
- 12 (D) A bacterium.
- 13 (E) A fungus.
- 14 (F) A virus or viroid.
- 15 (G) An infectious agent or other pathogen.
- 16 (H) An arthropod.
- 17 (I) A parasite or parasitic plant.
- 18 (J) A prion.
- 19 (K) A vector.
- 20 (L) Any organism similar to or allied with
 21 any of the organisms described in this para-
 22 graph.

23 (7) PLANT.—The term “plant” means any
 24 plant (including any plant part) for or capable of
 25 propagation, including a tree, a tissue culture, a

1 plantlet culture, pollen, a shrub, a vine, a cutting, a
2 graft, a scion, a bud, a bulb, a root, and a seed.

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

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

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

16 (2) COMPENSATION.—

17 (A) IN GENERAL.—The Secretary of Agri-
18 culture may pay a claim arising out of—

19 (i) the destruction of any animal,
20 plant, plant part, article, or means of con-
21 veyance consistent with the purposes of
22 this section; and

23 (ii) implementing measures to pre-
24 vent, detect, control, or eradicate the
25 spread of any pest disease of livestock or

1 plant that threatens any segment of agri-
2 culture.

3 (B) SPECIFIC COOPERATIVE PROGRAMS.—

4 The Secretary of Agriculture shall compensate
5 industry participants and State agencies that
6 cooperate with the Secretary of Agriculture in
7 carrying out operations and measures under
8 this subsection for up to 100 percent of eligible
9 costs relating to—

10 (i) cooperative programs involving
11 Federal, State, or industry participants to
12 control diseases of low or high pathoge-
13 nicity and pests in accordance with regula-
14 tions issued by the Secretary of Agri-
15 culture; and

16 (ii) the construction and operation of
17 research laboratories, quarantine stations,
18 and other buildings and facilities for spe-
19 cial purposes.

20 (C) REVIEWABILITY.—The action of any
21 officer, employee, or agent of the Secretary of
22 Agriculture in carrying out paragraph (1) shall
23 not be subject to review by any officer or em-
24 ployee of the Federal Government other than

1 the Secretary of Agriculture or a designee of
2 the Secretary.

3 (c) COOPERATION.—

4 (1) IN GENERAL.—To carry out this section,
5 the Secretary of Agriculture may cooperate with
6 other Federal agencies, States, State agencies, polit-
7 ical subdivisions of States, national and local govern-
8 ments of foreign countries, domestic and inter-
9 national organizations and associations, domestic
10 nonprofit corporations, Indian tribes, and other per-
11 sons.

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

16 (A) on all land and property within a for-
17 eign country or State, or under the jurisdiction
18 of an Indian tribe, other than on land and
19 property owned or controlled by the United
20 States; and

21 (B) using other facilities and means, as de-
22 termined by the Secretary of Agriculture.

23 (d) FUNDING.—For fiscal year 2018, and for each
24 succeeding fiscal year, the Secretary of Agriculture shall
25 use such funds from the Commodity Credit Cooperation

1 as may be necessary to carry out operations and measures
2 to prevent, detect, control, or eradicate the spread of any
3 pest or disease of livestock or plant that threatens any
4 segment of agriculture.

5 (e) REIMBURSEMENT.—The Secretary of Agriculture
6 shall reimburse any Federal agency, State, State agency,
7 political subdivision of a State, national or local govern-
8 ment of a foreign country, domestic or international orga-
9 nization or association, domestic nonprofit corporation,
10 Indian tribe, or other person for specified costs, as pre-
11 scribed by the Secretary of Agriculture, in the discretion
12 of the Secretary, that result from cooperation with the
13 Secretary of Agriculture in carrying out operations and
14 measures under this section.

15 **SEC. 118. EXEMPTION FROM GOVERNMENT CONTRACTING**
16 **AND HIRING RULES.**

17 (a) APPLICABILITY OF CERTAIN GOVERNMENT CON-
18 TRACTING RULES.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law, in implementing this title—

21 (A) the requirement under section 3301 of
22 title 41, United States Code, to obtain a full
23 and open competition through the use of com-
24 petitive procedures shall not apply; and

1 (B) any executive agency entering into the
 2 contract may use noncompetitive procedures in
 3 accordance with section 3304 of such title.

4 (2) LIMITATIONS ON PROTESTS.—The deter-
 5 mination of an executive agency under section 3304
 6 of title 41, United States Code, to use noncompeti-
 7 tive procedures shall not be subject to challenge by
 8 protest to—

9 (A) the Comptroller General of the United
 10 States under subchapter V of chapter 35 of title
 11 31, United States Code; or

12 (B) the Court of Federal Claims under
 13 section 1491 of title 28, United States Code.

14 (b) APPLICABILITY OF CERTAIN GOVERNMENT HIR-
 15 ING RULES.—

16 (1) IN GENERAL.—Notwithstanding any other
 17 provision of law, in implementing this title, the Sec-
 18 retary of Homeland Security and the Attorney Gen-
 19 eral may appoint employees on a term, temporary
 20 limited, or part-time basis without regard to—

21 (A) the number of such employees;

22 (B) the ratio between the number of such
 23 employees and the number of permanent full-
 24 time employees; and

1 (C) the duration of such employees' em-
 2 ployment.

3 (2) RULE OF CONSTRUCTION.—Nothing in
 4 chapter 71 of title 5, United States Code, shall af-
 5 fect the authority of the Department of Homeland
 6 Security or the Department of Justice to hire em-
 7 ployees under this title on a temporary limited or
 8 part-time basis.

9 (c) REPORTS.—The head of an executive agency en-
 10 tering into a contract or hiring employees pursuant to au-
 11 thority provided under subsection (a) or (b) shall—

12 (1) immediately submit to the appropriate con-
 13 gressional committees written notification of the use
 14 of such authority; and

15 (2) submit to those committees a quarterly re-
 16 port estimating amounts to be expended pursuant to
 17 such authority.

18 (d) EXECUTIVE AGENCY DEFINED.—In this section,
 19 the term “executive agency” has the meaning given the
 20 term in section 133 of title 41, United States Code.

21 **SEC. 119. TRANSNATIONAL CRIMINAL ORGANIZATION IL-**
 22 **LICIT SPOTTER PREVENTION AND DETEC-**
 23 **TION.**

24 (a) UNLAWFULLY HINDERING IMMIGRATION, BOR-
 25 DER, AND CUSTOMS CONTROLS.—

1 (1) ENHANCED PENALTIES.—Chapter 9 of title
2 II of the Immigration and Nationality Act (8 U.S.C.
3 1351 et seq.) is amended by adding at the end the
4 following:

5 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
6 **DER, AND CUSTOMS CONTROLS.**

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

15 “(b) DESTRUCTION OF UNITED STATES BORDER
16 CONTROLS.—Any person who knowingly and without law-
17 ful authorization destroys, alters, or damages any fence,
18 barrier, sensor, camera, or other physical or electronic de-
19 vice deployed by the Federal Government to control the
20 border or a port of entry or otherwise seeks to construct,
21 excavate, or make any structure intended to defeat, cir-
22 cumvent, or evade any such fence, barrier, sensor camera,
23 or other physical or electronic device deployed by the Fed-
24 eral Government to control the border or a port of entry—

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

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

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

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents in the first section of the Immigration and Na-
14 tionality Act is amended by inserting after the item
15 relating to section 294 the following:

“Sec. 295. Unlawfully hindering immigration, border, and customs controls.”.

16 (b) CARRYING OR USING A FIREARM DURING AND
17 IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section
18 924(c) of title 18, United States Code, is amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (A), by inserting “,
21 alien smuggling crime,” after “crime of vio-
22 lence” each place that term appears; and

23 (B) in subparagraph (D)(ii), by inserting
24 “, alien smuggling crime,” after “crime of vio-
25 lence”;

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

2 (3) by redesignating paragraph (5) as para-
3 graph (2); and

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

5 “(3) For purposes of this subsection—

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

10 “(B) the term ‘brandish’ means, with respect to
11 a firearm, to display all or part of the firearm, or
12 otherwise make the presence of the firearm known
13 to another person, in order to intimidate that per-
14 son, regardless of whether the firearm is directly
15 visible to that person;

16 “(C) the term ‘crime of violence’ means a felony
17 offense that—

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

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

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

6 (c) STATUTE OF LIMITATIONS.—Section 3298 of title
 7 18, United States Code, is amended by inserting “, or
 8 295” after “274(a)”.

9 **SEC. 120. SOUTHERN BORDER THREAT ANALYSIS.**

10 (a) THREAT ANALYSIS.—

11 (1) REQUIREMENT.—Not later than 180 days
 12 after the date of the enactment of this Act, the Sec-
 13 retary of Homeland Security shall submit to the
 14 Committee on Homeland Security and Governmental
 15 Affairs of the Senate and the Committee on Home-
 16 land Security of the House of Representatives a
 17 southern border threat analysis.

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

20 (A) current and potential terrorism and
 21 criminal threats posed by individuals and orga-
 22 nized groups seeking—

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

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

3 (B) improvements needed at and between
4 ports of entry along the southern border to pre-
5 vent terrorists and instruments of terror from
6 entering the United States;

7 (C) gaps in law, policy, and coordination
8 between State, local, or tribal law enforcement,
9 international agreements, or tribal agreements
10 that hinder effective and efficient border secu-
11 rity, counterterrorism, and anti-human smug-
12 gling and trafficking efforts;

13 (D) the current percentage of situational
14 awareness achieved by the Department of
15 Homeland Security along the southern border;

16 (E) the current percentage of operational
17 control (as defined in section 2 of the Secure
18 Fence Act of 2006 (8 U.S.C. 1701 note))
19 achieved by the Department of Homeland Secu-
20 rity on the southern border; and

21 (F) traveler crossing times and any poten-
22 tial security vulnerability associated with pro-
23 longed wait times.

24 (3) ANALYSIS REQUIREMENTS.—In compiling
25 the southern border threat analysis under this sub-

1 section, the Secretary of Homeland Security shall
2 consider and examine—

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

8 (B) the personnel needs and challenges, in-
9 cluding such needs and challenges associated
10 with recruitment and hiring;

11 (C) the infrastructure needs and chal-
12 lenges;

13 (D) the roles and authorities of State,
14 local, and tribal law enforcement in general bor-
15 der security activities;

16 (E) the status of coordination among Fed-
17 eral, State, local, tribal, and Mexican law en-
18 forcement entities relating to border security;

19 (F) the terrain, population density, and cli-
20 mate along the southern border; and

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

24 (4) CLASSIFIED FORM.—To the extent possible,
25 the Secretary of Homeland Security shall submit the

southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.

(b) BORDER PATROL STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat analysis required under subsection (a) or June 30, 2018, and every five years thereafter, the Secretary of Homeland Security, acting through the Chief of the U.S. Border Patrol, and in consultation with the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, shall issue a Border Patrol Strategic Plan.

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

(A) the southern border threat analysis required under subsection (a), with an emphasis on efforts to mitigate threats identified in such threat analysis;

(B) efforts to analyze and disseminate border security and border threat information between border security components of the Department of Homeland Security and other ap-

1 appropriate Federal departments and agencies
2 with missions associated with the southern bor-
3 der;

4 (C) efforts to increase situational aware-
5 ness, including—

6 (i) surveillance capabilities, including
7 capabilities developed or utilized by the
8 Department of Defense, and any appro-
9 priate technology determined to be excess
10 by the Department of Defense; and

11 (ii) the use of manned aircraft and
12 unmanned aerial systems, including cam-
13 era and sensor technology deployed on
14 such assets;

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

18 (E) efforts to detect, interdict, and disrupt
19 aliens and illicit drugs at the earliest possible
20 point;

21 (F) efforts to focus intelligence collection
22 to disrupt transnational criminal organizations
23 outside of the international and maritime bor-
24 ders of the United States;

1 (G) efforts to ensure that any new border
2 security technology can be operationally inte-
3 grated with existing technologies in use by the
4 Department of Homeland Security;

5 (H) any technology required to maintain,
6 support, and enhance security and facilitate
7 trade at ports of entry, including nonintrusive
8 detection equipment, radiation detection equip-
9 ment, biometric technology, surveillance sys-
10 tems, and other sensors and technology that the
11 Secretary of Homeland Security determines to
12 be necessary;

13 (I) operational coordination unity of effort
14 initiatives of the border security components of
15 the Department of Homeland Security, includ-
16 ing any relevant task forces of the Department
17 of Homeland Security;

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

20 (K) cooperative agreements and informa-
21 tion sharing with State, local, tribal, territorial,
22 and other Federal law enforcement agencies
23 that have jurisdiction on the northern border or
24 the southern border;

1 (L) border security information received
2 from consultation with State, local, tribal, terri-
3 torial, and Federal law enforcement agencies
4 that have jurisdiction on the northern border or
5 the southern border, or in the maritime envi-
6 ronment, and from border community stake-
7 holders (including through public meetings with
8 such stakeholders), including representatives
9 from border agricultural and ranching organiza-
10 tions and representatives from business and
11 civic organizations along the northern border or
12 the southern border;

13 (M) staffing requirements for all depart-
14 mental border security functions;

15 (N) a prioritized list of departmental re-
16 search and development objectives to enhance
17 the security of the southern border;

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

20 (i) identifying and detecting fraudu-
21 lent documents;

22 (ii) understanding the scope of en-
23 forcement authorities and the use of force
24 policies; and

- 1 (iii) screening, identifying, and ad-
 2 dressing vulnerable populations, such as
 3 children and victims of human trafficking;
 4 and
 5 (P) an assessment of how border security
 6 operations affect border crossing times.

7 **Subtitle B—Personnel**

8 **PART I—INCREASES IN IMMIGRATION AND LAW**

9 **ENFORCEMENT PERSONNEL**

10 **SEC. 131. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 11 **TECTION AGENTS AND OFFICERS.**

12 (a) BORDER PATROL AGENTS.—Not later than Sep-
 13 tember 30, 2021, the Commissioner of U.S. Customs and
 14 Border Protection shall hire, train, and assign sufficient
 15 agents to maintain an active duty presence of not fewer
 16 than 26,370 full-time equivalent agents.

17 (b) CBP OFFICERS.—In addition to positions author-
 18 ized before the date of the enactment of this Act and any
 19 existing officer vacancies within U.S. Customs and Border
 20 Protection as of such date, the Commissioner, subject to
 21 the availability of appropriations, shall hire, train, and as-
 22 sign to duty, not later than September 30, 2021—

23 (1) sufficient U.S. Customs and Border Protec-
 24 tion officers to maintain an active duty presence of

1 not fewer than 27,725 full-time equivalent officers;
2 and

3 (2) 350 full-time support staff distributed
4 among all United States ports of entry.

5 (c) AIR AND MARINE OPERATIONS.—Not later than
6 September 30, 2021, the Commissioner of U.S. Customs
7 and Border Protection shall hire, train, and assign suffi-
8 cient agents for Air and Marine Operations of U.S. Cus-
9 toms and Border Protection to maintain not fewer than
10 1,675 full-time equivalent agents.

11 (d) U.S. CUSTOMS AND BORDER PROTECTION K–9
12 UNITS AND HANDLERS.—

13 (1) K–9 UNITS.—Not later than September 30,
14 2021, the Commissioner shall deploy not less than
15 300 new K–9 units, with supporting officers of U.S.
16 Customs and Border Protection and other required
17 staff, at land ports of entry and checkpoints on the
18 southern border and the northern border.

19 (2) USE OF CANINES.—The Commissioner shall
20 prioritize the use of canines at the primary inspec-
21 tion lanes at land ports of entry and checkpoints.

22 (e) U.S. CUSTOMS AND BORDER PROTECTION
23 HORSEBACK UNITS.—

24 (1) INCREASE.—Not later than September 30,
25 2021, the Commissioner shall increase the number

1 of horseback units, with supporting officers of U.S.
2 Customs and Border Protection and other required
3 staff, by not less than 100 officers and 50 horses for
4 security patrol along the southern border.

5 (2) FUNDING LIMITATION.—Of the amounts
6 authorized to be appropriated for U.S. Customs and
7 Border Protection in this Act, not more than one
8 percent may be used for the purchase of additional
9 horses, the construction of new stables, maintenance
10 and improvements of existing stables, and for feed,
11 medicine, and other resources needed to maintain
12 the health and well-being of the horses that serve in
13 the horseback units.

14 (f) U.S. CUSTOMS AND BORDER PROTECTION
15 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
16 September 30, 2021, the Commissioner shall increase by
17 not fewer than 50 the number of officers engaged in
18 search and rescue activities along the southern border.

19 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
20 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
21 later than September 30, 2021, the Commissioner shall
22 increase by not less than 50 the number of officers assist-
23 ing task forces and activities related to deployment and
24 operation of border tunnel detection technology and appre-
25 hensions of individuals using such tunnels for crossing

1 into the United States, drug trafficking, or human smug-
2 gling.

3 (h) AGRICULTURAL SPECIALISTS.—Not later than
4 September 30, 2021, and in addition to the officers and
5 agents authorized under paragraphs (a) through (g), the
6 Secretary of Homeland Security shall hire, train, and as-
7 sign to duty, 631 U.S. Customs and Border Protection
8 agricultural specialists to ports of entry along the southern
9 border and the northern border.

10 (i) GAO REPORT.—If the staffing levels required
11 under this section are not achieved by September 30,
12 2021, the Comptroller General of the United States shall
13 conduct a review of the reasons why such levels were not
14 achieved.

15 **SEC. 132. U.S. CUSTOMS AND BORDER PROTECTION HIRING**
16 **AND RETENTION INCENTIVES.**

17 (a) DEFINITIONS.—In this section:

18 (1) COVERED AREA.—The term “covered area”
19 means a geographic area that the Secretary of
20 Homeland Security determines is in a remote loca-
21 tion or is an area for which it is difficult to find full-
22 time permanent covered CBP employees, as com-
23 pared to other ports of entry or Border Patrol sec-
24 tors.

1 (2) COVERED CBP EMPLOYEE.—The term “cov-
2 ered CBP employee” means an employee of U.S.
3 Customs and Border Protection performing activities
4 that are critical to border security or customs en-
5 forcement, as determined by the Commissioner.

6 (3) RATE OF BASIC PAY.—The term “rate of
7 basic pay”—

8 (A) means the rate of pay fixed by law or
9 administrative action for the position to which
10 an employee is appointed before deductions and
11 including any special rate under subpart C of
12 part 530 of title 5, Code of Federal Regula-
13 tions, or a similar payment under other legal
14 authority, and any locality-based comparability
15 payment under subpart F of part 531 of such
16 title, or a similar payment under other legal au-
17 thority, but excluding additional pay of any
18 other kind; and

19 (B) does not include additional pay, such
20 as night shift differentials under section
21 5343(f) of title 5, United States Code, or envi-
22 ronmental differentials under section
23 5343(c)(4) of such title.

24 (4) SPECIAL RATE OF PAY.—The term “special
25 rate of pay” means a higher than normal rate of pay

1 that exceeds the otherwise applicable rate of basic
2 pay for a similar covered CBP employee at a land
3 port of entry.

4 (b) HIRING INCENTIVES.—

5 (1) IN GENERAL.—In addition to the retention
6 incentives that are authorized under subsection (c),
7 and to the extent necessary for U.S. Customs and
8 Border Protection to hire, train, and deploy qualified
9 officers and employees and to meet the requirements
10 under section 131, the Commissioner, with the ap-
11 proval of the Secretary of Homeland Security, may
12 pay a hiring bonus of \$10,000 to a covered CBP
13 employee, after the covered CBP completes initial
14 basic training and executes a written agreement re-
15 quired under subparagraph (2).

16 (2) WRITTEN AGREEMENT.—The payment of a
17 hiring bonus to a covered CBP employee under
18 paragraph (1) is contingent upon the covered CBP
19 employee entering into a written agreement with
20 U.S. Customs and Border Protection to complete
21 more than two years of employment with U.S. Cus-
22 toms and Border Protection beginning on the date
23 on which the agreement is signed. Such agreement
24 shall include—

25 (A) the amount of the hiring bonus;

1 (B) the conditions under which the agree-
2 ment may be terminated before the required pe-
3 riod of service is completed and the effect of
4 such termination;

5 (C) the length of the required service pe-
6 riod; and

7 (D) any other terms and conditions under
8 which the hiring bonus is payable, subject to
9 the requirements under this section.

10 (3) FORM OF PAYMENT.—A signing bonus paid
11 to a covered CBP employee under paragraph (1)
12 shall be paid in a single payment after the covered
13 CBP employee completes initial basic training and
14 enters on duty and executes the agreement under
15 paragraph (2).

16 (4) EXCLUSION OF SIGNING BONUS FROM RATE
17 OF PAY.—A signing bonus paid to a covered CBP
18 employee under paragraph (1) shall not be consid-
19 ered part of the rate of basic pay of the covered
20 CBP employee for any purpose.

21 (5) EFFECTIVE DATE AND SUNSET.—This sub-
22 section shall take effect on the date of the enactment
23 of this Act and shall remain in effect until the ear-
24 lier of—

25 (A) September 30, 2019; or

1 (B) the date on which U.S. Customs and
2 Border Protection has 26,370 full-time equiva-
3 lent agents.

4 (c) RETENTION INCENTIVES.—

5 (1) IN GENERAL.—To the extent necessary for
6 U.S. Customs and Border Protection to retain quali-
7 fied employees, and to the extent necessary to meet
8 the requirements set forth in section 131, the Com-
9 missioner, with the approval of the Secretary of
10 Homeland Security, may pay a retention incentive to
11 a covered CBP employee who has been employed
12 with U.S. Customs and Border Protection for a pe-
13 riod of longer than two consecutive years, and the
14 Commissioner determines that, in the absence of the
15 retention incentive, the covered CBP employee would
16 likely—

17 (A) leave the Federal service; or

18 (B) transfer to, or be hired into, a dif-
19 ferent position within the Department of Home-
20 land Security (other than another position in
21 CBP).

22 (2) WRITTEN AGREEMENT.—The payment of a
23 retention incentive to a covered CBP employee under
24 paragraph (1) is contingent upon the covered CBP
25 employee entering into a written agreement with

1 U.S. Customs and Border Protection to complete
2 more than two years of employment with U.S. Customs and Border Protection beginning on the date
3 on which the CBP employee enters on duty and the
4 agreement is signed. Such agreement shall include—

5 (A) the amount of the retention incentive;

6 (B) the conditions under which the agree-
7 ment may be terminated before the required pe-
8 riod of service is completed and the effect of
9 such termination;

10 (C) the length of the required service pe-
11 riod; and

12 (D) any other terms and conditions under
13 which the retention incentive is payable, subject
14 to the requirements under this section.

15 (3) CRITERIA.—When determining the amount
16 of a retention incentive paid to a covered CBP em-
17 ployee under paragraph (1), the Commissioner shall
18 consider—

19 (A) the length of the Federal service and
20 experience of the covered CBP employee;

21 (B) the salaries for law enforcement offi-
22 cers in other Federal agencies; and
23

1 (C) the costs of replacing the covered CBP
2 employee, including the costs of training a new
3 employee.

4 (4) AMOUNT OF RETENTION INCENTIVE.—A re-
5 tention incentive paid to a covered CBP employee
6 under paragraph (1)—

7 (A) shall be approved by the Secretary of
8 Homeland Security and the Commissioner;

9 (B) shall be stated as a percentage of the
10 employee's rate of basic pay for the service pe-
11 riod associated with the incentive; and

12 (C) may not exceed \$25,000 for each year
13 of the written agreement.

14 (5) FORM OF PAYMENT.—A retention incentive
15 paid to a covered CBP employee under paragraph
16 (1) shall be paid as a single payment at the end of
17 the fiscal year in which the covered CBP employee
18 entered into an agreement under paragraph (2), or
19 in equal installments during the life of the service
20 agreement, as determined by the Commissioner.

21 (6) EXCLUSION OF RETENTION INCENTIVE
22 FROM RATE OF PAY.—A retention incentive paid to
23 a covered CBP employee under paragraph (1) shall
24 not be considered part of the rate of basic pay of the
25 covered CBP employee for any purpose.

1 (d) PILOT PROGRAM ON SPECIAL RATES OF PAY IN
2 COVERED AREAS.—

3 (1) IN GENERAL.—The Commissioner may es-
4 tablish a pilot program to assess the feasibility and
5 advisability of using special rates of pay for covered
6 CBP employees in covered areas, as designated on
7 the date of the enactment of this Act, to help meet
8 the requirements set forth in section 131.

9 (2) MAXIMUM AMOUNT.—The rate of basic pay
10 of a covered CBP employee paid a special rate of
11 pay under the pilot program may not exceed 125
12 percent of the otherwise applicable rate of basic pay
13 of the covered CBP employee.

14 (3) TERMINATION.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the pilot program shall ter-
17minate on the date that is two years after the
18 date of the enactment of this Act.

19 (B) EXTENSION.—If the Secretary of
20 Homeland Security determines that the pilot
21 program is performing satisfactorily and there
22 are metrics that prove its success in meeting
23 the requirements set forth in section 131, the
24 Secretary may extend the pilot program until

1 the date that is four years after the date of the
2 enactment of this Act.

3 (4) REPORT TO CONGRESS.—Shortly after the
4 pilot program terminates under paragraph (3), the
5 Commissioner shall submit a report to the Com-
6 mittee on Homeland Security and Governmental Af-
7 fairs of the Senate, the Committee on the Judiciary
8 of the Senate, the Committee on Homeland Security
9 of the House of Representatives, and the Committee
10 on the Judiciary of the House of Representatives
11 that details—

12 (A) the total amount paid to covered CBP
13 employees under the pilot program; and

14 (B) the covered areas in which the pilot
15 program was implemented.

16 (e) SALARIES.—

17 (1) IN GENERAL.—Section 101(b) of the En-
18 hanced Border Security and Visa Entry Reform Act
19 of 2002 (8 U.S.C. 1711(b)) is amended to read as
20 follows:

21 “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP
22 EMPLOYEES.—There are authorized to be appropriated to
23 U.S. Customs and Border Protection such sums as may
24 be necessary to increase, effective January 1, 2018, the
25 annual rate of basic pay for U.S. Customs and Border

1 Protection employees who have completed at least one year
2 of service—

3 “(1) to the annual rate of basic pay payable for
4 positions at GS–12, step 1 of the General Schedule
5 under subchapter III of chapter 53 of title 5, United
6 States Code, for officers and agents who are receiv-
7 ing the annual rate of basic pay payable for a posi-
8 tion at GS–5, GS–6, GS–7, GS–8, or GS–9 of the
9 General Schedule;

10 “(2) to the annual rate of basic pay payable for
11 positions at GS–12, step 10 of the General Schedule
12 under such subchapter for supervisory CBP officers
13 and supervisory Border Patrol agents who are re-
14 ceiving the annual rate of pay payable for a position
15 at GS–10 of the General Schedule; and

16 “(3) to the annual rate of basic pay payable for
17 positions at GS–13, step 1 of the General Schedule
18 under such subchapter for supervisory CBP officers
19 and supervisory Border Patrol agents who are re-
20 ceiving the annual rate of pay payable for a position
21 at GS–11 of the General Schedule;

22 “(4) to the annual rate of basic pay payable for
23 positions at GS–14, step 1 of the General Schedule
24 under such subchapter for supervisory CBP officers
25 and supervisory Border Patrol agents who are re-

ceiving the annual rate of pay payable for a position
at GS–12 or GS–13 of the General Schedule; and

“(5) to the annual rate of basic pay payable for
positions at GS–8, GS–9, or GS–10 of the General
Schedule for assistants who are receiving an annual
rate of pay payable for positions at GS–5, GS–6, or
GS–7 of the General Schedule, respectively.”.

(2) **HARDSHIP DUTY PAY.**—In addition to com-
pensation to which Border Patrol agents are other-
wise entitled, Border Patrol agents who are assigned
to rural areas shall be entitled to receive hardship
duty pay, in lieu of a retention incentive bonus
under subsection (b), in an amount determined by
the Commissioner, which may not exceed the rate of
special pay to which members of a uniformed service
are entitled under section 310 of title 37, United
States Code.

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

**SEC. 133. ANTI-BORDER CORRUPTION REAUTHORIZATION
ACT.**

(a) **SHORT TITLE.**—This Act may be cited as the
“Anti-Border Corruption Reauthorization Act of 2017”.

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

4 “(b) **WAIVER AUTHORITY.**—The Commissioner of
5 U.S. Customs and Border Protection may waive the appli-
6 cation of subsection (a)(1)—

7 “(1) to a current, full-time law enforcement of-
8 ficer employed by a State or local law enforcement
9 agency who—

10 “(A) has continuously served as a law en-
11 forcement officer for not fewer than three
12 years;

13 “(B) is authorized by law to engage in or
14 supervise the prevention, detection, investiga-
15 tion, or prosecution of, or the incarceration of
16 any person for, any violation of law, and has
17 statutory powers for arrest or apprehension;

18 “(C) is not currently under investigation,
19 has not been found to have engaged in criminal
20 activity or serious misconduct, has not resigned
21 from a law enforcement officer position under
22 investigation or in lieu of termination, and has
23 not been dismissed from a law enforcement offi-
24 cer position; and

1 “(D) has, within the past ten years, suc-
2 cessfully completed a polygraph examination as
3 a condition of employment with such officer’s
4 current law enforcement agency;

5 “(2) to a current, full-time Federal law enforce-
6 ment officer who—

7 “(A) has continuously served as a law en-
8 forcement officer for not fewer than three
9 years;

10 “(B) is authorized to make arrests, con-
11 duct investigations, conduct searches, make sei-
12 zures, carry firearms, and serve orders, war-
13 rants, and other processes;

14 “(C) is not currently under investigation,
15 has not been found to have engaged in criminal
16 activity or serious misconduct, has not resigned
17 from a law enforcement officer position under
18 investigation or in lieu of termination, and has
19 not been dismissed from a law enforcement offi-
20 cer position; and

21 “(D) holds a current Tier 4 background
22 investigation or current Tier 5 background in-
23 vestigation; and

1 “(3) to a member of the Armed Forces (or a re-
2 serve component thereof) or a veteran, if such indi-
3 vidual—

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

6 “(B) holds, or has held within the past five
7 years, a Secret, Top Secret, or Top Secret/Sen-
8 sitive Compartmented Information clearance;

9 “(C) holds, or has undergone within the
10 past five years, a current Tier 4 background in-
11 vestigation or current Tier 5 background inves-
12 tigation;

13 “(D) received, or is eligible to receive, an
14 honorable discharge from service in the Armed
15 Forces and has not engaged in criminal activity
16 or committed a serious military or civil offense
17 under the Uniform Code of Military Justice;
18 and

19 “(E) was not granted any waivers to ob-
20 tain the clearance referred to subparagraph
21 (B).

22 “(c) TERMINATION OF WAIVER AUTHORITY.—The
23 authority to issue a waiver under subsection (b) shall ter-
24minate on the date that is four years after the date of

1 the enactment of the Anti-Border Corruption Reauthoriza-
 2 tion Act of 2017.”.

3 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
 4 DEFINITIONS.—

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

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

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

16 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
 17 vidual who receives a waiver under section 3(b) who holds
 18 a current Tier 4 background investigation shall be subject
 19 to a Tier 5 background investigation.

20 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
 21 TION.—The Commissioner of U.S. Customs and Border
 22 Protection is authorized to administer a polygraph exam-
 23 ination to an applicant or employee who is eligible for or
 24 receives a waiver under section 3(b) if information is dis-
 25 covered before the completion of a background investiga-

1 tion that results in a determination that a polygraph ex-
 2 amination is necessary to make a final determination re-
 3 garding suitability for employment or continued employ-
 4 ment, as the case may be.”.

5 (2) REPORT.—The Anti-Border Corruption Act
 6 of 2010, as amended by paragraph (1), is further
 7 amended by adding at the end the following new sec-
 8 tion:

9 **“SEC. 5. REPORTING.**

10 “(a) ANNUAL REPORT.—Not later than one year
 11 after the date of the enactment of the Anti-Border Cor-
 12 ruption Re-authorization Act of 2017, and annually there-
 13 after while the waiver authority under section 3(b) is in
 14 effect, the Commissioner of U.S. Customs and Border
 15 Protection shall submit to Congress a report that includes,
 16 with respect to the reporting period—

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

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

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

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

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

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

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

10 “(1) an analysis of other methods of employ-
11 ment suitability tests that detect deception and could
12 be used in conjunction with traditional background
13 investigations to evaluate potential employees for
14 suitability; and

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

20 (3) DEFINITIONS.—The Anti-Border Corrup-
21 tion Act of 2010, as amended by paragraphs (1) and
22 (2), is further amended by adding at the end the fol-
23 lowing new section:

24 **“SEC. 6. DEFINITIONS.**

25 **“In this Act:**

1 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—

2 The term ‘Federal law enforcement officer’ has the
3 meaning given the term ‘law enforcement officer’ in
4 sections 8331(20) and 8401(17) of title 5, United
5 States Code.

6 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—

7 The term ‘serious military or civil offense’ means an
8 offense for which—

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

12 “(B) a punitive discharge is, or would be,
13 authorized for the same or a closely related of-
14 fense under the Manual for Court-Martial, as
15 pursuant to Army Regulation 635-200 chapter
16 14-12.

17 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
18 ‘Tier 5’ with respect to background investigations
19 have the meaning given such terms under the 2012
20 Federal Investigative Standards.

21 “(4) VETERAN.—The term ‘veteran’ has the
22 meaning given such term in section 101(2) of title
23 38, United States Code.”.

24 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
25 tember 30, 2021, the Secretary of Homeland Security

1 shall increase to not fewer than 150 the number of trained
2 full-time equivalent polygraph examiners for administering
3 polygraph examinations under the Anti-Border Corruption
4 Act of 2010, as amended by this section.

5 **SEC. 134. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS**
6 **ENFORCEMENT PERSONNEL.**

7 (a) ENFORCEMENT AND REMOVAL OFFICERS.—Not
8 later than September 30, 2021, the Director of U.S. Im-
9 migration and Customs Enforcement shall increase the
10 number of trained, full-time, active duty U.S. Immigration
11 and Customs Enforcement Enforcement and Removal Op-
12 erations law enforcement officers performing interior im-
13 migration enforcement functions to not fewer than 8,500.

14 (b) HOMELAND SECURITY INVESTIGATIONS SPECIAL
15 AGENTS.—Not later than September 30, 2021, the Direc-
16 tor of U.S. Immigration and Customs Enforcement shall
17 increase the number of trained, full-time, active duty
18 Homeland Security Investigations special agents by not
19 fewer than 1,500.

20 (c) BORDER ENFORCEMENT SECURITY TASK
21 FORCE.—Not later than September 30, 2021, the Direc-
22 tor of U.S. Immigration and Customs Enforcement shall
23 assign not fewer than 100 Homeland Security Investiga-
24 tions special agents to the Border Enforcement Security

1 Task Force Program established under section 432 of the
2 Homeland Security Act of 2002 (6 U.S.C. 240).

3 **SEC. 135. OTHER IMMIGRATION AND LAW ENFORCEMENT**
4 **PERSONNEL.**

5 (a) DEPARTMENT OF JUSTICE.—

6 (1) UNITED STATES ATTORNEYS.—Not later
7 than September 30, 2021, in addition to positions
8 authorized before the date of the enactment of this
9 Act and any existing attorney vacancies within the
10 Department of Justice on such date of enactment,
11 the Attorney General shall—

12 (A) increase by not fewer than 100 the
13 number of Assistant United States Attorneys,
14 and

15 (B) increase by not fewer than 50 the
16 number of Special Assistant United States At-
17 torneys in the United States Attorneys' office to
18 litigate denaturalization and other immigration
19 cases in the Federal courts.

20 (2) IMMIGRATION JUDGES.—

21 (A) ADDITIONAL IMMIGRATION JUDGES.—
22 Not later than September 30, 2021, in addition
23 to positions authorized before the date of the
24 enactment of this Act and any existing vacan-
25 cies within the Department of Justice on such

1 date of enactment, and subject to the avail-
2 ability of appropriations, the Attorney General
3 shall increase by 200 the number of trained
4 full-time immigration judges.

5 (B) FACILITIES AND SUPPORT PER-
6 SONNEL.—The Attorney General is authorized
7 to procure space, temporary facilities, and sup-
8 port staff, on an expedited basis, to accommo-
9 date the additional immigration judges author-
10 ized under this subparagraph.

11 (3) BOARD OF IMMIGRATION APPEALS.—

12 (A) BOARD MEMBERS.—Not later than
13 September 30, 2021, the Attorney General shall
14 increase the number of Board Members author-
15 ized to serve on the Board of Immigration Ap-
16 peals to 25.

17 (B) STAFF ATTORNEYS.—Not later than
18 September 30, 2021, in addition to positions
19 authorized before the date of the enactment of
20 this Act and any existing staff attorney vacan-
21 cies within the Department of Justice on the
22 date of enactment, and subject to the avail-
23 ability of appropriations, the Attorney General
24 shall increase the number of staff attorneys as-

1 signed to support the Board of Immigration
2 Appeals by not fewer than 50.

3 (C) FACILITIES AND SUPPORT PER-
4 SONNEL.—The Attorney General is authorized
5 to procure space, temporary facilities, and re-
6 quired administrative support staff, on an expe-
7 dited basis, to accommodate the additional
8 Board Members authorized under this subpara-
9 graph.

10 (4) OFFICE OF IMMIGRATION LITIGATION.—Not
11 later than September 30, 2021, in addition to posi-
12 tions authorized before the date of the enactment of
13 this Act and any existing vacancies within the De-
14 partment of Justice, and subject to the availability
15 of appropriations, the Attorney General shall in-
16 crease by not fewer than 100 the number of attor-
17 neys for the Office of Immigration Litigation.

18 (b) DEPARTMENT OF HOMELAND SECURITY.—

19 (1) FRAUD DETECTION AND NATIONAL SECU-
20 RITY OFFICERS.—Not later than September 30,
21 2021, in addition to positions authorized before the
22 date of the enactment of this Act and any existing
23 officer vacancies within the Department of Home-
24 land Security, and subject to the availability of ap-
25 propriations, the Director of U.S. Citizenship and

1 Immigration Services shall increase by not fewer
2 than 100 the number of trained full-time active duty
3 Fraud Detection and National Security (FDNS) of-
4 ficers.

5 (2) ICE HOMELAND SECURITY INVESTIGATIONS
6 FORENSIC DOCUMENT LABORATORY PERSONNEL.—
7 Not later than September 30, 2021, in addition to
8 positions authorized before the date of the enact-
9 ment of this Act and any existing officer vacancies
10 within the Department of Homeland Security, the
11 Director of U.S. Immigration and Customs Enforce-
12 ment shall increase the number of trained full-time
13 Forensic Document Laboratory Examiners by 15,
14 Fingerprint Specialists by 15, Intelligence Officers
15 by 10, and Administrative Staff by 3.

16 (3) IMMIGRATION ATTORNEYS.—

17 (A) ICE TRIAL ATTORNEYS.—Not later
18 than September 30, 2021, in addition to posi-
19 tions authorized before the date of the enact-
20 ment of this Act and any existing attorney va-
21 cancies within the Department of Homeland Se-
22 curity on such date of enactment, the Director
23 of U.S. Immigration and Customs Enforcement
24 shall increase the number of trained, full-time,
25 active duty Office of Principal Legal Advisor at-

1 torneys by not fewer than 1,200. Such attor-
2 neys shall primarily perform duties related to
3 litigation of removal proceedings and rep-
4 resenting the Department of Homeland Secu-
5 rity in immigration matters before the immigra-
6 tion courts within the Department of Justice,
7 the Executive Office for Immigration Review,
8 and enforcement of U.S. customs and trade
9 laws. At least 50 of these additional attorney
10 positions shall be by the Attorney General to in-
11 crease the number of U.S. Immigration and
12 Customs Enforcement attorneys serving as Spe-
13 cial Assistant U.S. Attorneys, on detail to the
14 Department of Justice, Offices of the U.S. At-
15 torneys, to assist with immigration-related liti-
16 gation.

17 (B) USCIS IMMIGRATION ATTORNEYS.—

18 Not later than September 30, 2021, in addition
19 to positions authorized before the date of the
20 enactment of this Act and any existing attorney
21 vacancies within the Department of Homeland
22 Security on such date of enactment, the Direc-
23 tor of U.S. Citizenship and Immigration Serv-
24 ices shall increase the number of trained, full-
25 time, active duty Office of Chief Counsel attor-

neys by not fewer than 250. Such attorneys shall primarily handle national security and public safety cases, denaturalization cases, and legal sufficiency reviews of immigration benefit decisions. At least 50 of these additional attorney positions shall be used by the Attorney General to increase the number of U.S. Citizenship and Immigration Service attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

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

PART II—JUDICIAL RESOURCES

SEC. 141. JUDICIAL RESOURCES FOR BORDER SECURITY.

(a) BORDER CROSSING PROSECUTIONS (CRIMINAL CONSEQUENCE INITIATIVE).—

1 (1) IN GENERAL.—Amounts appropriated pur-
2 suant to paragraph (3) shall be used—

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

11 (i) attorneys and administrative sup-
12 port staff in offices of United States attor-
13 neys;

14 (ii) support staff and interpreters in
15 court clerks' offices;

16 (iii) pre-trial services;

17 (iv) activities of the Office of the Fed-
18 eral Public Defender, including payments
19 to retain appointed counsel under section
20 3006A of title 18, United States Code; and

21 (v) additional personnel, including
22 deputy United States marshals in the
23 United States Marshals Service, to perform
24 intake, coordination, transportation, and
25 court security; and

1 (B) to reimburse Federal, State, local, and
2 tribal law enforcement agencies for any deten-
3 tion costs related to the increased border cross-
4 ing prosecutions carried out pursuant to sub-
5 paragraph (A).

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

15 (3) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated for each of
17 the fiscal years 2018 through 2021 such sums as
18 may be necessary to carry out this subsection.

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

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

23 (A) 4 additional district judges for the Dis-
24 trict of Arizona;

1 (B) 2 additional district judges for the
 2 Southern District of California;

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

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

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

19 (3) TECHNICAL AND CONFORMING AMEND-
 20 MENTS.—The table contained in section 133(a) of
 21 title 28, United States Code, is amended—

22 (A) by striking the item relating to the dis-
 23 trict of Arizona and inserting the following:

“Arizona 17”;

1 (B) by striking the items relating to Cali-
 2 fornia and inserting the following :

“California:

Northern	19
Eastern	12
Central	28
Southern	15”; and

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

“Texas:

Northern	12
Southern	21
Eastern	7
Western	17”.

5 (c) INCREASE IN FILING FEES.—

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

8 (A) by striking “\$350” and inserting
 9 “\$375”; and

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

11 (2) EXPENDITURE LIMITATION.—Incremental
 12 amounts collected pursuant to the amendments
 13 made by paragraph (1) shall be deposited as offset-
 14 ting receipts in the special fund of the Treasury es-
 15 tablished under section 1931 of title 28, United
 16 States Code. Such amounts shall be available solely
 17 for the purpose of facilitating the processing of civil
 18 cases, but only to the extent specifically appro-
 19 priated by an Act of Congress enacted after the date
 20 of the enactment of this Act.

1 (d) WHISTLEBLOWER PROTECTION.—

2 (1) IN GENERAL.—No officer, employee, agent,
3 contractor, or subcontractor of the judicial branch
4 may discharge, demote, threaten, suspend, harass, or
5 in any other manner discriminate against an em-
6 ployee in the terms and conditions of employment
7 because of any lawful act done by the employee to
8 provide information, cause information to be pro-
9 vided, or otherwise assist in an investigation regard-
10 ing any possible violation of Federal law or regula-
11 tion, or misconduct, by a judge, justice, or any other
12 employee in the judicial branch, which may assist in
13 the investigation of the possible violation or mis-
14 conduct.

15 (2) CIVIL ACTION.—An employee injured by a
16 violation of paragraph (1) may seek appropriate re-
17 lief in a civil action.

18 **SEC. 142. REIMBURSEMENT TO STATE AND LOCAL PROS-**
19 **ECUTORS FOR FEDERALLY INITIATED, IMMI-**
20 **GRATION-RELATED CRIMINAL CASES.**

21 (a) IN GENERAL.—The Attorney General shall reim-
22 burse State, county, tribal, and municipal governments for
23 costs associated with the prosecution of federally initiated
24 criminal cases declined to be prosecuted by local offices
25 of the United States attorneys, including costs relating to

1 pre-trial services, detention, clerical support, and public
 2 defenders' services associated to such prosecution.

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

9 **Subtitle C—Grants**

10 **SEC. 151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

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

13 (1) in paragraph (1)—

14 (A) by inserting “AUTHORIZATION.—” be-
 15 fore “If the chief”; and

16 (B) by inserting “or an alien with an un-
 17 known status” after “undocumented criminal
 18 alien” each place that term appears;

19 (2) by striking paragraphs (2) and (3) and in-
 20 serting the following:

21 “(2) COMPENSATION.—

22 “(A) CALCULATION OF COMPENSATION.—
 23 Compensation under paragraph (1)(A) shall be
 24 the average cost of incarceration of a prisoner

1 in the relevant State, as determined by the At-
2 torney General.

3 “(B) COMPENSATION OF STATE FOR IN-
4 CARCERATION.—The Attorney General shall
5 compensate the State or political subdivision of
6 the State, in accordance with subparagraph
7 (A), for the incarceration of an alien—

8 “(i) whose immigration status cannot
9 be verified by the Secretary of Homeland
10 Security; and

11 “(ii) who would otherwise be an un-
12 documented criminal alien if the alien is
13 unlawfully present in the United States.

14 “(3) DEFINITIONS.—In this subsection:

15 “(A) ALIEN WITH AN UNKNOWN STA-
16 TUS.—The term ‘alien with an unknown status’
17 means an individual—

18 “(i) who has been incarcerated by a
19 Federal, State, or local law enforcement
20 entity; and

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

23 “(B) UNDOCUMENTED CRIMINAL ALIEN.—
24 The term ‘undocumented criminal alien’ means
25 an alien who—

1 “(i) has been charged with or con-
2 victed of a felony or any misdemeanors;
3 and

4 “(ii)(I) entered the United States
5 without inspection or at any time or place
6 other than as designated by the Secretary
7 of Homeland Security;

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

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

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

24 (4) in paragraph (5)(C), by striking “to carry
25 out this subsection” and all that follows and insert-

1 ing “\$950,000,000 for each of the fiscal years 2018
2 through 2021 to carry out this subsection.”; and

3 (5) by adding at the end the following:

4 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any
5 funds provided to a State or a political subdivision
6 of a State as compensation under paragraph (1)(A)
7 for a fiscal year shall be distributed to such State
8 or political subdivision not later than 120 days after
9 the last day of the period specified by the Attorney
10 General for the submission of requests under that
11 paragraph for that fiscal year.”.

12 **SEC. 152. OPERATION STONEGARDEN.**

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

16 **“SEC. 2009. OPERATION STONEGARDEN.**

17 “(a) ESTABLISHMENT.—There is established in the
18 Department a program, which shall be known as ‘Oper-
19 ation Stonegarden’, under which the Secretary, acting
20 through the Administrator, shall make grants to eligible
21 law enforcement agencies, through the State administra-
22 tive agency, to enhance border security in accordance with
23 this section.

1 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
2 ceive a grant under this section, a law enforcement agen-
3 cy—

4 “(1) shall be located in—

5 “(A) a State bordering Canada or Mexico;
6 or

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

9 “(2) shall be involved in an active, ongoing,
10 U.S. Customs and Border Protection operation co-
11 ordinated through a sector office.

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

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

16 “(2) personnel, including overtime and backfill,
17 in support of enhanced border law enforcement ac-
18 tivities;

19 “(3) any activity permitted for Operation
20 Stonegarden under the Department of Homeland
21 Security’s Fiscal Year 2017 Homeland Security
22 Grant Program Notice of Funding Opportunity; and

23 “(4) any other appropriate activity, as deter-
24 mined by the Administrator, in consultation with the

1 Commissioner of U.S. Customs and Border Protec-
2 tion.

3 “(d) PERIOD OF PERFORMANCE.—The Secretary
4 shall award grants under this section to grant recipients
5 for a period of not less than 36 months.

6 “(e) REPORT.—For each of the fiscal years 2018
7 through 2022, the Administrator shall submit to the Com-
8 mittee on Homeland Security and Governmental Affairs
9 of the Senate and the Committee on Homeland Security
10 of the House of Representatives a report that contains in-
11 formation on the expenditure of grants made under this
12 section by each grant recipient.

13 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated \$110,000,000 for each
15 of the fiscal years 2018 through 2022 for grants under
16 this section.”.

17 (b) CONFORMING AMENDMENT.—Section 2002(a) of
18 the Homeland Security Act of 2002 (6 U.S.C. 603) is
19 amended to read as follows:

20 “(a) GRANTS AUTHORIZED.—The Secretary, through
21 the Administrator, may award grants under sections 2003,
22 2004, and 2009 to State, local, and tribal governments,
23 as appropriate.”.

24 (c) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002 is

1 amended by inserting after the item relating to section
2 2008 the following new item:

“Sec. 2009. Operation Stonegarden.”.

3 **SEC. 153. GRANTS FOR IDENTIFICATION OF VICTIMS OF**
4 **CROSS-BORDER HUMAN SMUGGLING.**

5 In addition to any funding for grants made available
6 to the Attorney General for State and local law enforce-
7 ment assistance, the Attorney General shall award grants
8 to county, municipal, or tribal governments in States
9 along the southern border for costs, or reimbursement of
10 costs, associated with the transportation and processing
11 of unidentified alien remains that have been transferred
12 to an official medical examiner’s office or an institution
13 of higher education in the area with the capacity to ana-
14 lyze human remains using forensic best practices, includ-
15 ing DNA testing, where such expenses may contribute to
16 the collection and analysis of information pertaining to
17 missing and unidentified persons.

18 **SEC. 154. GRANT ACCOUNTABILITY.**

19 (a) DEFINITIONS.—In this section:

20 (1) AWARDING ENTITY.—The term “awarding
21 entity” means the Secretary, the Administrator of
22 the Federal Emergency Management Agency, the
23 Director of the National Science Foundation, or the
24 Chief of the Office of Citizenship and New Ameri-
25 cans.

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

6 (3) UNRESOLVED AUDIT FINDING.—The term
7 “unresolved audit finding” means a finding in a
8 final audit report conducted by the Inspector Gen-
9 eral of the Department of Homeland Security, or the
10 Inspector General for the National Science Founda-
11 tion for grants awarded by the Director of the Na-
12 tional Science Foundation, that the audited grantee
13 has utilized grant funds for an unauthorized expend-
14 iture or otherwise unallowable cost that is not closed
15 or resolved within one year after the date when the
16 final audit report is issued.

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

20 (1) AUDIT REQUIREMENT.—

21 (A) AUDITS.—Beginning in the first fiscal
22 year beginning after the date of the enactment
23 of this Act, and in each fiscal year thereafter,
24 the Inspector General of the Department of
25 Homeland Security, or the Inspector General

1 for the National Science Foundation for grants
2 awarded by the Director of the National
3 Science Foundation, shall conduct audits of re-
4 cipients of grants under this subtitle or any
5 amendments made by this subtitle to prevent
6 waste, fraud, and abuse of funds by grantees.
7 Such Inspectors General shall determine the ap-
8 propriate number of grantees to be audited
9 each year.

10 (B) MANDATORY EXCLUSION.—A recipient
11 of grant funds under this subtitle that is found
12 to have an unresolved audit finding shall not be
13 eligible to receive grant funds under this sub-
14 title or any amendment made by this subtitle
15 during the first two fiscal years beginning after
16 the end of the one-year period described in sub-
17 section (A).

18 (C) PRIORITY.—In awarding a grant under
19 this subtitle or any amendment made by this
20 subtitle, the awarding entity shall give priority
21 to eligible applicants that did not have an unre-
22 solved audit finding during the three fiscal
23 years immediately preceding the date on which
24 the entity submitted the application for such
25 grant.

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

7 (i) deposit an amount equal to the
8 amount of the grant funds that were im-
9 properly awarded to such entity into the
10 general fund of the Treasury; and

11 (ii) seek to recover the costs of the re-
12 payment under clause (i) from such entity.

13 (2) NONPROFIT ORGANIZATION REQUIRE-
14 MENTS.—

15 (A) PROHIBITION.—An awarding entity
16 may not award a grant under this subtitle or
17 any amendment made by this subtitle to a non-
18 profit organization that holds money in offshore
19 accounts for the purpose of avoiding the tax im-
20 posed under section 511(a) of the Internal Rev-
21 enue Code of 1986.

22 (B) DISCLOSURE.—Each nonprofit organi-
23 zation that is awarded a grant under this sub-
24 title or any amendment made by this subtitle
25 and uses the procedures prescribed by Internal

1 Revenue regulations to create a rebuttable pre-
2 sumption of reasonableness for the compensa-
3 tion of its officers, directors, trustees, and key
4 employees, shall disclose to the awarding entity,
5 in the application for the grant, the process for
6 determining such compensation, including the
7 independent persons involved in reviewing and
8 approving such compensation, the comparability
9 data used, and contemporaneous substantiation
10 of the deliberation and decision. Upon request,
11 the awarding entity shall make the information
12 disclosed under this subparagraph available for
13 public inspection.

14 (3) CONFERENCE EXPENDITURES.—

15 (A) LIMITATION.—Amounts authorized to
16 be appropriated to the Department of Home-
17 land Security or the National Science Founda-
18 tion for grant programs under this subtitle or
19 any amendment made by this subtitle may not
20 be used by an awarding entity to host or sup-
21 port any expenditure for conferences that uses
22 more than \$20,000 in funds made available by
23 the Department of Homeland Security or the
24 National Science Foundation unless the Deputy
25 Secretary for Homeland Security, or the Dep-

1 uty Director of the National Science Founda-
2 tion, or their designee, provides prior written
3 authorization that the funds may be expended
4 to host the conference.

5 (B) WRITTEN APPROVAL.—Written ap-
6 proval under subparagraph (A) shall include a
7 written estimate of all costs associated with the
8 conference, including the cost of all food, bev-
9 erages, audio-visual equipment, honoraria for
10 speakers, and entertainment.

11 (C) REPORT.—The Deputy Secretary of
12 Homeland Security and the Deputy Director of
13 the National Science Foundation shall submit
14 an annual report to Congress that identifies all
15 conference expenditures approved under this
16 paragraph.

17 (4) ANNUAL CERTIFICATION.—Beginning in the
18 first fiscal year beginning after the date of the en-
19 actment of this Act, each awarding entity shall sub-
20 mit a report to Congress that—

21 (A) indicates whether—

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

- 1 (ii) all mandatory exclusions required
 2 under paragraph (1)(B) have been issued;
 3 and
 4 (iii) all reimbursements required
 5 under paragraph (1)(D) have been made;
 6 and
 7 (B) includes a list of any grant recipients
 8 excluded under paragraph (1) during the pre-
 9 vious year.

10 **Subtitle D—Authorization of** 11 **Appropriations**

12 **SEC. 161. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—In addition to amounts otherwise
 14 authorized to be appropriated, there are authorized to be
 15 appropriated for each of the fiscal years 2018 through
 16 2021, \$2,500,000,000 to implement this title and the
 17 amendments made by this title, of which—

18 (1) \$10,000,000 shall be used by the Depart-
 19 ment of Homeland Security to implement Vehicle
 20 and Dismount Exploitation Radars (VADER) in
 21 border security operations;

22 (2) \$3,000,000 shall be used by the Depart-
 23 ment of Homeland Security to implement three di-
 24 mensional, seismic acoustic detection and ranging

1 border tunneling detection technology on the south-
 2 ern border;

3 (3) \$200,000,000 shall be used by the Depart-
 4 ment of State to implement section 113; and

5 (4) \$30,000,000 shall be used for judicial re-
 6 form, institution building, anti-corruption, and rule
 7 of law activities under the Merida Initiative.

8 (b) HIGH INTENSITY DRUG TRAFFICKING AREA
 9 PROGRAM.—Section 707(p)(5) of the Office of National
 10 Drug Control Policy Reauthorization Act of 1998 (21
 11 U.S.C. 1706(p)(5)) is amended by striking “to the Office
 12 of National Drug Control Policy” and all that follows and
 13 inserting “\$280,000,000 to the Office of National Drug
 14 Control Policy for each of the fiscal years 2018 through
 15 2021 to carry out this section.”.

16 **TITLE II—EMERGENCY PORT OF** 17 **ENTRY PERSONNEL AND IN-** 18 **FRASTRUCTURE FUNDING**

19 **SEC. 201. PORTS OF ENTRY INFRASTRUCTURE.**

20 (a) ADDITIONAL PORTS OF ENTRY.—

21 (1) AUTHORITY.—The Secretary of Homeland
 22 Security may construct new ports of entry along the
 23 northern border and the southern border and deter-
 24 mine the location of any such new ports of entry.

25 (2) CONSULTATION.—

1 (A) REQUIREMENT TO CONSULT.—The
2 Secretary of Homeland Security shall consult
3 with the Secretary of State, the Secretary of
4 the Interior, the Secretary of Agriculture, the
5 Secretary of Transportation, the Administrator
6 of General Services, and appropriate represent-
7 atives of State and local governments, and In-
8 dian tribes, and property owners in the United
9 States prior to selecting a location for any new
10 port constructed pursuant to paragraph (1).

11 (B) CONSIDERATIONS.—The purpose of
12 the consultations required by subparagraph (A)
13 shall be to minimize any negative impacts of
14 such a new port on the environment, culture,
15 commerce, and quality of life of the commu-
16 nities and residents located near such new port.

17 (b) EXPANSION AND MODERNIZATION OF HIGH-PRI-
18 ORITY BORDER PORTS OF ENTRY.—Not later than Sep-
19 tember 30, 2021, the Secretary of Homeland Security
20 shall modernize the top 10 high-priority ports of entry.

21 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
22 structing any new ports of entry pursuant to subsection
23 (a), the Secretary shall complete the expansion and mod-
24 ernization of ports of entry pursuant to subsection (b) to
25 the extent practicable.

1 (d) NOTIFICATION.—

2 (1) NEW PORTS OF ENTRY.—Not later than 15
3 days after determining the location of any new port
4 of entry for construction pursuant to subsection (a),
5 the Secretary of Homeland Security shall submit a
6 report containing the location of the new port of
7 entry, a description of the need for and anticipated
8 benefits of the new port of entry, a description of
9 the consultations undertaken by the Secretary, any
10 actions that will be taken to minimize negative im-
11 pacts of the new port, and the anticipated timeline
12 for construction and completion of the new port of
13 entry to—

14 (A) the members of Congress that rep-
15 resent the State or congressional district in
16 which the new port of entry will be located;

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

19 (C) the Committee on Finance of the Sen-
20 ate;

21 (D) the Committee on the Judiciary of the
22 Senate;

23 (E) the Committee on Homeland Security
24 of the House of Representatives;

1 (F) the Committee on Ways and Means of
2 the House of Representatives; and

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

5 (2) TOP TEN HIGH-VOLUME PORTS.—Not later
6 than 180 days after the date of the enactment of
7 this Act, the Secretary of Homeland Security shall
8 notify the congressional committees listed under
9 paragraph (1) of—

10 (A) the top 10 high-volume ports of entry
11 on the southern border referred to in subsection
12 (b); and

13 (B) the Secretary’s plan for expanding the
14 primary and secondary inspection lanes at each
15 such port of entry.

16 **SEC. 202. SECURE COMMUNICATIONS.**

17 (a) IN GENERAL.—The Secretary shall ensure that
18 each U.S. Customs and Border Protection and U.S. Immi-
19 gration and Customs Enforcement officer or agent, if ap-
20 propriate, is equipped with a secure two-way communica-
21 tion device, supported by system interoperability and LTE
22 network capability, that allows each such officer to com-
23 municate—

24 (1) between ports of entry and inspection sta-
25 tions; and

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

3 (b) LAND BORDER AGENTS AND OFFICERS.—The
4 Secretary shall ensure that each U.S. Customs and Border
5 Protection agent or officer assigned or required to patrol
6 on foot, by horseback, or with a canine unit, in remote
7 mission critical locations, including but not limited to the
8 Rio Grand Valley and Big Bend, and at border check-
9 points, has a multi-band, encrypted portable radio with
10 military-grade high frequency capability to allow for be-
11 yond line-of-sight communications.

12 **SEC. 203. BORDER SECURITY DEPLOYMENT PROGRAM.**

13 (a) EXPANSION.—Not later than September 30,
14 2021, the Secretary shall fully implement the Border Se-
15 curity Deployment Program of the U.S. Customs and Bor-
16 der Protection and expand the integrated surveillance and
17 intrusion detection system at land ports of entry along the
18 southern border and the northern border.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
20 tion to amounts otherwise authorized to be appropriated,
21 there are authorized to be appropriated \$33,000,000 for
22 fiscal year 2018 to carry out subsection (a).

1 **SEC. 204. PILOT AND UPGRADE OF LICENSE PLATE READ-**
2 **ERS AT PORTS OF ENTRY.**

3 (a) UPGRADE.—Not later than one year after the
4 date of the enactment of this Act, the Commissioner of
5 U.S. Customs and Border Protection shall upgrade all ex-
6 isting license plate readers on the northern border and the
7 southern borders on incoming and outgoing vehicle lanes.

8 (b) PILOT PROGRAM.—Not later than 90 days after
9 the date of the enactment of this Act, the Commissioner
10 of U.S. Customs and Border Protection shall conduct a
11 one-month pilot on the southern border using license plate
12 readers for one to two cargo lanes at the top three high-
13 volume land ports of entry or checkpoints to determine
14 their effectiveness in reducing cross-border wait times for
15 commercial traffic and tractor-trailers.

16 (c) REPORT.—Not later than 180 days after the date
17 of enactment of this Act, the Secretary shall—

18 (1) report to the Committee on Homeland Se-
19 curity and Governmental Affairs of the Senate, the
20 Committee on the Judiciary of the Senate, the Com-
21 mittee on Finance of the Senate, the Committee on
22 Homeland Security of the House of Representatives,
23 the Committee on the Judiciary of the House of
24 Representatives, and the Committee on Ways and
25 Means of the House of Representatives on the re-
26 sults of the pilot program under subsection (b); and

1 (2) make recommendations to such committees
2 for implementing such technology on the southern
3 border.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
5 tion to amounts otherwise authorized to be appropriated,
6 there are authorized to be appropriated \$125,000,000 for
7 fiscal year 2018 to carry out this section.

8 **SEC. 205. BIOMETRIC TECHNOLOGY.**

9 (a) BIOMETRIC STORAGE.—The Secretary shall cre-
10 ate a system or upgrade an existing system (if a Depart-
11 ment of Homeland Security system already has capability
12 and capacity for storage) to allow for storage of iris scans
13 and voice prints of aliens that can be used by the Depart-
14 ment of Homeland Security, other Federal agencies, and
15 State and local law enforcement for identification, remote
16 authentication, and verification of aliens. The Secretary
17 shall ensure, to the extent possible, that the system for
18 storage of iris scans and voice prints is compatible with
19 existing State and local law enforcement systems that are
20 used for collection and storage of iris scans or voice prints
21 for criminal aliens.

22 (b) PILOT PROGRAM.—Not later than 120 days after
23 the date of enactment of this Act, U.S. Immigration and
24 Customs Enforcement and U.S. Citizenship and Immigra-
25 tion Services shall conduct a six-month pilot on the collec-

1 tion and use of iris scans and voice prints for identifica-
 2 tion, remote authentication, and verification of aliens who
 3 are in removal proceedings, detained, or are seeking an
 4 immigration benefit.

5 (c) REPORT.—Not later than one year after the date
 6 of enactment of this Act, the Secretary shall report the
 7 results of the pilot and make recommendations for imple-
 8 menting use of such technology to the Committee on
 9 Homeland Security and Governmental Affairs and the
 10 Committee on the Judiciary of the Senate and the Com-
 11 mittee on Homeland Security and Committee on the Judi-
 12 ciary of the House of Representatives.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
 14 tion to amounts otherwise authorized to be appropriated,
 15 there are authorized to be appropriated \$10,000,000 for
 16 fiscal year 2018 to carry out this section.

17 **SEC. 206. BIOMETRIC EXIT DATA SYSTEM.**

18 (a) IN GENERAL.—Subtitle B of title IV of the
 19 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
 20 is amended by adding at the end the following new section:

21 **“SEC. 418. BIOMETRIC ENTRY-EXIT.”.**

22 “(a) ESTABLISHMENT.—The Secretary shall—

23 “(1) not later than 180 days after the date of
 24 the enactment of the Building America’s Trust Act,
 25 submit to the Committee on Homeland Security and

1 Governmental Affairs of the Senate, the Committee
2 on the Judiciary of the Senate, the Committee on
3 Homeland Security of the House of Representatives,
4 and the Committee on the Judiciary of the House of
5 Representatives an implementation plan to establish
6 a biometric exit data system to complete the inte-
7 grated biometric entry and exit data system required
8 under section 7208 of the Intelligence Reform and
9 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
10 including—

11 “(A) an integrated master schedule and
12 cost estimate, including requirements and de-
13 sign, development, operational, and mainte-
14 nance costs, of such a system that takes into
15 account prior reports on such matters issued by
16 the Government Accountability Office and the
17 Department;

18 “(B) cost-effective staffing and personnel
19 requirements of such a system that leverages
20 existing resources of the Department that takes
21 into account prior reports on such matters
22 issued by the Government Accountability Office
23 and the Department;

24 “(C) a consideration of training programs
25 necessary to establish such a system that takes

1 into account prior reports on such matters
2 issued by the Government Accountability Office
3 and the Department;

4 “(D) a consideration of how such a system
5 will affect wait times that takes into account
6 prior reports on such matter issued by the Gov-
7 ernment Accountability Office and the Depart-
8 ment;

9 “(E) information received after consulta-
10 tion with private sector stakeholders, including
11 the—

12 “(i) trucking industry;

13 “(ii) airport industry;

14 “(iii) airline industry;

15 “(iv) seaport industry;

16 “(v) travel industry; and

17 “(vi) biometric technology industry;

18 “(F) a consideration of how trusted trav-
19 eler programs in existence as of the date of the
20 enactment of this Act may be impacted by, or
21 incorporated into, such a system;

22 “(G) defined metrics of success and mile-
23 stones;

24 “(H) identified risks and mitigation strate-
25 gies to address such risks; and

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

4 “(2) not later than two years after the date of
5 the enactment of the Building America’s Trust Act,
6 establish a biometric exit data system at—

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

11 “(B) the 15 United States seaports that
12 support the highest volume of international sea
13 travel, as determined by available Federal travel
14 data; and

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

20 “(b) IMPLEMENTATION.—

21 “(1) PILOT PROGRAM AT LAND PORTS OF
22 ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAF-
23 FIC.—Not later than 18 months after the date of the
24 enactment of the Building America’s Trust Act, the
25 Secretary, in collaboration with industry stake-

1 holders, shall establish a six-month pilot program to
2 test the biometric exit data system referred to in
3 subsection (a)(2) on nonpedestrian outbound traffic
4 at not fewer than three land ports of entry with sig-
5 nificant cross-border traffic, including at not fewer
6 than two land ports of entry on the southern land
7 border and at least one land port of entry on the
8 northern land border. Such pilot program may in-
9 clude a consideration of more than one biometric
10 mode, and shall be implemented to determine the
11 following:

12 “(A) How a nationwide implementation of
13 such biometric exit data system at land ports of
14 entry shall be carried out.

15 “(B) The infrastructure required to carry
16 out subparagraph (A).

17 “(C) The effects of such pilot program on
18 legitimate travel and trade.

19 “(D) The effects of such pilot program on
20 wait times, including processing times, for such
21 non-pedestrian traffic.

22 “(E) Its effectiveness in combating ter-
23 rorism.

24 “(F) Its effectiveness in identifying visa
25 holders who violate the terms of their visas.

1 “(2) AT LAND PORTS OF ENTRY FOR NON-PE-
2 DESTRIAN OUTBOUND TRAFFIC.—

3 “(A) IN GENERAL.—Not later than five
4 years after the date of the enactment of the
5 Building America’s Trust Act, the Secretary
6 shall expand the biometric exit data system re-
7 ferred to in subsection (a)(2) to all land ports
8 of entry, and such system shall apply only in
9 the case of nonpedestrian outbound traffic.

10 “(B) EXTENSION.—The Secretary may ex-
11 tend for a single two-year period the date speci-
12 fied in subparagraph (A) if the Secretary cer-
13 tifies to the Committee on Homeland Security
14 and Governmental Affairs of the Senate, the
15 Committee on the Judiciary of the Senate, the
16 Committee on Homeland Security of the House
17 of Representatives, and the Committee on the
18 Judiciary of the House of Representatives that
19 the 15 land ports of entry that support the
20 highest volume of passenger vehicles, as deter-
21 mined by available Federal data, do not have
22 the physical infrastructure or characteristics to
23 install the systems necessary to implement a bi-
24 ometric exit data system.

1 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
2 later than five years after the date of the enactment
3 of the Building America’s Trust Act, the Secretary
4 shall expand the biometric exit data system referred
5 to in subsection (a)(2) to all air and sea ports of
6 entry.

7 “(4) AT LAND PORTS OF ENTRY FOR PEDES-
8 TRIANS.—Not later than five years after the date of
9 the enactment of the Building America’s Trust Act,
10 the Secretary shall expand the biometric exit data
11 system referred to in subsection (a)(2) to all land
12 ports of entry, and such system shall apply only in
13 the case of pedestrians.

14 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
15 TATION.—The Secretary, in consultation with appropriate
16 private sector stakeholders, shall ensure that the collection
17 of biometric data under this section causes the least pos-
18 sible disruption to the movement of people or cargo in air,
19 sea, or land transportation, while fulfilling the goals of im-
20 proving counterterrorism efforts and identifying visa hold-
21 ers who violate the terms of their visas.

22 “(d) TERMINATION OF PROCEEDING.—Notwith-
23 standing any other provision of law, the Secretary shall,
24 on the date of the enactment of the Building America’s
25 Trust Act, terminate the proceeding entitled ‘Collection of

1 Alien Biometric Data Upon Exit From the United States
2 at Air and Sea Ports of Departure; United States Visitor
3 and Immigrant Status Indicator Technology Program
4 (“US-VISIT”)', issued on April 24, 2008 (73 Fed. Reg.
5 22065).

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

8 “(1) match biometric information for an alien
9 who is departing the United States against the bio-
10 metric information obtained for the alien upon entry
11 to the United States;

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

18 “(3) be interoperable with, and allow matching
19 against, other Federal databases that store bio-
20 metrics of known or suspected terrorists and visa
21 holders who have violated the terms of their visas.

22 “(f) SCOPE.—

23 “(1) IN GENERAL.—The biometric exit data
24 system established under this section shall include a
25 requirement for the collection of biometric exit data

1 for all categories of individuals who are required to
2 provide biometric entry data.

3 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
4 UALS.—This section shall not apply to individuals
5 who exit and then reenter the United States on a
6 passenger vessel (as such term is defined in section
7 2101 of title 46, United States Code) if the itinerary
8 of such vessel originates and terminates in the
9 United States.

10 “(3) EXCEPTION FOR LAND PORTS OF
11 ENTRY.—This section shall not apply to a United
12 States citizen or a Canadian citizen who exits the
13 United States through a land port of entry.

14 “(g) COLLECTION OF DATA.—The Secretary may not
15 require any non-Federal person to collect biometric data
16 pursuant to the biometric exit data system established
17 under this section, except through a contractual agree-
18 ment.

19 “(h) MULTI-MODAL COLLECTION.—In carrying out
20 subsections (a)(1) and (b), the Secretary shall make every
21 effort to collect biometric data using multiple modes of
22 biometrics.

23 “(i) FACILITIES.—All non-federally owned facilities
24 where the biometric exit data system established under
25 this section is implemented shall provide and maintain

1 space for Federal use that is adequate to support biomet-
2 ric data collection and other inspection-related activity.
3 Such space shall be provided and maintained at no cost
4 to the Government.

5 “(j) NORTHERN LAND BORDER.—In the case of the
6 northern land border, the requirements under subsection
7 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through
8 the sharing of biometric data provided to U.S. Customs
9 and Border Protection by the Canadian Border Services
10 Agency pursuant to the 2011 Beyond the Border agree-
11 ment.

12 “(k) CONGRESSIONAL REVIEW.—Not later than 90
13 days after the date of the enactment of this section, the
14 Secretary shall submit to the Committee on Homeland Se-
15 curity and Governmental Affairs of the Senate, the Com-
16 mittee on the Judiciary of the Senate, the Committee on
17 Homeland Security of the House of Representatives, and
18 the Committee on the Judiciary of the House of Rep-
19 resentatives reports and recommendations of the Science
20 and Technology Directorate’s Air Entry and Exit Re-En-
21 gineering Program of the Department and the U.S. Cus-
22 toms and Border Protection entry and exit mobility pro-
23 gram demonstrations.”.

1 **SEC. 207. SENSE OF CONGRESS ON COOPERATION BE-**
2 **TWEEN AGENCIES.**

3 (a) FINDING.—Congress finds that personnel con-
4 straints exist at land ports of entry with regard to sanitary
5 and phytosanitary inspections for exported goods.

6 (b) SENSE OF CONGRESS.—It is the sense of Con-
7 gress that, in the best interest of cross-border trade and
8 the agricultural community—

9 (1) any lack of certified personnel for inspection
10 purposes at ports of entry should be addressed by
11 seeking cooperation between agencies and depart-
12 ments of the United States, whether in the form of
13 a memorandum of understanding or through a cer-
14 tification process, whereby additional existing agents
15 are authorized for additional hours to facilitate the
16 crossing and trade of perishable goods in a manner
17 consistent with rules of the Department of Agri-
18 culture; and

19 (2) cross designation should be available for
20 personnel who will assist more than one agency or
21 department at land ports of entry to facilitate in-
22 creased trade and commerce.

23 **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

24 In addition to any amounts otherwise authorized to
25 be appropriated, there is authorized to be appropriated

1 \$1,000,000,000 for each of the fiscal years 2018 through
 2 2021 to carry out this title.

3 **TITLE III—DOMESTIC SECURITY**
 4 **AND INTERIOR ENFORCEMENT**
 5 **Subtitle A—General Matters**

6 **SEC. 301. ENDING CATCH AND RELEASE FOR REPEAT IMMI-**
 7 **GRATION VIOLATORS AND CRIMINALS**
 8 **ALIENS.**

9 Section 236 of the Immigration and Nationality Act
 10 (8 U.S.C. 1226) is amended by striking the section head-
 11 ing and subsections (a) through (c) and inserting the fol-
 12 lowing:

13 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

14 **“(a) ARREST, DETENTION, AND RELEASE.—**

15 **“(1) IN GENERAL.—**The Secretary, on a war-
 16 rant issued by the Secretary, may arrest an alien
 17 and detain the alien pending a decision on whether
 18 the alien is to be removed from the United States
 19 up until the alien has an administratively final order
 20 of removal. Except as provided in subsection (c) and
 21 pending such decision, the Secretary—

22 **“(A) may—**

23 **“(i) continue to detain the arrested**
 24 **alien;**

1 “(ii) release the alien on bond of at
2 least \$5,000, with security approved by,
3 and containing conditions prescribed by,
4 the Secretary; or

5 “(iii) release the alien on his or her
6 own recognizance, subject to appropriate
7 conditions set forth by the Secretary of
8 Homeland Security, if the Secretary of
9 Homeland Security determines that the
10 alien will not pose a danger to the safety
11 of other persons or of property and is like-
12 ly to appear for any scheduled proceeding;
13 and

14 “(B) may not provide the alien with work
15 authorization (including an ‘employment au-
16 thorized’ endorsement or other appropriate
17 work permit) or advance parole to travel outside
18 of the United States, unless the alien is lawfully
19 admitted for permanent residence or otherwise
20 would (without regard to removal proceedings)
21 be provided such authorization.

22 “(b) REVOCATION OF BOND OR PAROLE.—The Sec-
23 retary at any time may revoke bond or parole authorized
24 under subsection (a), rearrest the alien under the original
25 warrant, and detain the alien.

1 “(c) MANDATORY DETENTION OF CRIMINAL
2 ALIENS.—

3 “(1) CRIMINAL ALIENS.—The Secretary shall
4 take into custody and continue to detain any alien
5 who—

6 “(A)(i) has not been admitted or paroled
7 into the United States; and

8 “(ii) was apprehended anywhere within
9 100 miles of the international border of the
10 United States;

11 “(B) is admissible by reason of having
12 committed any offense covered in section
13 212(a)(2);

14 “(C) is deportable by reason of having
15 committed any offense covered in section
16 237(a)(2);

17 “(D) is convicted for an offense under sec-
18 tion 275(a);

19 “(E) is convicted for an offense under sec-
20 tion 276;

21 “(F) is convicted for any criminal offense;
22 or

23 “(G) is inadmissible under section
24 212(a)(3)(B) or deportable under section
25 237(a)(4)(B),

1 when the alien is released, without regard to
2 whether the alien is released on parole, super-
3 vised release, and without regard to whether the
4 alien may be arrested or imprisoned again for
5 the same offense.

6 “(2) RELEASE.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the Secretary may release an
9 alien described in paragraph (1) only if the Sec-
10 retary decides pursuant to section 3251 of title
11 18, United States Code, and in accordance with
12 a procedure that considers the severity of the
13 offense committed by the alien, that—

14 “(i) release of the alien from custody
15 is necessary to provide protection to a wit-
16 ness, a potential witness, a person cooper-
17 ating with an investigation into major
18 criminal activity, or an immediate family
19 member or close associate of a witness, po-
20 tential witness, or person cooperating with
21 such an investigation, and

22 “(ii) the alien satisfies the Secretary
23 that the alien is not a flight risk, poses no
24 danger to the safety of other persons or of
25 property, is not a threat to national secu-

1 rity or public safety, and is likely to appear
2 at any scheduled proceeding.

3 “(B) ARRESTED, BUT NOT CONVICTED,
4 ALIENS.—

5 “(i) RELEASE FOR PROCEEDINGS.—
6 The Secretary of Homeland Security may
7 release any alien held pursuant to para-
8 graph (1) to the appropriate authority for
9 any proceedings subsequent to the arrest.

10 “(ii) RESUMPTION OF CUSTODY.—If
11 an alien is released under clause (i), the
12 Secretary shall—

13 “(I) resume custody of the alien
14 during any period pending the final
15 disposition of any such proceedings
16 that the alien is not in the custody of
17 such appropriate authority; and

18 “(II) if the alien is not convicted
19 of the offense for which the alien was
20 arrested, the Secretary shall continue
21 to detain the alien until removal pro-
22 ceedings are completed.”.

23 **SEC. 302. DETERRING VISA OVERSTAYS.**

24 (a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
25 the Immigration and Nationality Act (8 U.S.C. 1184) is

1 amended by striking the section heading and all that fol-
2 lows through subsection (a)(1) and inserting the following:

3 **“SEC. 214. ADMISSION OF NONIMMIGRANTS.**

4 “(a) IN GENERAL.—

5 “(1) TERMS AND CONDITIONS OF ADMISSION.—

6 “(A) REGULATIONS.—Subject to subpara-
7 graphs (B) and (C), the admission to the
8 United States of any alien as a nonimmigrant
9 may be for such time and under such conditions
10 as the Secretary of Homeland Security may by
11 regulations prescribe, including when the Sec-
12 retary deems necessary the giving of a bond
13 with sufficient surety in such sum and con-
14 taining such conditions as the Secretary shall
15 prescribe, to insure that at the expiration of
16 such time or upon failure to maintain the sta-
17 tus under which the alien was admitted, or to
18 maintain any status subsequently acquired
19 under section 248, such alien will depart from
20 the United States.

21 “(B) GUAM OR CNMI VISA WAIVER NON-
22 IMMIGRANTS.—No alien admitted to Guam or
23 the Commonwealth of the Northern Mariana Is-
24 lands without a visa pursuant to section 212(l)
25 may be authorized to enter or stay in the

1 United States other than in Guam or the Com-
2 monwealth of the Northern Mariana Islands or
3 to remain in Guam or the Commonwealth of
4 the Northern Mariana Islands for a period ex-
5 ceeding 45 days from the date of admission to
6 Guam or the Commonwealth of the Northern
7 Mariana Islands.

8 “(C) VISA WAIVER PROGRAM NON-
9 IMMIGRANTS.—No alien admitted to the United
10 States without a visa pursuant to section 217
11 may be authorized to remain in the United
12 States as a nonimmigrant visitor for a period
13 exceeding 90 days from the date of admission.

14 “(D) BAR TO IMMIGRATION BENEFITS AND
15 TO CONTESTING REMOVAL.—

16 “(i) IN GENERAL.—Subject to clause
17 (ii), except for an alien admitted as a non-
18 immigrant under subparagraph (A) or (G)
19 of section 101(a)(15) or a NATO non-
20 immigrant, any alien who remains in the
21 United States beyond the period of stay
22 authorized by the Secretary of Homeland
23 Security, without good cause as determined
24 by the Secretary of Homeland Security, in
25 the Secretary’s discretion, is ineligible for

1 all immigration benefits or relief available
2 under the immigration laws, other than a
3 request for asylum, withholding of removal
4 under section 241(b)(3), or relief from re-
5 moval based on a claim under the Conven-
6 tion Against Torture and Other Cruel, In-
7 human or Degrading Treatment or Pun-
8 ishment, done at New York, December 10,
9 1984.

10 “(ii) EXCEPTION.—The Secretary
11 may, in the Secretary’s sole and
12 unreviewable discretion, find that a non-
13 immigrant is not subject to clause (i) if—

14 “(I) the alien was lawfully admit-
15 ted to the United States as a non-
16 immigrant;

17 “(II) the alien filed a nonfrivo-
18 lous application for change of status
19 to another nonimmigrant category or
20 extension of stay before the date of
21 expiration of the alien’s authorized pe-
22 riod of stay as a nonimmigrant;

23 “(III) the alien has not been em-
24 ployed without authorization in the

1 United States, before, or during pend-
 2 ency of the application;

3 “(IV) the alien has not otherwise
 4 violated the terms of the alien’s non-
 5 immigrant status; and

6 “(V) the Secretary of Homeland
 7 Security, in the Secretary’s sole and
 8 unreviewable discretion, determines
 9 that the alien is not a threat to na-
 10 tional security or public safety.

11 “(iii) GOOD CAUSE DEFINED.—In
 12 clause (i), the term ‘good cause’ means exi-
 13 gent humanitarian circumstances, such as
 14 medical emergencies or force majeure.”.

15 (b) ISSUANCE OF NONIMMIGRANT VISAS.—Section
 16 221(a) of the Immigration and Nationality Act (8 U.S.C.
 17 1201(a)) is amended by adding at the end the following:

18 “(3) NOTIFICATION OF BARS.—The Secretary of
 19 State shall ensure that every application for a non-
 20 immigrant visa includes a statement, to be executed under
 21 penalty of perjury, notifying the alien who is seeking a
 22 nonimmigrant visa of the bars to immigration relief and
 23 to contesting removal under section 214(a)(1)(D) if the
 24 alien fails to depart the United States at the end of the
 25 alien’s authorized period of stay.”.

1 (c) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—
2 Section 217(b) of the Immigration and Nationality Act (8
3 U.S.C. 1187(b)) is amended to read as follows:

4 “(b) WAIVER OF RIGHTS.—An alien may not be pro-
5 vided a waiver under the program unless the alien has—

6 “(1) signed, under penalty of perjury, an ac-
7 knowledgement confirming that the alien was noti-
8 fied and understands that he or she will be ineligible
9 for any form of relief or immigration benefit under
10 the Act or any other immigration laws, other than
11 a request for asylum, withholding of removal under
12 section 241(b)(3), or relief from removal based on a
13 claim under the Convention Against Torture and
14 Other Cruel, Inhuman or Degrading Treatment or
15 Punishment, done at New York, December 10,
16 1984, if the alien fails to depart the United States
17 at the end of the 90-day period for admission;

18 “(2) waived any right to review or appeal under
19 this Act of an immigration officer’s determination as
20 to the a admissibility of the alien at the port of
21 entry into the United States, and

22 “(3) waived any right to contest, other than on
23 the basis of an application for asylum, any action for
24 removal of the alien.”.

1 **SEC. 303. INCREASE IN IMMIGRATION DETENTION CAPAC-**
2 **ITY.**

3 Not later than September 30, 2018, and subject to
4 the availability of appropriations, the Secretary of Home-
5 land Security shall increase the immigration detention ca-
6 pacity to a daily immigration detention capacity of not less
7 than 48,879 detention beds.

8 **SEC. 304. COLLECTION OF DNA FROM CRIMINAL AND DE-**
9 **TAINED ALIENS.**

10 (a) IN GENERAL.—Section 3(a)(1) of the DNA Anal-
11 ysis Backlog Elimination Act of 2000 (42 U.S.C.
12 14135a(a)(1)) is amended by adding at the end the fol-
13 lowing:

14 “(C) The Secretary of Homeland Security shall
15 collect DNA samples from any alien, as defined
16 under section 101(a)(3) of the Immigration and Na-
17 tionality Act (8 U.S.C. 1101(a)(3)), who—

18 “(i) has been detained pursuant to section
19 235(b)(1)(B)(iii)(IV), 236, 236A, or 238 of
20 that Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV),
21 1226, 1226a, 1228); or

22 “(ii) is the subject of a final order of re-
23 moval under section 240 of that Act (8 U.S.C.
24 1229a) based on inadmissibility under section
25 212(a)(2) of that Act (8 U.S.C. 1182(a)(2)) or

1 being subject to removal under section
2 237(a)(2) of that Act (8 U.S.C. 1227(a)(2)).”.

3 (b) FURNISHING OF DNA SAMPLES FROM CRIMINAL
4 AND DETAINED ALIENS.—Section 3(b) of the DNA Anal-
5 ysis Backlog Elimination Act of 2000 (42 U.S.C.
6 14135a(b)) is amended by striking “or the probation office
7 responsible (as applicable)” and inserting “the probation
8 office responsible, or the Secretary of Homeland Secu-
9 rity”.

10 **SEC. 305. COLLECTION, USE, AND STORAGE OF BIOMETRIC**
11 **DATA.**

12 (a) COLLECTION AND USE OF BIOMETRIC INFORMA-
13 TION FOR IMMIGRATION PURPOSES.—

14 (1) COLLECTION.—The Secretary of Homeland
15 Security may require any individual filing an appli-
16 cation, petition, or other request for immigration
17 benefit or status with the Department of Homeland
18 Security or seeking an immigration benefit, immi-
19 gration employment authorization, identity, or travel
20 document, or requesting relief under any provision
21 of the immigration laws to submit biometric infor-
22 mation (including but not limited to fingerprints,
23 photograph, signature, voice print, iris, or DNA) to
24 the Secretary.

1 (2) USE.—The Secretary may use any biomet-
2 ric information submitted under paragraph (1) to
3 conduct background and security checks, verify an
4 individual’s identity, adjudicate, revoke, or terminate
5 immigration benefits or status, and perform other
6 functions related to administering and enforcing the
7 immigration laws.

8 (b) BIOMETRIC AND BIOGRAPHIC INFORMATION
9 SHARING.—

10 (1) BIOMETRIC AND BIOGRAPHIC INFORMATION
11 SHARING WITH DEPARTMENT OF DEFENSE AND
12 FEDERAL BUREAU OF INVESTIGATION.—The Sec-
13 retary of Homeland Security, the Secretary of De-
14 fense, and the Director of the Federal Bureau of In-
15 vestigation—

16 (A) shall exchange appropriate biometric
17 and biographic information to determine or con-
18 firm the identity of an individual and to assess
19 whether the individual is a threat to national
20 security or public safety; and

21 (B) may use information exchanged pursu-
22 ant to subparagraph (A) to compare biometric
23 and biographic information contained in appli-
24 cable systems of the Department of Homeland
25 Security, the Department of Defense, or the

1 Federal Bureau of Investigation to determine if
2 there is a match between such information and,
3 if there is a match, to relay such information to
4 the requesting agency.

5 (2) USE OF BIOMETRIC DATA BY THE DEPART-
6 MENT OF STATE.—The Secretary of State shall use
7 biometric information from applicable systems of the
8 Department of Homeland Security, of the Depart-
9 ment of Defense, and of the Federal Bureau of In-
10 vestigation to track individuals who are—

11 (A)(i) known or suspected terrorists; or
12 (ii) identified as a potential threat to na-
13 tional security; and

14 (B) using an alias while traveling.

15 (3) REPORT ON BIOMETRIC INFORMATION
16 SHARING WITH MEXICO AND OTHER COUNTRIES FOR
17 IDENTITY VERIFICATION.—Not later than 180 days
18 after the date of the enactment of this Act, the Sec-
19 retary of Homeland Security and the Secretary of
20 State shall submit a joint report on the status of ef-
21 forts to engage with the Government of Mexico and
22 the governments of other appropriate foreign coun-
23 tries located in Central America or South Amer-
24 ican—

1 (A) to discuss coordination on biometric
2 information sharing between the United States
3 and such countries; and

4 (B) to enter into bilateral agreements that
5 provide for the sharing of such biometric infor-
6 mation with the Department of State, the De-
7 partment of Defense, the Department of Jus-
8 tice, the Federal Bureau of Investigation, and
9 the Department of Homeland Security to use in
10 identifying individuals who are known or sus-
11 pected terrorists or potential threats to national
12 security and verifying entry and exit of individ-
13 uals to and from the United States.

14 (c) CONSTRUCTION.—The collection of biometric in-
15 formation under paragraph (1) shall not limit the Sec-
16 retary of Homeland Security’s authority to collect biomet-
17 ric information from any individual arriving to or depart-
18 ing from the United States.

19 **SEC. 306. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
20 **ESSING.**

21 (a) IN GENERAL.—The Secretary of Homeland Secu-
22 rity shall establish a pilot program in at least 5 of the
23 10 U.S. Immigration and Customs Enforcement field of-
24 fices or regions with the largest removal caseloads to allow
25 U.S. Immigration and Customs Enforcement officers to

1 use handheld or vehicle-mounted computers to electroni-
2 cally—

3 (1) process and serve charging documents, in-
4 cluding notices to appear, while in the field;

5 (2) process and place detainers while in the
6 field;

7 (3) collect biometric data for the purpose of
8 identifying an alien and establishing both immigra-
9 tion status and criminal history while in the field;

10 (4) enter any required data, including personal
11 information about the alien subject and the reason
12 for issuing the document;

13 (5) apply the electronic signature of the issuing
14 ICE officer or agent;

15 (6) apply or capture the electronic signature of
16 the alien on any charging document or notice, in-
17 cluding any electronic signature captured to ac-
18 knowledge service of such documents or notices;

19 (7) set the date the alien is required to appear
20 before an immigration judge, in the case of notices
21 to appear;

22 (8) print any documents the alien subject may
23 be required to sign, along with additional copies of
24 documents to be served on the alien; and

1 (9) interface with the ENFORCE database so
2 that all data is collected, stored, and retrievable in
3 real-time.

4 (b) CONSTRUCTION.—The pilot program described in
5 subsection (a) shall be designed to replace, to the extent
6 possible, the current paperwork and data-entry process
7 used for issuing such charging documents and detainers.

8 (c) DEADLINE.—The Secretary shall initiate the pilot
9 program described in subsection (a) not later than 6
10 months after the date of the enactment of this Act.

11 (d) REPORT.—Not later than 18 months after the
12 date of the enactment of this Act, the Comptroller General
13 of the United States shall—

14 (1) submit a report to the Committee on Home-
15 land Security and Governmental Affairs of the Sen-
16 ate, the Committee on the Judiciary of the Senate,
17 the Committee on Homeland Security of the House
18 of Representatives, the Committee on the Judiciary
19 of the House of Representatives on the results of the
20 pilot program; and

21 (2) provide recommendations to such commit-
22 tees for implementing use of such technology nation-
23 wide.

1 **SEC. 307. ENDING ABUSE OF PAROLE AUTHORITY.**

2 Section 212(d)(5) of the Immigration and Nationality
3 Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

4 “(5) PAROLE AUTHORITY.—

5 “(A) IN GENERAL.—Except as provided in sub-
6 paragraph (C) or section 214(f), the Secretary of
7 Homeland Security, in the Secretary’s discretion,
8 may parole into the United States temporarily,
9 under such conditions as the Secretary may pre-
10 scribe, including requiring the posting of a bond,
11 and only on a case-by-case basis for urgent humani-
12 tarian reasons or significant public benefit, any alien
13 applying for admission to the United States.

14 “(B) PAROLE NOT AN ADMISSION.—In accord-
15 ance with section 101(a)(13)(B), parole of an alien
16 under subparagraph (A) shall not be regarded as an
17 admission of the alien to the United States.

18 “(C) PROHIBITED USES OF PAROLE AUTHOR-
19 ITY.—

20 “(i) IN GENERAL.—The Secretary may not
21 use the authority under subparagraph (A) to
22 parole in generalized categories of aliens or
23 classes of aliens based solely on nationality,
24 presence, or residence in the United States,
25 family relationships, or any other criteria that

1 would cover a broad group of foreign nationals
2 either inside or outside of the United States.

3 “(ii) ALIENS WHO ARE NATIONAL SECUR-
4 RITY OR PUBLIC SAFETY THREATS.—

5 “(I) PROHIBITION ON PAROLE.—The
6 Secretary of Homeland Security shall not
7 parole in any alien who the Secretary, in
8 the Secretary’s sole and unreviewable dis-
9 cretion, determines is a threat to national
10 security or public safety, except in extreme
11 exigent circumstances.

12 “(II) EXTREME EXIGENT CIR-
13 CUMSTANCES DEFINED.—In subclause (I),
14 the term ‘extreme exigent circumstances’
15 means circumstances under which—

16 “(aa) the failure to parole the
17 alien would result in the immediate
18 significant risk of loss of life or bodily
19 function due to a medical emergency;

20 “(bb) the failure to parole the
21 alien would conflict with medical ad-
22 vice as to the health or safety of the
23 individual, detention facility staff, or
24 other detainees; or

1 “(cc) there is an urgent need for
2 the alien’s presence for a law enforce-
3 ment purpose, including for a prosecu-
4 tion or securing the alien’s presence
5 to appear as a material witness, or a
6 national security purpose.

7 “(D) TERMINATION OF PAROLE.—The Sec-
8 retary of Homeland Security shall determine when
9 the purpose of parole of an alien has been served
10 and, upon such determination—

11 “(i) the alien’s case shall continue to be
12 dealt with in the same manner as that of any
13 other applicant for admission to the United
14 States; and

15 “(ii) if the alien was previously detained,
16 the alien shall be returned to the custody from
17 which the alien was paroled.

18 “(E) LIMITATIONS ON USE OF ADVANCE PA-
19 ROLE.—

20 “(i) ADVANCE PAROLE DEFINED.—In this
21 subparagraph, the term ‘advance parole’ means
22 advance approval for an alien applying for ad-
23 mission to the United States to request at a
24 port of entry in the United States, a pre-inspec-
25 tion station, or a designated field office of the

1 Department of Homeland Security, to be pa-
2 roled into the United States under subpara-
3 graph (A).

4 “(ii) APPROVAL AND REVOCATION OF AD-
5 VANCE PAROLE.—The Secretary of Homeland
6 Security may, in the Secretary’s discretion,
7 grant an application for advance parole. Ap-
8 proval of an application for advance parole shall
9 not constitute a grant of parole under subpara-
10 graph (A). A grant of parole into the United
11 States based on an approved application for ad-
12 vance parole shall not be considered a parole for
13 purposes of qualifying for adjustment of status
14 to lawful permanent resident status in the
15 United States under section 245 or 245A.

16 “(iii) REVOCATION OF ADVANCE PA-
17 ROLE.—The Secretary may, in the Secretary’s
18 discretion, revoke a grant of advance parole to
19 an alien at any time, regardless of whether the
20 alien is inside or outside the United States.
21 Such revocation shall not be subject to adminis-
22 trative appeal or judicial review.”.

23 **SEC. 308. STOP DANGEROUS SANCTUARY CITIES ACT.**

24 (a) SHORT TITLE.—This section may be cited as the
25 “Stop Dangerous Sanctuary Cities Act”.

1 (b) ENSURING THAT LOCAL AND FEDERAL LAW EN-
2 FORCEMENT OFFICERS MAY COOPERATE TO SAFEGUARD
3 OUR COMMUNITIES.—

4 (1) AUTHORITY TO COOPERATE WITH FEDERAL
5 OFFICIALS.—A State, a political subdivision of a
6 State, or an officer, employee, or agent of such State
7 or political subdivision that complies with a detainer
8 issued by the Department under sections 236, 241,
9 or section 287 of the Immigration and Nationality
10 Act (8 U.S.C. 1226, 1231, or 1357)—

11 (A) shall be deemed to be acting as an
12 agent of the Department; and

13 (B) with regard to actions taken to comply
14 with the detainer, shall have all authority avail-
15 able to officers and employees of the Depart-
16 ment.

17 (2) LEGAL PROCEEDINGS.—In any legal pro-
18 ceeding brought against a State, a political subdivi-
19 sion of State, or an officer, employee, or agent of
20 such State or political subdivision, which challenges
21 the legality of the seizure or detention of an indi-
22 vidual pursuant to a detainer issued by the Depart-
23 ment under section 236 or 287 of the Immigration
24 and Nationality Act (8 U.S.C. 1226, 1357)—

1 (A) no liability for false arrest or imprison-
2 ment shall lie against the State or political sub-
3 division of a State for actions taken in compli-
4 ance with the detainer, which includes main-
5 taining custody of the alien in accordance with
6 the instructions on the detainer form and noti-
7 fying the Department prior to the alien's re-
8 lease from custody; and

9 (B) if the actions of the officer, employee,
10 or agent of the State or political subdivision
11 were taken in compliance with the detainer—

12 (i) the officer, employee, or agent
13 shall be deemed—

14 (I) to be an employee of the Fed-
15 eral Government and an investigative
16 or law enforcement officer; and

17 (II) to have been acting within
18 the scope of his or her employment
19 under section 1346(b) and chapter
20 171 of title 28, United States Code;

21 (ii) section 1346(b) of title 28, United
22 States Code, shall provide the exclusive
23 remedy for the plaintiff; and

24 (iii) the United States shall be sub-
25 stituted as defendant in the proceeding.

1 (c) SANCTUARY JURISDICTION DEFINED.—

2 (1) IN GENERAL.—Except as provided under
3 subsection (2), for purposes of this section, the term
4 “sanctuary jurisdiction” means any State or political
5 subdivision of a State that has in effect a statute,
6 ordinance, policy, or practice that prohibits or re-
7 stricts any government entity or official from—

8 (A) sending, receiving, maintaining, or ex-
9 changing with any Federal, State, or local gov-
10 ernment entity information regarding the citi-
11 zenship or immigration status (lawful or unlaw-
12 ful) of any individual; or

13 (B) complying with a request lawfully
14 made by the Department under section 236 or
15 287 of the Immigration and Nationality Act (8
16 U.S.C. 1226, 1357) to comply with a detainer
17 for, or notify about the release of, an individual.

18 (2) EXCEPTION.—A State or political subdivi-
19 sion of a State shall not be deemed a sanctuary ju-
20 risdiction based solely on its having a policy whereby
21 its officials will not share information regarding, or
22 comply with a request made by the Department
23 under section 236 or 287 of the Immigration and
24 Nationality Act (8 U.S.C. 1226, 1357) to comply
25 with a detainer regarding, an individual who comes

1 forward as a victim or a witness to a criminal of-
 2 fense.

3 (d) SANCTUARY JURISDICTIONS INELIGIBLE FOR
 4 CERTAIN FEDERAL FUNDS.—

5 (1) ECONOMIC DEVELOPMENT ADMINISTRATION
 6 GRANTS.—

7 (A) GRANTS FOR PUBLIC WORKS AND ECO-
 8 NOMIC DEVELOPMENT.—Section 201(b) of the
 9 Public Works and Economic Development Act
 10 of 1965 (42 U.S.C. 3141(b)) is amended—

11 (i) in paragraph (2), by striking
 12 “and” at the end;

13 (ii) in paragraph (3), by striking the
 14 period at the end and inserting “; and”;
 15 and

16 (iii) by adding at the end the fol-
 17 lowing:

18 “(4) the area in which the project is to be car-
 19 ried out is not a sanctuary jurisdiction (as defined
 20 in subsection (c) of the Stop Dangerous Sanctuary
 21 Cities Act).”.

22 (B) GRANTS FOR PLANNING AND ADMINIS-
 23 TRATIVE EXPENSES.—Section 203(a) of the
 24 Public Works and Economic Development Act
 25 of 1965 (42 U.S.C. 3143(a)) is amended by

1 adding at the end the following: “A sanctuary
2 jurisdiction (as defined in subsection (c) of the
3 Stop Dangerous Sanctuary Cities Act) may not
4 be deemed an eligible recipient under this sub-
5 section.”.

6 (C) SUPPLEMENTARY GRANTS.—Section
7 205(a) of the Public Works and Economic De-
8 velopment Act of 1965 (42 U.S.C. 3145(a)) is
9 amended—

10 (i) in paragraph (2), by striking
11 “and” at the end;

12 (ii) in paragraph (3)(B), by striking
13 the period at the end and inserting “;
14 and”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(4) will be carried out in an area that does not
18 contain a sanctuary jurisdiction (as defined in sub-
19 section (c) of the Stop Dangerous Sanctuary Cities
20 Act).”.

21 (D) GRANTS FOR TRAINING, RESEARCH,
22 AND TECHNICAL ASSISTANCE.—Section 207 of
23 the Public Works and Economic Development
24 Act of 1965 (42 U.S.C. 3147) is amended by
25 adding at the end the following:

1 “(c) INELIGIBILITY OF SANCTUARY JURISDIC-
 2 TIONS.—Grant funds under this section may not be used
 3 to provide assistance to a sanctuary jurisdiction (as de-
 4 fined in subsection (c) of the Stop Dangerous Sanctuary
 5 Cities Act).”.

6 (2) COMMUNITY DEVELOPMENT BLOCK
 7 GRANTS.—

8 (A) DEFINITIONS.—Section 102(a) of the
 9 Housing and Community Development Act of
 10 1974 (42 U.S.C. 5302(a)) is amended by add-
 11 ing at the end the following:

12 “(25) The term ‘sanctuary jurisdiction’ has the
 13 meaning given that term in subsection (c) of the
 14 Stop Dangerous Sanctuary Cities Act.”.

15 (B) ELIGIBLE GRANTEES.—

16 (i) IN GENERAL.—Section 104(b) of
 17 the Housing and Community Development
 18 Act of 1974 (42 U.S.C. 5304(b)) is
 19 amended—

20 (I) in paragraph (5), by striking
 21 “and” at the end;

22 (II) by redesignating paragraph
 23 (6) as paragraph (7); and

24 (III) by inserting after paragraph
 25 (5) the following:

1 “(6) the grantee is not a sanctuary jurisdiction
 2 and will not become a sanctuary jurisdiction during
 3 the period for which the grantee receives a grant
 4 under this title; and”.

5 (ii) PROTECTION OF INDIVIDUALS
 6 AGAINST CRIME.—Section 104 of the
 7 Housing and Community Development Act
 8 of 1974 (42 U.S.C. 5304) is amended by
 9 adding at the end the following:

10 “(n) PROTECTION OF INDIVIDUALS AGAINST
 11 CRIME.—

12 “(1) IN GENERAL.—No funds authorized to be
 13 appropriated to carry out this title may be obligated
 14 or expended for any State or unit of general local
 15 government that is a sanctuary jurisdiction.

16 “(2) RETURNED AMOUNTS.—

17 “(A) STATE.—If a State is a sanctuary ju-
 18 risdiction during the period for which it receives
 19 amounts under this title, the Secretary—

20 “(i) shall direct the State to imme-
 21 diately return to the Secretary any such
 22 amounts that the State received for that
 23 period; and

24 “(ii) shall reallocate amounts returned
 25 under clause (i) for grants under this title

1 to other States that are not sanctuary ju-
2 risdictions.

3 “(B) UNIT OF GENERAL LOCAL GOVERN-
4 MENT.—If a unit of general local government is
5 a sanctuary jurisdiction during the period for
6 which it receives amounts under this title, any
7 such amounts that the unit of general local gov-
8 ernment received for that period—

9 “(i) in the case of a unit of general
10 local government that is not in a non-
11 entitlement area, shall be returned to the
12 Secretary for grants under this title to
13 States and other units of general local gov-
14 ernment that are not sanctuary jurisdic-
15 tions; and

16 “(ii) in the case of a unit of general
17 local government that is in a nonentitle-
18 ment area, shall be returned to the Gov-
19 ernor of the State for grants under this
20 title to other units of general local govern-
21 ment in the State that are not sanctuary
22 jurisdictions.

23 “(C) REALLOCATION RULES.—In reallo-
24 cating amounts under subparagraphs (A) and
25 (B), the Secretary—

1 “(i) shall apply the relevant allocation
 2 formula under subsection (b), with all
 3 sanctuary jurisdictions excluded; and

4 “(ii) shall not be subject to the rules
 5 for reallocation under subsection (c).”.

6 **SEC. 309. REINSTATEMENT OF THE SECURE COMMUNITIES**
 7 **PROGRAM.**

8 (a) REINSTATEMENT.—The Secretary shall reinstate
 9 and operate the Secure Communities program immigra-
 10 tion enforcement program administered by U.S. Immigra-
 11 tion and Customs Enforcement between 2008 and 2014.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
 13 authorized to be appropriated \$150,000,000 to carry out
 14 this section.

15 **SEC. 310. PREVENTION AND DETERRENCE OF FRAUD IN**
 16 **OBTAINING RELIEF FROM REMOVAL.**

17 (a) RESTRICTION ON WAIVER OF INADMISSIBILITY
 18 OF CRIMINAL GROUNDS WHEN QUALIFYING RELATIVES
 19 BENEFITTED FROM FRAUD.—Section 212(h) of the Im-
 20 migration and Nationality Act (8 U.S.C. 1182(h)) is
 21 amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (A), by redesignating
 24 clauses (i), (ii), and (iii) as subclauses (I), (II),
 25 and (III); and

1 (B) by redesignating subparagraphs (A),
 2 (B), and (C) as clauses (i), (ii), and (iii);

3 (2) by redesignating paragraphs (1) and (2) as
 4 subparagraphs (A) and (B);

5 (3) by striking “The Attorney General may, in
 6 his discretion” and inserting “(1) The Secretary of
 7 Homeland Security may, in the Secretary’s discre-
 8 tion”; and

9 (4) in the undesignated matter following para-
 10 graph (1)(B), as redesignated, by striking “No waiv-
 11 er” and inserting the following:

12 “(2) No waiver shall be available under this sub-
 13 section if a preponderance of the evidence shows that the
 14 spouse, parent, son, or daughter procured, or sought to
 15 procure, any immigration status under this title based on
 16 fraud or material misrepresentation by the alien seeking
 17 the waiver. No waiver”.

18 (b) RESTRICTION ON WAIVER OF INADMISSIBILITY
 19 OF FRAUD GROUNDS WHEN QUALIFYING RELATIVES
 20 BENEFITTED FROM FRAUD.—Section 212(i)(1) of the
 21 Immigration and Nationality Act (8 U.S.C. 1182(i)(1)) is
 22 amended by adding at the end the following: “No waiver
 23 shall be available under this subsection if a preponderance
 24 of the evidence shows that the spouse, parent, son, or
 25 daughter procured, or sought to procure, any immigration

1 status under this title based on fraud or material mis-
 2 representation by the alien seeking the waiver.”.

3 (c) RESTRICTION ON WAIVER OF DEPORTABILITY OF
 4 FRAUD GROUNDS WHEN QUALIFYING RELATIVES BENE-
 5 FITTED FROM FRAUD.—Section 237(a)(1)(H) of the Im-
 6 migration and Nationality Act (8 U.S.C. 1227(a)(1)(H))
 7 is amended—

8 (1) in clause (i), by redesignating subclauses (I)
 9 and (II) as items (aa) and (bb);

10 (2) by redesignating clauses (i) and (ii) as sub-
 11 clauses (I) and (II);

12 (3) by inserting “(i)” before “The provisions”;
 13 and

14 (4) by striking “A waiver” and inserting the
 15 following:

16 “(ii) No waiver shall be available under
 17 this subparagraph if a preponderance of the evi-
 18 dence shows that the spouse, parent, son, or
 19 daughter procured, or sought to procure, any
 20 immigration status under this title based on
 21 fraud or material misrepresentation by the alien
 22 seeking the waiver. A waiver”.

23 (e) RESTRICTION ON CANCELLATION OF REMOVAL
 24 WHEN QUALIFYING RELATIVES BENEFITTED FROM

1 FRAUD.—Section 240A(b)(1) of the Immigration and Na-
 2 tionality Act (8 U.S.C. 1229b(b)(1)) is amended—

3 (1) in paragraph (1), by redesignating subpara-
 4 graphs (A) through (D) as clauses (i) through (iv),
 5 respectively;

6 (2) by inserting “(A)” before “The Attorney
 7 General”; and

8 (3) by adding at the end the following:

9 “(B) No cancellation shall be available under
 10 this paragraph if a preponderance of the evidence
 11 shows that the spouse, parent, son, or daughter pro-
 12 cured, or sought to procure, any immigration status
 13 under this title based on fraud or material misrepre-
 14 sentation by the alien seeking the waiver.”.

15 (e) APPLICABILITY.—The amendments made by this
 16 section shall apply to all applications for waivers or can-
 17 cellation of removal submitted before, on, or after the date
 18 of enactment of this Act.

19 **Subtitle B—Protecting Children**
 20 **and America’s Homeland Act of**
 21 **2017**

22 **SEC. 320. SHORT TITLE.**

23 This subtitle may be cited as the “Protecting Chil-
 24 dren and America’s Homeland Act of 2017”.

1 **SEC. 321. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
 2 **DREN.**

3 Section 235(a) of the William Wilberforce Trafficking
 4 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 5 1232(a)) is amended—

6 (1) in paragraph (2)—

7 (A) by striking the paragraph heading and
 8 inserting “RULES FOR UNACCOMPANIED ALIEN
 9 CHILDREN.—”;

10 (B) in subparagraph (A), in the matter
 11 preceding clause (i), by striking “who is a na-
 12 tional or habitual resident of a country that is
 13 contiguous with the United States shall be
 14 treated in accordance with subparagraph (B)”
 15 and inserting “shall be treated in accordance
 16 with subparagraph (B) of this paragraph or
 17 subsection (b), as appropriate”; and

18 (C) in subparagraph (C)—

19 (i) by striking the subparagraph head-
 20 ing and inserting “AGREEMENTS WITH
 21 FOREIGN COUNTRIES.—”; and

22 (ii) in the matter preceding clause (i),
 23 by striking “countries contiguous to the
 24 United States” and inserting “Canada, El
 25 Salvador, Guatemala, Honduras, Mexico,

1 and any other foreign country that the
2 Secretary determines appropriate”;

3 (2) by redesignating paragraphs (3), (4), and
4 (5) as paragraphs (4), (5), and (6), respectively;

5 (3) inserting after paragraph (2) the following:

6 “(3) MANDATORY EXPEDITED REMOVAL OF
7 CRIMINALS AND GANG MEMBERS.—Notwithstanding
8 any other provision of law, including section 235(a)
9 of the William Wilberforce Trafficking Protection
10 Reauthorization Act of 2008 (8 U.S.C. 1232(a)), the
11 Secretary of Homeland Security shall place an unac-
12 companied alien child in a proceeding in accordance
13 with section 235 of the Immigration and Nationality
14 Act (8 U.S.C. 1225) if, the Secretary determines or
15 has reason to believe the alien—

16 “(A) has been convicted of, or found to be
17 a juvenile offender based on, any offense car-
18 rying a maximum term of imprisonment of
19 more than 180 days;

20 “(B) has been convicted of, or found to be
21 a juvenile offender based on, an offense which
22 involved—

23 “(i) the use or attempted use of phys-
24 ical force, or threatened use of a deadly
25 weapon;

1 “(ii) the purchase, sell, offering for
2 sale, exchange, use, owning, possession, or
3 carrying, or of attempting or conspiring to
4 purchase, sell, offer for sale, exchange, use,
5 own, possess, or carry, any weapon, part,
6 or accessory which is a firearm or destruc-
7 tive device (as defined in section 921(a) of
8 title 18, United States Code) in violation
9 of any law;

10 “(iii) child abuse and neglect (as de-
11 fined in section 40002(a)(3) of the Vio-
12 lence Against Women Act of 1994 (42
13 U.S.C. 13925(a)(3));

14 “(iv) assault resulting in bodily injury
15 (as defined in section 2266 of title 18,
16 United States Code);

17 “(v) the violation of a protection order
18 (as defined in section 2266 of title 18,
19 United States Code);

20 “(vi) driving while intoxicated or driv-
21 ing under the influence (as those terms are
22 defined in section 164 of title 23, United
23 States Code); or

24 “(vii) any offense under foreign law,
25 except for a purely political offense, which,

1 if the offense had been committed in the
2 United States, would render the alien inad-
3 missible under section 212(a) of the Immi-
4 gration and Nationality Act (8 U.S.C.
5 1182(a));

6 “(C) has been convicted of, or found to be
7 a juvenile offender based on, more than 1 crimi-
8 nal offense (other than minor traffic offenses);

9 “(D) has been convicted of, or found to be
10 a juvenile offender based on a crime of violence
11 or an offense under Federal, State, or Tribal
12 law, that has, as an element, the use or at-
13 tempted use of physical force or the threatened
14 use of physical force or a deadly weapon;

15 “(E) has engaged in, is engaged in, or is
16 likely to engage after entry, in any terrorist ac-
17 tivity (as defined in section 212(a)(3)(B)(iii) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1182(a)(3)(B)(iii)), or intends to participate or
20 has participated in the activities of a foreign
21 terrorist organization (as designated under sec-
22 tion 219 of the Immigration and Nationality
23 Act (8 U.S.C. 1189));

24 “(F) has engaged in, is engaged in, or any
25 time after a prior admission engages in activity

described in section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4));

“(G) is or was a member of a criminal gang (as defined in paragraph (53) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(53));

“(H) provided materially false, fictitious, or fraudulent information regarding age or identity to the United States Government with the intent to be inaccurately classified as an unaccompanied alien child; or

“(I) has entered the United States more than 1 time in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was unlawful.

“(J) has entered the United States more than 1 time in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was unlawful.”;

(4) in paragraph (4), as redesignated—

(A) by striking “not described in paragraph (2)(A)”;

(B) by inserting “who choose not to withdraw their application for admission and return

1 to their country of nationality or country of last
2 habitual residence” after “port of entry”;

3 (5) in paragraph (6)(D), as redesignated—

4 (A) by striking the subparagraph heading
5 and inserting “EXPEDITED DUE PROCESS AND
6 SCREENING FOR UNACCOMPANIED ALIEN CHIL-
7 DREN.—”;

8 (B) in the matter preceding clause (i), by
9 striking “, except for an unaccompanied alien
10 child from a contiguous country subject to the
11 exceptions under subsection (a)(2), shall be—”
12 and inserting “who meets the criteria listed in
13 paragraph (2)(A) and who chooses not to with-
14 draw his or her application for admission and
15 return to the unaccompanied alien child’s coun-
16 try of nationality or country of last habitual
17 residence as permitted under section
18 235B(c)(5) of the Immigration and Nationality
19 Act (8 U.S.C. 1225b(c)(5))—”;

20 (C) by striking clause (i) and inserting the
21 following:

22 “(i) shall be placed in a proceeding in
23 accordance with section 235B of the Immi-
24 gration and Nationality Act (8 U.S.C.
25 1225b), which shall commence not later

1 than 7 days after the screening of an unac-
2 companied alien child described in para-
3 graph (5);”;

4 (D) by redesignating clauses (ii) and (iii)
5 as clauses (iii) and (iv), respectively;

6 (E) by inserting after clause (i) the fol-
7 lowing:

8 “(ii) may not be placed in the custody
9 of a nongovernmental sponsor or otherwise
10 released from the immediate custody of the
11 United States Government until the child
12 is repatriated unless the child—

13 “(I) is the subject of an order
14 under section 235B(e)(1) of the Im-
15 migration and Nationality Act (8
16 U.S.C. 1225b(e)(1)); and

17 “(II) is placed or released in ac-
18 cordance with subsection (c)(2)(C) of
19 this section.”;

20 (F) in clause (iii), as redesignated, by in-
21 serting “is” before “eligible”; and

22 (G) in clause (iv), as redesignated, by in-
23 serting “shall be” before “provided”.

1 **SEC. 322. EXPEDITED DUE PROCESS AND SCREENING FOR**
2 **UNACCOMPANIED ALIEN CHILDREN.**

3 (a) HUMANE AND EXPEDITED INSPECTION AND
4 SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—

5 (1) IN GENERAL.—Chapter 4 of title II of the
6 Immigration and Nationality Act (8 U.S.C. 1221 et
7 seq.) is amended by inserting after section 235A the
8 following:

9 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
10 **SCREENING FOR UNACCOMPANIED ALIEN**
11 **CHILDREN.**

12 “(a) ASYLUM OFFICER DEFINED.—In this section,
13 the term ‘asylum officer’ means an immigration officer
14 who—

15 “(1) has had professional training in country
16 conditions, asylum law, and interview techniques
17 comparable to that provided to full-time adjudicators
18 of applications under section 208; and

19 “(2) is supervised by an officer who—

20 “(A) meets the condition described in
21 paragraph (1); and

22 “(B) has had substantial experience adju-
23 dicating applications under section 208.

24 “(b) PROCEEDING.—

25 “(1) IN GENERAL.—Not later than 7 days after
26 the screening of an unaccompanied alien child under

1 section 235(a)(5) of the William Wilberforce Traf-
2 ficking Victims Protection Reauthorization Act of
3 2008 (8 U.S.C. 1232(a)(5)), an immigration judge
4 shall—

5 “(A) conduct and conclude a proceeding to
6 inspect, screen, and determine the status of the
7 unaccompanied alien child who is an applicant
8 for admission to the United States; and

9 “(B) in the case of an unaccompanied
10 alien child seeking asylum, conduct fact finding
11 to determine whether the unaccompanied alien
12 child meets the definition of an unaccompanied
13 alien child under section 235(g) of the William
14 Wilberforce Trafficking Victims Protection Re-
15 authorization Act of 2008 (8 U.S.C. 1232(g)).

16 “(2) TIME LIMIT.—Not later than 72 hours
17 after the conclusion of a proceeding with respect to
18 an unaccompanied alien child under this section, the
19 immigration judge who conducted such proceeding
20 shall issue an order pursuant to subsection (e).

21 “(c) CONDUCT OF PROCEEDING.—

22 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
23 The immigration judge conducting a proceeding
24 under this section—

1 “(A) shall administer oaths, receive evi-
 2 dence, and interrogate, examine, and cross-ex-
 3 amine the unaccompanied alien child and any
 4 witnesses;

5 “(B) is authorized to sanction by civil
 6 money penalty any action (or inaction) in con-
 7 tempt of the judge’s proper exercise of author-
 8 ity under this Act; and

9 “(C) shall determine whether the unaccom-
 10 panied alien child meets any of the criteria set
 11 out in subparagraphs (A) through (I) of para-
 12 graph (3) of section 235(a) of the William Wil-
 13 berforce Trafficking Victims Protection Reau-
 14 thorization Act of 2008 (8 U.S.C. 1232(a)),
 15 and if so, order the alien removed under sub-
 16 section (e)(2) of this section.

17 “(2) FORM OF PROCEEDING.—A proceeding
 18 under this section may take place—

19 “(A) in person;

20 “(B) at a location agreed to by the parties,
 21 in the absence of the unaccompanied alien child;

22 “(C) through video conference; or

23 “(D) through telephone conference.

24 “(3) PRESENCE OF ALIEN.—If it is impracti-
 25 cable by reason of the mental incompetency of the

1 unaccompanied alien child for the alien to be present
2 at the proceeding, the Attorney General shall pre-
3 scribe safeguards to protect the rights and privileges
4 of the alien.

5 “(4) RIGHTS OF THE ALIEN.—In a proceeding
6 under this section—

7 “(A) the unaccompanied alien child shall
8 be provided access to counsel in accordance
9 with section 235(c)(5) of the William Wilber-
10 force Trafficking Victims Protection Reauthor-
11 ization Act of 2008 (8 U.S.C. 1232(c)(5));

12 “(B) the alien shall be given a reasonable
13 opportunity—

14 “(i) to examine the evidence against
15 the alien;

16 “(ii) to present evidence on the alien’s
17 own behalf; and

18 “(iii) to cross-examine witnesses pre-
19 sented by the Government;

20 “(C) the rights set forth in subparagraph
21 (B) shall not entitle the alien—

22 “(i) to examine such national security
23 information as the Government may prof-
24 fer in opposition to the alien’s admission to
25 the United States; or

1 “(ii) to an application by the alien for
2 discretionary relief under this Act; and

3 “(D) a complete record shall be kept of all
4 testimony and evidence produced at the pro-
5 ceeding.

6 “(5) WITHDRAWAL OF APPLICATION FOR AD-
7 MISSION.—An unaccompanied alien child applying
8 for admission to the United States may, and at any
9 time prior to the issuance of a final order of re-
10 moval, be permitted to withdraw the application and
11 immediately be returned to the alien’s country of na-
12 tionality or country of last habitual residence.

13 “(6) CONSEQUENCES OF FAILURE TO AP-
14 PEAR.—An unaccompanied alien child who does not
15 attend a proceeding under this section, shall be or-
16 dered removed, except under exceptional cir-
17 cumstances where the alien’s absence is the fault of
18 the Government, a medical emergency, or an act of
19 nature.

20 “(d) DECISION AND BURDEN OF PROOF.—

21 “(1) DECISION.—

22 “(A) IN GENERAL.—At the conclusion of a
23 proceeding under this section, the immigration
24 judge, notwithstanding section 235(b), shall de-

1 termine whether an unaccompanied alien child
2 is likely to be—

3 “(i) admissible to the United States;
4 or

5 “(ii) eligible for any form of relief
6 from removal under this Act.

7 “(B) EVIDENCE.—The determination of
8 the immigration judge under subparagraph (A)
9 shall be based only on the evidence produced at
10 the hearing.

11 “(2) BURDEN OF PROOF.—

12 “(A) IN GENERAL.—In a proceeding under
13 this section, an unaccompanied alien child who
14 is an applicant for admission has the burden of
15 establishing, by clear and convincing evidence,
16 that the alien—

17 “(i) is likely to be entitled to be law-
18 fully admitted to the United States or eli-
19 gible for any form of relief from removal
20 under this Act; or

21 “(ii) is lawfully present in the United
22 States pursuant to a prior admission.

23 “(B) ACCESS TO DOCUMENTS.—In meeting
24 the burden of proof under subparagraph (A)(ii),
25 the alien shall be given access to—

1 “(i) the alien’s visa or other entry
2 document, if any; and

3 “(ii) any other records and docu-
4 ments, not considered by the Attorney
5 General to be confidential, pertaining to
6 the alien’s admission or presence in the
7 United States.

8 “(e) ORDERS.—

9 “(1) PLACEMENT IN FURTHER PRO-
10 CEEDINGS.—If an immigration judge determines
11 that the unaccompanied alien child has met the bur-
12 den of proof under subsection (d)(2), the immigra-
13 tion judge shall—

14 “(A) order the alien to be placed in further
15 proceedings in accordance with section 240; and

16 “(B) order the Secretary of Homeland Se-
17 curity to place the alien on the U.S. Immigra-
18 tion and Customs Enforcement detained docket
19 for purposes of carrying out such proceedings.

20 “(2) ORDERS OF REMOVAL.—If an immigration
21 judge determines that the unaccompanied alien child
22 has not met the burden of proof required under sub-
23 section (d)(2), the judge shall order the alien re-
24 moved from the United States without further hear-
25 ing or review unless the alien claims—

1 “(A) an intention to apply for asylum
2 under section 208;

3 “(B) a fear of persecution; or

4 “(C) a fear of torture.

5 “(3) CLAIMS FOR ASYLUM.—If an unaccom-
6 panied alien child described in paragraph (2) claims
7 an intention to apply for asylum under section 208
8 or a fear of persecution, or fear of torture, the immi-
9 gration judge shall order the alien referred for an
10 interview by an asylum officer under subsection (f).

11 “(f) ASYLUM INTERVIEWS.—

12 “(1) CREDIBLE FEAR OF PERSECUTION DE-
13 FINED.—In this subsection, the term ‘credible fear
14 of persecution’ means, after taking into account the
15 credibility of the statements made by an unaccom-
16 panied alien child in support of the alien’s claim and
17 such other facts as are known to the asylum officer,
18 there is a significant possibility that the alien could
19 establish eligibility for asylum under section 208 or
20 for protection from removal based on Article 3 of the
21 Convention Against Torture and Other Cruel, Inhu-
22 man or Degrading Treatment or Punishment.

23 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-
24 lum officer shall conduct the interviews of an unac-

1 accompanied alien child referred under subsection
2 (e)(3).

3 “(3) REFERRAL OF CERTAIN ALIENS.—If the
4 asylum officer determines at the time of the inter-
5 view that an unaccompanied alien child has a cred-
6 ible fear of persecution or torture, the alien shall be
7 held in the custody of the Secretary for Health and
8 Human Services pursuant to section 235(b) of the
9 William Wilberforce Trafficking Victims Protection
10 Reauthorization Act of 2008 (8 U.S.C. 1232(b))
11 during further consideration of the application for
12 asylum.

13 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
14 NO CREDIBLE FEAR OF PERSECUTION OR TOR-
15 TURE.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C), if the asylum officer determines that
18 an unaccompanied alien child does not have a
19 credible fear of persecution or torture, the Sec-
20 retary shall order the alien removed from the
21 United States without further hearing or re-
22 view.

23 “(B) RECORD OF DETERMINATION.—The
24 asylum officer shall prepare a written record of

1 a determination under subparagraph (A), which
2 shall include—

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

5 “(ii) such additional facts (if any) re-
6 lied upon by the asylum officer;

7 “(iii) the asylum officer’s analysis of
8 why, in light of such facts, the alien has
9 not established a credible fear of persecu-
10 tion; and

11 “(iv) a copy of the asylum officer’s
12 interview notes.

13 “(C) REVIEW OF DETERMINATION.—

14 “(i) RULEMAKING.—The Attorney
15 General shall establish, by regulation, a
16 process by which an immigration judge will
17 conduct a prompt review, upon the alien’s
18 request, of a determination under subpara-
19 graph (A) that the alien does not have a
20 credible fear of persecution.

21 “(ii) MANDATORY COMPONENTS.—
22 The review described in clause (i)—

23 “(I) shall include an opportunity
24 for the alien to be heard and ques-
25 tioned by the immigration judge, ei-

1 ther in person or by telephonic or
2 video connection; and

3 “(II) shall be concluded as expe-
4 ditiously as possible, to the maximum
5 extent practicable within 24 hours,
6 but in no case later than 7 days after
7 the date of the determination under
8 subparagraph (A).

9 “(D) MANDATORY PROTECTIVE CUS-
10 TODY.—Any alien subject to the procedures
11 under this paragraph shall be held in the cus-
12 tody of the Secretary of Health and Human
13 Services pursuant to section 235(b) of the Wil-
14 liam Wilberforce Trafficking Victims Protection
15 Reauthorization Act of 2008 (8 U.S.C.
16 1232(b))—

17 “(i) pending a final determination of
18 an application for asylum under this sub-
19 section; and

20 “(ii) after a determination under this
21 subsection that the alien does not have a
22 credible fear of persecution or torture,
23 until the alien is removed.

24 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

1 “(1) IN GENERAL.—Except as provided in sub-
 2 section (f)(4)(C) and paragraph (2), a removal order
 3 entered in accordance with subsection (e)(2) or
 4 (f)(4)(A) is not subject to administrative appeal.

5 “(2) RULEMAKING.—The Attorney General
 6 shall establish, by regulation, a process for the
 7 prompt review of an order under subsection (e)(2)
 8 against an alien who claims under oath, or as per-
 9 mitted under penalty of perjury under section 1746
 10 of title 28, United States Code, after having been
 11 warned of the penalties for falsely making such
 12 claim under such conditions to have been—

13 “(A) lawfully admitted for permanent resi-
 14 dence;

15 “(B) admitted as a refugee under section
 16 207; or

17 “(C) granted asylum under section 208.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
 19 tents in the first section of the Immigration and Na-
 20 tionality Act is amended by inserting after the item
 21 relating to section 235A the following:

“Sec. 235B. Humane and expedited inspection and screening for unaccom-
 panied alien children.”.

22 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
 23 Section 242 of the Immigration and Nationality Act (8
 24 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “section
3 235(b)(1))” and inserting “section 235(b)(1) or
4 an order of removal issued to an unaccom-
5 panied alien child after proceedings under sec-
6 tion 235B)”;

7 (B) in paragraph (2)—

8 (i) by inserting “or section 235B”
9 after “section 235(b)(1)” each place that
10 term appears; and

11 (ii) in subparagraph (A)—

12 (I) in the subparagraph heading,
13 by striking “235(b)(1).—” and insert-
14 ing “235(b)(1) AND 235B.—”; and

15 (II) in clause (iii), by striking
16 “section 235(b)(1)(B),” and inserting
17 “section 235(b)(1)(B) or 235B(f);”;
18 and

19 (2) in subsection (e)—

20 (A) in the subsection heading, striking
21 “235(b)(1).—” and inserting “235(b)(1) OR
22 235B.—”;

23 (B) by inserting “or section 235B” after
24 “section 235(b)(1)” each place that term ap-
25 pears;

1 (C) in subparagraph (2)(C), by inserting
 2 “or section 235B(g)” after “section
 3 235(b)(1)(C)”; and

4 (D) in subparagraph (3)(A), by inserting
 5 “or section 235B” after “section 235(b)”.

6 **SEC. 323. CHILD WELFARE AND LAW ENFORCEMENT IN-**
 7 **FORMATION SHARING.**

8 Section 235(b) of the William Wilberforce Trafficking
 9 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 10 1232(b)) is amended by adding at the end the following:

11 “(5) INFORMATION SHARING.—

12 “(A) IMMIGRATION STATUS.—If the Sec-
 13 retary of Health and Human Services considers
 14 placement of an unaccompanied alien child with
 15 a potential sponsor, the Secretary of Homeland
 16 Security shall provide to the Secretary of
 17 Health and Human Services the immigration
 18 status of such potential sponsor prior to the
 19 placement of the unaccompanied alien child.

20 “(B) OTHER INFORMATION.—The Sec-
 21 retary of Health and Human Services shall pro-
 22 vide to the Secretary of Homeland Security and
 23 the Attorney General upon request any relevant
 24 information related to an unaccompanied alien
 25 child who is or has been in the custody of the

1 Secretary of Health and Human Services, in-
 2 cluding the location of the child and any person
 3 to whom custody of the child has been trans-
 4 ferred, for any legitimate law enforcement ob-
 5 jective, including enforcement of the immigra-
 6 tion laws.”.

7 **SEC. 324. ACCOUNTABILITY FOR CHILDREN AND TAX-**
 8 **PAYERS.**

9 Section 235(b) of the William Wilberforce Trafficking
 10 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 11 1232(b)), as amended by section 323, is further amended
 12 by inserting at the end the following:

13 “(6) INSPECTION OF FACILITIES.—The Inspec-
 14 tor General of the Department of Health and
 15 Human Services shall conduct regular inspections of
 16 facilities utilized by the Secretary of Health and
 17 Human Services to provide care and custody of un-
 18 accompanied alien children who are in the immediate
 19 custody of the Secretary to ensure that such facili-
 20 ties are operated in the most efficient manner prac-
 21 ticable.

22 “(7) FACILITY OPERATIONS COSTS.—The Sec-
 23 retary of Health and Human Services shall ensure
 24 that facilities utilized to provide care and custody of
 25 unaccompanied alien children are operated efficiently

1 and at a rate of cost that is not greater than \$500
 2 per day for each child housed or detained at such fa-
 3 cility, unless the Secretary certifies that compliance
 4 with this requirement is temporarily impossible due
 5 to emergency circumstances.”.

6 **SEC. 325. CUSTODY OF UNACCOMPANIED ALIEN CHILDREN**
 7 **IN FORMAL REMOVAL PROCEEDING.**

8 (a) CUSTODY OF UNACCOMPANIED ALIEN CHIL-
 9 DREN.—Section 235(c) of the William Wilberforce Traf-
 10 ficking Victims Protection Reauthorization Act of 2008 (8
 11 U.S.C. 1232(c)) is amended—

12 (1) in paragraph (2), by adding at the end the
 13 following:

14 “(C) CHILDREN IN FORMAL REMOVAL
 15 PROCEEDINGS.—

16 “(i) LIMITATION ON PLACEMENT.—
 17 Notwithstanding any settlement or consent
 18 decree previously issued before date of en-
 19 actment of the Building America’s Trust
 20 Act and section 236.3 of title 8, Code of
 21 Federal Regulations, or similar successor
 22 regulation, an unaccompanied alien child
 23 who has been placed in a proceeding under
 24 section 240 of the Immigration and Na-
 25 tionality Act (8 U.S.C. 1229a) may not be

1 placed in the custody of a nongovernmental
2 sponsor or otherwise released from the im-
3 mediate custody of the United States Gov-
4 ernment unless—

5 “(I) the nongovernmental spon-
6 sor is a biological or adoptive parent
7 or legal guardian of the alien child;

8 “(II) the parent or legal guardian
9 is legally present in the United States
10 at the time of the placement;

11 “(III) the parent or legal guard-
12 ian has undergone a mandatory bio-
13 metric criminal history check;

14 “(IV) if the nongovernmental
15 sponsor is the biological parent, the
16 parent’s relationship to the alien child
17 has been verified through DNA test-
18 ing conducted by the Secretary of
19 Health and Human Services;

20 “(V) if the nongovernmental
21 sponsor is the adoptive parent, the
22 parent’s relationship to the alien child
23 has been verified with the judicial
24 court that issued the final legal adop-

1 tion decree by the Secretary of Health
2 and Human Services; and

3 “(VI) the Secretary of Health
4 and Human Services has determined
5 that the alien child is not a danger to
6 self, danger to the community, or risk
7 of flight.

8 “(ii) EXCEPTIONS.—If the Secretary
9 of Health and Human Services determines
10 that an unaccompanied alien child is a vic-
11 tim of severe forms of trafficking in per-
12 sons (as defined in section 103 of the
13 Trafficking Victims Protection Act of 2000
14 (22 U.S.C. 7102)), a special needs child
15 with a disability (as defined in section 3 of
16 the Americans with Disabilities Act of
17 1990 (42 U.S.C. 12102)), a child who has
18 been a victim of physical or sexual abuse
19 under circumstances that indicate that the
20 child’s health or welfare has been signifi-
21 cantly harmed or threatened, or a child
22 with mental health needs that require on-
23 going assistance from a social welfare
24 agency, the alien child may be placed with
25 a grandparent or adult sibling if the

1 grandparent or adult sibling meets the re-
2 quirements set out in subclauses (II), (III),
3 and (IV) of clause (i).

4 “(iii) MONITORING.—

5 “(I) IN GENERAL.—In the case
6 of an alien child who is 17 years of
7 age or younger and is placed with a
8 nongovernmental sponsor under sub-
9 paragraph (2)(C), such nongovern-
10 mental sponsor shall—

11 “(aa) enroll in the alter-
12 native to detention program of
13 U.S. Immigration and Customs
14 Enforcement; and

15 “(bb) continuously wear an
16 electronic monitoring device while
17 the alien child is in removal pro-
18 ceedings.

19 “(II) PENALTY FOR MONITOR
20 TAMPERING.—If an electronic moni-
21 toring device required by subclause (I)
22 is tampered with, the sponsor of the
23 alien child shall be subject to a civil
24 penalty of \$150 for each day the mon-

1 itor is not functioning due to the tam-
2 pering, up to a maximum of \$3,000.

3 “(iv) EFFECT OF VIOLATION OF CON-
4 DITIONS.—The Secretary of Health and
5 Human Services shall remove an unaccom-
6 panied alien child from a sponsor if the
7 sponsor violates the terms of the agree-
8 ment specifying the conditions under which
9 the alien was placed with the sponsor.

10 “(v) FAILURE TO APPEAR.—

11 “(I) CIVIL PENALTY.—If an un-
12 accompanied alien child is placed with
13 a sponsor and fails to appear in a
14 mandatory court appearance, the
15 sponsor shall be subject to a civil pen-
16 alty of \$250 for each day until the
17 alien appears in court, up to a max-
18 imum of \$5,000.

19 “(II) BURDEN OF PROOF.—The
20 sponsor is not subject to the penalty
21 imposed under subclause (I) if the
22 sponsor—

23 “(aa) appears in person and
24 proves to the immigration court
25 that the failure to appear by the

1 unaccompanied alien child was
2 not the fault of the sponsor; and
3 “(bb) supplies the immigra-
4 tion court with documentary evi-
5 dence that supports the assertion
6 described in item (aa).

7 “(vi) PROHIBITION ON PLACEMENT
8 WITH SEX OFFENDERS AND HUMAN TRAF-
9 FICKERS.—The Secretary of Health and
10 Human Services may not place an unac-
11 companied alien child under this subpara-
12 graph in the custody of an individual who
13 has been convicted of, or the Secretary has
14 reason to believe was otherwise involved in
15 the commission of—

16 “(I) a sex offense (as defined in
17 section 111 of the Sex Offender Reg-
18 istration and Notification Act (42
19 U.S.C. 16911));

20 “(II) a crime involving severe
21 forms of trafficking in persons (as de-
22 fined in section 103 of the Trafficking
23 Victims Protection Act of 2000 (22
24 U.S.C. 7102)); or

1 “(III) an offense under Federal,
2 State, or Tribal law, that has, as an
3 element, the use or attempted use of
4 physical force or the threatened use of
5 physical force or a deadly weapon.

6 “(vii) REQUIREMENTS OF CRIMINAL
7 BACKGROUND CHECK.—A biometric crimi-
8 nal history check required by clause
9 (i)(III) shall be conducted using a set of
10 fingerprints or other biometric identifier
11 through—

12 “(I) the Federal Bureau of Inves-
13 tigation;

14 “(II) criminal history repositories
15 of all States that the individual lists
16 as current or former residences; and

17 “(III) any other State or Federal
18 database or repository that the Sec-
19 retary of Health and Human Services
20 determines is appropriate.”.

21 (b) HOME STUDIES AND FOLLOW-UP SERVICES FOR
22 UNACCOMPANIED ALIEN CHILDREN.—Section 235(c) of
23 the William Wilberforce Trafficking Victims Protection
24 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amend-
25 ed in paragraph (3) by—

- 1 (1) redesignating subparagraph (C) as (D); and
2 (2) by amending subparagraph (B) to read as
3 follows:

4 “(B) HOME STUDIES.—

5 “(i) IN GENERAL.—Before placing the
6 child with an individual, the Secretary of
7 Health and Human Services shall first de-
8 termine whether a home study is nec-
9 essary.

10 “(ii) REQUIRED HOME STUDIES.—A
11 home study shall be conducted for a
12 child—

13 “(I) who is a victim of a severe
14 form of trafficking in persons, a spe-
15 cial needs child with a disability (as
16 defined in section 12102 of title 42);

17 “(II) who has been a victim of
18 physical or sexual abuse under cir-
19 cumstances that indicate that the
20 child’s health or welfare has been sig-
21 nificantly harmed or threatened; or

22 “(III) whose proposed sponsor
23 clearly presents a risk of abuse, mal-
24 treatment, exploitation, or trafficking

1 to the child based on all available ob-
2 jective evidence.

3 “(C) FOLLOW-UP SERVICES AND ADDI-
4 TIONAL HOME STUDIES.—

5 “(i) PENDENCY OF REMOVAL PRO-
6 CEEDINGS.—Every six months, the Sec-
7 retary of Health and Human Services shall
8 conduct follow-up services for children for
9 whom a home study was conducted and
10 who were placed with a nongovernmental
11 sponsor until initial removal proceedings
12 have been completed and the immigration
13 judge has issued an order of removal,
14 granted voluntary departure under section
15 240B, or granted the alien relief from re-
16 moval.

17 “(ii) CHILDREN WITH MENTAL
18 HEALTH OR OTHER NEEDS.—Every six
19 months, for up to two years from the date
20 of placement with a nongovernmental
21 sponsor, the Secretary of Health and
22 Human Services shall conduct follow-up
23 services for children with mental health
24 needs or other needs that could benefit

1 from ongoing assistance from a social wel-
2 fare agency.

3 “(iii) CHILDREN AT RISK.—Every six
4 months, for up to two years from the date
5 of placement with a nongovernmental
6 sponsor, the Secretary of Health and
7 Human Services shall conduct home stud-
8 ies and follow-up services, including
9 partnering with local community programs
10 that focus on early am and after-school
11 programs for at risk children who need a
12 secure environment to engage in studying,
13 training, and skills-building programs and
14 who are at risk for recruitment by criminal
15 gangs or other transnational criminal orga-
16 nizations in the United States.”.

17 (c) CLARIFICATION OF SPECIAL IMMIGRANT JUVE-
18 NILE DEFINITION.—Section 101(a)(27)(J) of the Immi-
19 gration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is
20 amended—

21 (1) by amending subparagraph (i) to read as
22 follows:

23 “(i) who, before reaching 18 years of
24 age, was declared dependent on a juvenile
25 court located in the United States or whom

1 such a court has legally committed to, or
2 placed under the custody of, an agency or
3 department of a State, or an individual or
4 entity appointed by a State or juvenile
5 court located in the United States, and
6 whose reunification with either parent of
7 the immigrant is not viable due to abuse,
8 neglect, abandonment, or a similar basis
9 found under State law;”;

10 (2) in subparagraph (ii), by striking “and” at
11 the end;

12 (3) in subparagraph (iii)(II), by inserting
13 “and” at the end; and

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

15 “(iv) in whose case the Secretary of
16 Homeland Security has made the deter-
17 mination that the alien is an unaccom-
18 panied alien child (as defined in section
19 462(g) of the Homeland Security Act of
20 2002 (6 U.S.C. 279(g))).”.

1 **SEC. 326. FRAUD IN CONNECTION WITH THE TRANSFER OF**
2 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
3 **DREN.**

4 (a) IN GENERAL.—Chapter 47 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 1041. Fraud in connection with the transfer of cus-**
8 **tody of unaccompanied alien children**

9 “(a) IN GENERAL.—It shall be unlawful for a person
10 to obtain custody of an unaccompanied alien child (as de-
11 fined in section 462(g) of the Homeland Security Act of
12 2002 (6 U.S.C. 279(g)))—

13 “(1) by making any materially false, fictitious,
14 or fraudulent statement or representation; or

15 “(2) by making or using any false writing or
16 document knowing the same to contain any materi-
17 ally false, fictitious, or fraudulent statement or
18 entry.

19 “(b) PENALTIES.—

20 “(1) IN GENERAL.—Any person who violates, or
21 attempts or conspires to violate, this section shall be
22 fined under this title and imprisoned for not less
23 than 1 year.

24 “(2) ENHANCED PENALTY FOR TRAF-
25 FICKING.—If the primary purpose of the violation,
26 attempted violation, or conspiracy to violate this sec-

1 tion was to subject the child to sexually explicit ac-
 2 tivity or any other form of exploitation, the offender
 3 shall be fined under this title and imprisoned for not
 4 less than 15 years.”.

5 (b) TABLE OF SECTIONS AMENDMENT.—The table of
 6 sections for chapter 47 of title 18, United States Code,
 7 is amended by inserting after the item relating to section
 8 1040 the following:

“Sec. 1041. Fraud in connection with the transfer of custody of unaccompanied
 alien children.”.

9 **SEC. 327. NOTIFICATION OF STATES AND FOREIGN GOV-**
 10 **ERNMENTS, REPORTING, AND MONITORING.**

11 (a) NOTIFICATION.—Section 235 of the William Wil-
 12 berforce Trafficking Victims Protection Reauthorization
 13 Act of 2008 (8 U.S.C. 1232) is amended by adding at
 14 the end the following:

15 “(j) NOTIFICATION TO STATES.—

16 “(1) PRIOR TO PLACEMENT.—The Secretary of
 17 Homeland Security or the Secretary of Health and
 18 Human Services shall notify the Governor of a State
 19 not later than 48 hours prior to the placement of an
 20 unaccompanied alien child from in custody of such
 21 Secretary in the care of a facility or sponsor in such
 22 State.

23 “(2) INITIAL REPORTS.—Not later than 60
 24 days after the date of the enactment of the Pro-

1 tecting Children and America’s Homeland Act of
2 2017, the Secretary of Health and Human Services
3 shall submit a report to the Governor of each State
4 in which an unaccompanied alien child was dis-
5 charged to a sponsor or placed in a facility while re-
6 maining in the legal custody of the Secretary during
7 the period beginning October 1, 2013 and ending on
8 the date of the enactment of the Protecting Children
9 and America’s Homeland Act of 2017.

10 “(3) MONTHLY REPORTS.—The Secretary of
11 Health and Human Services shall submit a monthly
12 report to the Governor of each State in which, dur-
13 ing the reporting period, unaccompanied alien chil-
14 dren were discharged to a sponsor or placed in a fa-
15 cility while remaining in the legal custody of the
16 Secretary of Health and Human Services.

17 “(4) CONTENTS.—Each report required to be
18 submitted to the Governor of a State under para-
19 graph (2) or (3) shall identify the number of unac-
20 companied alien children placed in the State during
21 the reporting period, disaggregated by—

22 “(A) the locality in which the aliens were
23 placed; and

24 “(B) the age of such aliens.

1 “(k) NOTIFICATION OF FOREIGN COUNTRY.—The
2 Secretary of Homeland Security shall provide information
3 regarding each unaccompanied alien child to the govern-
4 ment of the country of which the child is a national to
5 assist such government with the identification and reunifi-
6 cation of such child with their parent or other qualifying
7 relative.

8 “(l) MONITORING REQUIREMENT.—The Secretary of
9 Health and Human Services shall—

10 “(1) require all sponsors to agree—

11 “(A) to receive approval from the Sec-
12 retary of Health and Human Services prior to
13 changing the location in which the sponsor is
14 housing an unaccompanied alien child placed in
15 the sponsor’s custody; and

16 “(B) to provide a current address for the
17 child and the reason for the change of address;

18 “(2) provide regular and frequent monitoring of
19 the physical and emotional well-being of each unac-
20 companied alien child who has been discharged to a
21 sponsor or remained in the legal custody of the Sec-
22 retary until the child’s immigration case is resolved;
23 and

24 “(3) not later than 60 days after the date of
25 the enactment of this Act, provide to Congress a

1 plan for implementing the requirements under para-
2 graphs (1) and (2).”.

3 **SEC. 328. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

4 (a) DESIGNATION.—Not later than 14 days after the
5 date of the enactment of this Act, the Attorney General
6 shall designate up to 100 immigration judges, including
7 through the hiring of retired immigration judges, mag-
8 istrate judges, or administrative law judges, or the reas-
9 signment of current immigration judges, that are dedi-
10 cated—

11 (1) to conducting humane and expedited inspec-
12 tion and screening for unaccompanied alien children
13 under section 235B of the Immigration and Nation-
14 ality Act, as added by section 322; or

15 (2) to reducing existing backlogs in immigration
16 court proceedings initiated under section 239 of the
17 Immigration and Nationality Act (8 U.S.C. 1229).

18 (b) REQUIREMENT.—The Attorney General shall en-
19 sure that sufficient immigration judge resources are dedi-
20 cated to the purpose described in subsection (a)(1) to com-
21 ply with the requirement under section 235B(b)(1) of the
22 Immigration and Nationality Act, as added by section 322.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated \$10,000,000 for each of the
25 fiscal years 2018 through 2022 to implement this section.

1 **SEC. 329. REPORTS TO CONGRESS.**

2 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
3 CHILDREN.—Not later than September 30, 2019, the Sec-
4 retary of Health and Human Services shall submit to Con-
5 gress and make publically available a report that in-
6 cludes—

7 (1) a detailed summary of the contracts in ef-
8 fect to care for and house unaccompanied alien chil-
9 dren, including the names and locations of contrac-
10 tors and the facilities being used;

11 (2) the cost per day to care for and house an
12 unaccompanied alien child, including an explanation
13 of such cost;

14 (3) the number of unaccompanied alien children
15 who have been released to a sponsor, if any;

16 (4) a list of the States to which unaccompanied
17 alien children have been released from the custody of
18 the Secretary of Health and Human Services to the
19 care of a sponsor or placement in a facility;

20 (5) the number of unaccompanied alien children
21 who have been released to a sponsor who is not law-
22 fully present in the United States, including the
23 country of nationality or last habitual residence and
24 age of such children;

25 (6) a determination of whether more than 1 un-
26 accompanied alien child has been released to the

1 same sponsor, including the number of children who
2 were released to such sponsor;

3 (7) an assessment of the extent to which the
4 Secretary of Health and Human Services is moni-
5 toring the release of unaccompanied alien children,
6 including home studies done and electronic moni-
7 toring devices used;

8 (8) an assessment of the extent to which the
9 Secretary of Health and Human Services is making
10 efforts—

11 (A) to educate unaccompanied alien chil-
12 dren about their legal rights; and

13 (B) to provide unaccompanied alien chil-
14 dren with access to pro bono counsel; and

15 (9) the extent of the public health issues of un-
16 accompanied alien children, including contagious dis-
17 eases, the benefits or medical services provided, and
18 the outreach to States and localities about public
19 health issues, that could affect the public.

20 (b) REPORTS ON REPATRIATION AGREEMENTS.—

21 Not later than September 30, 2018, the Secretary of State
22 shall submit to Congress and make publically available a
23 report that—

24 (1) describes—

1 (A) any repatriation agreement for unac-
2 companied alien children in effect and a copy of
3 such agreement; and

4 (B) any such repatriation agreement that
5 is being considered or negotiated; and

6 (2) describes the funding provided to the 20
7 countries that have the highest number of nationals
8 entering the United States as unaccompanied alien
9 children, including amounts provided—

10 (A) to deter the nationals of each country
11 from illegally entering the United States; and

12 (B) to care for or reintegrate repatriated
13 unaccompanied alien children in the country of
14 nationality or last habitual residence.

15 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
16 ALITY.—Not later than September 30, 2019, the Sec-
17 retary of Homeland Security shall submit to Congress and
18 make publicly available a report that describes—

19 (1) the number of unaccompanied alien children
20 who have voluntarily returned to their country of na-
21 tionality or habitual residence, disaggregated by—

22 (A) country of nationality or habitual resi-
23 dence; and

24 (B) age of the unaccompanied alien chil-
25 dren;

1 (2) the number of unaccompanied alien children
2 who have been returned to their country of nation-
3 ality or habitual residence, including assessment of
4 the length of time such children were present in the
5 United States;

6 (3) the number of unaccompanied alien children
7 who have not been returned to their country of na-
8 tionality or habitual residence pending travel docu-
9 ments or other requirements from such country, in-
10 cluding how long they have been waiting to return;
11 and

12 (4) the number of unaccompanied alien children
13 who were granted relief in the United States, wheth-
14 er through asylum, any other immigration benefit or
15 status, or deferred action.

16 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
17 later than September 30, 2019, and once every 3 months
18 thereafter, the Secretary of Homeland Security, in coordi-
19 nation with the Director of the Executive Office for Immi-
20 gration Review, shall submit to Congress and make pub-
21 lically available a report that describes—

22 (1) the number of unaccompanied alien children
23 who, after proceedings under section 235(b) of the
24 Immigration and Nationality Act, as added by sec-

1 tion 312, were returned to their country of nation-
2 ality or habitual residence, disaggregated by—

3 (A) country of nationality or residence; and

4 (B) age and gender of such aliens;

5 (2) the number of unaccompanied alien children
6 who, after proceedings under such section 235B,
7 prove a claim of admissibility and are placed in pro-
8 ceedings under section 240 of the Immigration and
9 Nationality Act (8 U.S.C. 1229a);

10 (3) the number of unaccompanied alien children
11 who fail to appear at a removal hearing that such
12 alien was required to attend;

13 (4) the number of sponsors who were levied a
14 penalty, including the amount and whether the pen-
15 alty was collected, for the failure of an unaccom-
16 panied alien child to appear at a removal hearing;
17 and

18 (5) the number of aliens that are classified as
19 unaccompanied alien children, the ages and coun-
20 tries of nationality of such children, and the orders
21 issued by the immigration judge at the conclusion of
22 proceedings under such section 235B for such chil-
23 dren.

1 **TITLE IV—PENALTIES FOR**
 2 **SMUGGLING, DRUG TRAF-**
 3 **FICKING, HUMAN TRAF-**
 4 **FICKING, TERRORISM, AND**
 5 **ILLEGAL ENTRY AND RE-**
 6 **ENTRY; BARS TO READMIS-**
 7 **SION OF REMOVED ALIENS**

8 **SEC. 401. DANGEROUS HUMAN SMUGGLING, HUMAN TRAF-**
 9 **FICKING, AND HUMAN RIGHTS VIOLATIONS.**

10 (a) CRIMINAL PENALTIES FOR HUMAN SMUGGLING
 11 AND TRAFFICKING.—Section 274(a) of the Immigration
 12 and Nationality Act (8 U.S.C. 1324(a)) is amended—

13 (1) in paragraph (1)(B)—

14 (A) by redesignating clauses (iii) and (iv)
 15 as clauses (vi) and (vii), respectively;

16 (B) in clause (vi), as redesignated, by in-
 17 serting “for not less than 10 years and” before
 18 “not more than 20 years,”; and

19 (C) by inserting after clause (ii) the fol-
 20 lowing:

21 “(iii) in the case of a violation of sub-
 22 paragraph (A)(i), (ii), (iii), (iv), or (v) that
 23 is the third or subsequent violation com-
 24 mitted by such person under this section,
 25 shall be fined under title 18, imprisoned

1 for not less than 5 years and not more
2 than 25 years, or both;

3 “(iv) in the case of a violation of sub-
4 paragraph (A)(i), (ii), (iii), (iv), or (v) that
5 recklessly, knowingly, or intentionally re-
6 sults in a victim being involuntarily forced
7 into labor or prostitution, shall be fined
8 under title 18, imprisoned for not less than
9 5 years and not more than 25 years, or
10 both;

11 “(v) in the case of a violation of sub-
12 paragraph (A)(i),(ii),(iii),(iv),or (v) during
13 and in relation to which any person is sub-
14 jected to an involuntary sexual act (as de-
15 fined in section 2246(2) of title 18), be
16 fined under title 18, imprisoned for not
17 less than 5 years and not more than 25
18 years, or both;”and

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

20 “(5) Any person who, knowing that a person is an
21 alien in unlawful transit from one country to another or
22 on the high seas, transports, moves, harbors, conceals, or
23 shields from detection such alien outside of the United
24 States when the alien is seeking to enter the United States
25 without official permission or legal authority, shall for,

1 each alien in respect to whom a violation of this paragraph
 2 occurs, be fined under title 18, United States Code, im-
 3 prisoned not more than 10 years, or both.”.

4 (b) SEIZURE AND FORFEITURE.—Section 274(b)(1)
 5 of the Immigration and Nationality Act (8 U.S.C.
 6 1324(b)(1)) is amended to read as follows:

7 “(1) IN GENERAL.—Any property, real or per-
 8 sonal, involved in or used to facilitate the commis-
 9 sion of a violation or attempted violation of sub-
 10 section (a), the gross proceeds of such violation or
 11 attempted violation, and any property traceable to
 12 such property or proceeds, shall be seized and sub-
 13 ject to forfeiture.”.

14 (c) STATUTE OF LIMITATIONS FOR FRAUD OF-
 15 FENSES INVOLVING CERTAIN HUMAN RIGHTS VIOLA-
 16 TIONS OR WAR CRIMES.—

17 (1) IN GENERAL.—Chapter 213 of title 18,
 18 United States Code, is amended by adding at the
 19 end the following:

20 **“SEC. 3302. FRAUD IN CONNECTION WITH CERTAIN HUMAN**
 21 **RIGHTS VIOLATIONS OR WAR CRIMES.**

22 “(a) IN GENERAL.—Unless the indictment is found
 23 or the information is instituted within 10 years after the
 24 commission of the offense, no person shall be prosecuted,
 25 tried, or punished for a violation of any provision of sec-

tion 1001, 1015, 1546, or 1621, or for attempt or conspiracy to violate any of such provisions, when the violation, attempt, or conspiracy concerns the alleged offender's—

“(1) participation, at any time, at any place, and irrespective of the nationality of the alleged offender or any victim, in a human rights violation or war crime; or

“(2) membership in, service in, or authority over, a military, paramilitary, or police organization that participated in such conduct during any part of any period in which the alleged offender was a member of, served in, or had authority over, the organization.

“(b) DEFINITIONS.—For purposes of this section—

“(1) the term ‘extrajudicial killing under color of foreign law’ means conduct specified in section 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));

“(2) the term ‘female genital mutilation’ means conduct described in section 116;

“(3) the term ‘genocide’ means conduct described in section 1091(a);

“(4) the term ‘human rights violation or war crime’ means genocide, incitement to genocide, war

1 crimes, torture, female genital mutilation,
 2 extrajudicial killing under color of foreign law, perse-
 3 cution, particularly severe violations of religious free-
 4 dom by a foreign government official, or the use or
 5 recruitment of child soldiers;

6 “(5) the term ‘incitement to genocide’ means
 7 conduct described in section 1091(c);

8 “(6) the term ‘particularly severe violations of
 9 religious freedom’ has the meaning given such term
 10 in section 3(13) of the International Religious Free-
 11 dom Act of 1998 (22 U.S.C. 6402(13));

12 “(7) the term ‘persecution’ means conduct de-
 13 scribed in section 208(b)(2)(A)(i) of the Immigra-
 14 tion and Nationality Act (8 U.S.C.
 15 1158(b)(2)(A)(i));

16 “(8) the term ‘torture’ means conduct described
 17 in paragraph (1) or (2) of section 2340;

18 “(9) the term ‘use or recruitment of child sol-
 19 diers’ means conduct described in section 2442(a);
 20 and

21 “(10) the term ‘war crimes’ means conduct de-
 22 scribed in section 2441.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
 24 tions at the beginning of chapter 213 of title 18,

1 United States Code, is amended by adding at the
2 end the following:

“3302. Fraud in connection with certain human rights violations or war crimes.”.

3 (3) APPLICATION.—The amendments made by
4 this section shall apply to any offense committed on
5 or after the date of the enactment of this Act.

6 **SEC. 402. PUTTING THE BRAKES ON HUMAN SMUGGLING**
7 **ACT.**

8 (a) SHORT TITLE.—This section may be cited as the
9 “Putting the Brakes on Human Smuggling Act”.

10 (b) FIRST VIOLATION.—Section 31310(b)(1) of title
11 49, United States Code, is amended—

12 (1) in subparagraph (D), by striking the “or”
13 at the end;

14 (2) in subparagraph (E), by striking the period
15 at the end and inserting a semicolon; and

16 (3) by adding at the end the following:

17 “(F) using a commercial motor vehicle in will-
18 fully aiding or abetting an alien’s illegal entry into
19 the United States by transporting, guiding, direct-
20 ing, or attempting to assist the alien with the alien’s
21 entry in violation of section 275 of the Immigration
22 and Nationality Act (8 U.S.C. 1325), regardless of
23 whether the alien is ultimately fined or imprisoned
24 for an act in violation of such section; or

1 “(G) using a commercial motor vehicle in will-
2 fully aiding or abetting the transport of controlled
3 substances, monetary instruments, bulk cash, or
4 weapons by any individual departing the United
5 States.”.

6 (c) SECOND OR MULTIPLE VIOLATIONS.—Section
7 31310(c)(1) of title 49, United States Code, is amended—

8 (1) in subparagraph (E), by striking the “or”
9 at the end;

10 (2) by redesignating subparagraph (F) as sub-
11 paragraph (H);

12 (3) in subparagraph (H), as redesignated, by
13 striking “(E)” and inserting “(F)”; and

14 (4) by inserting after subparagraph (E) the fol-
15 lowing:

16 “(F) using a commercial motor vehicle on more
17 than one occasion in willfully aiding or abetting an
18 alien’s illegal entry into the United States by trans-
19 porting, guiding, directing and attempting to assist
20 the alien with the alien’s entry in violation of section
21 275 of the Immigration and Nationality Act (8
22 U.S.C. 1325), regardless of whether the alien is ulti-
23 mately fined or imprisoned for an act in violation of
24 such section;

1 “(G) using a commercial motor vehicle in will-
2 fully aiding or abetting the transport of controlled
3 substances, monetary instruments, bulk cash, or
4 weapons by any individual departing the United
5 States; or”.

6 (d) LIFETIME DISQUALIFICATION.—Section
7 31310(d) of title 49, United States Code, is amended to
8 read as follows:

9 “(d) LIFETIME DISQUALIFICATION.—The Secretary
10 shall disqualify from operating a commercial motor vehicle
11 for life an individual who uses a commercial motor vehi-
12 cle—

13 “(1) in committing a felony involving manufac-
14 turing, distributing, or dispensing a controlled sub-
15 stance, or possession with intent to manufacture,
16 distribute, or dispense a controlled substance;

17 “(2) in committing an act for which the indi-
18 vidual is convicted under—

19 “(A) section 274 of the Immigration and
20 Nationality Act (8 U.S.C. 1324); or

21 “(B) section 277 of such Act (8 U.S.C.
22 1327); or

23 “(3) in willfully aiding or abetting the transport
24 of controlled substances, monetary instruments, bulk

1 cash, and weapons by any individual departing the
2 United States.”.

3 (e) REPORTING REQUIREMENTS.—

4 (1) COMMERCIAL DRIVER’S LICENSE INFORMA-
5 TION SYSTEM.—Section 31309(b)(1) of title 49,
6 United States Code, is amended—

7 (A) in subparagraph (E), by striking
8 “and” at the end;

9 (B) in subparagraph (F), by striking the
10 period at the end and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(G) whether the operator was disquali-
13 fied, either temporarily or for life, from oper-
14 ating a commercial motor vehicle under section
15 31310, including under subsection (b)(1)(F),
16 (c)(1)(F), or (d) of such section.”.

17 (2) NOTIFICATION BY THE STATE.—Section
18 31311(a)(8) of title 49, United States Code, is
19 amended by inserting “including such a disqualifica-
20 tion, revocation, suspension, or cancellation made
21 pursuant to a disqualification under subsection
22 (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after
23 “60 days,”.

1 **SEC. 403. DRUG TRAFFICKING AND CRIMES OF VIOLENCE**
2 **COMMITTED BY ILLEGAL ALIENS.**

3 (a) IN GENERAL.—Title 18, United States Code, is
4 amended by inserting after chapter 27 the following:

5 **“CHAPTER 28—DRUG TRAFFICKING AND**
6 **CRIMES OF VIOLENCE COMMITTED BY**
7 **ILLEGAL ALIENS**

“581. Enhanced penalties for drug trafficking and crimes committed by illegal
aliens.

8 **“§ 581. Enhanced penalties for drug trafficking and**
9 **crimes committed by illegal aliens**

10 “(a) OFFENSE.—Any alien unlawfully present in the
11 United States, who commits, conspires to commit, or at-
12 tempts to commit a an offense under Federal, State, or
13 Tribal law, that has, as an element, the use or attempted
14 use of physical force or the threatened use of physical
15 force or a deadly weapon or a drug trafficking crime (as
16 defined in section 924) shall be fined under this title im-
17 prisoned for not less than 5 years, or both.

18 “(b) ENHANCED PENALTIES FOR ALIENS ORDERED
19 REMOVED.—Any alien unlawfully present in the United
20 States who violates subsection (a) and was ordered re-
21 moved under the Immigration and Nationality Act (8
22 U.S.C. 1101 et seq.) on the grounds of having committed
23 a crime before the violation of subsection (a), shall be

1 fined under this title, imprisoned for not less than 15
2 years, or both.

3 “(c) REQUIREMENT FOR CONSECUTIVE SEN-
4 TENCES.—Any term of imprisonment imposed under this
5 section shall be consecutive to any term imposed for any
6 other offense.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters
8 at the beginning of part I of title 18, United States Code,
9 is amended by inserting after the item relating to chapter
10 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal
aliens 581”.

11 **SEC. 404. ESTABLISHING INADMISSIBILITY AND DEPORT-**
12 **ABILITY.**

13 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)(A)) is amended by adding at the end the fol-
16 lowing:

17 “(iii) CONSIDERATION OF OTHER EVI-
18 DENCE.—If the conviction records do not
19 conclusively establish whether a crime con-
20 stitutes a crime involving moral turpitude,
21 the Secretary of Homeland Security may
22 consider other evidence related to the con-
23 viction, including but not limited to charg-
24 ing documents, plea agreements, plea col-

loquies, jury instructions, police reports,
that clearly establishes that the conduct
for which the alien was engaged constitutes
a crime involving moral turpitude.”.

(b) DEPORTABLE ALIENS.—

(1) GENERAL CRIMES.—Section 237(a)(2)(A)
of such Act (8 U.S.C. 1227(a)(2)(A)) is amended—

(A) by redesignating clause (vi) as clause
(vii) and inserting after clause (iv) the fol-
lowing:

“(v) CRIMES INVOLVING MORAL TUR-
PITUDE.—If the conviction records do not
conclusively establish whether a crime con-
stitutes a crime involving moral turpitude,
the Secretary of Homeland Security may
consider other evidence related to the con-
viction, including but not limited to charg-
ing documents, plea agreements, plea col-
loquies, jury instructions, police reports,
that clearly establishes that the conduct
for which the alien was engaged constitutes
a crime involving moral turpitude.”.

(2) DOMESTIC VIOLENCE.—Section
237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))
is amended by adding at the end the following:

1 “(iii) CRIME OF VIOLENCE.—If the
2 conviction records do not conclusively es-
3 tablish whether a crime of domestic vio-
4 lence constitutes a crime of violence or an
5 offense under Federal, State, or Tribal
6 law, that has, as an element, the use or at-
7 tempted use of physical force or the threat-
8 ened use of physical force or a deadly
9 weapon, the Secretary of Homeland Secu-
10 rity may consider other evidence related to
11 the conviction, including but not limited to
12 charging documents, plea agreements, plea
13 colloquies, jury instructions, police reports,
14 that clearly establishes that the conduct
15 for which the alien was engaged constitutes
16 a crime of violence or an offense under
17 Federal, State, or Tribal law, that has, as
18 an element, the use or attempted use of
19 physical force or the threatened use of
20 physical force or a deadly weapon.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply to acts that occur before, on,
24 or after the date of the enactment of this Act.

1 **SEC. 405. PENALTIES FOR ILLEGAL ENTRY; ENHANCED**
2 **PENALTIES FOR ENTERING WITH INTENT TO**
3 **AID, ABET, OR COMMIT TERRORISM.**

4 (a) IN GENERAL.—Section 275 of the Immigration
5 and Nationality Act (8 U.S.C. 1325) is amended by strik-
6 ing the section heading and subsections (a) and (b) and
7 inserting the following:

8 **“SEC. 275. ILLEGAL ENTRY.**

9 **“(a) IN GENERAL.—**

10 **“(1) BARS TO IMMIGRATION RELIEF AND BENE-**
11 **FITS.—Any alien who—**

12 **“(A) enters or crosses, or attempts to**
13 **enter or cross, the border into the United**
14 **States at any time or place other than as des-**
15 **ignated by immigration officers;**

16 **“(B) eludes, at any time or place, examina-**
17 **tion or inspection by an authorized immigra-**
18 **tion, customs, or agriculture officer (including**
19 **failing to stop at the command of such officer);**
20 **or**

21 **“(C) enters or crosses the border to the**
22 **United States and, upon examination or inspec-**
23 **tion, makes a false or misleading representation**
24 **or conceals a material fact, including such rep-**
25 **resentation or willful concealment in the context**
26 **of arrival, reporting, entry, or clearance, re-**

1 quirements of the customs laws, immigration
2 laws, agriculture laws, or shipping laws,
3 shall be ineligible for all immigration benefits or re-
4 lief available under the Act and any other immigra-
5 tion laws, other than a request for asylum, with-
6 holding of removal under section 241(b)(3), or relief
7 from removal based on a claim under the Convention
8 Against Torture and Other Cruel, Inhuman or De-
9 grading Treatment or Punishment, done at New
10 York, December 10, 1984.

11 “(2) CRIMINAL OFFENSES.—An alien shall be
12 subject to the penalties set forth in paragraph (3) if
13 the alien—

14 “(A) enters or crosses, or attempts to
15 enter or cross, the border into the United
16 States at any time or place other than as des-
17 ignated by immigration officers;

18 “(B) eludes, at any time or place, examina-
19 tion or inspection by an authorized immigra-
20 tion, customs, or agriculture officer (including
21 failing to stop at the command of such officer);
22 or

23 “(C) enters or crosses the border to the
24 United States and, upon examination or inspec-
25 tion, makes a false or misleading representation

1 or conceals a material fact, including such rep-
2 resentation or concealment in the context of ar-
3 rival, reporting, entry, or clearance, require-
4 ments of the customs laws, immigration laws,
5 agriculture laws, or shipping laws.

6 “(3) CRIMINAL PENALTIES.—Any alien who
7 violates any provision under paragraph (1)—

8 “(A) shall, for the first violation, be fined
9 under title 18, United States Code, imprisoned
10 not more than 6 months, or both;

11 “(B) shall, for a second or subsequent vio-
12 lation, or following an order of voluntary depar-
13 ture, be fined under such title, imprisoned not
14 more than 2 years, or both;

15 “(C) if the violation occurred after the
16 alien had been convicted of 3 or more mis-
17 demeanors at least 1 of which involves con-
18 trolled substances, abuse of a minor, trafficking
19 or smuggling, or any offense that could result
20 in serious bodily harm or injury to another per-
21 son, a significant misdemeanor, or a felony,
22 shall be fined under such title, imprisoned not
23 more than 10 years, or both;

24 “(D) if the violation occurred after the
25 alien had been convicted of a felony for which

1 the alien received a term of imprisonment of
2 not less than 30 months, shall be fined under
3 such title, imprisoned not more than 15 years,
4 or both; and

5 “(E) if the violation occurred after the
6 alien had been convicted of a felony for which
7 the alien received a term of imprisonment of
8 not less than 60 months, such alien shall be
9 fined under such title, imprisoned not more
10 than 20 years, or both.

11 “(4) PRIOR CONVICTIONS.—The prior convic-
12 tions described in subparagraphs (C) through (E) of
13 paragraph (3) are elements of the offenses described
14 in that paragraph and the penalties in such subpara-
15 graphs shall apply only in cases in which the convic-
16 tion or convictions that form the basis for the addi-
17 tional penalty are—

18 “(A) alleged in the indictment or informa-
19 tion; and

20 “(B) proven beyond a reasonable doubt at
21 trial; or

22 “(C) admitted by the defendant.

23 “(5) DURATION OF OFFENSES.—An offense
24 under this subsection continues until the alien is dis-

1 covered within the United States by an immigration,
2 customs, or agriculture officer.

3 “(6) ATTEMPT.—Whoever attempts to commit
4 any offense under this section shall be punished in
5 the same manner as for a completion of such of-
6 fense.

7 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
8 ALTIES.—

9 “(1) IN GENERAL.—Any alien who is appre-
10 hended while entering, attempting to enter, or cross-
11 ing or attempting to cross the border to the United
12 States at a time or place other than as designated
13 by immigration officers shall be subject to a civil
14 penalty, in addition to any criminal or other civil
15 penalties that may be imposed under any other pro-
16 vision of law, in an amount equal to—

17 “(A) not less than \$50 or more than \$250
18 for each such entry, crossing, attempted entry,
19 or attempted crossing; or

20 “(B) twice the amount specified in para-
21 graph (1) if the alien had previously been sub-
22 ject to a civil penalty under this subsection.

23 “(2) CIVIL PENALTIES.—Civil penalties under
24 paragraph (1) are in addition to, and not in lieu of,

1 any criminal or other civil penalties that may be im-
2 posed.”.

3 (b) ENHANCED PENALTIES.—Section 275 of the Im-
4 migration and Nationality Act, as amended by subsection
5 (a), is further amended by adding at the end the following:
6 “(e) ENHANCED PENALTY FOR TERRORIST
7 ALIENS.—Any alien who commits an offense described in
8 subsection (a) for the purpose of engaging in, or with the
9 intent to engage in, any Federal crime of terrorism (as
10 defined in section 2332b(g) of title 18, United States
11 Code) shall be imprisoned for not less than 10 years and
12 not more than 30 years.”.

13 (c) CLERICAL AMENDMENT.—The table of contents
14 in the first section of the Immigration and Nationality Act
15 is amended by striking the item relating to section 275
16 and inserting the following:

“Sec. 275. Illegal entry.”.

17 (d) APPLICATION.—

18 (1) PRIOR CONVICTIONS.—Paragraph (4) of
19 section 275(a) of the Immigration and Nationality
20 Act, as amended by subsection (a), shall apply only
21 to violations of paragraph (2) of such section 275(a)
22 committed on or after the date of enactment of this
23 Act.

24 (2) BARS TO IMMIGRATION RELIEF AND BENE-
25 FITS.—Section 275(a)(1) of such Act, as amended

1 by subsection (a), shall take effect on the date of en-
2 actment and apply to any alien who, on or after the
3 date of enactment—

4 (A) enters or crosses, or attempts to enter
5 or cross, the border into the United States at
6 any time or place other than as designated by
7 immigration officers;

8 (B) eludes, at any time or place, examina-
9 tion or inspection by an authorized immigra-
10 tion, customs, or agriculture officer (including
11 failing to stop at the command of such officer);
12 or

13 (C) enters or crosses the border to the
14 United States and, upon examination or inspec-
15 tion, makes a false or misleading representation
16 or conceals a material fact, including such rep-
17 resentation or concealment in the context of ar-
18 rival, reporting, entry, or clearance, require-
19 ments of the customs laws, immigration laws,
20 agriculture laws, or shipping laws.

21 **SEC. 406. PENALTIES FOR REENTRY OF REMOVED ALIENS.**

22 (a) **SHORT TITLES.**—This section may be cited as the
23 “Stop Illegal Reentry Act” or “Kate’s Law”.

24 (b) **INCREASED PENALTIES FOR REENTRY OF RE-**
25 **MOVED ALIEN.**—

1 (1) IN GENERAL.—Section 276 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1326) is amend-
3 ed to read as follows:

4 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

5 “(a) IN GENERAL.—

6 “(1) BARS TO IMMIGRATION RELIEF AND BENE-
7 FITS.—Any alien who—

8 “(A) has been denied admission, excluded,
9 deported, or removed or has departed the
10 United States while an order of exclusion, de-
11 portation, or removal is outstanding; and there-
12 after

13 “(B) enters, attempts to enter, crosses the
14 border to, attempts to cross the border to, or is
15 at any time found in, the United States, un-
16 less—

17 “(i) the alien is seeking admission
18 more than 10 years after the date of the
19 alien’s last departure from the United
20 States if, prior to the alien’s reembar-
21 cation at a place outside the United States
22 or the alien’s application for admission
23 from a foreign contiguous territory, the
24 Secretary of Homeland Security has ex-

1 pressly consented to such alien's re-
2 applying for admission; or

3 “(ii) with respect to an alien pre-
4 viously denied admission and removed,
5 such alien establishes that the alien was
6 not required to obtain such advance con-
7 sent under this Act or any prior Act,

8 shall be ineligible for all immigration benefits or
9 relief available under the Act and any other im-
10 migration laws, other than relief from removal
11 based on a claim under the Convention Against
12 Torture and Other Cruel, Inhuman or Degrad-
13 ing Treatment or Punishment, done at New
14 York, December 10, 1984.

15 “(2) CRIMINAL OFFENSES.—Any alien who—

16 “(A) has been denied admission, deported,
17 or removed or has departed the United States
18 while an order of deportation, or removal is out-
19 standing; and

20 “(B) after such denial, removal or depar-
21 ture, enters, attempts to enter, crosses the bor-
22 der to, attempts to cross the border to, or is at
23 any time found in, the United States, unless—

24 “(i) the alien is seeking admission
25 more than 10 years after the date of the

alien’s last departure from the United States if, prior to the alien’s reembarkation at a place outside the United States or the alien’s application for admission from a foreign contiguous territory, the Secretary of Homeland Security has expressly consented to such alien’s reapplying for admission; or

“(ii) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to obtain such advance consent under this Act or any prior Act,

“shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

“(b) CRIMINAL PENALTIES FOR REENTRY OF CERTAIN REMOVED ALIENS.—

“(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalty under subsection (a)(2), and except as provided in subsection (c), an alien described in subsection (a)—

“(A) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from

1 the United States pursuant to the provisions of
2 title V, and who thereafter, without the permis-
3 sion of the Secretary of Homeland Security, en-
4 ters the United States, or attempts to do so,
5 shall be fined under title 18, United States
6 Code, and imprisoned for a period of 15 years,
7 which sentence shall not run concurrently with
8 any other sentence;

9 “(B) who was removed from the United
10 States pursuant to section 241(a)(4) and there-
11 after, without the permission of the Secretary
12 of Homeland Security, enters, attempts to
13 enter, or is at any time found in, the United
14 States (unless the Secretary of Homeland Secu-
15 rity has expressly consented to such alien’s re-
16 entry) shall be fined under title 18, United
17 States Code, imprisoned for not more than 15
18 years, or both; and

19 “(C) who has been denied admission, ex-
20 cluded, deported, or removed 2 or more times
21 for any reason and thereafter enters, attempts
22 to enter, crosses the border, attempts to cross
23 the border, or is at any time found in the
24 United States, shall be fined under title 18,

1 United States Code, imprisoned not more than
2 15 years, or both.

3 “(2) REENTRY OF CRIMINAL ALIENS AFTER RE-
4 MOVAL.—Notwithstanding the penalty under sub-
5 section (a), an alien described in subsection (a)—

6 “(A) who was convicted, before the alien
7 was subject to removal or departure, of a sig-
8 nificant misdemeanor shall be fined under title
9 18, United States Code, imprisoned not more
10 than 10 years, or both;

11 “(B) who was convicted, before the alien
12 was subject to removal or departure, of 2 or
13 more misdemeanors involving drugs, crimes
14 against the person, or both, shall be fined under
15 title 18, United States Code, imprisoned not
16 more than 10 years, or both;

17 “(C) who was convicted, before the alien
18 was subject to removal or departure, of 3 or
19 more misdemeanors for which the alien was
20 sentenced to a term of imprisonment of not less
21 than 90 days for each offense, or 12 months in
22 the aggregate, the alien shall be fined under
23 title 18, United States Code, imprisoned not
24 more than 10 years, or both;

1 “(D) who was convicted, before the alien
2 was subject to removal or departure, of a felony
3 for which the alien was sentenced to a term of
4 imprisonment of not less than 30 months, the
5 alien shall be fined under such title, imprisoned
6 not more than 15 years, or both;

7 “(E) who was convicted, before the alien
8 was subject to removal or departure, of a felony
9 for which the alien was sentenced to a term of
10 imprisonment of not less than 60 months, the
11 alien shall be fined under such title, imprisoned
12 not more than 20 years, or both;

13 “(F) who was convicted of 3 or more felo-
14 nies of any kind, the alien shall be fined under
15 such title, imprisoned not more than 25 years,
16 or both; and

17 “(G) who was convicted, before the alien
18 was subject to removal or departure or after
19 such removal or departure, for murder, rape,
20 kidnapping, or a felony offense described in
21 chapter 77 (relating to peonage and slavery) or
22 113B (relating to terrorism) of such title, the
23 alien shall be fined under such title, imprisoned
24 not more than 25 years, or both;

1 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
2 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
3 standing the penalties under subsections (a) and (b), an
4 alien described in subsection (a)—

5 “(1) who was convicted, before the alien was
6 subject to removal or departure, of an aggravated
7 felony; or

8 “(2) who was convicted at least 2 times before
9 such removal or departure of illegal reentry under
10 this section,

11 shall be imprisoned not less than 5 years and not more
12 than 20 years, and may, in addition, be fined under title
13 18, United States Code.

14 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
15 convictions described in subsection (b) are elements of the
16 crimes described, and the penalties in that subsection shall
17 apply only in cases in which the conviction or convictions
18 that form the basis for the additional penalty are—

19 “(1) alleged in the indictment or information;
20 and

21 “(2) proven beyond a reasonable doubt at trial;
22 or

23 “(3) admitted by the defendant.

24 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
25 firmative defense to a violation of this section that—

1 “(1) prior to the alleged violation, the alien had
2 sought and received the express consent of the Sec-
3 retary of Homeland Security to reapply for admis-
4 sion into the United States; or

5 “(2) with respect to an alien previously denied
6 admission and removed, the alien—

7 “(A) was not required to obtain such ad-
8 vance consent under the Immigration and Na-
9 tionality Act or any prior Act; and

10 “(B) had complied with all other laws and
11 regulations governing the alien’s admission into
12 the United States.

13 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
14 DERLYING REMOVAL ORDER.—In a criminal proceeding
15 under this section, an alien may not challenge the validity
16 of a removal order described in subsection (a), (b), or (c)
17 concerning the alien unless the alien demonstrates that—

18 “(1) the alien exhausted any administrative
19 remedies that may have been available to seek relief
20 against the order;

21 “(2) the deportation proceedings at which the
22 order was issued improperly deprived the alien of the
23 opportunity for judicial review; and

24 “(3) the entry of the order was fundamentally
25 unfair.

1 “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-
2 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
3 moved pursuant to section 241(a)(4) who enters, attempts
4 to enter, crosses the border to, attempts to cross the bor-
5 der to, or is at any time found in, the United States shall
6 be incarcerated for the remainder of the sentence of im-
7 prisonment which was pending at the time of deportation
8 without any reduction for parole or supervised release un-
9 less the alien affirmatively demonstrates that the Sec-
10 retary of Homeland Security has expressly consented to
11 the alien’s reentry (if a request for consent to reapply is
12 authorized under this section). Such alien shall be subject
13 to such other penalties relating to the reentry of removed
14 aliens as may be available under this section or any other
15 provision of law.

16 “(h) DEFINITIONS.—In this section:

17 “(1) CROSSES THE BORDER TO THE UNITED
18 STATES.—The term ‘crosses the border’ refers to the
19 physical act of crossing the border, regardless of
20 whether the alien is free from official restraint.

21 “(2) FELONY.—The term ‘felony’ means any
22 criminal offense punishable by a term of imprison-
23 ment of more than 1 year under the laws of the
24 United States, any State, or a foreign government.

1 “(3) MISDEMEANOR.—The term ‘misdemeanor’
2 means any criminal offense punishable by a term of
3 imprisonment of not more than 1 year under the ap-
4 plicable laws of the United States, any State, or a
5 foreign government.

6 “(4) REMOVAL.—The term ‘removal’ includes
7 any denial of admission, deportation, or removal, or
8 any agreement by which an alien stipulates or agrees
9 to deportation, or removal.

10 “(5) SIGNIFICANT MISDEMEANOR.—The term
11 ‘significant misdemeanor’ means a misdemeanor—

12 “(A) crime that involves the use or at-
13 tempted use of physical force, or threatened use
14 of a deadly weapon, committed by a current or
15 former spouse, parent, or guardian of the vic-
16 tim, by a person with whom the victim shares
17 a child in common, by a person who is cohab-
18 iting with or has cohabited with the victim as
19 a spouse, parent, or guardian, or by a person
20 similarly situated to a spouse, parent, or guard-
21 ian of the victim;

22 “(B) which is a sexual assault (as such
23 term is defined in section 40002(a)(29) of the
24 Violent Crime Control and Law Enforcement
25 Act of 1994 (42 U.S.C. 13925(a)(29));

1 “(C) which involved the unlawful posses-
2 sion of a firearm (as such term is defined in
3 section 921 of title 18, United States Code);

4 “(D) which is a crime of violence (as de-
5 fined in section 16 of title 18, United States
6 Code); or

7 “(E) which is an offense under Federal,
8 State, or Tribal law, that has, as an element,
9 the use or attempted use of physical force or
10 the threatened use of physical force or a deadly
11 weapon.

12 “(6) STATE.—The term ‘State’ means a State
13 of the United States, the District of Columbia, and
14 any commonwealth, territory, or possession of the
15 United States.”.

16 (c) EFFECTIVE DATE.—Section 276(a)(1), as
17 amended by this section, shall take effect on the date of
18 the enactment of this Act and shall apply to any alien who,
19 on or after the date of enactment—

20 (1) has been denied admission, excluded, de-
21 ported, or removed or has departed the United
22 States while an order of exclusion, deportation, or
23 removal is outstanding; and

24 (2) after such denial, exclusion, deportation or
25 removal, enters, attempts to enter, crosses the bor-

1 der to, attempts to cross the border to, or is at any
2 time found in, the United States, unless—

3 (A) the alien is seeking admission more
4 than 10 years after the date of the alien’s last
5 departure from the United States if, prior to
6 the alien’s reembarkation at a place outside the
7 United States or the alien’s application for ad-
8 mission from a foreign contiguous territory, the
9 Secretary of Homeland Security has expressly
10 consented to such alien’s reapplying for admis-
11 sion; or

12 (B) with respect to an alien previously de-
13 nied admission and removed, such alien estab-
14 lishes that the alien was not required to obtain
15 such advance consent under this Act or any
16 prior Act.

17 **SEC. 407. LAUNDERING OF MONETARY INSTRUMENTS.**

18 Section 1956(c)(7)(D) of title 18, United States
19 Code, is amended by inserting “section 1590 (relating to
20 trafficking with respect to peonage, slavery, involuntary
21 servitude, or forced labor),” after “section 1363 (relating
22 to destruction of property within the special maritime and
23 territorial jurisdiction),”.

1 **SEC. 408. FREEZING BANK ACCOUNTS OF INTERNATIONAL**
2 **CRIMINAL ORGANIZATIONS AND MONEY**
3 **LAUNDERERS.**

4 Section 981(b) of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(5)(A) If a person is arrested or charged in connec-
7 tion with an offense described in subparagraph (C) involv-
8 ing the movement of funds into or out of the United
9 States, the Attorney General may apply to any Federal
10 judge or magistrate judge in the district in which the ar-
11 rest is made or where the charges are filed for an ex parte
12 order restraining any account held by the person arrested
13 or charged for not more than 30 days, except that such
14 30-day time period may be extended for good cause shown
15 at a hearing conducted in the manner provided in rule
16 43(e) of the Federal Rules of Civil Procedure. The court
17 may receive and consider evidence and information sub-
18 mitted by the Government that would be inadmissible
19 under the Federal Rules of Evidence.

20 “(B) The application for a restraining order under
21 subparagraph (A) shall—

22 “(i) identify the offense for which the person
23 has been arrested or charged;

24 “(ii) identify the location and description of the
25 accounts to be restrained; and

1 “(iii) state that the restraining order is needed
2 to prevent the removal of the funds in the account
3 by the person arrested or charged, or by others asso-
4 ciated with such person, during the time needed by
5 the Government to conduct such investigation as
6 may be necessary to establish whether there is prob-
7 able cause to believe that the funds in the accounts
8 are subject to forfeiture in connection with the com-
9 mission of any criminal offense.

10 “(C) An offense described in this subparagraph is any
11 offense for which forfeiture is authorized under this title,
12 title 31, or the Controlled Substances Act (21 U.S.C. 801
13 et seq.).

14 “(D) For purposes of this section—

15 “(i) the term ‘account’ includes any safe deposit
16 box and any account (as defined in paragraphs (1)
17 and (2) of section 5318A(e) of title 31, United
18 States Code) at any financial institution; and

19 “(ii) the term ‘account held by the person ar-
20 rested or charged’ includes an account held in the
21 name of such person, and any account over which
22 such person has effective control as a signatory or
23 otherwise.

1 “(E) A restraining order issued under this paragraph
2 shall not be considered a ‘seizure’ for purposes of section
3 983(a).

4 “(F) A restraining order issued under this paragraph
5 may be executed in any district in which the subject ac-
6 count is found, or transmitted to the central authority of
7 any foreign State for service in accordance with any treaty
8 or other international agreement.”.

9 **SEC. 409. CRIMINAL PROCEEDS LAUNDERED THROUGH**
10 **PREPAID ACCESS DEVICES, DIGITAL CUR-**
11 **RENCIES, OR OTHER SIMILAR INSTRUMENTS.**

12 (a) IN GENERAL.—

13 (1) DEFINITIONS.—

14 (A) ADDITION OF ISSUERS, REDEEMERS,
15 AND CASHIERS OF PREPAID ACCESS DEVICES
16 AND DIGITAL CURRENCIES TO THE DEFINITION
17 OF FINANCIAL INSTITUTIONS.—Section
18 5312(a)(2)(K) of title 31, United States Code,
19 is amended by striking “or similar” and insert-
20 ing “prepaid access devices, digital currencies,
21 or other similar”.

22 (B) ADDITION OF PREPAID ACCESS DE-
23 VICES TO THE DEFINITION OF MONETARY IN-
24 STRUMENTS.—Section 5312(a)(3)(B) of such

1 title is amended by inserting “prepaid access
2 devices,” after “delivery,”.

3 (C) DEFINITION OF PREPAID ACCESS DE-
4 VICE.—Section 5312 of such title is amended—

5 (i) by redesignating paragraph (6) as
6 paragraph (7); and

7 (ii) by inserting after paragraph (5)
8 the following:

9 “(6) ‘prepaid access device’ means an electronic
10 device or vehicle, such as a card, plate, code, num-
11 ber, electronic serial number, mobile identification
12 number, personal identification number, or other in-
13 strument that provides a portal to funds or the value
14 of funds that have been paid in advance and can be
15 retrievable and transferable at some point in the fu-
16 ture.”.

17 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
18 PORT.—Not later than 18 months after the date of
19 the enactment of this Act, the Comptroller General
20 of the United States shall submit to Congress a re-
21 port describing—

22 (A) the impact of amendments made by
23 paragraph (1) on law enforcement, the prepaid
24 access device industry, and consumers; and

1 (B) the implementation and enforcement
 2 by the Department of the Treasury of the final
 3 rule relating to “Bank Secrecy Act Regula-
 4 tions—Definitions and Other Regulations Re-
 5 lating to Prepaid Access” (76 Fed. Reg. 45403
 6 (July 29, 2011)).

7 (b) MONEY SMUGGLING THROUGH BLANK CHECKS
 8 IN BEARER FORM.—Section 5316 of title 31, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
 12 BLANK.—For purposes of this section, a monetary instru-
 13 ment in bearer form that has the amount left blank, such
 14 that the amount could be filled in by the bearer, shall be
 15 considered to have a value of more than \$10,000 if the
 16 monetary instrument was drawn on an account that con-
 17 tained or was intended to contain more than \$10,000 at
 18 the time the monetary instrument was—

19 “(1) transported; or

20 “(2) negotiated.”.

21 **SEC. 410. CLOSING THE LOOPHOLE ON DRUG CARTEL AS-**
 22 **SOCIATES ENGAGED IN MONEY LAUNDERING.**

23 (a) INTENT TO CONCEAL OR DISGUISE.—Section
 24 1956(a) of title 18, United States Code, is amended—

1 (1) in paragraph (1)(B), by striking “(B) know-
2 ing that” and all that follows through “Federal
3 law,” and inserting the following:

4 “(B) knowing that the transaction—

5 “(i) conceals or disguises, or is intended to
6 conceal or disguise, the nature, source, location,
7 ownership, or control of the proceeds of some
8 form of unlawful activity; or

9 “(ii) avoids, or is intended to avoid, a
10 transaction reporting requirement under State
11 or Federal law,”; and

12 (2) in paragraph (2)(B), by striking “(B) know-
13 ing that” and all that follows through “Federal
14 law,” and inserting the following:

15 “(B) knowing that the monetary instrument or
16 funds involved in the transportation, transmission,
17 or transfer represent the proceeds of some form of
18 unlawful activity, and knowing that such transpor-
19 tation, transmission, or transfer—

20 “(i) conceals or disguises, or is intended to
21 conceal or disguise, the nature, source, location,
22 ownership, or control of the proceeds of some
23 form of unlawful activity; or

1 “(ii) avoids, or is intended to avoid, a
2 transaction reporting requirement under State
3 or Federal law,”.

4 (b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
5 such title is amended by inserting “, and regardless of
6 whether or not the person knew that the activity con-
7 stituted a felony” before the semicolon at the end.

8 **TITLE V—PROTECTING NA-**
9 **TIONAL SECURITY AND PUB-**
10 **LIC SAFETY**

11 **Subtitle A—General Matters**

12 **SEC. 501. DEFINITION OF ENGAGING IN TERRORIST ACTIV-**
13 **ITY.**

14 Subclause (I) of section 212(a)(3)(B)(iv) of the Im-
15 migration and Nationality Act (8 U.S.C.
16 1182(a)(3)(B)(iv)) is amended—

17 (1) by revising subclause (I) to read as follows:

18 “(I) to commit a terrorist activity
19 or, under circumstances indicating an
20 intention to cause death, serious bod-
21 ily harm, or substantial damage to
22 property, incite to commit a terrorist
23 activity;”; and

24 (2)(A) by adding at the end the following:

1 “(VI) to threaten, attempt, or
2 conspire to do any of acts described in
3 subclauses (I) through (VI).”.

4 **SEC. 502. TERRORIST GROUNDS OF INADMISSIBILITY.**

5 (a) SECURITY AND RELATED GROUNDS.—Section
6 212(a)(3)(A) of the Immigration and Nationality Act (8
7 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

8 “(A) IN GENERAL.—Any alien who a con-
9 sular officer, the Attorney General, or the Sec-
10 retary of Homeland Security knows, or has rea-
11 sonable ground to believe, seeks to enter the
12 United States to engage solely, principally, or
13 incidentally, in, or who is engaged in, or with
14 respect to clauses (i) and (iii) has engaged in—

15 “(i) any activity—

16 “(I) to violate any law of the
17 United States relating to espionage or
18 sabotage; or

19 “(II) to violate or evade any law
20 prohibiting the export from the
21 United States of goods, technology, or
22 sensitive information,

23 “(ii) any other activity which would be
24 unlawful if committed in the United
25 States, or

1 “(iii) any activity a purpose of which
2 is the opposition to, or the control or over-
3 throw of, the Government of the United
4 States by force, violence, or other unlawful
5 means,
6 is inadmissible.”.

7 (b) TERRORIST ACTIVITIES.—Section
8 212(a)(3)(B)(i) of the Immigration and Nationality Act
9 (8 U.S.C. 1182(a)(3)(B)(i)), is amended—

10 (1) in subclause (IV), by inserting “or has
11 been” before “a representative”;

12 (2) in subclause (V), by inserting “or has been”
13 before “a member”;

14 (3) in subclause (VI), by inserting “or has
15 been” before “a member”; and

16 (4) by amending subclause (VII) to read as fol-
17 lows:

18 “(VII) endorses or espouses or
19 has endorsed or espoused terrorist ac-
20 tivity or persuades or has persuaded
21 others to endorse or espouse terrorist
22 activity or support a terrorist organi-
23 zation;”;

24 (5) by amending subclause (IX) to read as fol-
25 lows:

1 “(IX)(aa) is the spouse or child
2 of an alien who is inadmissible under
3 this subparagraph, if the activity
4 causing the alien to be found inadmis-
5 sible occurred within the last 5 years.

6 “(bb) EXCEPTION.—This sub-
7 clause does not apply to a spouse or
8 child—

9 “(AA) who did not know or
10 should not reasonably have
11 known of the activity causing the
12 alien to be found inadmissible
13 under this section; or

14 “(BB) whom the consular
15 officer or Attorney General has
16 reasonable grounds to believe has
17 renounced the activity causing
18 the alien to be found inadmissible
19 under this section.”; and

20 (6) by striking the undesignated matter fol-
21 lowing subclause (IX).

22 (c) PALESTINE LIBERATION ORGANIZATION.—Sec-
23 tion 212(a)(3)(B)(ii) of the Immigration and Nationality
24 Act (8 U.S.C. 1182(a)(3)(B)(i)), is amended to read as
25 follows:

1 “(ii) PALESTINE LIBERATION ORGANI-
 2 ZATION.—An alien who is an officer, offi-
 3 cial, representative, or spokesman of the
 4 Palestine Liberation Organization is con-
 5 sidered, for purposes of this Act, to be en-
 6 gaged in terrorist activity.”.

7 **SEC. 503. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
 8 **ON CRIMINAL OR SECURITY GROUNDS.**

9 (a) IN GENERAL.—Section 238 of the Immigration
 10 and Nationality Act (8 U.S.C. 1228) is amended—

11 (1) by adding at the end of the section heading
 12 the following: “**OR WHO ARE SUBJECT TO TER-**
 13 **RORISM-RELATED GROUNDS FOR REMOVAL**”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) by striking “Attorney General”
 17 and inserting “Secretary of Homeland Se-
 18 curity in the exercise of discretion”; and

19 (ii) by striking “set forth in this sub-
 20 section or” and inserting “set forth in this
 21 subsection, in lieu of removal proceedings
 22 under”;

23 (B) in paragraphs (3) and (4), by striking
 24 “Attorney General” each place the term ap-

1 pears and inserting “Secretary of Homeland
2 Security”;

3 (C) in paragraph (5)—

4 (i) by striking “described in this sec-
5 tion” and inserting “described in para-
6 graph (1) or (2)”; and

7 (ii) by striking “the Attorney General
8 may grant in the Attorney General’s dis-
9 cretion.” and inserting “the Secretary of
10 Homeland Security or the Attorney Gen-
11 eral may grant, in the discretion of the
12 Secretary or the Attorney General, in any
13 proceeding.”;

14 (D) by redesignating paragraphs (3), (4),
15 and (5) as paragraphs (4), (5), and (6) respec-
16 tively; and

17 (E) by inserting after paragraph (2) the
18 following:

19 “(3) The Secretary of Homeland Security, in
20 the exercise of discretion, may determine inadmis-
21 sibility under section 212(a)(2) and issue an order
22 of removal pursuant to the procedures set forth in
23 this subsection, in lieu of removal proceedings under
24 section 240, with respect to an alien who—

25 “(A) has not been admitted or paroled;

1 “(B) has not been found to have a credible
2 fear of persecution pursuant to the procedures
3 set forth in 235(b)(1)(B); and

4 “(C) is not eligible for a waiver of inadmis-
5 sibility or relief from removal.”; and

6 (3) by redesignating the first subsection (c) as
7 subsection (d);

8 (4) by redesignating the second subsection (c)
9 (as so designated by section 617(b)(13) of the Illegal
10 Immigration Reform and Immigrant Responsibility
11 Act of 1996 (division C of Public Law 104–208; 110
12 Stat. 3009–720)) as subsection (e); and

13 (5) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO
16 TERRORISM-RELATED GROUNDS FOR REMOVAL.—

17 “(1) The Secretary of Homeland Security—

18 “(A) shall, notwithstanding section 240, in
19 the case of every alien, determine the inadmis-
20 sibility of the alien under subclause (I), (II), or
21 (III) of section 212(a)(3)(B)(i), or the deport-
22 ability of the alien under section 237(a)(4)(B)
23 as consequence of being described in one of
24 such subclauses, and issue an order of removal
25 pursuant to the procedures set forth in this

1 subsection to every alien determined to be inad-
2 missible or deportable on such a ground; and

3 “(B) may, in the case of any alien, deter-
4 mine the inadmissibility of the alien under sub-
5 paragraph (A) or (B) of section 212(a)(3)
6 (other than subclauses (I), (II), and (III) of
7 section 212(a)(3)(B)), or the deportability of
8 the alien under subparagraph (A) or (B) of sec-
9 tion 237(a)(4) (as a consequence of being de-
10 scribed in subclause (I), (II), or (III) of section
11 212(a)(3)(B)), and issue an order of removal
12 pursuant to the procedures set forth in this
13 subsection or section 240 to every alien deter-
14 mined to be inadmissible or deportable on such
15 a ground.

16 “(2) The Secretary of Homeland Security may
17 not execute any order described in paragraph (1)
18 until 30 calendar days have passed from the date
19 that such order was issued, unless waived by the
20 alien, in order that the alien has an opportunity to
21 apply [petition] for judicial review under section
22 242.

23 “(3) Proceedings before the Secretary of Home-
24 land Security under this subsection shall be in ac-

1 cordance with such regulations as the Secretary
2 shall prescribe. The Secretary shall provide that—

3 “(A) the alien is given reasonable notice of
4 the charges and of the opportunity described in
5 subparagraph (C);

6 “(B) the alien shall have the privilege of
7 being represented (at no expense to the Govern-
8 ment) by such counsel, authorized to practice in
9 such proceedings, as the alien shall choose;

10 “(C) the alien has a reasonable oppor-
11 tunity to inspect the evidence and rebut the
12 charges;

13 “(D) a determination is made on the
14 record that the individual upon whom the notice
15 for the proceeding under this section is served
16 (either in person or by mail) is, in fact, the
17 alien named in such notice;

18 “(E) a record is maintained for judicial re-
19 view; and

20 “(F) the final order of removal is not adju-
21 dicated by the same person who issues the
22 charges.

23 “(4) No alien described in this subsection shall
24 be eligible for any relief from removal that the Sec-

1 retary of Homeland Security may grant in the Sec-
2 retary’s discretion.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 of the Immigration and Nationality Act (8 U.S.C. 1101
5 et seq.) is amended by striking the item relating to section
6 238 and inserting the following:

“Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who
are subject to terrorism-related grounds for removal.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of the enactment
9 of this Act but shall not apply to aliens who are in removal
10 proceedings under section 240 of the Immigration and Na-
11 tionality Act (8 U.S.C. 1229a) on such date.

12 **SEC. 504. DETENTION OF REMOVABLE ALIENS.**

13 (a) CRIMINAL ALIEN ENFORCEMENT PARTNER-
14 SHIPS.—Section 287 of the Immigration and Nationality
15 Act (8 U.S.C. 1357), as amended by section 116 and this
16 section, is further amended by—

17 (1) redesignating paragraph (h) as paragraph
18 (j), and

19 (2) adding new paragraph (h) to read as fol-
20 lows:

21 “(h) CRIMINAL ALIEN ENFORCEMENT PARTNER-
22 SHIPS.—

23 “(1) IN GENERAL.—The Secretary of Homeland
24 Security may enter into a written agreement with a

1 State, or any political subdivision of such a State, to
2 authorize the temporary placement of one or more
3 U.S. Customs and Border Protection agents or offi-
4 cers or U.S. Immigration and Customs Enforcement
5 agents or investigators at a local police department
6 or precinct to—

7 “(A) determine the immigration status of
8 any individual arrested by a State, county, or
9 local police, enforcement, or peace officer for
10 any criminal offense;

11 “(B) issue charging documents and notices
12 related to the initiation of removal proceedings
13 or reinstatement of prior removal orders under
14 section 241(a)(5);

15 “(C) enter information directly into the
16 National Crime Information Center (NCIC)
17 database, Immigration Violator File, to in-
18 clude—

19 “(i) the alien’s address,

20 “(ii) the reason for arrest,

21 “(iii) the legal cite of the State law
22 violated or for which the alien is charged,

23 “(iv) the alien’s driver’s license num-
24 ber and State of issuance (if any),

1 “(v) any other identification docu-
2 ment(s) held by the alien and issuing enti-
3 ty for such identification documents, and

4 “(vi) any identifying marks, such as
5 tattoos, birthmarks, scars, etc.;”.

6 “(D) to collect the alien’s biometrics, in-
7 cluding but not limited to iris, fingerprint, pho-
8 tographs, and signature, of the alien and to
9 enter such information into the Automated Bio-
10 metric Identification System (IDENT) and any
11 other DHS database authorized for storage of
12 biometric information for aliens; and”.

13 “(E) make advance arrangements for the
14 immediate transfer from State to Federal cus-
15 tody of any criminal when the alien is released,
16 without regard to whether the alien is released
17 on parole, supervised release, or probation, and
18 without regard to whether alien may be ar-
19 rested imprisoned again for the same offense.

20 “(2) LENGTH OF TEMPORARY DUTY ASSIGN-
21 MENTS.—The initial period for a temporary duty as-
22 signment authorized under this paragraph shall be 1
23 year. The temporary duty assignment may be ex-
24 tended for additional periods of time as agreed to by
25 the Secretary of Homeland Security and the State

1 or political subdivision of the State to ensure con-
2 tinuity of cooperation and coverage.

3 “(3) TECHNOLOGY USAGE.—The Secretary
4 shall provide CBP and ICE agents, officers, and in-
5 vestigators on a temporary duty assignment under
6 this paragraph mobile access to Federal databases
7 containing alien information, live scan technology for
8 collection of biometrics, and video-conferencing capa-
9 bility for use at local police departments or precincts
10 in remote locations.

11 “(4) REPORT.—Not later than 1 year after the
12 date of enactment, the Secretary of Homeland Secu-
13 rity shall submit a report to the Committee on Judi-
14 ciary and Committee on Homeland Security and
15 Government Affairs of the Senate and the Com-
16 mittee on the Judiciary and Committee on Home-
17 land Security of the House of Representatives on—

18 “(A) the number of States that have en-
19 tered into an agreement under this paragraph;

20 “(B) the number of criminal aliens proc-
21 essed by the U.S. Customs and Border Protec-
22 tion agent or officer or U.S. Immigration and
23 Customs Enforcement agent or investigator
24 during the temporary duty assignment; and

1 “(C) the number of criminal aliens trans-
 2 ferred from State to Federal custody during the
 3 agreement period.”.

4 (b) DETENTION, RELEASE, AND REMOVAL OF
 5 ALIENS ORDERED REMOVED.—

6 (1) REMOVAL PERIOD.—

7 (A) IN GENERAL.—Subparagraph (A) of
 8 section 241(a)(1) of the Immigration and Na-
 9 tionality Act (8 U.S.C. 1231(a)(1)(A)) is
 10 amended by striking “Attorney General” and
 11 inserting “Secretary of Homeland Security”.

12 (B) BEGINNING OF PERIOD.—Subpara-
 13 graph (B) of section 241(a)(1) of the Immigra-
 14 tion and Nationality Act (8 U.S.C.
 15 1231(a)(1)(B)) is amended to read as follows:

16 “(B) BEGINNING OF PERIOD.—

17 “(i) IN GENERAL.—Subject to clause
 18 (ii), the removal period begins on the date
 19 that is the latest of the following:

20 “(I) If a court, the Board of Im-
 21 migration Appeals, or an immigration
 22 judge orders a stay of the removal of
 23 the alien, the date the stay of removal
 24 ends;

1 “(II) If the alien is ordered re-
2 moved, the date the removal order be-
3 comes administratively final and the
4 Secretary takes the alien into custody
5 for removal;

6 “(III) If the alien is detained or
7 confined (except under an immigra-
8 tion process), the date the alien is re-
9 leased from detention or confinement.

10 “(ii) BEGINNING OF REMOVAL PERIOD
11 FOLLOWING A TRANSFER OF CUSTODY.—If
12 the Secretary transfers custody of the alien
13 pursuant to law to another Federal agency
14 or to an agency of a State or local govern-
15 ment in connection with the official duties
16 of such agency, the removal period for the
17 alien—

18 “(I) shall be tolled; and

19 “(II) shall resume on the date
20 the alien is returned to the custody of
21 the Secretary.”.

22 (C) SUSPENSION OF PERIOD.—Subpara-
23 graph (C) of section 241(a)(1) of the Immigra-
24 tion and Nationality Act (8 U.S.C.
25 1231(a)(1)(C)) is amended to read as follows:

“(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien—

“(i) fails or refuses to make all reasonable efforts to comply with the order of removal or to fully cooperate with the efforts of the Secretary of Homeland Security to establish the alien’s identity and carry out the order of removal, including making timely application in good faith for travel or other documents necessary to the alien’s departure; or

“(ii) conspires or acts to prevent the alien’s removal subject to an order of removal.”.

(2) DETENTION.—Paragraph (2) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(2)) is amended—

(A) by inserting “(A)” before “During”;

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

(C) by adding at the end the following:

“(B) DURING A PENDENCY OF A STAY.—

If a court, the Board of Immigration Appeals,

1 or an immigration judge orders a stay of re-
2 moval of an alien who is subject to an order of
3 removal, the Secretary of Homeland Security in
4 the Secretary's sole and unreviewable exercise
5 of discretion, and notwithstanding any provision
6 of law including 28 U.S.C. 2241, may detain
7 the alien during the pendency of such stay of
8 removal."

9 (3) SUSPENSION AFTER 90-DAY PERIOD.—Para-
10 graph (3) of section 241(a) of the Immigration and
11 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

12 (A) in the matter preceding subparagraph
13 (A), by striking "Attorney General" and insert-
14 ing "Secretary of Homeland Security";

15 (B) in subparagraph (C), by striking "At-
16 torney General" and inserting "Secretary"; and

17 (C) by amending subparagraph (D) to read
18 as follows:

19 "(D) to obey reasonable restrictions on the
20 alien's conduct or activities, or to perform af-
21 firmative acts, that the Secretary prescribes for
22 the alien, in order to prevent the alien from ab-
23 scending, for the protection of the community,
24 or for other purposes related to the enforcement
25 of the immigration laws."

1 (4) ALIENS IMPRISONED, ARRESTED, OR ON PA-
 2 ROLE, SUPERVISED RELEASE, OR PROBATION.—
 3 Paragraph (4) of section 241(a) of the Immigration
 4 and Nationality Act (8 U.S.C. 1231(a)(4)) is
 5 amended—

6 (A) in subparagraph (A), by striking “At-
 7 torney General” and inserting “Secretary of
 8 Homeland Security”; and

9 (B) in subparagraph (B)—

10 (i) in the matter preceding clause (i),
 11 by striking “Attorney General” and insert-
 12 ing “Secretary of Homeland Security”;

13 (I) in clause (i), by striking “if
 14 the Attorney General” and inserting
 15 “if the Secretary”; and

16 (II) in clause (ii)(III), by striking
 17 “Attorney General” and inserting
 18 “Secretary”.

19 (5) REINSTATEMENT OF REMOVAL ORDERS
 20 AGAINST ALIENS ILLEGALLY REENTERING.—

21 (A) Paragraph (5) of section 241(a) of the
 22 Immigration and Nationality Act (8 U.S.C.
 23 1231(a)(5)) is amended to read as follows:

24 “(5) REINSTATEMENT OF REMOVAL ORDERS
 25 AGAINST ALIENS ILLEGALLY REENTERING.—If the

1 Secretary of Homeland Security finds that an alien
2 has entered the United States illegally after having
3 been removed, deported, or excluded or having de-
4 parted voluntarily, under an order of removal, depor-
5 tation, or exclusion, regardless of the date of the
6 original order or the date of the illegal entry—

7 “(A) the order of removal, deportation, or
8 exclusion is reinstated from its original date
9 and is not subject to being reopened or reviewed
10 notwithstanding section 242(a)(2)(D);

11 “(B) the alien is not eligible and may not
12 apply for any relief under this Act, regardless
13 of the date that an application or request for
14 such relief may have been filed or made;

15 “(C) the alien shall be removed under the
16 order of removal, deportation, or exclusion at
17 any time after the illegal entry; and

18 “(D) reinstatement under this paragraph
19 shall not require proceedings under section 240
20 or other proceedings before an immigration
21 judge.”.

22 (B) JUDICIAL REVIEW.—Section 242 of
23 the Immigration and Nationality Act (8 U.S.C.
24 1252) is amended by adding at the end the fol-
25 lowing:

1 “(h) JUDICIAL REVIEW OF DECISION TO
2 REINSTATE REMOVAL ORDER UNDER SECTION
3 241(A)(5).—

4 “(1) REVIEW OF DECISION TO REIN-
5 STATE REMOVAL ORDER.—Judicial review
6 of determinations under section 241(a)(5)
7 is available in an action under subsection
8 (a).

9 “(2) NO REVIEW OF ORIGINAL
10 ORDER.—Notwithstanding any other provi-
11 sion of law (statutory or nonstatutory), in-
12 cluding section 2241 of title 28, United
13 States Code, any other habeas corpus pro-
14 vision, or sections 1361 and 1651 of such
15 title, no court shall have jurisdiction to re-
16 view any cause or claim, arising from, or
17 relating to, any challenge to the original
18 order.”.

19 (C) EFFECTIVE DATE.—The amendments
20 made by subparagraphs (A) and (B) shall take
21 effect as if enacted on April 1, 1997, and shall
22 apply to all orders reinstated or after that date
23 by the Secretary of Homeland Security (or by
24 the Attorney General prior to March 1, 2003),
25 regardless of the date of the original order.

1 (6) INADMISSIBLE OR CRIMINAL ALIENS.—
2 Paragraph (6) of section 241(a) of the Immigration
3 and Nationality Act (8 U.S.C. 1231(a)(6)) is
4 amended—

5 (A) by striking “Attorney General” and in-
6 serting “Secretary of Homeland Security”; and

7 (B) by striking “removal period and, if re-
8 leased,” and inserting “removal period, in the
9 discretion of the Secretary, without any limita-
10 tions other than those specified in this section,
11 until the alien is removed.”.

12 (7) PAROLE; ADDITIONAL RULES; JUDICIAL RE-
13 VIEW.—Subsection (a) of section 241 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1231(a)) is
15 amended—

16 (A) in paragraph (7), by striking “Attor-
17 ney General” and inserting “Secretary of
18 Homeland Security”;

19 (B) by redesignating paragraph (7) as
20 paragraph (14); and

21 (C) by inserting after paragraph (6) the
22 following:

23 “(7) PAROLE.—If an alien detained pursuant to
24 paragraph (6) is an applicant for admission, the
25 Secretary of Homeland Security, in the Secretary’s

1 discretion, may parole the alien under section
2 212(d)(5) and may provide, notwithstanding section
3 212(d)(5), that the alien shall not be returned to
4 custody unless either the alien violates the conditions
5 of such parole or the alien's removal becomes rea-
6 sonably foreseeable, provided that in no cir-
7 cumstance shall such alien be considered admitted.

8 “(8) ADDITIONAL RULES FOR DETENTION OR
9 RELEASE OF CERTAIN ALIENS WHO WERE PRE-
10 VIOUSLY ADMITTED TO THE UNITED STATES.—

11 “(A) APPLICATION.—The procedures set
12 out under this paragraph—

13 “(i) apply only to an alien who were
14 previously admitted to the United States;
15 and

16 “(ii) do not apply to any other alien,
17 including an alien detained pursuant to
18 paragraph (6).

19 “(B) ESTABLISHMENT OF A DETENTION
20 REVIEW PROCESS FOR ALIENS WHO FULLY CO-
21 OPERATE WITH REMOVAL.—

22 “(i) REQUIREMENT TO ESTABLISH.—
23 For an alien who has made all reasonable
24 efforts to comply with a removal order and
25 to cooperate fully with the efforts of the

1 Secretary of Homeland Security to estab-
2 lish the alien’s identity and carry out the
3 removal order, including making timely ap-
4 plication in good faith for travel or other
5 documents necessary to the alien’s depar-
6 ture, and has not conspired or acted to
7 prevent removal, the Secretary shall estab-
8 lish an administrative review process to de-
9 termine whether the alien should be de-
10 tained or released on conditions.

11 “(ii) DETERMINATIONS.—The Sec-
12 retary shall—

13 “(I) make a determination
14 whether to release an alien described
15 in clause (i) after the end of the
16 alien’s removal period; and

17 “(II) in making a determination
18 under subclause (I), consider any evi-
19 dence submitted by the alien, and may
20 consider any other evidence, including
21 any information or assistance pro-
22 vided by the Department of State or
23 other Federal agency and any other
24 information available to the Secretary

1 pertaining to the ability to remove the
2 alien.

3 “(9) AUTHORITY TO DETAIN BEYOND THE RE-
4 MOVAL PERIOD.—

5 “(A) IN GENERAL.—The Secretary of
6 Homeland Security, in the exercise of discre-
7 tion, without any limitations other than those
8 specified in this section, may continue to detain
9 an alien for 90 days beyond the removal period
10 (including any extension of the removal period
11 as provided in subsection (a)(1)(C)).

12 “(B) LENGTH OF DETENTION.—The Sec-
13 retary, in the exercise of discretion, without any
14 limitations other than those specified in this
15 section, may continue to detain an alien beyond
16 the 90 days authorized in subparagraph (A)—

17 “(i) until the alien is removed, if the
18 Secretary determines that—

19 “(I) there is a significant likeli-
20 hood that the alien will be removed in
21 the reasonably foreseeable future;

22 “(II) the alien would be removed
23 in the reasonably foreseeable future,
24 or would have been removed, but for
25 the alien’s failure or refusal to make

1 all reasonable efforts to comply with
2 the removal order, or to cooperate
3 fully with the Secretary's efforts to es-
4 tablish the alien's identity and carry
5 out the removal order, including mak-
6 ing timely application in good faith
7 for travel or other documents nec-
8 essary to the alien's departure, or con-
9 spiracies or acts to prevent removal;

10 “(III) the government of the for-
11 eign country of which the alien is a
12 citizen, subject, national, or resident
13 is denying or unreasonably delaying
14 accepting the return of such alien
15 after the Secretary asks whether the
16 government will accept an alien under
17 section 243(d); or

18 “(IV) the government of the for-
19 eign country of which the alien is a
20 citizen, subject, national, or resident
21 is refusing to issue any required travel
22 or identity documents to allow such
23 alien to return to that country;

24 “(ii) until the alien is removed, if the
25 Secretary certifies in writing—

1 “(I) in consultation with the Sec-
2 retary of Health and Human Services,
3 that the alien has a highly contagious
4 disease that poses a threat to public
5 safety;

6 “(II) after receipt of a written
7 recommendation from the Secretary of
8 State, that release of the alien is like-
9 ly to have serious adverse foreign pol-
10 icy consequences for the United
11 States;

12 “(III) based on information avail-
13 able to the Secretary of Homeland Se-
14 curity (including classified, sensitive,
15 or national security information, and
16 without regard to the grounds upon
17 which the alien was ordered removed),
18 that there is reason to believe that the
19 release of the alien would threaten the
20 national security of the United States;
21 or

22 “(IV) that the release of the alien
23 will threaten the safety of the commu-
24 nity or any person, conditions of re-
25 lease cannot reasonably be expected to

1 ensure the safety of the community or
2 any person, and either—

3 “(aa) the alien has been
4 convicted of 1 or more aggra-
5 vated felonies (as defined in sec-
6 tion 101(a)(43)), 1 or more
7 crimes identified by the Secretary
8 of Homeland Security by regula-
9 tion, or 1 or more attempts or
10 conspiracies to commit any such
11 aggravated felonies or such iden-
12 tified crimes, provided that the
13 aggregate term of imprisonment
14 for such attempts or conspiracies
15 is at least 5 years; or

16 “(bb) the alien has com-
17 mitted 1 or more violent offenses
18 (but not including a purely polit-
19 ical offense) and, because of a
20 mental condition or personality
21 disorder and behavior associated
22 with that condition or disorder,
23 the alien is likely to engage in
24 acts of violence in the future; or

1 “(V) that the release of the alien
2 will threaten the safety of the commu-
3 nity or any person, conditions of re-
4 lease cannot reasonably be expected to
5 ensure the safety of the community or
6 any person, and the alien has been
7 convicted of at least 1 aggravated fel-
8 ony (as defined in section
9 101(a)(43)); and
10 “(iii) pending a determination under
11 subparagraph (B), if the Secretary has ini-
12 tiated the administrative review process
13 not later than 30 days after the expiration
14 of the removal period (including any exten-
15 sion of the removal period as provided in
16 subsection (a)(1)(C)).

17 “(10) RENEWAL AND DELEGATION OF CERTIFI-
18 CATION.—

19 “(A) RENEWAL.—The Secretary of Home-
20 land Security may renew a certification under
21 subparagraph (B)(ii) every 6 months without
22 limitation, after providing an opportunity for
23 the alien to request reconsideration of the cer-
24 tification and to submit documents or other evi-
25 dence in support of that request. If the Sec-

1 retary does not renew a certification, the Sec-
2 retary may not continue to detain the alien
3 under subparagraph (B)(ii).

4 “(B) DELEGATION.—Notwithstanding sec-
5 tion 103, the Secretary of Homeland Security
6 may not delegate the authority to make or
7 renew a certification described in item (II),
8 (III), or (IV) of subparagraph (B)(ii) to an offi-
9 cial below the level of the Director of U.S. Im-
10 migration and Customs Enforcement.

11 “(11) RELEASE ON CONDITIONS.—If it is deter-
12 mined that an alien should be released from deten-
13 tion, the Secretary of Homeland Security, in the ex-
14 ercise of discretion, may impose conditions on re-
15 lease as provided in paragraph (3).

16 “(12) REDETENTION.—The Secretary of Home-
17 land Security, in the exercise of discretion, without
18 any limitations other than those specified in this sec-
19 tion, may again detain any alien subject to a final
20 removal order who is released from custody if the
21 alien fails to comply with the conditions of release
22 or to continue to satisfy the conditions described in
23 subparagraph (8)(A), or if, upon reconsideration, the
24 Secretary determines that the alien can be detained
25 under subparagraph (8)(B). Paragraphs (6) through

1 (14) shall apply to any alien returned to custody
2 pursuant to this subparagraph, as if the removal pe-
3 riod terminated on the day of the redetention.

4 “(13) CERTAIN ALIENS WHO EFFECTED
5 ENTRY.—If an alien has effected an entry but has
6 neither been lawfully admitted nor physically present
7 in the United States continuously for the 2-year pe-
8 riod immediately prior to the commencement of re-
9 moval proceedings under this Act against the alien,
10 the Secretary of Homeland Security in the exercise
11 of discretion may decide not to apply paragraph (8)
12 and detain the alien without any limitations except
13 those which the Secretary shall adopt by regulation.

14 “(14) JUDICIAL REVIEW.—Without regard to
15 the place of confinement, judicial review of any ac-
16 tion or decision pursuant to paragraph (6) through
17 (14) shall be available exclusively in habeas corpus
18 proceedings instituted in the United States District
19 Court for the District of Columbia, and only if the
20 alien has exhausted all administrative remedies
21 (statutory and regulatory) available to the alien as
22 of right.”.

23 (c) DETENTION OF ALIENS DURING REMOVAL PRO-
24 CEEDINGS.—

1 (1) IN GENERAL.—Section 235 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1225) is amend-
3 ed by adding at the end the following:

4 “(e) LENGTH OF DETENTION.—

5 “(1) IN GENERAL.—An alien may be detained
6 under this section while proceedings are pending,
7 without limitation, until the alien is subject to an
8 administratively final order of removal.

9 “(2) EFFECT ON DETENTION UNDER SECTION
10 241.—The length of detention under this section
11 shall not affect the validity of any detention under
12 section 241.

13 “(f) JUDICIAL REVIEW.—Without regard to the place
14 of confinement, judicial review of any action or decision
15 made pursuant to subsection (e) shall be available exclu-
16 sively in a habeas corpus proceeding instituted in the
17 United States District Court for the District of Columbia
18 and only if the alien has exhausted all administrative rem-
19 edies (statutory and nonstatutory) available to the alien
20 as of right.”.

21 (2) CONFORMING AMENDMENTS.—Section 236
22 of the Immigration and Nationality Act (8 U.S.C.
23 1226) is amended—

24 (A) in subsection (e), by inserting “With-
25 out regard to the place of confinement, judicial

1 review of any action or decision made pursuant
 2 to section 235(f) shall be available exclusively in
 3 a habeas corpus proceeding instituted in the
 4 United States District Court for the District of
 5 Columbia, and only if the alien has exhausted
 6 all administrative remedies (statutory and non-
 7 statutory) available to the alien as of right.” at
 8 the end; and

9 (B) by adding at the end the following:

10 “(f) LENGTH OF DETENTION.—

11 “(1) IN GENERAL.—An alien may be detained
 12 under this section, without limitation, until the alien
 13 is subject to an administratively final order of re-
 14 moval.

15 “(2) EFFECT ON DETENTION UNDER SECTION
 16 241.—The length of detention under this section
 17 shall not affect the validity of any detention under
 18 section 241.”.

19 (d) ATTORNEY GENERAL’S DISCRETION IN DETER-
 20 MINING COUNTRIES OF REMOVAL.—Section 241(b) of the
 21 Immigration and Nationality Act (8 U.S.C. 1231(b)) is
 22 amended—

23 (1) in paragraph (1)(C)(iv), by striking the pe-
 24 riod at the end and inserting “, or the Attorney
 25 General decides that removing the alien to the coun-

1 try is prejudicial to the interests of the United
2 States.”;

3 (2) in paragraph (2)(E)(vii), by inserting “or
4 the Attorney General decides that removing the alien
5 to one or more of such countries is prejudicial to the
6 interests of the United States,” after “this subpara-
7 graph,”.

8 (e) EFFECTIVE DATES AND APPLICATION.—

9 (1) AMENDMENTS MADE BY SUBSECTION (B).—

10 The amendments made by subsection (b) shall take
11 effect on the date of the enactment of this Act, and
12 section 241 of the Immigration and Nationality Act,
13 as amended by subsection (b), shall apply to—

14 (A) all aliens subject to a final administra-
15 tive removal, deportation, or exclusion order
16 that was issued before, on, or after the date of
17 the enactment of this Act; and

18 (B) acts and conditions occurring or exist-
19 ing before, on, or after the date of the enact-
20 ment of this Act.

21 (2) AMENDMENTS MADE BY SUBSECTION (C).—

22 The amendments made by subsection (c) shall take
23 effect upon the date of the enactment of this Act,
24 and sections 235 and 236 of the Immigration and
25 Nationality Act, as amended by subsection (c), shall

1 apply to any alien in detention under provisions of
2 such sections on or after the date of the enactment
3 of this Act.

4 **SEC. 505. GAO STUDY ON DEATHS IN CUSTODY.**

5 The Comptroller General of the United States shall
6 submit to Congress within 6 months after the date of the
7 enactment of this Act, a report on the deaths in custody
8 of detainees held by the Department of Homeland Secu-
9 rity. The report shall include the following information
10 with respect to any such deaths and in connection there-
11 with:

12 (1) Whether any such deaths could have been
13 prevented by the delivery of medical treatment ad-
14 ministered while the detainee is in the custody of the
15 Department of Homeland Security.

16 (2) Whether Department practice and proce-
17 dures were properly followed and obeyed.

18 (3) Whether such practice and procedures are
19 sufficient to protect the health and safety of such
20 detainees.

21 (4) Whether reports of such deaths were made
22 to the Deaths in Custody Reporting Program.

23 **SEC. 506. GAO STUDY ON MIGRANT DEATHS.**

24 Within 120 days of the date of enactment and by the
25 end of each fiscal year thereafter, the Comptroller General

1 of the United States shall submit to the Committee on
2 the Judiciary and Committee on Homeland Security and
3 Governmental Affairs of the Senate and the Committee
4 on the Judiciary and Committee on Homeland Security
5 of the House, a report on:

6 (1) the total number of migrant deaths along
7 the southern border in the last 5 years;

8 (2) the total number of unidentified deceased
9 migrants found along the southern border;

10 (3) the level of cooperation between U.S. Cus-
11 toms and Border Protection, local and State law en-
12 forcement, foreign diplomatic and consular posts,
13 nongovernmental organizations, and family members
14 to accurately identify deceased individuals;

15 (4) the use of DNA testing and sharing of such
16 data between U.S. Customs and Border Protection,
17 local and State law enforcement, foreign diplomatic
18 and consular posts, and nongovernmental organiza-
19 tions to accurately identify deceased individuals;

20 (5) the comparison of DNA data with informa-
21 tion on Federal, state, and local missing person reg-
22 istries; and

23 (6) the procedures and processes U.S. Customs
24 and Border Protection has in place for notification

1 of relevant authorities or family members after miss-
 2 ing persons are identified through DNA testing.

3 **SEC. 507. STATUTE OF LIMITATIONS FOR VISA, NATU-**
 4 **RALIZATION, AND OTHER FRAUD OFFENSES**
 5 **INVOLVING WAR CRIMES OR HUMAN RIGHTS**
 6 **VIOLATIONS.**

7 (a) STATUTE OF LIMITATIONS FOR VISA FRAUD AND
 8 OTHER OFFENSES.—Chapter 213, Title 18, United
 9 States Code, is amended by adding new section 3302, as
 10 follows:

11 **“SEC. 3302. FRAUD IN CONNECTION WITH CERTAIN HUMAN**
 12 **RIGHTS VIOLATIONS OR WAR CRIMES.**

13 “(a) No person shall be prosecuted, tried, or punished
 14 for violation of any provision of sections 1001 and 1015
 15 of chapter 47, section 1425 of chapter 63, section 1546
 16 of chapter 75, section 1621 of chapter 79, and section
 17 3291 of chapter 212A of title 18 of the United States
 18 Code, or for attempt or conspiracy to violate any of such
 19 sections, when the fraudulent conduct, misrepresentation,
 20 concealment, or fraudulent, fictitious, or false statement
 21 concerns the alleged offender’s participation, at any time,
 22 at any place, and irrespective of the nationality of the al-
 23 leged offender or any victim, in a human rights violation
 24 or war crime, or the alleged offender’s membership in,
 25 service in, or authority over a military, paramilitary, or

1 police organization that participated in such conduct dur-
2 ing any part of any period in which the alleged offender
3 was a member of, served in, or had authority over the or-
4 ganization, unless the indictment is found or the informa-
5 tion is instituted within 20 years after the commission of
6 the offense, except that an indictment may be found, or
7 information instituted, at any time without limitation if
8 the commission of such human rights violation or war
9 crime resulted in the death of any person.

10 “(b) For purposes of subsection (a), ‘human rights
11 violation or war crime’ means genocide, incitement to
12 genocide, war crimes, torture, female genital mutilation,
13 extrajudicial killing under color of foreign law, persecu-
14 tion, particularly severe violation of religious freedom by
15 a foreign government official, or the use or recruitment
16 of child soldiers.

17 “(c) For purposes of subsection (b),

18 “(1) ‘genocide’ means conduct described in sec-
19 tion 1091(a) of chapter 50A of this title,

20 “(2) ‘incitement to genocide’ means conduct de-
21 scribed in section 1091(c) of chapter 50A of this
22 title,

23 “(3) ‘war crimes’ means conduct described in
24 subsections (c) and (d) of section 2441 of chapter
25 118 of this title,

1 “(4) ‘torture’ means conduct described in sub-
2 sections (1) and (2) of section 2340 of chapter 113C
3 of this title,

4 “(5) ‘female genital mutilation’ means conduct
5 described in section 116 of chapter 7 of this title,

6 “(6) ‘extrajudicial killing under color of foreign
7 law’ means conduct specified in section
8 1182(a)(3)(E)(iii) of chapter 12 of title 8 of the
9 United States Code,

10 “(7) ‘persecution’ means conduct that is a bar
11 to relief under section 1158(b)(2)(A)(i) of chapter
12 12 of title 8 of the United States Code,

13 “(8) ‘particularly severe violation of religious
14 freedom’ means conduct described in section
15 6402(13) of chapter 73 of title 22 of the United
16 States Code, and

17 “(9) ‘use or recruitment of child soldiers’ means
18 conduct described in subsections (a) and (d) of sec-
19 tion 2442 of chapter 118 of this title.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to fraudulent conduct, misrepre-
22 sentations, concealments, and fraudulent, fictitious, or
23 false statements made or committed before, on, or after
24 the date of enactment of this Act.

1 **SEC. 508. CRIMINAL DETENTION OF ALIENS TO PROTECT**
2 **PUBLIC SAFETY.**

3 (a) IN GENERAL.—Section 3142(e) of title 18,
4 United States Code, is amended to read as follows:

5 “(e) DETENTION.—

6 “(1) IN GENERAL.—If, after a hearing pursu-
7 ant to the provisions of subsection (f), the judicial
8 officer finds that no condition or combination of con-
9 ditions will reasonably assure the appearance of the
10 person as required and the safety of any other per-
11 son and the community, such judicial officer shall
12 order the detention of the person before trial.

13 “(2) PRESUMPTION ARISING FROM OFFENSES
14 DESCRIBED IN SUBSECTION (F)(1).—In a case de-
15 scribed in subsection (f)(1) of this section, a rebutta-
16 ble presumption arises that no condition or combina-
17 tion of conditions will reasonably assure the safety
18 of any other person and the community if such judi-
19 cial officer finds that—

20 “(A) the person has been convicted of a
21 Federal offense that is described in subsection
22 (f)(1), or of a State or local offense that would
23 have been an offense described in subsection
24 (f)(1) of this section if a circumstance giving
25 rise to Federal jurisdiction had existed;

1 “(B) the offense described in subparagraph
2 (A) was committed while the person was on re-
3 lease pending trial for a Federal, State, or local
4 offense; and

5 “(C) a period of not more than 5 years has
6 elapsed since the date of conviction or the re-
7 lease of the person from imprisonment, for the
8 offense described in subparagraph (A), which-
9 ever is later.

10 “(3) PRESUMPTION ARISING FROM OTHER OF-
11 FENSES INVOLVING ILLEGAL SUBSTANCES, FIRE-
12 ARMS, VIOLENCE, OR MINORS.—Subject to rebuttal
13 by the person, it shall be presumed that no condition
14 or combination of conditions will reasonably assure
15 the appearance of the person as required and the
16 safety of the community if the judicial officer finds
17 that there is probable cause to believe that the per-
18 son committed—

19 “(A) an offense for which a maximum
20 term of imprisonment of 10 years or more is
21 prescribed in the Controlled Substances Act (21
22 U.S.C. 801 et seq.), the Controlled Substances
23 Import and Export Act (21 U.S.C. 951 et seq.),
24 or chapter 705 of title 46;

1 “(B) an offense under section 924(c),
2 956(a), or 2332b of this title;

3 “(C) an offense listed in section
4 2332b(g)(5)(B) of this title for which a max-
5 imum term of imprisonment of 10 years or
6 more is prescribed; or

7 “(D) an offense involving a minor victim
8 under section 1201, 1591, 2241, 2242,
9 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1),
10 2252(a)(2), 2252(a)(3), 2252A(a)(1),
11 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
12 2421, 2422, 2423, or 2425 of this title.

13 “(4) PRESUMPTION ARISING FROM OFFENSES
14 RELATING TO IMMIGRATION LAW.—Subject to rebut-
15 tal by the person, it shall be presumed that no con-
16 dition or combination of conditions will reasonably
17 assure the appearance of the person as required if
18 the judicial officer finds that there is probable cause
19 to believe that the person is an alien and that the
20 person—

21 “(A) has no lawful immigration status in
22 the United States;

23 “(B) is the subject of a final order of re-
24 moval; or

11 (1) in subparagraph (A), by striking “and” at
12 the end; and

“(C) whether the person is in a lawful im-
migration status, has previously entered the
United States illegally, has previously been re-
moved from the United States, or has otherwise
violated the conditions of his or her lawful im-
migration status; and”.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332b the following:

1 **“§ 2332c. Recruitment of persons to participate in ter-**
2 **rorism**

3 “(a) OFFENSES.—

4 “(1) IN GENERAL.—It shall be unlawful for any
5 person to employ, solicit, induce, command, or cause
6 another person to commit an act of domestic ter-
7 rorism or international terrorism or a Federal crime
8 of terrorism, with the intent that the other person
9 commit such act or crime of terrorism.

10 “(2) ATTEMPT AND CONSPIRACY.—It shall be
11 unlawful for any person to attempt or conspire to
12 commit an offense under paragraph (1).

13 “(b) PENALTIES.—Any person who violates sub-
14 section (a)—

15 “(1) in the case of an attempt or conspiracy,
16 shall be fined under this title, imprisoned not more
17 than 10 years, or both;

18 “(2) if death of an individual results, shall be
19 fined under this title, punished by death or impris-
20 oned for any term of years or for life, or both;

21 “(3) if serious bodily injury to any individual
22 results, shall be fined under this title, imprisoned
23 not less than 10 years nor more than 25 years, or
24 both; and

25 “(4) in any other case, shall be fined under this
26 title, imprisoned not more than 10 years, or both.

1 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
 2 tion shall be construed or applied so as to abridge the ex-
 3 ercise of rights guaranteed under the First Amendment
 4 to the Constitution of the United States.

5 “(d) LACK OF CONSUMMATED TERRORIST ACT NOT
 6 A DEFENSE.—It is not a defense under this section that
 7 the act of domestic terrorism or international terrorism
 8 or Federal crime of terrorism that is the object of the em-
 9 ployment, solicitation, inducement, commanding, or caus-
 10 ing has not been done.

11 “(e) DEFINITIONS.—In this section—

12 “(1) the term ‘Federal crime of terrorism’ has
 13 the meaning given that term in section 2332b; and

14 “(2) the term ‘serious bodily injury’ has the
 15 meaning given that term in section 1365(h).”.

16 (b) TABLE OF SECTIONS AMENDMENT.—The table of
 17 sections at the beginning of chapter 113B of title 18,
 18 United States Code, is amended by inserting after the
 19 item relating to section 2332b the following:

“2332c. Recruitment of persons to participate in terrorism.”.

20 **SEC. 510. BARRING AND REMOVING PERSECUTORS, WAR**
 21 **CRIMINALS, AND PARTICIPANTS IN CRIMES**
 22 **AGAINST HUMANITY FROM THE UNITED**
 23 **STATES.**

24 (a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMI-
 25 NALS, AND PARTICIPANTS IN CRIMES AGAINST HUMAN-

ITY.—Subparagraph (E) of section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) by striking the subparagraph heading and inserting “PARTICIPANTS IN PERSECUTION (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—”;

(2) by adding after subclause (iii) the following:

“(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—Any alien, including those who are superior commanders, who committed, ordered, incited, assisted, or otherwise participated in a war crime as defined in section 2441(c) of title 18, United States Code, a crime against humanity, or in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion, is inadmissible.

“(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term ‘crime against humanity’ means conduct

1 that is part of a widespread and systematic
2 attack targeting any civilian population,
3 and with knowledge that the conduct was
4 part of the attack or with the intent that
5 the conduct be part of the attack—

6 “(I) that, if such conduct oc-
7 curred in the United States or in the
8 special maritime and territorial juris-
9 diction of the United States, would
10 violate—

11 “(aa) section 1111 of title
12 18, United States Code (relating
13 to murder);

14 “(bb) section 1201(a) of
15 title 18, United States Code (re-
16 lating to kidnapping);

17 “(cc) section 1203(a) of title
18 18, United States Code (relating
19 to hostage taking), notwith-
20 standing any exception under
21 subsection (b) of such section
22 1203;

23 “(dd) section 1581(a) of
24 title 18, United States Code (re-
25 lating to peonage);

1 “(ee) section 1583(a)(1) of
2 title 18, United States Code (re-
3 lating to kidnapping or carrying
4 away individuals for involuntary
5 servitude or slavery);

6 “(ff) section 1584(a) of title
7 18, United States Code (relating
8 to sale into involuntary ser-
9 vitude);

10 “(gg) section 1589(a) of
11 title 18, United States Code (re-
12 lating to forced labor);

13 “(hh) section 1590(a) of
14 title 18, United States Code (re-
15 lating to trafficking with respect
16 to peonage, slavery, involuntary
17 servitude, or forced labor);

18 “(ii) section 1591(a) of title
19 18, United States Code (relating
20 to sex trafficking of children or
21 by force, fraud, or coercion);

22 “(jj) section 2241(a) of title
23 18, United States Code (relating
24 to aggravated sexual abuse by
25 force or threat); or

1 “(kk) section 2242 of title
2 18, United States Code (relating
3 to sexual abuse);

4 “(II) that would constitute tor-
5 ture as defined in section 2340(1) of
6 title 18, United States Code;

7 “(III) that would constitute cruel
8 or inhuman treatment as described in
9 section 2441(d)(1)(B) of title 18,
10 United States Code;

11 “(IV) that would constitute per-
12 forming biological experiments as de-
13 scribed in section 2441(d)(1)(C) of
14 title 18, United States Code;

15 “(V) that would constitute muti-
16 lation or maiming as described in sec-
17 tion 2441(d)(1)(E) of title 18, United
18 States Code; or

19 “(VI) that would constitute in-
20 tentiously causing serious bodily in-
21 jury as described in section
22 2441(d)(1)(F) of title 18, United
23 States Code.”.

24 “(vi) SYSTEMATIC.—In this subpara-
25 graph, the term ‘systematic’ means the

commission of a series of acts following a regular pattern and occurring in an organized, non-random manner.

“(vii) WIDESPREAD.—In this subparagraph, the term ‘widespread’ means either a single, large scale act or a series of acts directed against a substantial number of victims.

“(viii) SUPERIOR COMMANDER.—The term ‘superior commander’ means—

“(I) a military commander or a person with effective control of military forces or an armed group;

“(II) who knew or should have known that a subordinate or someone under his or her effective control is committing acts described in subsection (a), is about to commit such acts, or had committed such acts; and

“(III) who fails to take the necessary and reasonable measures to prevent such acts or, for acts that have been committed, to punish the perpetrators thereof.”.

(3) by revising in (iii)(II) the following:

1 (A) by deleting “ of any foreign nation”,
 2 and

3 (B) by inserting after “is inadmissible” the
 4 following clause:

5 “(III) Color of law. For purposes
 6 of this subsection and subsection
 7 237(a)(4)(D) only, acting under ‘color
 8 of law’ includes acts taken as part of
 9 an armed group exercising de facto
 10 authority.”.

11 (b) BARRING WAIVER OF INADMISSIBILITY FOR PER-
 12 SECUTORS.—Subparagraph (A) of section 212(d)(3) of
 13 the Immigration and Nationality Act (8 U.S.C.
 14 1182(d)(3)(A)) is amended by striking “and clauses (i)
 15 and (ii) of paragraph (3)(E)” both places that term ap-
 16 pears and inserting “and (3)(E)”.

17 (c) REMOVAL OF PERSECUTORS.—Subparagraph (D)
 18 of section 237(a)(4) of the Immigration and Nationality
 19 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

20 (1) by striking “NAZI” in the subparagraph
 21 heading; and

22 (2) by striking “or (iii)” and inserting “(iii), or
 23 (iv)”;

24 (3) by inserting after subsection (G), as redes-
 25 ignated by Title VIII of this Act, the following:

1 “(H) Participation in female genital muti-
2 lation. Any alien who has committed, ordered,
3 incited, assisted, or otherwise participated in fe-
4 male genital mutilation, is deportable.”.

5 (d) SEVERE VIOLATIONS OF RELIGIOUS FREE-
6 DOM.—Section 212(a)(2)(G) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1182(a)(2)(G) is amended—

8 (1) in the header, by striking “Foreign govern-
9 ment officials” and replacing it with “Any persons”;
10 and

11 (2) by striking “, while serving as a foreign
12 government official,”.

13 (e) BARRING PERSECUTORS FROM ESTABLISHING
14 GOOD MORAL CHARACTER.—Section 101(f) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1101(f)) is amend-
16 ed—

17 (1) in paragraph (9), by striking “killings) or
18 212(a)(2)(G) (relating to severe violations of reli-
19 gious freedom).” and inserting “killings),
20 212(a)(2)(G) (relating to severe violations of reli-
21 gious freedom), or 212(a)(3)(G) (relating to recruit-
22 ment and use of child soldiers);”; and

23 (2) by inserting after paragraph (9) the fol-
24 lowing:

1 “(10) one who at any time committed, ordered,
2 incited, assisted, or otherwise participated in the
3 persecution of any person on account of race, reli-
4 gion, nationality, membership in a particular social
5 group, or political opinion is inadmissible.”.

6 (f) INCREASING CRIMINAL PENALTIES FOR ANYONE
7 WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—
8 Section 277 of the Immigration and Nationality Act (8
9 U.S.C. 1327) is amended by striking “(other than sub-
10 paragraph (E) thereof)”.

11 (g) INCREASING CRIMINAL PENALTIES FOR FEMALE
12 GENITAL MUTILATION.—Section 116 of Title 18 U.S.C.
13 is amended—

14 (1) in subsection (a), by striking “ shall be
15 fined under this title or imprisoned not more than
16 5 years, or both” at the end, and inserting the fol-
17 lowing:

18
19
20 “has engaged in a violent crime against
21 children under section 3559(f)(3) of this
22 title and shall be imprisoned for life or for
23 any term of years not less than 10.”

(2) in subsection (d), by striking “shall be fined under this title or imprisoned not more than 5 years, or both.” at the end, and inserting the following:

“shall be imprisoned for life or for any term of years not less than 10.”

(h) MATERIAL SUPPORT IN THE RECRUITMENT OR USE OF CHILD SOLDIERS.—

(1) Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is amended by inserting after the “18,” the following new clause:

“or has provided material support in the recruitment or use of child soldiers in violation of section 2339A of title 18,”.

(2) Section 237(a)(4)(G) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(G)), as amended by Title VIII of this Act, is amended by inserting after the “18,” the following new clause:

1 “or has provided material support in the
 2 recruitment or use of child soldiers in vio-
 3 lation of section 2339A of title 18,”.

4 (i) FEMALE GENITAL MUTILATION.—Section
 5 212(a)(3) of the Immigration and Nationality Act (8
 6 U.S.C. 1182(a)(3)) is amended by inserting new (H) to
 7 read as follows:

8 “(H) PARTICIPATION IN FEMALE GENITAL
 9 MUTILATION.—Any alien who has ordered, in-
 10 cited, assisted, or otherwise participated in fe-
 11 male genital mutilation, is inadmissible.”.

12 (j) TECHNICAL AMENDMENTS.—

13 (1) SECTION 101(A)(42).—Section 101(a)(42) of
 14 the Immigration and Nationality Act (8 U.S.C.
 15 1101(a)(42)) is amended by inserting “committed,”
 16 before “ordered”.

17 (2) SECTION 208(B)(2)(A)(I).—Section
 18 208(b)(2)(A)(i) of the Immigration and Nationality
 19 Act (8 U.S.C. 1158(b)(2)(A)(i)) is amended by in-
 20 serting “committed,” before “ordered”.

21 (3) SECTION 241(B)(3)(B)(I).—Section
 22 241(b)(3)(B)(i) of the Immigration and Nationality
 23 Act (8 U.S.C. 1231(b)(3)(B)(i)) is amended by in-
 24 serting “committed,” before “ordered”.

1 (k) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any offense committed before,
3 on, or after the date of enactment of this Act.

4 **SEC. 511. GANG MEMBERSHIP, REMOVAL, AND INCREASED**
5 **CRIMINAL PENALTIES RELATED TO GANG VI-**
6 **OLENCE.**

7 (a) DEFINITION OF CRIMINAL GANG.—Section
8 101(a) of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)) is amended by inserting after subparagraph (52)
10 the following:

11 “(53)(A) The term ‘criminal gang’ means an
12 ongoing group, club, organization, or association of
13 5 or more persons that—

14 “(i) has as one of its primary purposes the
15 commission of 1 or more of the criminal of-
16 fenses set out under subparagraph (B) and the
17 members of which engage, or have engaged
18 within the past 5 years, in a continuing series
19 of such offenses; or

20 “(ii) has been designated as a criminal
21 gang by the Secretary of Homeland Security, in
22 consultation with the Attorney General, as
23 meeting criteria set out in clause (i).

24 “(B) The offenses described under this sub-
25 paragraph, whether in violation of Federal or State

1 law or the law of a foreign country and regardless
2 of whether the offenses occurred before, on, or after
3 the date of the enactment of the Building America's
4 Trust Act, are the following:

5 “(i) A felony drug offense (as that term is
6 defined in section 102 of the Controlled Sub-
7 stances Act (21 U.S.C. 802)).

8 “(ii) An offense involving illicit trafficking
9 in a controlled substance (as defined in section
10 102 of the Controlled Substances Act), includ-
11 ing a drug trafficking crime (as defined in sec-
12 tion 924(c) of title 18, United States Code).

13 “(iii) An offense under section 274 (relat-
14 ing to bringing in and harboring certain aliens),
15 section 277 (relating to aiding or assisting cer-
16 tain aliens to enter the United States), or sec-
17 tion 278 (relating to importation of alien for
18 immoral purpose).

19 “(iv) Any offense under Federal, State, or
20 Tribal law, that has, as an element, the use or
21 attempted use of physical force or the threat-
22 ened use of physical force or a deadly weapon.

23 “(v) Any offense that has as an element
24 the use, attempted use, or threatened use of
25 any physical object to inflict or cause (either di-

1 rectly or indirectly) serious bodily injury, in-
2 cluding an injury that may ultimately result in
3 the death of a person.

4 “(vi) An offense involving obstruction of
5 justice, tampering with or retaliating against a
6 witness, victim, or informant, or burglary.

7 “(vii) Any conduct punishable under sec-
8 tion 1028 or 1029 of title 18, United States
9 Code (relating to fraud and related activity in
10 connection with identification documents or ac-
11 cess devices), sections 1581 through 1594 of
12 such title (relating to peonage, slavery and traf-
13 ficking in persons), section 1952 of such title
14 (relating to interstate and foreign travel or
15 transportation in aid of racketeering enter-
16 prises), section 1956 of such title (relating to
17 the laundering of monetary instruments), sec-
18 tion 1957 of such title (relating to engaging in
19 monetary transactions in property derived from
20 specified unlawful activity), or sections 2312
21 through 2315 of such title (relating to inter-
22 state transportation of stolen motor vehicles or
23 stolen property).

24 “(viii) A conspiracy to commit an offense
25 described in clauses (i) through (v).

1 “(C) Notwithstanding any other provision of
2 law (including any effective date), a group, club, or-
3 ganization, or association shall be considered a
4 criminal gang regardless of whether the conduct oc-
5 curred before, on, or after the date of the enactment
6 of the Building America’s Trust Act.”.

7 (b) INADMISSIBILITY.—Paragraph (2) of section
8 212(a) of the Immigration and Nationality Act (8 U.S.C.
9 1182(a)(2)) is amended by adding at the end the fol-
10 lowing:

11 “(J) ALIENS ASSOCIATED WITH CRIMINAL
12 GANGS.—Any alien is inadmissible who a con-
13 sular officer, the Secretary of Homeland Secu-
14 rity, or the Attorney General knows or has rea-
15 son to believe—

16 “(i) to be or to have been a member
17 of a criminal gang (as defined in section
18 101(a)(53)); or

19 “(ii) to have participated in the activi-
20 ties of a criminal gang (as defined in sec-
21 tion 101(a)(53)), knowing or having reason
22 to know that such activities will promote,
23 further, aid, or support the illegal activity
24 of the criminal gang.”.

1 (c) DEPORTABILITY.—Paragraph (2) of section
 2 237(a) of the Immigration and Nationality Act (8 U.S.C.
 3 1227(a)(2)) is amended by adding at the end the fol-
 4 lowing:

5 “(G) ALIENS ASSOCIATED WITH CRIMINAL
 6 GANGS.—Any alien who the Secretary of Home-
 7 land Security or the Attorney General knows or
 8 has reason to believe—

9 “(i) is or has been a member of a
 10 criminal gang (as defined in section
 11 101(a)(53)), or

12 “(ii) has participated in the activities
 13 of a criminal gang (as defined in section
 14 101(a)(53)) knowing or having reason to
 15 know that such activities will promote, fur-
 16 ther, aid, or support the illegal activity of
 17 the criminal gang,
 18 is deportable.”.

19 (d) DESIGNATION OF CRIMINAL GANGS.—

20 (1) IN GENERAL.—Chapter 2 of title II of the
 21 Immigration and Nationality Act (8 U.S.C. 1181 et
 22 seq.) is amended by adding at the end the following:

23 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

24 “(a) IN GENERAL.—The Secretary of Homeland Se-
 25 curity, in consultation with the Attorney General, and the

1 Secretary of State may designate a group or association
 2 as a criminal gang if their conduct is described in section
 3 101(a)(53) or if the group's or association's conduct poses
 4 a significant risk that threatens the security and the pub-
 5 lic safety of United States nationals or the national secu-
 6 rity, homeland security, foreign policy, or economy of the
 7 United States.

8 “(b) EFFECTIVE DATE.—Designations under sub-
 9 section (a) shall remain in effect until the designation is
 10 revoked after consultation between the Secretary of Home-
 11 land Security, the Attorney General, and the Secretary of
 12 State or is terminated in accordance with Federal law.”.

13 (2) CLERICAL AMENDMENT.—The table of con-
 14 tents in the first section of the Immigration and Na-
 15 tionality Act is amended by inserting after the item
 16 relating to section 219 the following:

“220. Designation of criminal gangs.”

17 (e) ANNUAL REPORT ON DETENTION OF CRIMINAL
 18 GANG MEMBERS.—Not later than March 1 of each year
 19 (beginning 1 year after the date of the enactment of this
 20 Act), the Secretary, after consultation with the heads of
 21 appropriate Federal agencies, shall submit to the Com-
 22 mittee on Homeland Security and Governmental Affairs
 23 and the Committee on the Judiciary of the Senate and
 24 the Committee on Homeland Security and the Committee
 25 on the Judiciary of the House of Representatives a report

1 on the number of aliens detained who are described by
 2 subparagraph (J) of section 212(a)(2) and subparagraph
 3 (G) of section 237(a)(2) of the Immigration and Nation-
 4 ality Act (8 U.S.C. 1182(a)(2)(J) and 1227(a)(2)(G)), as
 5 added by subsections (b) and (c).

6 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
 7 ATION.—

8 (1) INAPPLICABILITY OF RESTRICTION ON RE-
 9 MOVAL TO CERTAIN COUNTRIES.—Subparagraph (B)
 10 of section 241(b)(3) of the Immigration and Nation-
 11 ality Act (8 U.S.C. 1231(b)(3)(B)) is amended, in
 12 the matter preceding clause (i), by inserting “who is
 13 described in section 212(a)(2)(J)(i) or section
 14 237(a)(2)(G)(i) or who is” after “to an alien”.

15 (2) INELIGIBILITY FOR ASYLUM.—Subpara-
 16 graph (A) of section 208(b)(2) of the Immigration
 17 and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
 18 amended—

19 (A) in clause (v), by striking “or” at the
 20 end;

21 (B) by redesignating clause (vi) as clause
 22 (vii); and

23 (C) by inserting after clause (v) the fol-
 24 lowing:

1 “(vi) the alien is described in section
2 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
3 (relating to participation in criminal
4 gangs); or”.

5 (g) TEMPORARY PROTECTED STATUS.—Section 244
6 of the Immigration and Nationality Act (8 U.S.C. 1254a)
7 is amended—

8 (1) by striking “Attorney General” each place
9 that term appears and inserting “Secretary”;

10 (2) in subsection (c)(2)(B)—

11 (A) in clause (i), by striking “States, or”
12 and inserting “States;”;

13 (B) in clause (ii), by striking the period at
14 the end and inserting “; or”; and

15 (C) by adding at the end the following:

16 “(iii) the alien is, or at any time after
17 admission has been, an alien described in
18 section 212(a)(2)(J)(i) or section
19 237(a)(2)(G)(i).”.

20 (h) EFFECTIVE DATE AND APPLICATION.—The
21 amendments made by this section shall take effect on the
22 date of the enactment of this Act and shall apply to acts
23 that occur before, on, or after the date of the enactment
24 of this Act.

1 **SEC. 512. BARRING ALIENS WITH CONVICTIONS FOR DRIV-**
2 **ING UNDER THE INFLUENCE OR WHILE IN-**
3 **TOXICATED.**

4 (a) AGGRAVATED FELONY DRIVING WHILE INTOXI-
5 CATED.—

6 (1) DEFINITIONS.—Section 101(a)(43) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(43)) is amended—

9 (A) in subparagraph (T), by striking
10 “and”;

11 (B) in subparagraph (U), by striking the
12 period at the end and inserting “; and”; and

13 (C) by inserting after subparagraph (U)
14 the following:

15 “(V) a single conviction for driving while
16 intoxicated (including a conviction for driving
17 while under the influence of or impaired by al-
18 cohol or drugs), when such impaired driving
19 was the cause of the serious bodily injury or
20 death of another person or a second or subse-
21 quent conviction for driving while intoxicated
22 (including a conviction for driving under the in-
23 fluence of or impaired by alcohol or drugs),
24 without regard to whether the conviction is clas-
25 sified as a misdemeanor or felony under State
26 law. For purposes of this paragraph, the Sec-

1 retary of Homeland Security or the Attorney
2 General are not required to prove the first con-
3 viction for driving while intoxicated (including a
4 conviction for driving while under the influence
5 of or impaired by alcohol or drugs) as a predi-
6 cate offense and need only make a factual de-
7 termination that the alien was previously con-
8 victed for driving while intoxicated (including a
9 conviction for driving while under the influence
10 of or impaired by alcohol or drugs).”.

11 (2) EFFECTIVE DATE AND APPLICATION.—The
12 amendments made by this section shall take effect
13 on the date of the enactment of this Act and apply
14 to any conviction entered on or after such date.

15 (b) INADMISSIBILITY FOR DRIVING WHILE INTOXI-
16 CATED OR UNDER THE INFLUENCE.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 212(a) of the Immigration and Nationality Act (8
19 U.S.C. 1182(a)(2)), as amended by section 507, is
20 further amended by adding at the end the following:

21 “(K) DRIVING WHILE INTOXICATED AND
22 UNLAWFULLY PRESENT IN THE UNITED
23 STATES.—An alien who—

1 “(i) is convicted of driving while in-
2 toxicated, driving under the influence, or
3 similar violation of State law, and

4 “(ii) at the time of the commission of
5 that offense was unlawfully present in the
6 United States because the alien entered
7 without inspection or admission, overstayed
8 the period of stay authorized by the Sec-
9 retary, or violated the terms of the alien’s
10 nonimmigrant visa,
11 is inadmissible.”.

12 (2) EFFECTIVE DATE AND APPLICATION.—The
13 amendments made by paragraph (1) shall take effect
14 on the date of the enactment of this Act and apply
15 to any conviction entered on or after such date.

16 (c) DEPORTATION FOR DRIVING WHILE INTOXI-
17 CATED OR UNDER THE INFLUENCE.—

18 (1) IN GENERAL.—Paragraph (2) of section
19 237(a) of the Immigration and Nationality Act (8
20 U.S.C. 1227(a)(2)), as amended by section 507, is
21 further amended by adding at the end the following:

22 “(H) DRIVING WHILE INTOXICATED AND
23 WHILE UNLAWFULLY PRESENT IN THE UNITED
24 STATES.—An alien is deportable who—

1 “(i) at the time of commission of the
 2 offense is unlawfully present in the United
 3 States because the alien entered without
 4 inspection or admission, overstayed the pe-
 5 riod of stay authorized by the Secretary, or
 6 violated the terms of the alien’s non-
 7 immigrant visa; and

8 “(ii) is convicted of driving while in-
 9 toxicated, driving under the influence, or
 10 similar violation of State law.”.

11 (2) APPLICATION.—The amendment made by
 12 paragraph (1) shall take effect on the date of the en-
 13 actment of this Act and apply to any conviction en-
 14 tered on or after such date.

15 (d) GOOD MORAL CHARACTER BAR FOR DUI OR
 16 DWI CONVICTIONS.—

17 (1) IN GENERAL.—Section 101(f) of the Immi-
 18 gration and Nationality Act (8 U.S.C. 1101(f)), as
 19 amended by section 506, is further amended by in-
 20 serting after paragraph (1) the following:

21 【“(2) inadmissible under section 212(a)(2)(K)
 22 or deportable under section 237(a)(2)(H);】

23 【“(e) TECHNICAL AND CONFORMING AMEND-
 24 MENTS.—Subsection (h) of section 212 of the Immigration
 25 and Nationality Act (8 U.S.C. 1182(h)) is amended—】

1 【“(1) by inserting ‘or the Secretary’ after ‘the
2 Attorney General’ each place such term appears;
3 and】

4 【“(2) in the matter preceding paragraph (1),
5 by striking ‘and (E)’ and inserting ‘(E), and
6 (K)’.”.】

7 【(2) APPLICATION.—The amendment made by
8 paragraph (1) shall take effect on the date of the en-
9 actment of this Act and apply to any conviction en-
10 tered on or after such date.】

11 **SEC. 513. BARRING AGGRAVATED FELONS, BORDER CHECK-**
12 **POINT RUNNERS, AND SEX OFFENDERS FROM**
13 **ADMISSION TO THE UNITED STATES.**

14 (a) INADMISSIBILITY ON CRIMINAL AND RELATED
15 GROUNDS; WAIVERS.—Section 212 of the Immigration
16 and Nationality Act (8 U.S.C. 1182) is amended—

17 (1) in subsection (a)(2)—

18 (A) in subparagraph (A)(i)—

19 (i) in subclause (I), by striking “, or”
20 and inserting a semicolon;

21 (ii) in subclause (II), by striking the
22 comma at the end and inserting “; or”;
23 and

24 (iii) by inserting after subclause (II)
25 the following:

1 “(III) a violation of (or a con-
2 spiracy or attempt to violate) any
3 statute relating to section 208 of the
4 Social Security Act (42 U.S.C. 408)
5 (relating to social security account
6 numbers or social security cards) or
7 section 1028 of title 18, United States
8 Code (relating to fraud and related
9 activity in connection with identifica-
10 tion documents, authentication fea-
11 tures, and information);”;

12 (B) by inserting after subparagraph (K),
13 as added by section 508, the following:

14 “(L) CITIZENSHIP FRAUD.—Any alien con-
15 victed of, or who admits having committed, or
16 who admits committing acts which constitute
17 the essential elements of, a violation of, or an
18 attempt or a conspiracy to violate, subsection
19 (a) or (b) of section 1425 of title 18, United
20 States Code, (relating to the procurement of
21 citizenship or naturalization unlawfully) is inad-
22 missible.

23 “(M) CERTAIN FIREARM OFFENSES.—Any
24 alien who at any time has been convicted under
25 any law of, or who admits having committed or

1 admits committing acts which constitute the es-
2 sential elements of, any law relating to pur-
3 chasing, selling, offering for sale, exchanging,
4 using, owning, possessing, or carrying, or of at-
5 tempting or conspiring to purchase, sell, offer
6 for sale, exchange, use, own, possess, or carry,
7 any weapon, part, or accessory which is a fire-
8 arm or destructive device (as defined in section
9 921(a) of title 18, United States Code) in viola-
10 tion of any law is inadmissible.

11 “(N) AGGRAVATED FELONS.—Any alien
12 who has been convicted of an aggravated felony
13 as defined in section 101(a)(43) at any time is
14 inadmissible.

15 “(O) HIGH SPEED FLIGHT.—Any alien
16 who has been convicted of a violation of section
17 758 of title 18, United States Code, (relating to
18 high speed flight from an immigration check-
19 point) is inadmissible.

20 “(P) FAILURE TO REGISTER AS A SEX OF-
21 FENDER.—Any alien convicted under section
22 2250 of title 18, United States Code is inadmis-
23 sible.

1 “(Q) CRIMES OF DOMESTIC VIOLENCE,
2 STALKING, OR VIOLATION OF PROTECTION OR-
3 DERS; CRIMES AGAINST CHILDREN.—

4 “(i) DOMESTIC VIOLENCE, STALKING,
5 AND CHILD ABUSE.—

6 “(I) IN GENERAL.—Any alien
7 who at any time is or has been con-
8 victed of a crime involving the use or
9 attempted use of physical force, or
10 threatened use of a deadly weapon, a
11 crime of domestic violence, a crime of
12 stalking, or a crime of child abuse,
13 child neglect, or child abandonment is
14 inadmissible.

15 “(II) CRIME OF DOMESTIC VIO-
16 LENCE DEFINED.—For purposes of
17 this clause, the term ‘crime of domes-
18 tic violence’ means any crime of vio-
19 lence or any offense under Federal,
20 State, or Tribal law, that has, as an
21 element, the use or attempted use of
22 physical force or the threatened use of
23 physical force or a deadly weapon
24 against a person committed by a cur-
25 rent or former spouse of the person,

1 by an individual with whom the per-
2 son shares a child in common, by an
3 individual who is cohabiting with or
4 has cohabited with the person as a
5 spouse, by an individual similarly situ-
6 ated to a spouse of the person under
7 the domestic or family violence laws of
8 the jurisdiction where the offense oc-
9 curs, or by any other individual
10 against a person who is protected
11 from that individual's acts under the
12 domestic or family violence laws of the
13 United States or any State, Indian
14 tribal government, or unit of local
15 government.

16 “(ii) VIOLATORS OF PROTECTION OR-
17 DERS.—

18 “(I) IN GENERAL.—Any alien
19 who at any time is or has been en-
20 joined under a protection order issued
21 by a court and whom the court deter-
22 mines has engaged in conduct that
23 violates the portion of a protection
24 order that involves protection against
25 credible threats of violence, repeated

1 harassment, or bodily injury to the
2 person or persons for whom the pro-
3 tection order was issued is inadmis-
4 sible.

5 “(II) PROTECTIVE ORDER DE-
6 FINED.—In this clause, the term ‘pro-
7 tection order’ means any injunction
8 issued for the purpose of preventing
9 violent or threatening acts of violence
10 that involve the use or attempted use
11 of physical force, or threatened use of
12 a deadly weapon, committed by a cur-
13 rent or former spouse, parent, or
14 guardian of the victim, by a person
15 with whom the victim shares a child
16 in common, by a person who is cohab-
17 iting with or has cohabited with the
18 victim as a spouse, parent, or guard-
19 ian, or by a person similarly situated
20 to a spouse, parent, or guardian of
21 the victim, including temporary or
22 final orders issued by civil or criminal
23 courts (other than support or child
24 custody orders or provisions) whether
25 obtained by filing an independent ac-

1 tion or as an independent order in an-
 2 other proceeding.

3 “(iii) WAIVER AUTHORIZED.—For
 4 provision authorizing waiver of this sub-
 5 paragraph, see subsection (o).”; and

6 (2) in subsection (h)—

7 (A) in the matter preceding paragraph (1),
 8 as amended by this Act, by further amended by
 9 striking “, and (K)”, and inserting “(K), and
 10 (M)”;

11 (B) in the matter following paragraph
 12 (2)—

13 (i) by striking “torture.” and insert-
 14 ing “torture, or has been convicted of an
 15 aggravated felony.”; and

16 (ii) by striking “if either since the
 17 date of such admission the alien has been
 18 convicted of an aggravated felony or the
 19 alien” and inserting “if since the date of
 20 such admission the alien”.

21 (3) by adding new subsection (o) to read as fol-
 22 lows—

23 “(o) WAIVER FOR VICTIMS OF DOMESTIC VIO-
 24 LENCE.—

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security or Attorney General is not limited by the
3 criminal court record and may waive the application
4 of paragraph (2)(Q)(i) (with respect to crimes of do-
5 mestic violence and crimes of stalking) and (ii) in
6 the case of an alien who has been battered or sub-
7 jected to extreme cruelty and who is not and was not
8 the primary perpetrator of violence in the relation-
9 ship upon a determination that—

10 “(A) the alien was acting in self-defense;

11 “(B) the alien was found to have violated
12 a protection order intended to protect the alien;
13 or

14 “(C) the alien committed, was arrested for,
15 was convicted of, or pled guilty to committing
16 a crime—

17 “(i) that did not result in serious bod-
18 ily injury; and

19 “(ii) where there was a connection be-
20 tween the crime and the alien’s having
21 been battered or subjected to extreme cru-
22 elty.

23 “(2) CREDIBLE EVIDENCE CONSIDERED.—In
24 acting on applications under this paragraph, the
25 Secretary of Homeland Security or Attorney General

1 shall consider any credible evidence relevant to the
2 application. The determination of what evidence is
3 credible and the weight to be given that evidence
4 shall be within the sole discretion of the Secretary
5 of Homeland Security or Attorney General.”.

6 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
7 237(a)(3)(B) of the Immigration and Nationality Act (8
8 U.S.C. 1227(a)(3)(B)) is amended—

9 (1) in clause (i), by striking the comma at the
10 end and inserting a semicolon;

11 (2) in clause (ii), by striking “, or” at the end
12 and inserting a semicolon;

13 (3) in clause (iii), by striking the comma at the
14 end and inserting “; or”; and

15 (4) by inserting after clause (iii) the following:

16 “(iv) of a violation of, or an attempt
17 or a conspiracy to violate, subsection (a) or
18 (b) of section 1425 of title 18 (relating to
19 the procurement of citizenship or natu-
20 ralization unlawfully),”.

21 (c) DEPORTABILITY; CRIMINAL OFFENSES.—Para-
22 graph (2) of section 237(a) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1227(a)(2)), as amended by sec-
24 tions 507 and 508, is further amended by adding at the
25 end the following:

1 “(I) IDENTIFICATION FRAUD.—Any alien
2 who is convicted of a violation of (or a con-
3 spiracy or attempt to violate) an offense relat-
4 ing to section 208 of the Social Security Act
5 (42 U.S.C. 408) (relating to social security ac-
6 count numbers or social security cards) or sec-
7 tion 1028 of title 18, United States Code, (re-
8 lating to fraud and related activity in connec-
9 tion with identification), is deportable.”.

10 (d) APPLICABILITY.—The amendments made by this
11 section shall apply to—

12 (1) any act that occurred before, on, or after
13 the date of the enactment of this Act;

14 (2) all aliens who are required to establish ad-
15 missibility on or after such date of enactment; and

16 (3) all removal, deportation, or exclusion pro-
17 ceedings that are filed, pending, or reopened, on or
18 after such date of enactment.

19 (e) CONSTRUCTION.—The amendments made by this
20 section shall not be construed to create eligibility for relief
21 from removal under former section 212(c) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1182(c)) if such eligi-
23 bility did not exist before the date of enactment of this
24 Act.

1 **SEC. 514. PROTECTING IMMIGRANTS FROM CONVICTED**
 2 **SEX OFFENDERS.**

3 (a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-
 4 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-
 5 ed—

6 (1) in subparagraph (A), by amending clause
 7 (viii) to read as follows:

8 “(viii) Clause (i) shall not apply to a
 9 citizen of the United States who has been
 10 convicted of an offense described in sub-
 11 paragraph (A), (I), or (K) of section
 12 101(a)(43) or a specified offense against a
 13 minor as defined in section 111 of the
 14 Adam Walsh Child Protection and Safety
 15 Act of 2006 (42 U.S.C. 16911(7)), unless
 16 the Secretary of Homeland Security, in the
 17 Secretary’s sole and unreviewable discre-
 18 tion, determines that the citizen poses no
 19 risk to the alien with respect to whom a
 20 petition described in clause (i) is filed.”;
 21 and

22 (2) in subparagraph (B)(i)—

23 (A) by redesignating the second subclause
 24 (I) as subclause (II); and

25 (B) by amending such subclause (II) to
 26 read as follows:

1 “(II) Subclause (I) shall not
2 apply in the case of an alien lawfully
3 admitted for permanent residence who
4 has been convicted of an offense de-
5 scribed in subparagraph (A), (I), or
6 (K) of section 101(a)(43) or a speci-
7 fied offense against a minor as de-
8 fined in section 111 of the Adam
9 Walsh Child Protection and Safety
10 Act of 2006 (42 U.S.C. 16911(7)),
11 unless the Secretary of Homeland Se-
12 curity, in the Secretary’s sole and
13 unreviewable discretion, determines
14 that the alien lawfully admitted for
15 permanent residence poses no risk to
16 the alien with respect to whom a peti-
17 tion described in subclause (I) is
18 filed.”.

19 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of
20 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-
21 ing “204(a)(1)(A)(viii)(I))” each place such term appears
22 and inserting “204(a)(1)(A)(viii))”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment

1 of this Act and shall apply to petitions filed on or after
2 such date.

3 **SEC. 515. ENHANCED CRIMINAL PENALTIES FOR HIGH**
4 **SPEED FLIGHT.**

5 (a) IN GENERAL.—Section 758 of title 18, United
6 States Code, is amended to read as follows:

7 **“§ 758. Unlawful flight from immigration or customs**
8 **controls**

9 “(a) EVADING A CHECKPOINT.—Any person who,
10 while operating a motor vehicle or vessel, knowingly flees
11 or evades a checkpoint operated by the Department of
12 Homeland Security or any other Federal law enforcement
13 agency, and then knowingly or recklessly disregards or dis-
14 obeys the lawful command of any law enforcement agent,
15 shall be fined under this title, imprisoned not more than
16 5 years, or both.

17 “(b) FAILURE TO STOP.—Any person who, while op-
18 erating a motor vehicle, aircraft, or vessel, knowingly or
19 recklessly disregards or disobeys the lawful command of
20 an officer of the Department of Homeland Security en-
21 gaged in the enforcement of the immigration, customs, or
22 maritime laws, or the lawful command of any law enforce-
23 ment agent assisting such officer, shall be fined under this
24 title, imprisoned not more than 2 years, or both.

1 “(c) ALTERNATIVE PENALTIES.—Notwithstanding
2 the penalties provided in subsection (a) or (b), any person
3 who violates such subsection shall—

4 “(1) be fined under this title, imprisoned not
5 more than 10 years, or both, if the violation involved
6 the operation of a motor vehicle, aircraft, or vessel—

7 “(A) in excess of the applicable or posted
8 speed limit,

9 “(B) in excess of the rated capacity of the
10 motor vehicle, aircraft, or vessel, or

11 “(C) in an otherwise dangerous or reckless
12 manner;

13 “(2) be fined under this title, imprisoned not
14 more than 20 years, or both, if the violation created
15 a substantial and foreseeable risk of serious bodily
16 injury or death to any person;

17 “(3) be fined under this title, imprisoned not
18 more than 30 years, or both, if the violation caused
19 serious bodily injury to any person; or

20 “(4) be fined under this title, imprisoned for
21 any term of years or life, or both, if the violation re-
22 sulted in the death of any person.

23 “(d) ATTEMPT AND CONSPIRACY.—Any person who
24 attempts or conspires to commit any offense under this

1 section shall be punished in the same manner as a person
2 who completes the offense.

3 “(e) FORFEITURE.—Any property, real or personal,
4 constituting or traceable to the gross proceeds of the of-
5 fense and any property, real or personal, used or intended
6 to be used to commit or facilitate the commission of the
7 offense shall be subject to forfeiture.

8 “(f) FORFEITURE PROCEDURES.—Seizures and for-
9 feitures under this section shall be governed by the provi-
10 sions of chapter 46 of this title, relating to civil forfeitures,
11 including section 981(d), except that such duties as are
12 imposed upon the Secretary of the Treasury under the
13 customs laws described in that section shall be performed
14 by such officers, agents, and other persons as may be des-
15 ignated for that purpose by the Secretary of Homeland
16 Security or the Attorney General. Nothing in this section
17 shall limit the authority of the Secretary of Homeland Se-
18 curity to seize and forfeit motor vehicles, aircraft, or ves-
19 sels under the Customs laws or any other laws of the
20 United States.

21 “(g) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘checkpoint’ includes, but is not
23 limited to, any customs or immigration inspection at
24 a port of entry or immigration inspection at a U.S.
25 Border Patrol checkpoint;

1 “(2) the term ‘law enforcement agent’ means—

2 “(A) any Federal, State, local or tribal of-
3 ficial authorized to enforce criminal law; and

4 “(B) when conveying a command described
5 in subsection (b), an air traffic controller;

6 “(3) the term ‘lawful command’ includes a com-
7 mand to stop, decrease speed, alter course, or land,
8 whether communicated orally, visually, by means of
9 lights or sirens, or by radio, telephone, or other com-
10 munication;

11 “(4) the term ‘motor vehicle’ means any motor-
12 ized or self-propelled means of terrestrial transpor-
13 tation; and

14 “(5) the term ‘serious bodily injury’ has the
15 meaning given in section 2119(2) of this title.”.

16 (b) CONSTRUCTION.—The amendments made by sub-
17 section (a) shall not be construed to create eligibility for
18 relief from removal under former section 212(c) of the Im-
19 migration and Nationality Act (8 U.S.C. 1182(c)) if such
20 eligibility did not exist before the date of enactment of
21 this Act.

22 **SEC. 516. PROHIBITION ON ASYLUM AND CANCELLATION**
23 **OF REMOVAL FOR TERRORISTS.**

24 (a) ASYLUM.—Subparagraph (A) of section
25 208(b)(2) of the Immigration and Nationality Act (8

1 U.S.C. 1158(b)(2)(A)), as amended by section 506 and
2 507, is further amended—

3 (1) by inserting “or the Secretary” after “if the
4 Attorney General”; and

5 (2) by striking clause (v), and inserting:

6 “(v) the alien is described in section
7 212(a)(3)(B)(i) or section 212(a)(3)(F),
8 unless, in the case of an alien described in
9 subclause (IX) of section 212(a)(3)(B)(i),
10 the Secretary or the Attorney General de-
11 termines, in his or her sole and
12 unreviewable discretion, that there are not
13 reasonable grounds for regarding the alien
14 as a danger to the security of the United
15 States;”.

16 (b) CANCELLATION OF REMOVAL.—Paragraph (4) of
17 section 240A(c) of the Immigration and Nationality Act
18 (8 U.S.C. 1229b(c)(4)) is amended—

19 (1) by striking “inadmissible under” and insert-
20 ing “described in”; and

21 (2) by striking “deportable under” and insert-
22 ing “described in”.

23 (c) RESTRICTION ON REMOVAL.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 241(b)(3) of the Immigration and Nationality Act (8
3 U.S.C. 1231(b)(3)(A)) is amended—

4 (A) by inserting “or the Secretary” after
5 “Attorney General” both places that term ap-
6 pears;

7 (B) by striking “Notwithstanding” and in-
8 serting the following:

9 “(i) IN GENERAL.—Notwithstanding”;

10 and

11 (C) by adding at the end the following:

12 “(ii) BURDEN OF PROOF.—The alien
13 has the burden of proof to establish that
14 the alien’s life or freedom would be threat-
15 ened in such country, and that race, reli-
16 gion, nationality, membership in a par-
17 ticular social group, or political opinion
18 would be at least one central reason for
19 such threat.”.

20 (2) EXCEPTION.—Subparagraph (B) of section
21 241(b)(3) of the Immigration and Nationality Act (8
22 U.S.C. 1231(b)(3)(B)) is amended—

23 (A) by inserting “or the Secretary of
24 Homeland Security” after “Attorney General”
25 both places that term appears;

1 (B) in clause (iii), striking “or” at the end;

2 (C) in clause (iv), striking the period at
3 the end and inserting “; or”;

4 (D) inserting after clause (iv) the fol-
5 lowing:

6 “(v) the alien is described in section
7 212(a)(3)(B)(i) or section 212(a)(3)(F),
8 unless, in the case of an alien described in
9 subclause (IX) of section 212(a)(3)(B)(i),
10 the Secretary of Homeland Security or the
11 Attorney General determines, in his or her
12 sole and unreviewable discretion, that there
13 are not reasonable grounds for regarding
14 the alien as a danger to the security of the
15 United States;

16 “(vi) the alien is convicted of an ag-
17 gravated felony.”; and

18 (E) by striking the undesignated matter at
19 the end of the subparagraph (B).

20 (3) SUSTAINING BURDEN OF PROOF; CREDI-
21 BILITY DETERMINATIONS.—Subparagraph (C) of
22 section 241(b)(3) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1231(b)(3)(C)) is amended by
24 striking “In determining whether an alien has dem-
25 onstrated that the alien’s life or freedom would be

1 threatened for a reason described in subparagraph
2 (A),” and inserting “For purposes of this para-
3 graph,”.

4 (4) EFFECTIVE DATE AND APPLICATION.—The
5 amendments made in paragraphs (1) and (2) shall
6 take effect as if enacted on May 11, 2005, and shall
7 apply to applications for withholding of removal
8 made on or after such date.

9 (d) EFFECTIVE DATES.—Except as provided in para-
10 graph (c)(4), the amendments made by this section shall
11 take effect on the date of the enactment of this Act and
12 sections 208(b)(2)(A), 240A(c), and 241(b)(3) of the Im-
13 migration and Nationality Act, as so amended, shall apply
14 to—

15 (1) all aliens in removal, deportation, or exclu-
16 sion proceedings;

17 (2) all applications pending on, or filed after,
18 the date of the enactment of this Act; and

19 (3) with respect to aliens and applications de-
20 scribed in paragraph (1) or (2) of this subsection,
21 acts and conditions constituting a ground for exclu-
22 sion, deportation, or removal occurring or existing
23 before, on, or after the date of the enactment of this
24 Act.

1 **SEC. 517. AGGRAVATED FELONIES.**

2 (a) DEFINITION OF AGGRAVATED FELONY.—Para-
3 graph (43) of section 101(a) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(43)), as amended by sec-
5 tion 508, is further amended—

6 (1) in subparagraph (A), by striking “sexual
7 abuse of a minor;” and inserting “any conviction for
8 a sex offense, including an offense described in sec-
9 tions 2241 and 2243 of Title 18, United States
10 Code, or an offense where the alien abused or was
11 involved in the abuse of any individual under the age
12 of 18 years, or in which the victim is in fact under
13 the age of 18 years, regardless of the reason and ex-
14 tent of the act, the sentence imposed, or the ele-
15 ments in the offense that are required for convic-
16 tion;”;

17 (2) in subparagraph (F), by striking “at least
18 one year” and inserting “is at least one year, except
19 that if the conviction records do not conclusively es-
20 tablish whether a crime constitutes a crime of vio-
21 lence or an offense under Federal, State, or Tribal
22 law, that has, as an element, the use or attempted
23 use of physical force or the threatened use of phys-
24 ical force or a deadly weapon, the Attorney General
25 or Secretary of Homeland Security may consider
26 other evidence related to the conviction, including

1 but not limited to police reports and witness state-
2 ments, that clearly establishes that the conduct for
3 which the alien was engaged constitutes a crime of
4 violence or an offense under Federal, State, or Trib-
5 al law, that has, as an element, the use or attempted
6 use of physical force or the threatened use of phys-
7 ical force or a deadly weapon;”;

8 (3) by striking subparagraph (G) and inserting
9 the following:

10 “(G) a theft offense under State or
11 Federal law (including theft by deceit,
12 theft by fraud, and receipt of stolen prop-
13 erty) or burglary offense under State or
14 Federal law for which the term of impris-
15 onment is at least one year, except that if
16 the conviction records do not conclusively
17 establish whether a crime constitutes a
18 theft or burglary offense, the Attorney
19 General or Secretary of Homeland Security
20 may consider other evidence related to the
21 conviction, including but not limited to po-
22 lice reports and witness statements, that
23 clearly establishes that the conduct for
24 which the alien was engaged constitutes a
25 theft or burglary offense;”;

1 (4) in subparagraph (I), by striking “or 2252”
2 and inserting “2252, or 2252A”;

3 (5) in subparagraph (N), by striking “para-
4 graph (1)(A) or (2) of” and inserting a semicolon at
5 the end;

6 (6) in subparagraph (O), by striking “section
7 275(a) or 276 committed by an alien who was pre-
8 viously deported on the basis of a conviction for an
9 offense described in another subparagraph of this
10 paragraph;” and inserting “section 275 or 276 for
11 which the term of imprisonment is at least 1 year;”;

12 (7) in subparagraph (P) by striking “(i) which
13 either is falsely making, forging, counterfeiting, mu-
14 tilating, or altering a passport or instrument in vio-
15 lation of section 1543 of title 18, United States
16 Code, or is described in section 1546(a) of such title
17 (relating to document fraud) and (ii)” and inserting
18 “which is described in the first paragraph of section
19 1541, 1542, 1543, 1544, 1546(a), or 1547 of chap-
20 ter 75 of title 18, United States Code, and”;

21 (8) in subparagraph (U), by striking “an at-
22 tempt or conspiracy to commit an offense described
23 in this paragraph” and inserting “an attempt to
24 commit, conspiracy to commit, or facilitation of an
25 offense described in this paragraph, or aiding, abet-

1 ting, procuring, commanding, inducing, or soliciting
2 the commission of such an offense”; and

3 (9) by striking the undesignated material at
4 end of the paragraph and inserting “The term ap-
5 plies to an offense described in this paragraph,
6 whether in violation of Federal or State law, or a
7 law of a foreign country, for which the term of im-
8 prisonment was completed within the previous 20
9 years, and even if the length of the term of impris-
10 onment for the offense is based on recidivist or other
11 enhancements. Notwithstanding any other provision
12 of law (including any effective date), the term ap-
13 plies regardless of whether the conviction was en-
14 tered before, on, or after September 30, 1996.”.

15 (b) DEFINITION OF CONVICTION.—Section
16 101(a)(48) of the Immigration and Nationality Act (8
17 U.S.C. 1101(a)(48)) is amended by adding at the end the
18 following:

19 “(C)(i) Any reversal, vacatur, expungement, or
20 modification of a conviction, sentence, or conviction
21 that was granted to ameliorate the consequences of
22 the conviction, sentence, or conviction, or was grant-
23 ed for rehabilitative purposes shall have no effect on
24 the immigration consequences resulting from the
25 original conviction.

1 “(ii) The alien shall have the burden of dem-
 2 onstrating that any reversal, vacatur, expungement,
 3 or modification, including modification to any sen-
 4 tence for an offense, was not granted to ameliorate
 5 the consequences of the conviction, sentence, or con-
 6 viction record, or for rehabilitative purposes.”.

7 (c) EFFECTIVE DATE AND APPLICATION.—The
 8 amendments made by this section shall—

9 (1) take effect on the date of the enactment of
 10 this Act; and

11 (2) apply to any act that occurred before, on,
 12 or after such date of enactment.

13 **SEC. 518. CONVICTIONS.**

14 (a) Section 212(a)(2) of the Immigration and Nation-
 15 ality Act (8 U.S.C. 1182(a)(2)), as amended by sections
 16 509 through 511, is further amended by adding at the
 17 end the following subparagraph:

18 “(L) CONVICTIONS.—

19 “(i) IN GENERAL.—For purposes of
 20 determining whether an underlying crimi-
 21 nal offense constitutes a ground of inad-
 22 missibility under this subsection, all stat-
 23 utes or common law offenses are divisible
 24 so long as any of the conduct encompassed

1 by the statute constitutes an offense that
2 is a ground of inadmissibility.

3 “(ii) OTHER EVIDENCE.—If the con-
4 viction records (i.e., charging documents,
5 plea agreements, plea colloquies, jury in-
6 structions) do not conclusively establish
7 whether a crime constitutes a ground of in-
8 admissibility, the Attorney General or the
9 Secretary of Homeland Security may con-
10 sider other evidence related to the convic-
11 tion, including but not limited to police re-
12 ports and witness statements, that clearly
13 establishes that the conduct for which the
14 alien was engaged constitutes a ground of
15 inadmissibility.”.

16 (b) Section 237(a)(2) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1227(a)(2)), as amended by sections
18 ____ and ____, is further amended by adding at the end
19 the following subparagraph:

20 “(J) CRIMINAL OFFENSES.—

21 “(i) IN GENERAL.—For purposes of
22 determining whether an underlying crimi-
23 nal offense constitutes a ground of deport-
24 ability under this subsection, all statutes or
25 common law offenses are divisible so long

1 as any of the conduct encompassed by the
2 statute constitutes an offense that is a
3 ground of deportability.

4 “(ii) OTHER EVIDENCE.—If the con-
5 viction records (i.e., charging documents,
6 plea agreements, plea colloquies, jury in-
7 structions) do not conclusively establish
8 whether a crime constitutes a ground of
9 deportability, the Attorney General or the
10 Secretary of Homeland Security may con-
11 sider other evidence related to the convic-
12 tion, including but not limited to police re-
13 ports and witness statements, that clearly
14 establishes that the conduct for which the
15 alien was engaged constitutes a ground of
16 deportability.”.

17 **SEC. 519. PARDONS.**

18 (a) DEFINITION.—Section 101(a) of the Immigration
19 and Nationality Act (8 U.S.C. 1101(a)), as amended by
20 section --, is further amended by adding at the end the
21 following:

22 “(54) The term ‘pardon’ means a full and un-
23 conditional pardon granted by the President of the
24 United States, Governor of any of the several States
25 or constitutionally recognized body.”.

1 (b) DEPORTABILITY.—Section 237(a) of such Act (8
 2 U.S.C. 1227(a)), as amended by sections -- and --, is fur-
 3 ther amended—

4 (1) in paragraph (2)(A), by striking clause (vi);
 5 and

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

7 “(8) PARDONS.—In the case of an alien who
 8 has been convicted of a crime and is subject to re-
 9 moval due to that conviction, if the alien, subsequent
 10 to receiving the criminal conviction, is granted a
 11 pardon, the alien shall not be deportable by reason
 12 of that criminal conviction.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on the date of the enactment
 15 of this Act and shall apply to a pardon granted before,
 16 on, or after such date.

17 **SEC. 520. FAILURE TO OBEY REMOVAL ORDERS.**

18 (a) IN GENERAL.—Section 243(a) of the Immigra-
 19 tion and Nationality Act (8 U.S.C. 1253(a)) is amended—

20 (1) in the matter preceding subparagraph (A)
 21 of paragraph (1), by inserting “212(a) or” before
 22 “237(a),”; and

23 (2) by striking paragraph (3).

24 (b) EFFECTIVE DATE.—The amendments made by
 25 subparagraph (A) shall take effect on the date of enact-

1 ment of this Act and shall apply to acts that are described
2 in subparagraphs (A) through (D) of section 243(a)(1) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1253(a)(1)) that occur on or after the date of enactment
5 of this Act.

6 **SEC. 521. SANCTIONS FOR COUNTRIES THAT DELAY OR**
7 **PREVENT REPATRIATION OF THEIR NATION-**
8 **ALS.**

9 Section 243 of the Immigration and Nationality Act
10 (8 U.S.C. 1253) is amended by striking subsection (d) and
11 inserting the following:

12 “(d) LISTING OF COUNTRIES WHO DELAY REPATRI-
13 ATION OF REMOVED ALIENS.—

14 “(1) LISTING OF COUNTRIES.—Beginning on
15 the date that is 6 months after the date of enact-
16 ment of the Building America’s Trust Act, and every
17 6 months thereafter, the Secretary shall publish a
18 report in the Federal Register that includes a list
19 of—

20 “(A) countries that have refused or unrea-
21 sonably delayed repatriation of an alien who is
22 a national of that country since the date of en-
23 actment of this Act and the total number of
24 such aliens, disaggregated by nationality;

1 “(B) countries that have an excessive repa-
 2 triation failure rate; and

3 “(C) each country that was reported as
 4 noncompliant in the prior reporting period.

5 “(2) EXEMPTION.—The Secretary of Homeland
 6 Security, in the Secretary’s sole and unreviewable
 7 discretion, and in consultation with the Secretary of
 8 State, may exempt a country from inclusion in the
 9 list under paragraph (1) if there are significant for-
 10 eign policy or security concerns that warrant such
 11 an exemption.

12 “(e) DISCONTINUING GRANTING OF VISAS TO NA-
 13 TIONALS OF COUNTRIES DENYING OR DELAYING ACCEPT-
 14 ING ALIEN.—

15 “(1) IN GENERAL.—Notwithstanding section
 16 221(c), the Secretary of Homeland Security shall
 17 take the action described in paragraph (2)(A) and
 18 may take an action described in paragraph (2)(B),
 19 if the Secretary determines that—

20 “(A) an alien is inadmissible under section
 21 212 or deportable under section 237, or the
 22 alien has been ordered removed from the
 23 United States; and

24 “(B) the government of a foreign country
 25 is—

1 “(i) denying or unreasonably delaying
2 accepting aliens who are citizens, subjects,
3 nationals, or residents of that country
4 after the Secretary of Homeland Security
5 asks whether the government will accept
6 an alien under this section; or

7 “(ii) refusing to issue any required
8 travel or identity documents to allow the
9 alien who is citizen, subject, national, or
10 resident of that country to return to that
11 country.

12 “(2) ACTIONS DESCRIBED.—The actions de-
13 scribed in this paragraph are the following:

14 “(A) An order from the Secretary of State
15 to consular officers in that foreign country to
16 discontinue granting visas under section
17 101(a)(15)(A)(iii) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1101(a)(15)(A)(iii)) to
19 attendants, servants, personal employees, and
20 members of their immediate families, of the of-
21 ficials and employees of that country who re-
22 ceive nonimmigrant status under clause (i) or
23 (ii) of section 101(a)(15)(A) of such Act.

1 “(B) Denial of admission to any citizens,
2 subjects, nationals, and residents from that
3 country or the imposition—

4 “(i) of any limitations, conditions, or
5 additional fees on the issuance of visas or
6 travel from that country; or

7 “(ii) of any other sanctions authorized
8 by law.

9 “(3) RESUMPTION OF VISA ISSUANCE.—Con-
10 sular officers in the foreign country that refused or
11 unreasonably delayed repatriation or refused to issue
12 required identity or travel documents may resume
13 visa issuance after the Secretary of Homeland Secu-
14 rity notifies the Secretary of State that the country
15 has accepted the aliens.”.

16 **SEC. 522. ENHANCED PENALTIES FOR CONSTRUCTION AND**
17 **USE OF BORDER TUNNELS.**

18 Section 555 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a), by striking “not more
21 than 20 years.” and inserting “not less than 7 years
22 but not more than 20 years.”; and

23 (2) in subsection (b), by striking “not more
24 than 10 years.” and inserting “not less than 3 years
25 but not more than 10 years.”.

1 **SEC. 523. ENHANCED PENALTIES FOR FRAUD AND MISUSE**
2 **OF VISAS, PERMITS, AND OTHER DOCU-**
3 **MENTS.**

4 Section 1546(a) of title 18, United States Code, is
5 amended—

6 (1) by striking “Commissioner of the Immigra-
7 tion and Naturalization Service” each place that
8 term appears and inserting “Secretary of Homeland
9 Security”;

10 (2) by striking “Shall be fined” and all that fol-
11 lows through the end and inserting “Shall be fined
12 under this title or imprisoned for not less than 12
13 years but not more than 25 years (if the offense was
14 committed to facilitate an act of international ter-
15 rorism (as defined in section 2331 of this title)), not
16 less than 10 years but not more than 20 years (if
17 the offense was committed to facilitate a drug traf-
18 ficking crime (as defined in section 929(a) of this
19 title)), not less than 5 years but not more than 10
20 years (in the case of the first or second such offense,
21 if the offense was not committed to facilitate such
22 an act of international terrorism or a drug traf-
23 ficking crime), or not less than 7 years but not more
24 than 15 years (in the case of any other offense), or
25 both.”

1 **SEC. 524. EXPANSION OF CRIMINAL ALIEN REPATRIATION**
2 **PROGRAMS.**

3 (a) EXPANSION OF DEPARTMENT CRIMINAL ALIEN
4 REPATRIATION FLIGHTS.—Not later than 90 days after
5 the date of the enactment of this Act, the Secretary of
6 Homeland Security shall increase the number of criminal
7 and illegal alien repatriation flights from the United
8 States conducted by U.S. Customs and Border Protection
9 and U.S. Immigration and Customs Enforcement Air Op-
10 erations by not less than 15 percent more than the number
11 of such flights operated, and authorized to be operated,
12 under existing appropriations and funding on the date of
13 the enactment of this Act.

14 (b) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
15 MENT AIR OPERATIONS.—Not later than 90 days after
16 the date of the enactment of this Act, the Secretary of
17 Homeland Security shall issue a directive to expand U.S.
18 Immigration and Customs Enforcement Air Operations
19 (ICE Air Ops) so that ICE Air Ops provides additional
20 services with respect to aliens who are illegally present in
21 the United States. Such expansion shall include—

22 (1) increasing the daily operations of ICE Air
23 Ops with buses and air hubs in the top 5 geographic
24 regions along the southern border;

25 (2) allocating a set number of seats for such
26 aliens for each metropolitan area; and

1 (3) allowing a metropolitan area to trade or
 2 give some of seats allocated to such area under para-
 3 graph (2) for such aliens to other areas in the region
 4 of such area based on the transportation needs of
 5 each area.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-
 7 tion to the amounts otherwise authorized to be appro-
 8 priated, there is authorized to be appropriated
 9 \$10,000,000 for each of fiscal years 2018 through 2021
 10 to carry out this section.

11 **Subtitle B—Strong Visa Integrity** 12 **Secures America Act**

13 **SEC. 531. SHORT TITLE.**

14 This subtitle may be cited as the “Strong Visa Integ-
 15 rity Secures America Act”.

16 **SEC. 532. VISA SECURITY.**

17 (a) VISA SECURITY UNITS AT HIGH RISK POSTS.—
 18 Paragraph (1) of section 428(e) of the Homeland Security
 19 Act of 2002 (6 U.S.C. 236(e)) is amended—

20 (1) by striking “The Secretary” and inserting
 21 the following:

22 “(A) AUTHORIZATION.—Subject to the
 23 minimum number specified in subparagraph
 24 (B), the Secretary”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B) RISK-BASED ASSIGNMENTS.—

4 “(i) IN GENERAL.—In carrying out
5 subparagraph (A), the Secretary shall as-
6 sign, in a risk-based manner, and consid-
7 ering the criteria described in clause (ii),
8 employees of the Department to not fewer
9 than 50 diplomatic and consular posts at
10 which visas are issued.

11 “(ii) CRITERIA DESCRIBED.—The cri-
12 teria described in this clause (i) are the
13 following:

14 “(I) The number of nationals of
15 a country in which any of the diplo-
16 matic and consular posts referred to
17 in clause (i) are located who were
18 identified in United States Govern-
19 ment databases related to the identi-
20 ties of known or suspected terrorists
21 during the previous year.

22 “(II) Information on cooperation
23 of such country with the counterter-
24 rorism efforts of the United States.

1 “(III) Information analyzing the
2 presence, activity, or movement of ter-
3 rorist organizations (as such term is
4 defined in section 212(a)(3)(B)(vi) of
5 the Immigration and Nationality Act
6 (8 U.S.C. 1182(a)(3)(B)(vi)) within
7 or through such country.

8 “(IV) The number of formal ob-
9 jections based on derogatory informa-
10 tion issued by the Visa Security Advi-
11 sory Opinion Unit pursuant to para-
12 graph (10) regarding nationals of a
13 country in which any of the diplomatic
14 and consular posts referred to in
15 clause (i) are located.

16 “(V) The adequacy of the border
17 and immigration control of such coun-
18 try.

19 “(VI) Any other criteria the Sec-
20 retary determines appropriate.

21 “(iii) RULE OF CONSTRUCTION.—The
22 assignment of employees of the Depart-
23 ment pursuant to this subparagraph is
24 solely the authority of the Secretary and

1 may not be altered or rejected by the Sec-
2 retary of State.”.

3 (b) COUNTERTERRORISM VETTING AND SCREEN-
4 ING.—Paragraph (2) of section 428(e) of the Homeland
5 Security Act of 2002 is amended—

6 (1) by redesignating subparagraph (C) as sub-
7 paragraph (D); and

8 (2) by inserting after subparagraph (B) the fol-
9 lowing new subparagraph:

10 “(C) Screen any such applications against
11 the appropriate criminal, national security, and
12 terrorism databases maintained by the Federal
13 Government.”.

14 (c) TRAINING AND HIRING.—Subparagraph (A) of
15 section 428(e)(6) of the Homeland Security Act of 2002
16 is amended by—

17 (1) striking “The Secretary shall ensure, to the
18 extent possible, that any employees” and inserting
19 “‘The Secretary, acting through the Commissioner of
20 U.S. Customs and Border Protection and the Direc-
21 tor of U.S. Immigration and Customs Enforcement,
22 shall provide training to any employees’”; and

23 (2) striking “shall be provided the necessary
24 training”.

1 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
2 AND VISA SECURITY ADVISORY OPINION UNIT.—Sub-
3 section (e) of section 428 of the Homeland Security Act
4 of 2002 is amended by adding at the end the following
5 new paragraph:

6 “(9) REMOTE PRE-ADJUDICATED VISA SECU-
7 RITY ASSISTANCE.—At the visa-issuing posts at
8 which employees of the Department are not assigned
9 pursuant to paragraph (1), the Secretary shall, in a
10 risk-based manner, assign employees of the Depart-
11 ment to remotely perform the functions required
12 under paragraph (2) at not fewer than 50 of such
13 posts.

14 “(10) VISA SECURITY ADVISORY OPINION
15 UNIT.—The Secretary shall establish within U.S.
16 Immigration and Customs Enforcement a Visa Secu-
17 rity Advisory Opinion Unit to respond to requests
18 from the Secretary of State to conduct a visa secu-
19 rity review using information maintained by the De-
20 partment on visa applicants, including terrorism as-
21 sociation, criminal history, counter-proliferation, and
22 other relevant factors, as determined by the Sec-
23 retary.”.

24 (e) SCHEDULE OF IMPLEMENTATION.—The require-
25 ments established under paragraphs (1) and (9) of section

1 428(e) of the Homeland Security Act of 2002 (6 U.S.C.
 2 236(e)), as amended and added by this section, shall be
 3 implemented not later than three years after the date of
 4 the enactment of this Act.

5 (f) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated \$30,000,000 to imple-
 7 ment this section and the amendments made by this sec-
 8 tion.

9 **SEC. 533. ELECTRONIC PASSPORT SCREENING AND BIO-**
 10 **METRIC MATCHING.**

11 (a) IN GENERAL.—Subtitle B of title IV of the
 12 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
 13 is amended by adding at the end the following new sec-
 14 tions:

15 **“SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIO-**
 16 **METRIC MATCHING.**

17 “(a) IN GENERAL.—Not later than one year after the
 18 date of the enactment of the Building America’s Trust
 19 Act, the Commissioner of U.S. Customs and Border Pro-
 20 tection shall—

21 “(1) screen electronic passports at airports of
 22 entry by reading each such passport’s embedded
 23 chip; and

24 “(2) to the greatest extent practicable, utilize
 25 facial recognition technology or other biometric tech-

nology, as determined by the Commissioner, to inspect travelers at United States airports of entry.

“(b) APPLICABILITY.—

“(1) ELECTRONIC PASSPORT SCREENING.—

Paragraph (1) of subsection (a) shall apply to passports belonging to individuals who are United States citizens, individuals who are nationals of a program country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), and individuals who are nationals of any other foreign country that issues electronic passports.

“(2) FACIAL RECOGNITION MATCHING.—Para-

graph (2) of subsection (a) shall apply, at a minimum, to individuals who are nationals of a program country pursuant to section 217 of the Immigration and Nationality Act.

“(c) ANNUAL REPORT.—

“(1) IN GENERAL.—The Commissioner of U.S.

Customs and Border Protection, in collaboration with the Chief Privacy Officer of the Department, shall issue to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an annual report through fiscal year 2021 on the utilization of facial recognition tech-

1 nology and other biometric technology pursuant to
2 subsection (a)(2).

3 “(2) REPORT CONTENTS.—Each such report
4 shall include—

5 “(A) information on the type of technology
6 used at each airport of entry;

7 “(B) the number of individuals who were
8 subject to inspection using either of such tech-
9 nologies at each airport of entry;

10 “(C) within the group of individuals sub-
11 ject to such inspection, the number of those in-
12 dividuals who were United States citizens and
13 lawful permanent residents;

14 “(D) information on the disposition of data
15 collected during the year covered by such re-
16 port; and

17 “(E) information on protocols for the man-
18 agement of collected biometric data, including
19 timeframes and criteria for storing, erasing, de-
20 stroying, or otherwise removing such data from
21 databases utilized by the Department.

22 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
23 **AND BORDER PROTECTION.**

24 “The Commissioner of U.S. Customs and Border
25 Protection shall, in a risk-based manner, continuously

1 screen individuals issued any visa, and individuals who are
 2 nationals of a program country pursuant to section 217
 3 of the Immigration and Nationality Act (8 U.S.C. 1187),
 4 who are present, or expected to arrive within 30 days, in
 5 the United States, against the appropriate criminal, na-
 6 tional security, and terrorism databases maintained by the
 7 Federal Government.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
 9 in section 1(b) of the Homeland Security Act of 2002 is
 10 amended by inserting after the item relating to section
 11 419 the following new items:

“Sec. 420. Electronic passport screening and biometric matching.”

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

12 **SEC. 534. REPORTING VISA OVERSTAYS.**

13 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
 14 is amended—

15 (1) in subsection (a)—

16 (A) by striking “Attorney General” and in-
 17 serting “Secretary of Homeland Security”; and

18 (B) by inserting before the period at the
 19 end the following: “, and any additional infor-
 20 mation that the Secretary determines necessary
 21 for purposes of the report under subsection
 22 (b).”; and

23 (2) by amending subsection (b) to read as fol-
 24 lows:

1 “(b) ANNUAL REPORT.—Not later than June 30,
2 2018, and not later than June 30 of each year thereafter,
3 the Secretary of Homeland Security shall submit to the
4 Committee on Homeland Security and Governmental Af-
5 fairs and the Committee on the Judiciary of the Senate
6 and the Committee on Homeland Security and the Com-
7 mittee on the Judiciary of the House of Representatives,
8 a report providing, for the preceding fiscal year, numerical
9 estimates (including information on the methodology uti-
10 lized to develop such numerical estimates) of—

11 “(1) for each country, the number of aliens
12 from the country who are described in subsection
13 (a), including—

14 “(A) the total number of such aliens within
15 all classes of nonimmigrant aliens described in
16 section 101(a)(15) of the Immigration and Na-
17 tionality Act (8 U.S.C. 1101(a)(15)); and

18 “(B) the number of such aliens within each
19 of the classes of nonimmigrant aliens, as well as
20 the number of such aliens within each of the
21 subclasses of such classes of nonimmigrant
22 aliens, as applicable;

23 “(2) for each country, the percentage of the
24 total number of aliens from the country who were
25 present in the United States and were admitted to

1 the United States as nonimmigrants who are de-
2 scribed in subsection (a);

3 “(3) the number of aliens described in sub-
4 section (a) who arrived by land at a port of entry
5 into the United States;

6 “(4) the number of aliens described in sub-
7 section (a) who entered the United States using a
8 border crossing identification card (as such term is
9 defined in section 101(a)(6) of the Immigration and
10 Nationality Act (8 U.S.C. 1101(a)(6)); and

11 “(5) the number of Canadian nationals who en-
12 tered the United States without a visa and whose
13 authorized period of stay in the United States termi-
14 nated during the previous fiscal year, but who re-
15 mained in the United States.”.

16 **SEC. 535. STUDENT AND EXCHANGE VISITOR INFORMATION**
17 **SYSTEM VERIFICATION.**

18 Not later than 90 days after the date of the enact-
19 ment of this Act, the Secretary of Homeland Security shall
20 ensure that the information collected under the program
21 established under section 641 of the Illegal Immigration
22 Reform and Immigrant Responsibility Act of 1996 (8
23 U.S.C. 1372) is available to officers of U.S. Customs and
24 Border Protection conducting primary inspections of

1 aliens seeking admission to the United States at each port
2 of entry of the United States.

3 **SEC. 536. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

4 (a) IN GENERAL.—Subtitle C of title IV of the
5 Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.)
6 is amended by adding at the end the following new sec-
7 tions:

8 **“SEC. 434. SOCIAL MEDIA SCREENING.**

9 “(a) IN GENERAL.—Not later than 180 days after
10 the date of the enactment of the Building America’s Trust
11 Act, the Secretary of Homeland Security shall, to the
12 greatest extent practicable, and in a risk based manner
13 and on an individualized basis, review the social media ac-
14 counts of visa applicants who are citizens of, or who reside
15 in, high risk countries, as determined by the Secretary
16 based on the criteria described in subsection (b).

17 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
18 mining whether a country is high-risk pursuant to sub-
19 section (a), the Secretary shall consider the following cri-
20 teria:

21 “(1) The number of nationals of the country
22 who were identified in United States Government
23 databases related to the identities of known or sus-
24 pected terrorists during the previous year.

1 “(2) The level of cooperation of the country
2 with the counter-terrorism efforts of the United
3 States.

4 “(3) Any other criteria the Secretary deter-
5 mines appropriate.

6 “(c) COLLABORATION.—To develop the technology
7 required to carry out the requirements of subsection (a),
8 the Secretary shall collaborate with—

9 “(1) the head of a national laboratory within
10 the Department’s laboratory network with relevant
11 expertise;

12 “(2) the head of a relevant university-based
13 center within the Department’s centers of excellence
14 network; and

15 “(3) the heads of other appropriate Federal
16 agencies.

17 **“SEC. 435. OPEN SOURCE SCREENING.**

18 “The Secretary shall, to the greatest extent prac-
19 ticable, and in a risk based manner, review open source
20 information of visa applicants.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of the Homeland Security Act of 2002 is
23 amended by this Act, is further amended by inserting after
24 the item relating to section 433 the following new items:

“Sec. 434. Social media screening.

“Sec. 435. Open source screening.”.

1 **Subtitle C—Visa Cancellation and**
2 **Revocation**

3 **SEC. 541. CANCELLATION OF ADDITIONAL VISAS.**

4 (a) IN GENERAL.—Subsection (g) of section 222 of
5 the Immigration and Nationality Act (8 U.S.C. 1202(g))
6 is amended—

7 (1) in paragraph (1)—

8 (A) by striking “Attorney General,” and
9 inserting “Secretary of Homeland Security,”;
10 and

11 (B) by inserting “and any other non-
12 immigrant visa issued by the United States that
13 is in the possession of the alien” after “such
14 visa”; and

15 (2) in paragraph (2)(A), by striking “(other
16 than the visa described in paragraph (1)) issued in
17 a consular office located in the country of the alien’s
18 nationality” and inserting “(other than a visa de-
19 scribed in paragraph (1)) issued in a consular office
20 located in the country of the alien’s nationality or
21 foreign residence”.

22 (b) EFFECTIVE DATE AND APPLICATION.—The
23 amendments made by subsection (a) shall take effect on
24 the date of the enactment of this Act and shall apply to
25 a visa issued before, on, or after such date.

1 **SEC. 542. VISA INFORMATION SHARING.**

2 (a) IN GENERAL.—Section 222(f) of the Immigration
3 and Nationality Act (8 U.S.C. 1202(f)) is amended—

4 (1) in the introductory text, by striking
5 “issuance or refusal” and inserting “issuance, re-
6 fusals, or revocations”;

7 (2) in paragraph (2), in the matter preceding
8 subparagraph (A), by striking “and on the basis of
9 reciprocity”;

10 (3) in paragraph (2)(A)—

11 (A) by inserting “—(i)” after “for the pur-
12 pose of”; and

13 (B) by striking “illicit weapons; or” and
14 inserting “illicit weapons, or (ii) determining a
15 person’s deportability or eligibility for a visa,
16 admission, or other immigration benefit;”;

17 (4) in paragraph (2)(B)—

18 (A) by striking “for the purposes” and in-
19 serting “for one of the purposes”; and

20 (B) by striking “or to deny visas to per-
21 sons who would be inadmissible to the United
22 States.” and inserting “; or”; and

23 (5) in paragraph (2), by adding at the end the
24 following:

25 “(C) with regard to any or all aliens in the
26 database, specified data elements from each

1 record, if the Secretary of State determines that
2 it is [required for national security or public
3 safety and] in the national interest to provide
4 such information to a foreign government.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect 60 days after the date of
7 the enactment of the Act.

8 **SEC. 543. VISA INTERVIEWS.**

9 (a) IN GENERAL.—Section 222(h) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1202(h)) is amended—

11 (1) in paragraph (1), by adding new subpara-
12 graph (D) to read as follows:

13 “(D) by the Secretary of State if the Sec-
14 retary, in his sole and unreviewable discretion,
15 determines that an interview is unnecessary be-
16 cause the alien is ineligible for a visa.”.

17 (2) in paragraph (2), by adding at the end a
18 new subparagraph (G) to read as follows:

19 “(G) is an individual within a class of
20 aliens that the Secretary of Homeland Security,
21 in his sole and unreviewable discretion, has de-
22 termined may pose a threat to national security
23 or public safety.”.

1 **SEC. 544. JUDICIAL REVIEW OF VISA REVOCATION.**

2 Subsection (i) of section 221 of the Immigration and
3 Nationality Act (8 U.S.C. 1201(i)) is amended—

4 (1) by inserting “(1)” after “(i)”; and

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

6 “(2) A revocation under this subsection of a visa or
7 other documentation from an alien shall automatically
8 cancel any other valid visa that is in the alien’s posses-
9 sion.”.

10 **Subtitle D—Secure Visas Act**

11 **SEC. 551. SHORT TITLE.**

12 This subtitle may be cited as the “Secure Visas Act”.

13 **SEC. 552. AUTHORITY OF THE SECRETARY OF HOMELAND**
14 **SECURITY AND SECRETARY OF STATE.**

15 (a) IN GENERAL.—Section 428 of the Homeland Se-
16 curity Act of 2002 (6 U.S.C. 236) is amended by striking
17 subsections (b) and (c) and inserting the following:

18 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
19 SECURITY.—

20 “(1) IN GENERAL.—Notwithstanding section
21 104(a) of the Immigration and Nationality Act (8
22 U.S.C. 1104(a)) or any other provision of law, and
23 except for the authority of the Secretary of State
24 under subparagraphs (A) and (G) of section
25 101(a)(15) of the Immigration and Nationality Act

1 (8 U.S.C. 1101(a)(15)), the Secretary of Homeland
2 Security—

3 “(A) shall have exclusive authority to issue
4 regulations, establish policy, and administer and
5 enforce the provisions of the Immigration and
6 Nationality Act (8 U.S.C. 1101 et seq.) and all
7 other immigration or nationality laws relating
8 to the functions of consular officers of the
9 United States in connection with the granting
10 and refusal of a visa; and

11 “(B) may refuse or revoke any visa to any
12 alien or class of aliens if the Secretary of
13 Homeland Security, or designee, determines
14 that such refusal or revocation is necessary or
15 advisable in the security interests of the United
16 States.

17 “(2) EFFECT OF REVOCATION.—The revocation
18 of any visa under paragraph (1)(B)—

19 “(A) shall take effect immediately; and

20 “(B) shall automatically cancel any other
21 valid visa that is in the alien’s possession.

22 “(3) JUDICIAL REVIEW.—Notwithstanding any
23 other provision of law, including section 2241 of title
24 28, United States Code, any other habeas corpus
25 provision, and sections 1361 and 1651 of such title,

1 no United States court has jurisdiction to review a
2 decision by the Secretary of Homeland Security to
3 refuse or revoke a visa.

4 “(c) EFFECT OF VISA APPROVAL BY THE SEC-
5 RETARY OF STATE.—

6 “(1) IN GENERAL.—The Secretary of State may
7 direct a consular officer to refuse or revoke a visa
8 to an alien if the Secretary of Homeland Security
9 determines that such refusal or revocation is nec-
10 essary or advisable in the foreign policy interests of
11 the United States.

12 “(2) LIMITATION.—No decision by the Sec-
13 retary of State to approve a visa may override a de-
14 cision by the Secretary of Homeland Security under
15 subsection (b).”.

16 (b) VISA REVOCATION.—Section 428 of the Home-
17 land Security Act (6 U.S.C. 236) is amended by adding
18 at the end the following:

19 “(j) VISA REVOCATION INFORMATION.—If the Sec-
20 retary of Homeland Security or the Secretary of State re-
21 vokes a visa—

22 “(1) the relevant consular, law enforcement,
23 and terrorist screening databases shall be imme-
24 diately updated on the date of the revocation; and

1 “(2) look-out notices shall be posted to all De-
 2 partment port inspectors and Department of State
 3 consular officers.”.

4 (c) CONFORMING AMENDMENT.—Section 104(a)(1)
 5 of the Immigration and Nationality Act is amended to
 6 read:

7 “(1) the powers, duties and functions of diplo-
 8 matic and consular officers of the United States,
 9 and the power authorized by section 428(c) of the
 10 Homeland Security Act of 2002 (6 U.S.C. 236), as
 11 amended by section 542 of the Building America’s
 12 Trust Act, except those powers, duties and functions
 13 conferred upon the consular officers relating to the
 14 granting or refusal of visas.”.

15 **Subtitle E—Other Matters**

16 **SEC. 561. REQUIREMENT FOR COMPLETION OF BACK-** 17 **GROUND CHECKS.**

18 (a) IN GENERAL.—Section 103 of Immigration and
 19 Nationality Act (8 U.S.C. 1103) is amended by adding
 20 at the end the following:

21 “(h) COMPLETION OF BACKGROUND AND SECURITY
 22 CHECKS.—

23 “(1) REQUIREMENT TO COMPLETE.—Notwith-
 24 standing any other provision of law (statutory or
 25 nonstatutory), including but not limited to section

1 309 of the Enhanced Border Security and Visa
2 Entry Reform Act of 2002 (8 U.S.C. 1738), sections
3 1361 and 1651 of title 28, United States Code, and
4 section 706(1) of title 5, United States Code, neither
5 the Secretary of Homeland Security nor the Attor-
6 ney General may—

7 “(A) approve or grant to an alien any sta-
8 tus, relief, protection from removal, employment
9 authorization, or any other benefit under the
10 immigration laws, including an adjustment of
11 status to lawful permanent residence or a grant
12 of United States citizenship; or

13 “(B) issue to the alien any documentation
14 evidencing a status or grant of any status, re-
15 lief, protection from removal, employment au-
16 thorization, or other benefit under the immigra-
17 tion laws;

18 until all background and security checks for the
19 alien have been completed and the Secretary of
20 Homeland or Attorney General has determined that
21 the results do not preclude the approval or grant of
22 any status, relief, protection from removal, employ-
23 ment authorization, or any other benefit under the
24 immigration laws or approval, grant, or the issuance

1 of any documentation evidencing such status, relief,
2 protection, authorization, or benefit.

3 “(2) PROHIBITION ON JUDICIAL ACTION.—No
4 court shall have authority to:

5 “(A) order the approval of;

6 “(B) grant;

7 “(C) mandate or require any action in a
8 certain time period; or

9 “(D) award any relief for the Secretary of
10 Homeland Security’s or Attorney General’s fail-
11 ure to complete or delay in completing any ac-
12 tion to provide

13 “any status, relief, protection from re-
14 moval, employment authorization, or any other
15 benefit under the immigration laws, including
16 an adjustment of status to lawful permanent
17 residence, naturalization, or a grant of United
18 States citizenship for an alien until all back-
19 ground and security checks have been com-
20 pleted and the Secretary of Homeland Security
21 or Attorney General has determined that the re-
22 sults of such checks do not preclude the ap-
23 proval or grant of such status, relief, protection,
24 authorization, or benefit, or issuance of any

1 documentation evidencing such status, relief,
2 protection, authorization, or benefit.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to any application, peti-
6 tion, or request for any benefit or relief or any other case
7 or matter under the immigration laws pending with on or
8 filed with the Secretary of Homeland Security or the At-
9 torney General on or after such date of enactment.

10 **SEC. 562. WITHHOLDING OF ADJUDICATION.**

11 (a) **IN GENERAL.**—Section 103 of Immigration and
12 Nationality Act (8 U.S.C. 1103), as amended by section
13 551, is further amended by adding at the end the fol-
14 lowing:

15 “(i) **WITHHOLDING OF ADJUDICATION.**—

16 “(1) **IN GENERAL.**—Except as provided in sub-
17 section (i)(4), nothing in this Act or any other law,
18 including section 1361 and 1651 of title 28, United
19 States Code, shall be construed to require, and no
20 court can order, the Secretary of Homeland Secu-
21 rity, the Attorney General, the Secretary of State,
22 the Secretary of Labor, or a consular officer to
23 grant any application, approve any petition, or grant
24 or continue any relief, protection from removal, em-
25 ployment authorization, or any other status or ben-

1 efit under the immigration laws by, to, or on behalf
2 of any alien with respect to whom a criminal pro-
3 ceeding or investigation is open or pending (includ-
4 ing, but not limited to, issuance of an arrest warrant
5 or indictment), where such proceeding or investiga-
6 tion is deemed by such official to be material to the
7 alien's eligibility for the status, relief, protection, or
8 benefit sought.

9 “(2) WITHHOLDING OF ADJUDICATION.—The
10 Secretary of Homeland Security, the Attorney Gen-
11 eral, the Secretary of State, or the Secretary of
12 Labor may, in his or her discretion, withhold adju-
13 dication any application, petition, request for relief,
14 request for protection from removal, employment au-
15 thorization, status or benefit under the immigration
16 laws pending final resolution of the criminal or other
17 proceeding or investigation.

18 “(3) JURISDICTION.—Notwithstanding any
19 other provision of law (statutory or nonstatutory),
20 including section 309 of the Enhanced Border Secu-
21 rity and Visa Entry Reform Act (8 U.S.C. 1738),
22 sections 1361 and 1651 of title 28, United States
23 Code, and section 706(1) of title 5, United States
24 Code, no court shall have jurisdiction to review a de-

1 cision to withhold adjudication pursuant to this
2 paragraph.

3 “(4) WITHHOLDING OF REMOVAL AND TOR-
4 TURE CONVENTION.—This paragraph does not limit
5 or modify the applicability of section 241(b)(3) or
6 the United Nations Convention Against Torture and
7 Other Cruel, Inhuman or Degrading Treatment or
8 Punishment, subject to any reservations, under-
9 standings, declarations and provisos contained in the
10 United States Senate resolution of ratification of the
11 Convention, as implemented by section 2242 of the
12 Foreign Affairs Reform and Restructuring Act of
13 1998 (Public Law 105-277) with respect to an alien
14 otherwise eligible for protection under such provi-
15 sions.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall take effect on the date of the enactment
18 of this Act and shall apply to any application, petition,
19 or request for any benefit or relief or any other case or
20 matter under the immigration laws pending with or filed
21 with the Secretary of Homeland Security on or after such
22 date of enactment.

1 **SEC. 563. ACCESS TO THE NATIONAL CRIME INFORMATION**
 2 **CENTER INTERSTATE IDENTIFICATION**
 3 **INDEX.**

4 (a) **CRIMINAL JUSTICE ACTIVITIES.**—Section 104 of
 5 the Immigration and Nationality Act (8 U.S.C. 1104) is
 6 amended by adding at the end the following:

7 “(f) **CRIMINAL JUSTICE ACTIVITIES.**—Notwith-
 8 standing any other provision of law, any Department of
 9 State personnel with authority to grant or refuse visas or
 10 passports may carry out activities that have a criminal
 11 justice purpose.”.

12 (b) **LIAISON WITH INTERNAL SECURITY OFFICERS;**
 13 **DATA EXCHANGE.**—Section 105 of the Immigration and
 14 Nationality Act (8 U.S.C. 1105) is amended by striking
 15 subsections (b) and (c) and inserting the following:

16 “(b) **ACCESS TO NCIC-III.**—

17 “(1) **IN GENERAL.**—Notwithstanding any other
 18 provision of law, the Attorney General and the Di-
 19 rector of the Federal Bureau of Investigation shall
 20 provide to the Department of Homeland Security
 21 and the Department of State access to the criminal
 22 history record information contained in the National
 23 Crime Information Center’s Interstate Identification
 24 Index (NCIC-III) and the Wanted Persons File and
 25 to any other files maintained by the National Crime
 26 Information Center for the purpose of determining

1 whether an applicant or petitioner for a visa, admis-
2 sion, or any benefit, relief, or status under the immi-
3 gration laws, or any beneficiary of an application,
4 petition, relief, or status under the immigration
5 laws, has a criminal history record indexed in the
6 file.

7 “(2) AUTHORIZED ACTIVITIES.—

8 “(A) IN GENERAL.—The Secretary of
9 Homeland Security and the Secretary of
10 State—

11 “(i) shall have direct access, without
12 any fee or charge, to the information de-
13 scribed in paragraph (1) to conduct name-
14 based searches, file number searches, and
15 any other searches that any criminal jus-
16 tice or other law enforcement officials are
17 entitled to conduct; and

18 “(ii) may contribute to the records
19 maintained by the National Crime Infor-
20 mation Center.

21 “(B) SECRETARY OF HOMELAND SECU-
22 RITY.—The Secretary of Homeland Security
23 shall receive, on request by the Secretary of
24 Homeland Security, access to the information
25 described in paragraph (1) by means of extracts

1 of the records for placement in the appropriate
2 database without any fee or charge.

3 “(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT
4 PURPOSES.—Notwithstanding any other provision of law,
5 adjudication of eligibility for benefits, relief, or status
6 under the immigration laws and other purposes relating
7 to citizenship and immigration services, shall be consid-
8 ered to be criminal justice or law enforcement purposes
9 with respect to access to or use of any information main-
10 tained by the National Crime Information Center or other
11 criminal history information or records.”.

12 **SEC. 564. APPROPRIATE REMEDIES FOR IMMIGRATION**
13 **LITIGATION.**

14 (a) LIMITATION ON CLASS ACTIONS.—No court may
15 certify a class under rule 23 of the Federal Rules of Civil
16 Procedure in any civil action that—

17 (1) is filed after the date of enactment of this
18 Act; and

19 (2) pertains to the administration or enforce-
20 ment of the immigration laws.

21 (b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
22 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

23 (1) IN GENERAL.—If a court determines that
24 prospective relief should be ordered against the Gov-
25 ernment in any civil action pertaining to the admin-

1 istration or enforcement of the immigration laws,
2 the court shall—

3 (A) limit the relief to the minimum nec-
4 essary to correct the violation of law;

5 (B) adopt the least intrusive means to cor-
6 rect the violation of law;

7 (C) minimize, to the greatest extent prac-
8 ticable, the adverse impact on national security,
9 border security, immigration administration and
10 enforcement, and public safety; and

11 (D) provide for the expiration of the relief
12 on a specific date, which is not later than the
13 earliest date necessary for the Government to
14 remedy the violation.

15 (2) WRITTEN EXPLANATION.—The require-
16 ments described in paragraph (1) shall be discussed
17 and explained in writing in the order granting pro-
18 spective relief and shall be sufficiently detailed to
19 allow review by another court.

20 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE
21 RELIEF.—Preliminary injunctive relief granted
22 under paragraph (1) shall automatically expire on
23 the date that is 90 days after the date on which
24 such relief is entered, unless the court—

1 (A) finds that such relief meets the re-
2 quirements described in subparagraphs (A)
3 through (D) of paragraph (1) for the entry of
4 permanent prospective relief; and

5 (B) orders the preliminary relief to become
6 a final order granting prospective relief prior to
7 the expiration of the 90-day period.

8 (c) PROCEDURE FOR MOTION AFFECTING ORDER
9 GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERN-
10 MENT.—

11 (1) IN GENERAL.—A court shall promptly rule
12 on a motion made by the United States Government
13 to vacate, modify, dissolve, or otherwise terminate
14 an order granting prospective relief in any civil ac-
15 tion pertaining to the administration or enforcement
16 of the immigration laws.

17 (2) AUTOMATIC STAYS.—

18 (A) IN GENERAL.—A motion to vacate,
19 modify, dissolve, or otherwise terminate an
20 order granting prospective relief made by the
21 United States Government in any civil action
22 pertaining to the administration or enforcement
23 of the immigration laws shall automatically, and
24 without further order of the court, stay the
25 order granting prospective relief on the date

1 that is 15 days after the date on which such
2 motion is filed unless the court previously has
3 granted or denied the Government's motion.

4 (B) DURATION OF AUTOMATIC STAY.—An
5 automatic stay under subparagraph (A) shall
6 continue until the court enters an order grant-
7 ing or denying the Government's motion.

8 (C) POSTPONEMENT.—The court, for good
9 cause, may postpone an automatic stay under
10 subparagraph (A) for not longer than 15 days.

11 (D) ORDERS BLOCKING AUTOMATIC
12 STAYS.—Any order staying, suspending, delay-
13 ing, or otherwise barring the effective date of
14 the automatic stay described in subparagraph
15 (A), other than an order to postpone the effec-
16 tive date of the automatic stay for not longer
17 than 15 days under subparagraph (C), shall
18 be—

19 (i) treated as an order refusing to va-
20 cate, modify, dissolve, or otherwise termi-
21 nate an injunction; and

22 (ii) immediately appealable under sec-
23 tion 1292(a)(1) of title 28, United States
24 Code.

25 (d) SETTLEMENTS.—

1 (1) CONSENT DECREES.—In any civil action
2 pertaining to the administration or enforcement of
3 the immigration laws, the court may not enter, ap-
4 prove, or continue a consent decree that does not
5 comply with the requirements of subsection (b)(1).

6 (2) PRIVATE SETTLEMENT AGREEMENTS.—
7 Nothing in this subsection shall preclude parties
8 from entering into a private settlement agreement
9 that does not comply with subsection (b)(1).

10 (e) EXPEDITED PROCEEDINGS.—It shall be the duty
11 of every court to advance on the docket and to expedite
12 the disposition of any civil action or motion considered
13 under this section.

14 (f) CONSENT DECREE DEFINED.—In this section,
15 the term “consent decree”—

16 (1) means any relief entered by the court that
17 is based in whole or in part on the consent or acqui-
18 escence of the parties; and

19 (2) does not include private settlements.

20 **SEC. 565. USE OF 1986 IRCA LEGALIZATION INFORMATION**
21 **FOR NATIONAL SECURITY PURPOSES.**

22 (a) SPECIAL AGRICULTURAL WORKERS.—Section
23 210(b)(6) of the Immigration and Nationality Act (8
24 U.S.C. 1160(b)(6)) is amended—

1 (1) by striking “Attorney General” each place
2 that term appears and inserting “Secretary”;

3 (2) in subparagraph (A), by striking “Justice”
4 and inserting “Homeland Security”;

5 (3) by redesignating subparagraphs (C) and
6 (D) as subparagraphs (D) and (E), respectively;

7 (4) inserting after subparagraph (B) the fol-
8 lowing:

9 “(C) AUTHORIZED DISCLOSURES.—

10 “(i) CENSUS PURPOSE.—The Sec-
11 retary of Homeland Security may provide,
12 in the Secretary’s discretion, for the fur-
13 nishing of information furnished under this
14 section in the same manner and cir-
15 cumstances as census information may be
16 disclosed under section 8 of title 13,
17 United States Code.”.

18 “(ii) NATIONAL SECURITY PUR-
19 POSE.—The Secretary of Homeland Secu-
20 rity may provide, in the Secretary’s discre-
21 tion, for the furnishing, use, publication, or
22 release of information furnished under this
23 section in any investigation, case, or mat-
24 ter, or for any purpose, relating to ter-

1 rorism, national intelligence or the national
2 security.”; and

3 (5) in subparagraph (D), as redesignated, strik-
4 ing “Service” and inserting “Department of Home-
5 land Security”.

6 (b) ADJUSTMENT OF STATUS.—Section 245A of the
7 Immigration and Nationality Act (8 U.S.C. 1255a), is
8 amended in subsection (c)(5)—

9 (1) by striking “Attorney General” each place
10 that term appears and inserting “Secretary of
11 Homeland Security”;

12 (2) in subparagraph (A), by striking “Justice”
13 and inserting “Homeland Security”; and

14 (3) by amending subparagraph (C) to read as
15 follows:

16 “(C) AUTHORIZED DISCLOSURES.—

17 “(i) CENSUS PURPOSE.—The Sec-
18 retary of Homeland Security may provide,
19 in the Secretary’s discretion, for the fur-
20 nishing of information furnished under this
21 section in the same manner and cir-
22 cumstances as census information may be
23 disclosed under section 8 of title 13,
24 United States Code.

1 “(ii) NATIONAL SECURITY PUR-
 2 POSE.—The Secretary of Homeland Secu-
 3 rity may provide, in the Secretary’s discre-
 4 tion, for the furnishing, use, publication, or
 5 release of information furnished under this
 6 section in any investigation, case, or mat-
 7 ter, or for any purpose, relating to ter-
 8 rorism, national intelligence or the national
 9 security.”.

10 **SEC. 566. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
 11 **TAIN IMMIGRATION, NATURALIZATION, AND**
 12 **PEONAGE OFFENSES.**

13 Section 3291 of title 18, United States Code, is
 14 amended by striking “No person” and all that follows
 15 through the period at the end and inserting the following:

16 “No person shall be prosecuted, tried, or pun-
 17 ished for a violation of any section of chapters 69
 18 (relating to nationality and citizenship offenses) and
 19 75 (relating to passport, visa, and immigration of-
 20 fenses), or for a violation of any criminal provision
 21 of sections 243, 274, 275, 276, 277, or 278 of the
 22 Immigration and Nationality Act, or for an attempt
 23 or conspiracy to violate any such section, unless the
 24 indictment is returned or the information is filed

1 within ten years after the commission of the of-
2 fense.”.

3 **SEC. 567. CONFORMING AMENDMENT TO THE DEFINITION**
4 **OF RACKETEERING ACTIVITY.**

5 Section 1961(1) of title 18, United States Code, is
6 amended by striking “section 1542” and all that follows
7 through “section 1546 (relating to fraud and misuse of
8 visas, permits, and other documents)” and inserting “sec-
9 tions 1541–1547 (relating to passports and visas)”.

10 **SEC. 568. VALIDITY OF ELECTRONIC SIGNATURES.**

11 (a) CIVIL CASES.—

12 (1) IN GENERAL.—Chapter 9 of title II of the
13 Immigration and Nationality Act (8 U.S.C. 1351 et
14 seq.) is amended by adding at the end the following
15 new section:

16 **“SEC. 295. VALIDITY OF SIGNATURES.**

17 “(a) IN GENERAL.—In any proceeding, adjudication,
18 or any other matter arising under the immigration laws,
19 an individual’s hand written or electronic signature on any
20 petition, application, or any other document executed or
21 provided for any purpose under the immigration laws es-
22 tablishes a rebuttable presumption that the signature exe-
23 cuted is that of the individual signing, that the individual
24 is aware of the contents of the document, and intends to
25 sign it.”.

1 “(b) RECORD INTEGRITY.—The Secretary of Home-
 2 land Security shall establish procedures to ensure that
 3 when any electronic signature is captured for any petition,
 4 application, or other document submitted for purposes of
 5 obtaining an immigration benefit, the identity of the per-
 6 son is verified and authenticated, and the record of such
 7 identification and verification is preserved for litigation
 8 purposes.”.

9 (2) CLERICAL AMENDMENT.—The table of con-
 10 tents in the first section of the Immigration and Na-
 11 tionality Act is amended by inserting after the item
 12 relating to section 294 the following:

“Sec. 295. Validity of signatures.”.

13 (b) CRIMINAL CASES.—

14 (1) IN GENERAL.—Chapter 223 of title 18,
 15 United States Code, is amended by adding at the
 16 end the following:

17 **“§ 3513. Signatures relating to immigration matters**

18 “In a criminal proceeding in a court of the United
 19 States, where an individual’s hand written or electronic
 20 signature appears on a petition, application or other docu-
 21 ment executed or provided for any purpose under the im-
 22 migration laws (as defined in section 101(a)(17) of the
 23 Immigration and Nationality Act (8 U.S.C. 1101(a)(17)),
 24 the trier of fact may infer that the document was signed
 25 by that individual, and that the individual knew the con-

1 tents of the document and intended to sign the docu-
 2 ment.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
 4 tions for chapter 223 of title 18, United States
 5 Code, is amended by inserting after the item relating
 6 to section 3512 the following:

“3513. Signatures relating to immigration matters.”.

7 **TITLE VI—PROHIBITION ON TER-**
 8 **RORISTS OBTAINING LAWFUL**
 9 **STATUS IN THE UNITED**
 10 **STATES**

11 **Subtitle A—Prohibition on Adjust-**
 12 **ment to Lawful Permanent Resi-**
 13 **dent Status**

14 **SEC. 601. LAWFUL PERMANENT RESIDENTS AS APPLICANTS**
 15 **FOR ADMISSION.**

16 Section 101(a)(13)(C) of the Immigration and Na-
 17 tionality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

18 (1) in clause (v), by striking the “or” at the
 19 end;

20 (2) in clause (vi), by striking the period and in-
 21 serting a comma and “or”; and

22 (3) by adding at the end the following:

23 “(vii) is described in section 212(a)(3) or
 24 section 237(a)(4).”.

1 **SEC. 602. DATE OF ADMISSION FOR PURPOSES OF ADJUST-**
 2 **MENT OF STATUS.**

3 (a) APPLICANTS FOR ADMISSION.—Section
 4 101(a)(13) of the Immigration and Nationality Act (8
 5 U.S.C. 1101(a)(13)) is further amended by adding at the
 6 end the following:

7 “(D) Adjustment of status of the alien to that
 8 of an alien lawfully admitted for permanent resi-
 9 dence under section 245 or any other provision of
 10 law is an admission of the alien, notwithstanding
 11 subparagraph (A) of this paragraph”.

12 (b) ELIGIBILITY TO BE REMOVED FOR A CRIME IN-
 13 VOLVING MORAL TURPITUDE.—Subclause (I) of section
 14 237(a)(2)(A)(i) of the Immigration and Nationality Act
 15 (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking
 16 “date of admission,” inserting “alien’s most recent date
 17 of admission;”.

18 **SEC. 603. PRECLUDING ASYLEE AND REFUGEE ADJUST-**
 19 **MENT OF STATUS FOR CERTAIN GROUNDS OF**
 20 **INADMISSIBILITY AND DEPORTABILITY.**

21 (a) GROUNDS FOR INADMISSIBILITY.—Section
 22 209(c) of the Immigration and Nationality Act (8 U.S.C.
 23 1159(c)) is amended by striking “any other provision of
 24 such section (other than paragraph (2)(C) or subpara-
 25 graph (A), (B), (C), or (E) of paragraph (3))” and insert-
 26 ing “paragraph (1) of such section”.

1 (b) NEED HEADER.—Section 209(c) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1159(c)) is amended
3 by striking “(other than paragraph (2)(C) or subpara-
4 graph (A), (B), (C), or (E) of paragraph (3))”, and insert-
5 ing “(other than paragraph 2(C) or (G) or subparagraph
6 (A), (B), (C), (E), (F) or (G) of paragraph (3))”.

7 (c) GROUNDS FOR DEPORTABILITY.—Section 209 of
8 the Immigration and Nationality Act (8 U.S.C. 1159) is
9 amended by adding at the end the following:

10 “(d) GROUNDS FOR DEPORTABILITY.—An alien may
11 not adjust status under this section if the alien is deport-
12 able under any provision of section 237 except subsections
13 (a)(5) of such section.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to—

16 (1) any act that occurred before, on, or after
17 the date of the enactment of this Act; and

18 (2) all aliens who are required to establish ad-
19 missibility on or after such date, and in all removal,
20 deportation, or exclusion proceedings that are filed,
21 pending, or reopened, on or after such date.

1 **SEC. 604. PRECLUDING REFUGEE ADJUSTMENT OF STATUS**
 2 **FOR PERSECUTORS AND HUMAN RIGHTS VIO-**
 3 **LATORS.**

4 (a) PROHIBITION OF REFUGEES SEEKING ADJUST-
 5 MENT OF STATUS TO LAWFUL PERMANENT RESIDENCY
 6 WHO HAVE ENGAGED IN NAZI PERSECUTION, GENOCIDE,
 7 SEVERE VIOLATIONS OF RELIGIOUS FREEDOM, TOR-
 8 TURE, EXTRAJUDICIAL KILLING, OR THE RECRUITMENT/
 9 USE OF CHILD SOLDIERS.—Section 209(c) of the Immi-
 10 gration and Nationality Act (8 U.S.C. 1159(c)) is amend-
 11 ed by striking “(other than paragraph (2)(C) or subpara-
 12 graph (A), (B), (C), or (E) of paragraph (3))”, and insert-
 13 ing “(other than paragraph 2(C) or (G) or subparagraph
 14 (A), (B), (C), (E), (F) or (G) of paragraph (3))”.

15 (b) REVOCATION OF LAWFUL PERMANENT RESI-
 16 DENT STATUS FOR HUMAN RIGHTS VIOLATORS.—Section
 17 240(b)(5) of the Immigration and Nationality Act (8
 18 U.S.C. 1229a(b)(5)) is amended by inserting at the end
 19 a new subparagraph (F) to read as follows—

20 “(F) Additional application to certain
 21 aliens outside the United States who are associ-
 22 ated with human rights violations. The pre-
 23 ceding provisions of this paragraph shall apply
 24 to any alien placed in proceedings under this
 25 section who is outside of the United States, has
 26 received notice of proceedings under section

1 240(a) either within or outside of the United
 2 States, and is described in section 212(a)(2)(G)
 3 (officials who have committed particularly se-
 4 vere violations of religious freedom),
 5 212(a)(3)(E) (Nazi persecution, genocide,
 6 extrajudicial killing, or torture), or
 7 212(a)(3)(G) (recruitment or use of child sol-
 8 diers).”.

9 **SEC. 605. REMOVAL OF CONDITION ON LAWFUL PERMA-**
 10 **NENT RESIDENT STATUS PRIOR TO NATU-**
 11 **RALIZATION.**

12 Sections 216(e) and 216A(e) of the Immigration and
 13 Nationality Act (8 U.S.C. 1186a(e), 1186b(e)) are amend-
 14 ed by striking the period at the end and inserting “, if
 15 the alien has had the conditional basis removed pursuant
 16 to this section.”.

17 **SEC. 606. PROHIBITION ON TERRORISTS AND ALIENS WHO**
 18 **POSE A THREAT TO NATIONAL SECURITY OR**
 19 **PUBLIC SAFETY FROM RECEIVING AN AD-**
 20 **JUSTMENT OF STATUS.**

21 (a) APPLICATION FOR ADJUSTMENT OF STATUS IN
 22 THE UNITED STATES.—Section 245 of the Immigration
 23 and Nationality Act (8 U.S.C. 1255) is amended by strik-
 24 ing the section heading and subsection (a) and inserting
 25 the following:

1 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERSON**
2 **ADMITTED FOR PERMANENT RESIDENCE.**

3 “(a) IN GENERAL.—

4 “(1) ELIGIBILITY FOR ADJUSTMENT.—The sta-
5 tus of an alien who was inspected and admitted or
6 paroled into the United States or the status of any
7 other alien having an approved petition for classi-
8 fication as a VAWA self-petitioner may be adjusted
9 by the Secretary of Homeland Security or Attorney
10 General, in the discretion of the Secretary of Home-
11 land Security or Attorney General, and under such
12 regulations as the Secretary of Homeland Security
13 or Attorney General may prescribe, to that of an
14 alien lawfully admitted for permanent residence if—

15 “(A) the alien makes an application for
16 such adjustment;

17 “(B) the alien is eligible to receive an im-
18 migrant visa, is admissible to the United States
19 for permanent residence, and is not subject to
20 exclusion, deportation, or removal from the
21 United States; and

22 “(C) an immigrant visa is immediately
23 available to the alien at the time the alien’s ap-
24 plication is filed.

25 “(2) IMMEDIATELY AVAILABLE.—For purposes
26 of this section, the term ‘immediately available’

1 means that on the date of filing of the application
2 for adjustment of status, the visa category under
3 which the alien is seeking permanent residence is
4 current as determined by the Secretary of State and
5 reflected in the Department of State's visa bulletin
6 for the month in which the application for adjust-
7 ment of status is filed.

8 “(3) REQUIREMENT TO OBTAIN AN IMMIGRANT
9 VISA OUTSIDE THE UNITED STATES.—Notwith-
10 standing any provision in this section, the Secretary
11 of Homeland Security, in the Secretary's sole and
12 unreviewable discretion, may—

13 “(A) prohibit an alien from seeking an ad-
14 justment of status under paragraph (1) while
15 the alien is present in the United States; and

16 “(B) require the alien to seek permanent
17 residence by applying for an immigrant visa at
18 a United States embassy or consulate in the
19 alien's home country or other foreign country,
20 as designated by the Secretary of State,

21 if the Secretary of Homeland Security determines
22 that the alien may be a threat to national security
23 or public safety or if the Secretary of Homeland Se-
24 curity determines that a favorable exercise of discre-

1 tion to allow such adjustment of status in the
2 United States is not warranted.”.

3 (b) PROHIBITION ON TERRORISTS AND ALIENS WHO
4 POSE A THREAT TO NATIONAL SECURITY OR PUBLIC
5 SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESI-
6 DENT STATUS.—Subsection (c) of section 245 of the Im-
7 migration and Nationality Act (8 U.S.C. 1255(c)) is
8 amended to read as follows:

9 “(c) ALIENS NOT ELIGIBLE FOR ADJUSTMENT OF
10 STATUS.—Other than an alien having an approved peti-
11 tion for classification as a VAWA self-petitioner, sub-
12 section (a) shall not be applicable to—

13 “(1) an alien crewman;

14 “(2) subject to subsection (k), an alien (other
15 than an immediate relative as defined in section
16 201(b) or a special immigrant described in subpara-
17 graph (H), (I), (J), or (K) of section 101(a)(27))
18 who hereafter continues in or accepts unauthorized
19 employment prior to filing an application for adjust-
20 ment of status or who is in unlawful immigration
21 status on the date of filing the application for ad-
22 justment of status or who has failed (other than
23 through no fault of his or her own or for technical
24 reasons) to maintain continuously a lawful status
25 since entry into the United States;

1 “(3) any alien admitted in transit without visa
2 under section 212(d)(4)(C);

3 “(4) an alien (other than an immediate relative
4 as defined in section 201(b)) who was admitted as
5 a nonimmigrant visitor without a visa under section
6 212(l) or section 217;

7 “(5) an alien who was admitted as a non-
8 immigrant described in section 101(a)(15)(S);

9 “(6) an alien who described in section
10 237(a)(4)(B), (F), or (G);

11 “(7) any alien who seeks adjustment of status
12 to that of an immigrant under section 203(b) and is
13 not in a lawful nonimmigrant status;

14 “(8) any alien who at any time has committed,
15 ordered, incited, assisted, or otherwise participated
16 in the persecution of any person on account of race,
17 religion, nationality, membership in a particular so-
18 cial group, or political opinion; or

19 “(9) any alien who was employed while the
20 alien was an unauthorized alien, as defined in sec-
21 tion 274A(h)(3), or who has otherwise violated the
22 terms of a nonimmigrant visa.”.

1 **SEC. 607. TREATMENT OF APPLICATIONS FOR ADJUST-**
2 **MENT OF STATUS DURING PENDING**
3 **DENATURALIZATION PROCEEDINGS.**

4 Section 245 of the Immigration and Nationality Act
5 (8 U.S.C. 1451), as amended by section 605, is further
6 amended by adding a new subsection (n) to read as fol-
7 lows:

8 “(n) Treatment of Applications During Pending
9 Denaturalization Proceedings. No application for adjust-
10 ment of status may be considered or approved by the Sec-
11 retary of Homeland Security or Attorney General, and no
12 court shall order the approval of an application for adjust-
13 ment of status if the approved petition for classification
14 under section 204 that is the underlying basis for the ap-
15 plication for adjustment of status was filed by an indi-
16 vidual who has a judicial proceeding pending against him
17 or her that would result in the individual’s
18 denaturalization under section 340.”.

19 **SEC. 608. EXTENSION OF TIME LIMIT TO PERMIT RESCIS-**
20 **SION OF PERMANENT RESIDENT STATUS.**

21 Section 246 of the Immigration and Nationality Act
22 (8 U.S.C. 1256(a)) is amended—

23 (1) in subsection (a) by—

24 (A) inserting “(1)” after “(a)”;

25 (B) striking “within five years” and insert-
26 ing “within 10 years”;

1 (C) striking “Attorney General” each place
2 that term appears and inserting “Secretary of
3 Homeland Security”; and

4 (D) adding at the end the following:

5 “(2) In any removal proceeding involving
6 an alien whose status has been rescinded under
7 this subsection, the determination by the Sec-
8 retary that the alien was not eligible for adjust-
9 ment of status is not subject to review or recon-
10 sideration during such proceedings.”.

11 (2) by redesignating subsection (b) as sub-
12 section (c); and

13 (3) by inserting new subsection (b) to read as
14 follows:

15 “(b) Nothing in subsection (a) shall re-
16 quire the Secretary of Homeland Security to re-
17 scind the alien’s status prior to commencement
18 of proceedings to remove the alien under section
19 240 of the Act. The Secretary of Homeland Se-
20 curity may commence removal proceedings at
21 any time against any alien who is removable,
22 including those aliens who adjusted status
23 under section 245 or 249 of the Act or any
24 other provision of law to that of an alien law-
25 fully admitted for permanent residence. This

1 section of the Act contains no statute of limita-
 2 tions with respect to commencement of removal
 3 proceedings under section 240. An order of re-
 4 moval issued by an immigration judge shall be
 5 sufficient to rescind the alien’s status.”.

6 **SEC. 609. BARRING PERSECUTORS AND TERRORISTS FROM**
 7 **REGISTRY.**

8 Section 249 of the Immigration and Nationality Act
 9 (8 U.S.C. 1259) is amended to read as follows:

10 “(a) IN GENERAL.—The Secretary of Homeland Se-
 11 curity, in the discretion of the Secretary and under such
 12 regulations as the Secretary may prescribe, may enter a
 13 record of lawful admission for permanent residence in the
 14 case of any alien, if no such record is otherwise available
 15 and the alien—

16 “(1) entered the United States before January
 17 1, 1972;

18 “(2) has continuously resided in the United
 19 States since such entry;

20 “(3) has been a person of good moral character
 21 since such entry;

22 “(4) is not ineligible for citizenship;

23 “(5) is not described in paragraph (1)(A)(iv),
 24 (2), (3), (6)(C), (6)(E), (8), or (9)(C) of section
 25 212(a);

1 “(6) is not described in paragraph (1)(E),
 2 (1)(G), (2), (4) of section 237(a); and

3 “(7) did not, at any time, without reasonable
 4 cause, fail or refuse to attend or remain in attend-
 5 ance at a proceeding to determine the alien’s inad-
 6 missibility or deportability.

7 “(b) RECORDATION DATE OF PERMANENT
 8 RESIDENCE.—The record of an alien’s lawful admis-
 9 sion for permanence residence shall be the date the
 10 Secretary approves the application for such status
 11 under this section.”.

12 **Subtitle B—Prohibition on Natu-**
 13 **ralization and United States**
 14 **Citizenship**

15 **SEC. 621. BARRING TERRORISTS FROM BECOMING NATU-**
 16 **RALIZED UNITED STATES CITIZENS.**

17 (a) Section 316 of the Immigration and Nationality
 18 Act (8 U.S.C. 1427) is amended by adding at the end the
 19 following:

20 “(g) PERSONS ENDANGERING NATIONAL SECUR-
 21 ITY.—

22 “(1) PROHIBITION ON NATURALIZATION.—

23 “(A) IN GENERAL.—No person may be
 24 naturalized if the Secretary of Homeland Secu-
 25 rity makes a determination, in the discretion of

1 the Secretary, that the alien is an alien de-
2 scribed in section 212(a)(3) or 237(a)(4) at any
3 time, including any period prior to, or after the
4 filing of an application for naturalization.

5 “(B) EXCEPTION.—Subparagraph (A), as
6 it relates to an alien described in section
7 212(a)(3), shall not apply if the alien received
8 an exemption under section 212(d)(3)(B)(i) and
9 the only conduct or actions that make the alien
10 come within the ambit of section 212(a)(3) and
11 would bar the alien from naturalization are spe-
12 cifically covered by such exemption.

13 “(2) BASIS FOR DETERMINATION; PROHIBITION
14 ON REVIEW.—A determination made under para-
15 graph (1) may be based upon any relevant informa-
16 tion or evidence, including classified, sensitive, or
17 national security information.”.

18 (b) Section 340(d) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1451(e)) is amended by revising the
20 first sentence to read as follows—

21
22
23 “Any person who claims United States citizen-
24 ship through the naturalization of a parent or
25 spouse in whose case there is a revocation and

1 setting aside of the order admitting such parent
2 or spouse to citizenship under the provisions
3 of—

4
5 “(1) subsection (a) of this section on the
6 ground that the order and certificate of naturaliza-
7 tion were procured by concealment of a material fact
8 or by willful misrepresentation, or

9 “(2) subsection of (e) of this section pursuant
10 to a conviction under section 1425 of title 18,
11 shall be deemed to have lost and to lose his citizen-
12 ship and any right or privilege of citizenship which
13 he may have, now has, or may hereafter acquire
14 under and by virtue of such naturalization of such
15 parent or spouse, regardless of whether such person
16 is residing within or without the United States at
17 the time of the revocation and setting aside of the
18 order admitting such parent or spouse to citizen-
19 ship.”.

20 **SEC. 622. TERRORIST BAR TO GOOD MORAL CHARACTER.**

21 (a) DEFINITION OF GOOD MORAL CHARACTER.—

22 (1) EXCLUSION OF TERRORIST ALIENS.—Sec-
23 tion 101(f) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(f)), as amended by sections 506 and
25 508, is further amended—

1 (A) in paragraph (8), by striking “; or”
2 and inserting “, regardless whether the crime
3 was classified as an aggravated felony at the
4 time of conviction, provided that, the Secretary
5 of Homeland Security or Attorney General may,
6 in the unreviewable discretion of the Secretary
7 or the Attorney General, determine that this
8 paragraph shall not apply in the case of a sin-
9 gle aggravated felony conviction (other than
10 murder, manslaughter, homicide, rape, or any
11 sex offense when the victim of such sex offense
12 was a minor) for which completion of the term
13 of imprisonment or the sentence (whichever is
14 later) occurred 15 or more years before the date
15 of application;” and

16 (B) by inserting after paragraph (10), as
17 added by section 506, the following:

18 “(11) one who the Secretary of Homeland Se-
19 curity or the Attorney General determines, in the
20 unreviewable discretion of the Secretary of Home-
21 land Security or the Attorney General of Homeland
22 Security, to have been at any time an alien described
23 in section 212(a)(3) or 237(a)(4), which determina-
24 tion—

1 “(A) may be based upon any relevant in-
 2 formation or evidence, including classified, sen-
 3 sitive, or national security information; and

4 “(B) shall be binding upon any court re-
 5 gardless of the applicable standard of review.”;
 6 and

7 (2) by striking the first sentence of the undesig-
 8 nated paragraph at the end and inserting following:
 9 “[Client - made some change here and I can’t figure out
 10 what it is.] The fact that any person is not within any
 11 of the foregoing classes shall not preclude a discretionary
 12 finding for other reasons that such a person is or was not
 13 of good character. The Secretary of Homeland Security
 14 or the Attorney General shall not be limited to the appli-
 15 cant’s conduct during the period for which good moral
 16 character is required, but may take into consideration as
 17 a basis for determination the applicant’s conduct and acts
 18 at any time.”.

19 (b) AGGRAVATED FELONS.—Subsection (b) of section
 20 509 of the Immigration Act of 1990 (Public Law 101–
 21 649; 8 U.S.C. 1101 note) is amended by striking “convic-
 22 tions” and all that follows through the end and inserting
 23 “convictions occurring before, on, or after such date.”.

24 (c) EFFECTIVE DATE AND APPLICATION.—

1 (1) SUBSECTIONS (a) AND (b).—The amend-
2 ments made by subsections (a) and (b) shall take ef-
3 fect on the date of the enactment of this Act, shall
4 apply to any act that occurred before, on, or after
5 the date of enactment, and shall apply to any appli-
6 cation for naturalization or any other benefit or re-
7 lief, or any other case or matter under the immigra-
8 tion laws pending on or filed after the date of enact-
9 ment of this Act.

10 (2) SUBSECTION (c).—The amendments made
11 by subsection (c) shall take effect as if included in
12 the enactment of the Intelligence Reform and Ter-
13 rorism Prevention Act of 2004 (Public Law 108–
14 458).

15 **SEC. 623. PROHIBITION ON JUDICIAL REVIEW OF NATU-**
16 **RALIZATION APPLICATIONS FOR ALIENS IN**
17 **REMOVAL PROCEEDINGS.**

18 Section 318 of the Immigration and Nationality Act
19 (8 U.S.C. 1429) is amended in its entirety to read as fol-
20 lows:

21 “(a) IN GENERAL.—Except as otherwise provided in
22 this subchapter, no person shall be naturalized unless he
23 has been lawfully admitted to the United States for per-
24 manent residence in accordance with all applicable provi-
25 sions of this chapter.

1 “(b) BURDEN OF PROOF.—The burden of proof shall
2 be upon such person to show that he entered the United
3 States lawfully, and the time, place, and manner of such
4 entry into the United States, but in presenting such proof
5 he shall be entitled to the production of his immigrant
6 visa, if any, or of other entry document, if any, and of
7 any other documents and records, not considered by the
8 Attorney General to be confidential, pertaining to such
9 entry, in the custody of the Service.

10 “(c) LIMITATIONS ON REVIEW.—Notwithstanding
11 the provisions of section 405(b), and except as provided
12 in sections 328 and 329 of this title—

13 “(1) No person shall be naturalized against
14 whom there is outstanding a final finding of deport-
15 ability pursuant to a warrant of arrest issued under
16 the provisions of this chapter or any other Act.

17 “(2)(A) No application for naturalization shall
18 be considered by the Secretary of Homeland Secu-
19 rity or any court if there is pending against the ap-
20 plicant any removal proceeding or other proceeding
21 to determine whether the applicant’s lawful perma-
22 nent resident status should be rescinded, regardless
23 of when such proceeding was commenced.

24 “(B) The findings of the Attorney General in
25 terminating removal proceedings or in cancelling the

1 removal of an alien pursuant to the provisions of
2 this Act, shall not be deemed binding in any way
3 upon the Secretary of Homeland Security with re-
4 spect to the question of whether such person has es-
5 tablished his or her eligibility for naturalization as
6 required by this Act.”.

7 **SEC. 624. LIMITATION ON JUDICIAL REVIEW WHEN AGENCY**
8 **HAS NOT MADE DECISION ON NATURALIZA-**
9 **TION APPLICATION AND ON DENIALS.**

10 (a) LIMITATION ON REVIEW OF PENDING NATU-
11 RALIZATION APPLICATIONS.—Subsection (b) of section
12 336 of the Immigration and Nationality Act (8 U.S.C.
13 1447(b)) is amended to read as follows:

14 “(b) REQUEST FOR HEARING BEFORE DISTRICT
15 COURT.—If no final administrative determination is made
16 on an application for naturalization under section 335
17 prior to the end of the 180-day period beginning on the
18 date on which the Secretary of Homeland Security com-
19 pletes all examinations and interviews conducted under
20 such section, as such terms are defined by the Secretary
21 pursuant to regulations, the applicant may apply to the
22 district court for the district in which the applicant resides
23 for a hearing on the matter. Such court shall only have
24 jurisdiction to review the basis for delay and remand the

1 matter to the Secretary for the Secretary's determination
2 on the application.”.

3 (b) LIMITATIONS ON REVIEW OF DENIAL.—Sub-
4 section (c) of section 310 of the Immigration and Nation-
5 ality Act (8 U.S.C. 1421(c)) is amended to read as follows:

6 “(c) JUDICIAL REVIEW.—

7 “(1) JUDICIAL REVIEW OF DENIAL.—A person
8 whose application for naturalization under this title
9 is denied, after a hearing before an immigration offi-
10 cer under section 336(a), may seek, not later than
11 120 days after the date of the Secretary of Home-
12 land Security's administratively final determination
13 on the application, review of such denial before the
14 United States district court for the district in which
15 such person resides in accordance with chapter 7 of
16 title 5, United States Code.

17 “(2) BURDEN OF PROOF.—The burden shall be
18 upon the petitioner to show that the denial by the
19 Secretary of Homeland Security of the application
20 for naturalization was not supported by facially le-
21 gitimate and bona fide reasons.

22 “(3) LIMITATIONS ON REVIEW.—Except in a
23 proceeding under section 340, and notwithstanding
24 any other provision of law, including section 2241 of
25 title 28, United States Code, any other habeas cor-

1 pus provision, and sections 1361 and 1651 of such
2 title, no court shall have jurisdiction to determine, or
3 to review a determination of the Secretary of Home-
4 land Security made at any time regarding, whether,
5 for purposes of an application for naturalization, an
6 alien—

7 “(A) is a person of good moral character;

8 “(B) understands and is attached to the
9 principles of the Constitution of the United
10 States; or

11 “(C) is well disposed to the good order and
12 happiness of the United States.”.

13 (c) EFFECTIVE DATE AND APPLICATION.—The
14 amendments made by this subsection—

15 (1) shall take effect on the date of the enact-
16 ment of this Act;

17 (2) shall apply to any act that occurred before,
18 on, or after such date of enactment; and

19 (3) shall apply to any application for natu-
20 ralization or any other case or matter under the im-
21 migration laws that is pending on, or filed after,
22 such date of enactment.

1 **SEC. 625. CLARIFICATION OF DENATURALIZATION AU-**
2 **THORITY.**

3 Section 340 of the Immigration and Nationality Act
4 (8 U.S.C. 1451) is amended—

5 (1) in subsection (a), by striking “United
6 States attorneys for the respective districts,” and in-
7 serting “Attorney General,”; and

8 (2) by striking subsection (c) and inserting the
9 following:

10 “(c) BURDEN.—The burden of proof shall be on the
11 Government to establish, by clear, unequivocal, and con-
12 vincing evidence, that an order granting citizenship to an
13 alien should be revoked and a certificate of naturalization
14 cancelled because such order and certificate were illegally
15 procured or were procured by concealment of a material
16 fact or by willful misrepresentation.”.

17 **SEC. 626. DENATURALIZATION OF TERRORISTS.**

18 (a) DENATURALIZATION FOR TERRORISTS ACTIVI-
19 TIES.—Section 340 of the Immigration and Nationality
20 Act (8 U.S.C. 1451) is amended by—

21 (1) redesignating subsection (d) through (h) as
22 subsections (f) through (j); and

23 (2) inserting new subsection (d) to read as fol-
24 lows:

25 “(d) COMMISSION OF TERRORIST ACTS
26 AFTER NATURALIZATION.—

1 “(1) IN GENERAL.—If a person who
2 has been naturalized shall, within 15 years
3 following such naturalization, participate
4 in any act described in subsection (d)(2),
5 such act or acts shall be considered prima
6 facie evidence that such person was not at-
7 tached to the principles of the Constitution
8 of the United States and was not well dis-
9 posed to the good order and happiness of
10 the United States at the time of natu-
11 ralization, and, in the absence of counter-
12 vailing evidence, it shall be sufficient in the
13 proper proceeding to authorize the revoca-
14 tion and setting aside of the order admit-
15 ting such person to citizenship and the
16 cancellation of the certificate of naturaliza-
17 tion as having been obtained by conceal-
18 ment of a material fact or by willful mis-
19 representation, and such revocation and
20 setting aside of the order admitting such
21 person to citizenship and such canceling of
22 certificate of naturalization shall be effec-
23 tive as of the original date of the order and
24 certificate, respectively.

1 “(2) ACTS DESCRIBED.—The acts de-
2 scribed in this paragraph that shall subject
3 an individual to denaturalization under
4 subsection (d)(1) are the following:

5 “(A) Any activity a purpose of
6 which is the opposition to, or the con-
7 trol or overthrow of, the Government
8 of the United States by force, vio-
9 lence, or other unlawful means.

10 “(B) Engaging in a terrorist ac-
11 tivity (as defined in clauses (iii) and
12 (iv) of section 212(a)(3)(B)).

13 “(C) Incitement of terrorist ac-
14 tivity under circumstances indicating
15 an intention to cause death or serious
16 bodily harm.

17 “(D) Receiving military-type
18 training (as defined in section
19 2339D(c)(1) of title 18, United States
20 Code) from or on behalf of any orga-
21 nization that, at the time the training
22 was received, was a terrorist organiza-
23 tion (as defined in section
24 212(a)(3)(B)(vi)).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act and shall apply to acts that occur on
4 or after such date.

5 **SEC. 627. TREATMENT OF PENDING APPLICATIONS DURING**
6 **DENATURALIZATION PROCEEDINGS.**

7 (a) Section 204(b) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1154(b)) is amended by—

9 (1) inserting “(1) IN GENERAL.—Except as
10 provided in subsection (b)(2),” before “After”;

11 (2) revising the term “After” to read “after”;
12 and

13 (3) inserting new subsection (b)(2) to read as
14 follows:

15 “(2) Treatment of petitions during pending
16 denaturalization proceedings. The Secretary shall
17 not adjudicate or approve any petition filed under
18 this section by an individual who has a judicial pro-
19 ceeding pending against him or her that would result
20 in the individual’s denaturalization under section
21 340 until such proceedings have concluded and, if
22 applicable, the period for appeal has expired or any
23 appeals have been finally decided.”.

24 (b) Section 340 of the Immigration and Nationality
25 Act (8 U.S.C. 1451), as amended by section 626, is fur-

1 ther amended by inserting new subsection (e) to read as
2 follows:

3 “(e) WITHHOLDING OF IMMIGRATION
4 BENEFITS DURING DENATURALIZATION PRO-
5 CEEDINGS.—The Secretary shall not accept or
6 approve any application, petition, or request for
7 any immigration benefit from an individual
8 against whom there is a judicial proceeding
9 pending that would result in the individual’s
10 denaturalization under this section until such
11 proceedings have concluded and, if applicable,
12 the period for appeal has expired or any appeals
13 have been finally decided.”.

14 **SEC. 628. NATURALIZATION DOCUMENT RETENTION.**

15 (a) IN GENERAL.—Chapter 2 of title III of the Immi-
16 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
17 amended by inserting after section 344 the following:

18 **“SEC. 345. NATURALIZATION DOCUMENT RETENTION.**

19 “The Secretary shall retain the original paper natu-
20 ralization application and all supporting paper documents
21 submitted with the application at the time of filing for
22 a minimum of 7 years for law enforcement and national
23 security investigations and for litigation purposes, regard-
24 less of whether such documents are scanned into U.S. Citi-

1 zenship and Immigration Services’ electronic immigration
 2 system or stored in any electronic format.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
 4 in the first section of the Immigration and Nationality Act
 5 is amended by inserting after the item relating to section
 6 344 the following:

“Sec. 345. Naturalization document retention.”.

7 **Subtitle C—Forfeiture of Proceeds**
 8 **From Passport and Visa**
 9 **Offences, and Passport Revoca-**
 10 **tion.**

11 **SEC. 631. FORFEITURE OF PROCEEDS FROM PASSPORT**
 12 **AND VISA OFFENSES.**

13 Section 981(a)(1) of title 18, United States Code, is
 14 amended by adding at the end the following:

15 “(J) Any property, real or personal, that
 16 has been used to commit or facilitate the com-
 17 mission of a violation of chapter 75, the gross
 18 proceeds of such violation, and any property
 19 traceable to any such property or proceeds.”.

20 **SEC. 632. PASSPORT REVOCATION ACT.**

21 (a) SHORT TITLE.—This section may be cited as the
 22 “Passport Revocation Act”.

23 (b) REVOCATION OR DENIAL OF PASSPORTS AND
 24 PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILI-
 25 ATED WITH FOREIGN TERRORIST ORGANIZATIONS.—The

1 Act entitled “An Act to regulate the issue and validity of
2 passports, and for other purposes”, approved July 3, 1926
3 (22 U.S.C. 211a et seq.), which is commonly known as
4 the “Passport Act of 1926”, is amended by adding at the
5 end the following:

6 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
7 **PASSPORT CARD.**

8 “(a) INELIGIBILITY.—

9 “(1) ISSUANCE.—Except as provided under
10 subsection (b), the Secretary of State shall refuse to
11 issue a passport or passport card to any individual—

12 “(A) who has been convicted under chapter
13 113B of title 18, United States Code; or

14 “(B)(i) whom the Secretary has deter-
15 mined is a member of or is otherwise affiliated
16 with an organization the Secretary has des-
17 ignated as a foreign terrorist organization pur-
18 suant to section 219 of the Immigration and
19 Nationality Act (8 U.S.C. 1189); or

20 “(ii) has aided, abetted, or provided mate-
21 rial support to such an organization.

22 “(2) REVOCATION.—The Secretary of State
23 shall revoke a passport previously issued to any indi-
24 vidual described in paragraph (1).

25 “(b) EXCEPTIONS.—

1 “(1) EMERGENCY CIRCUMSTANCES, HUMANI-
2 TARIAN REASONS, AND LAW ENFORCEMENT PUR-
3 POSES.—Notwithstanding subsection (a), the Sec-
4 retary of State may issue, or decline to revoke, a
5 passport of an individual described in such sub-
6 section in emergency circumstances, for humani-
7 tarian reasons, or for law enforcement purposes.

8 “(2) LIMITATION FOR RETURN TO UNITED
9 STATES.—Notwithstanding subsection (a)(2), the
10 Secretary of State, before revocation, may—

11 “(A) limit a previously issued passport for
12 use only for return travel to the United States;
13 or

14 “(B) issue a limited passport that only
15 permits return travel to the United States.

16 “(c) RIGHT OF REVIEW.—Any individual who, in ac-
17 cordance with this section, is denied issuance of a passport
18 by the Secretary of State, or whose passport is revoked
19 or otherwise limited by the Secretary of State, may re-
20 quest a hearing before the Secretary of State not later
21 than 60 days after receiving notice of such denial, revoca-
22 tion, or limitation.

23 “(d) REPORT.—If the Secretary of State denies,
24 issues, limits, or declines to revoke a passport or passport
25 card under subsection (b), the Secretary shall, not later

1 than 30 days after such denial, issuance, limitation, or
 2 revocation, submit to Congress a report on such denial,
 3 issuance, limitation, or revocation, as the case may be.”.

4 **TITLE VII—OTHER MATTERS**

5 **SEC. 701. OTHER IMMIGRATION AND NATIONALITY ACT** 6 **AMENDMENTS.**

7 (a) NOTICE OF ADDRESS CHANGE.—Subsection (a)
 8 of section 265 of the Immigration and Nationality Act (8
 9 U.S.C. 1305(a)) is amended to read as follows:

10 “(a) Each alien required to be registered under this
 11 Act who is within the United States shall notify the Sec-
 12 retary of Homeland Security of each change of address
 13 and new address within ten days from the date of such
 14 change and shall furnish such notice in the manner pre-
 15 scribed by the Secretary.”.

16 (b) PHOTOGRAPHS FOR NATURALIZATION CERTIFI-
 17 CATES.—Section 333 of the Immigration and Nationality
 18 Act (8 U.S.C. 1444) is amended by adding at the end the
 19 following:

20 “(c) The Secretary may modify the technical require-
 21 ments of this section in the Secretary’s discretion and as
 22 the Secretary may deem necessary to provide for photo-
 23 graphs to be furnished and used in a manner that is effi-
 24 cient, secure, and consistent with the developments in
 25 technology.”.

1 **SEC. 702. EXEMPTION FROM THE ADMINISTRATIVE PROCE-**
2 **DURE ACT.**

3 Except where promulgation of regulations is specified
4 in this Act, chapter 5 of title 5, United States Code (com-
5 monly known as the “Administrative Procedures Act”),
6 and any other law relating to rulemaking, information col-
7 lection, or publication in the Federal Register, shall not
8 apply to any action to implement this Act, and the amend-
9 ments made by this Act, to the extent the Secretary, the
10 Secretary of State, or the Attorney General determines
11 that compliance with any such law would impede the expe-
12 ditious implementation of this Act or the amendments
13 made by this Act.

14 **SEC. 703. EXEMPTION FROM THE PAPERWORK REDUCTION**
15 **ACT.**

16 Chapter 35 of title 44, United States Code, shall not
17 apply to any action to implement this Act or the amend-
18 ments made by this Act to the extent the Secretary of
19 Homeland Security, the Secretary of State, or the Attor-
20 ney General determines that compliance with such law
21 would impede the expeditious implementation of this Act
22 or the amendments made by this Act.

23 **SEC. 704. ABILITY TO FILL AND RETAIN DHS POSITIONS IN**
24 **U.S. TERRITORIES.**

25 Section 530C of Title 28, United States Code, is
26 amended—

1 (1) in subsection (a) by inserting “or Depart-
2 ment of Homeland Security” after “Department of
3 Justice” and inserting “or Secretary of Homeland
4 Security” after “Attorney”;

5 (2) in subsection (b)—

6 (A) in paragraph (1) introductory text by
7 inserting “or Secretary of Homeland Security”
8 after “Attorney General”;

9 (B) in paragraph (1)(K)(i) by inserting
10 “or within US territories or commonwealths”
11 after “outside United States” and “or Sec-
12 retary of Homeland Security” after “Attorney
13 General”;

14 (C) in paragraph (1)(K)(ii) “or Secretary
15 of Homeland Security” after “Attorney Gen-
16 eral”;

17 (D) in paragraph (2) by—

18 (i) in subparagraph (A) by striking
19 “for the Immigration and Naturalization
20 Service” and inserting a “.” after “Drug
21 Enforcement Administration”; and

22 (ii) in subparagraph (A) by adding
23 after “.” “Further funds available to the
24 Secretary of Homeland Security;

1 (iii) in subparagraph (B) by striking
 2 “and for the Immigration and Naturaliza-
 3 tion Service” and replacing with “and for
 4 the Secretary of Homeland Security”; and
 5 (E) in paragraph (5) by striking “**IMMI-**
 6 **GRATION AND NATURALIZATION SERV-**
 7 **ICE.**—Funds available to the Attorney Gen-
 8 eral. . .” and replacing with “DEPARTMENT OF
 9 HOMELAND SECURITY.— Funds available to the
 10 Secretary of Homeland Security. . .”;

11 (F) in paragraph (7) by inserting “or the
 12 Secretary of Homeland Security” after “Attor-
 13 ney General” and striking “the Immigration
 14 and Naturalization Service” and replacing with
 15 “U.S. Immigration and Customs Enforcement”;
 16 (3) in subsection (d) by inserting “or Depart-
 17 ment of Homeland Security” after “Department of
 18 Justice”.

19 **SEC. 705. SEVERABILITY.**

20 If any provision of this Act or any amendment made
 21 by this Act, or any application of such provision or amend-
 22 ment to any person or circumstance, is held to be uncon-
 23 stitutional, the remainder of the provisions of this Act and
 24 the amendments made by this Act and the application of

1 the provision or amendment to any other person or cir-
2 cumstance shall not be affected.

3 **SEC. 706. FUNDING.**

4 (a) IMPLEMENTATION.—The Director of the Office of
5 Management and Budget shall determine and identify—

6 (1) the appropriation accounts from which the
7 rescission under subsection (a) shall apply; and

8 (2) the amount of the rescission that shall be
9 applied to each such account.

10 (b) REPORT.—Not later than 60 days after the date
11 of the enactment of this Act, the Director of the Office
12 of Management and Budget shall submit a report to Con-
13 gress and to the Secretary of the Treasury that describes
14 the accounts and amounts determined and identified
15 under subsection (b) for rescission under subsection (a).

16 (c) EXCEPTIONS.—This subsection shall not apply to
17 unobligated funds of—

18 (1) the Department;

19 (2) the Department of Defense; or

20 (3) the Department of Veterans Affairs.

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. REFERENCES TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 802. TITLE I TECHNICAL AMENDMENTS.

(a) SECTION 101.—

(1) DEPARTMENT.—Paragraph (8) of section 101(a) (8 U.S.C. 1101(a)(8)) is amended to read as follows:

“(8) The term ‘Department’ means the Department of Homeland Security.”.

(2) IMMIGRANT.—Paragraph (15) of section 101(a) (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (F)(i)—

(i) by striking the term “Attorney General” each place that term appears and inserting “Secretary”; and

(ii) by striking “214(l)” and inserting “214(m)”;

1 (B) in subparagraph (H)(i)—

2 (i) in **【subclause (b)】**, by striking
 3 “certifies to the Attorney General that the
 4 intending employer has filed with the Sec-
 5 retary” and inserting “certifies to the Sec-
 6 retary of Homeland Security that the in-
 7 tending employer has filed with the Sec-
 8 retary of Labor”; and

9 (ii) in **【subclause (c)】**, by striking
 10 “certifies to the Attorney General” and in-
 11 serting “certifies to the Secretary of
 12 Homeland Security”; and

13 (C) in subparagraph (M)(i), by striking the
 14 term “Attorney General” each place that term
 15 appears and inserting “Secretary”.

16 (3) IMMIGRATION OFFICER.—Paragraph (18) of
 17 section 101(a) (8 U.S.C. 1101(a)(18)) is amended
 18 by striking “Service or of the United States des-
 19 ignated by the Attorney General,” and inserting
 20 “Department or of the United States designated by
 21 the Secretary,”.

22 (4) SECRETARY.—Paragraph (34) of section
 23 101(a) (8 U.S.C. 1101(a)(34)) is amended to read
 24 as follows:

1 “(34) The term ‘Secretary’ means the Secretary
2 of Homeland Security, except as provided in section
3 219(d)(4).”.

4 (5) SPECIAL IMMIGRANT.—Section
5 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
6 amended by adding a semicolon and “or” at the end.

7 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPAC-
8 ITY.—Subparagraph (C) of section 101(a)(44) (8
9 U.S.C. 1101(a)(44)(C)) is amended by striking “At-
10 torney General” and inserting “Secretary”.

11 (7) ORDER OF REMOVAL.—Subparagraph (A)
12 of section 101(a)(47) (8 U.S.C. 1101(a)(47)(A)) is
13 amended to read as follows:

14 “(A) The term ‘order of removal’ means
15 the order of the immigration judge, or other
16 such administrative officer to whom the Attor-
17 ney General or the Secretary has delegated the
18 responsibility for determining whether an alien
19 is removable, concluding that the alien is re-
20 movable or ordering removal.”.

21 (8) TITLE I AND II DEFINITIONS.—Subsection
22 (b) of section 101 is amended—

23 (A) in paragraph (1)(F)(i), by striking
24 “Attorney General” and inserting “Secretary”;
25 and

1 (B) in paragraph (4), by striking “Immi-
2 gration and Naturalization Service.” and insert-
3 ing “Department.”.

4 (b) SECTION 103.—

5 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103)
6 is amended by striking the section heading and sub-
7 section (a)(1) and inserting the following:

8 **“SEC. 103. POWERS AND DUTIES.**

9 “(a)(1) The Secretary shall be charged with the ad-
10 ministration and enforcement of this Act and all other
11 laws relating to the immigration and naturalization of
12 aliens, except insofar as this Act or such laws relate to
13 the powers, functions, and duties conferred upon the
14 President, Attorney General, the Secretary of Labor, the
15 Secretary of Agriculture, the Secretary of Health and
16 Human Services, the Commissioner of Social Security, the
17 Secretary of State, the officers of the Department of
18 State, or diplomatic or consular officers: Provided, how-
19 ever, That a determination and ruling by the Attorney
20 General with respect to all questions of law shall be con-
21 trolling.”.

22 (2) TECHNICAL AND CONFORMING CORREC-
23 TIONS.—Subsection of section 103 (8 U.S.C. 1103),
24 as amended by paragraph (1), is further amended—

25 (A) in subsection (a)—

1 (i) in paragraph (2), by striking “He”
 2 and inserting “The Secretary”;

3 (ii) in paragraph (3)—

4 (I) by striking “He” and insert-
 5 ing “The Secretary”;

6 (II) by striking “he” and insert-
 7 ing “the Secretary”; and

8 (III) by striking “his authority”
 9 and inserting “the authority of the
 10 Secretary”;

11 (iii) in paragraph (4)—

12 (I) by striking “He” and insert-
 13 ing “The Secretary”; and

14 (II) by striking “Service or the
 15 Department of Justice” and insert the
 16 “Department”;

17 (iv) in paragraph (5)—

18 (I) by striking “He” and insert-
 19 ing “The Secretary”;

20 (II) by striking “his discretion,”
 21 and inserting “the discretion of the
 22 Secretary,” and

23 (III) by striking “him” and in-
 24 serting “the Secretary”;

25 (v) in paragraph (6)—

1 (I) by striking “He” and insert-
2 ing “The Secretary”;

3 (II) by striking “Department”
4 and inserting “agency, department,”;
5 and

6 (III) by striking “Service.” and
7 inserting “Department or upon con-
8 sular officers with respect to the
9 granting or refusal of visas”;

10 (vi) in paragraph (7)—

11 (I) by striking “He” and insert-
12 ing “The Secretary”;

13 (II) by striking “countries;” and
14 inserting “countries”;

15 (III) by striking “he” and insert-
16 ing “the Secretary”; and

17 (IV) by striking “his judgment”
18 and inserting “the judgment of the
19 Secretary”;

20 (vii) in paragraph (8), by striking
21 “Attorney General” and inserting “Sec-
22 retary”;

23 (viii) in paragraph (10), by striking
24 “Attorney General” each place that term
25 appears and inserting “Secretary”; and

1 (ix) in paragraph (11), by striking
2 “Attorney General,” and inserting “Sec-
3 retary,”;

4 (B) by amending subsection (c) to read as
5 follows:

6 “(c) SECRETARY; APPOINTMENT.—The Secretary
7 shall be a citizen of the United States and shall be ap-
8 pointed by the President, by and with the advice and con-
9 sent of the Senate. The Secretary shall be charged with
10 any and all responsibilities and authority in the adminis-
11 tration of the Department and of this Act. The Secretary
12 may enter into cooperative agreements with State and
13 local law enforcement agencies for the purpose of assisting
14 in the enforcement of the immigration laws.”;

15 (C) in subsection (e)—

16 (i) in paragraph (1), by striking
17 “Commissioner” and inserting “Sec-
18 retary”; and

19 (ii) in paragraph (2), by striking
20 “Service” and inserting “U.S. Citizenship
21 and Immigration Services”;

22 (D) in subsection (f)—

23 (i) by striking “Attorney General”
24 and inserting “Secretary”;

1 (ii) by striking “Immigration and
 2 Naturalization Service” and inserting “De-
 3 partment”; and

4 (iii) by striking “Service,” and insert-
 5 ing “Department,”; and

6 (E) in subsection (g)(1), by striking “Im-
 7 migration Reform, Accountability and Security
 8 Enhancement Act of 2002” and inserting
 9 “Homeland Security Act of 2002 (Public Law
 10 107–296; 116 Stat. 2135)”.

11 (3) CLERICAL AMENDMENT.—The table of con-
 12 tents in the first section is amended by striking the
 13 item relating to section 103 and inserting the fol-
 14 lowing:

“Sec. 103. Powers and duties.”.

15 (c) SECTION 105.—Section 105(a) is amended (8
 16 U.S.C. 1105(a)) by striking “Commissioner” each place
 17 that term appears and inserting “Secretary”.

18 **SEC. 803. TITLE II TECHNICAL AMENDMENTS.**

19 (a) SECTION 202.—Section 202(a)(1)(B) (8 U.S.C.
 20 1152(a)(1)(B)) is amended by inserting “the Secretary
 21 or” after “the authority of”,

22 (b) SECTION 203.—Section 203 (8 U.S.C. 1153) is
 23 amended—

24 (1) in subsection (b)(2)(B)(ii)—

25 (A) in subclause (II)—

1 (i) by inserting “the Secretary or” be-
 2 fore “the Attorney General”; and

3 (ii) by moving such subclause 4 ems
 4 to the left; and

5 (B) by moving subclauses (III) and (IV) 4
 6 ems to the left; and

7 (2) in subsection (g)—

8 (A) by striking “Secretary’s” and inserting
 9 “Secretary of State’s”; and

10 (B) by inserting “of State” after “but the
 11 Secretary”.

12 (c) SECTION 204.—Section 204 (8 U.S.C. 1154) is
 13 amended—

14 (1) in subsection (a)(1)—

15 (A) in subparagraph (B)(i)—

16 (i) by redesignating the second sub-
 17 clause (I), as added by section
 18 402(a)(3)(B) of the Adam Walsh Child
 19 Protection and Safety Act of 2006 (Public
 20 Law 109–248), as subclause (II); and

21 (ii) indenting the left margin of such
 22 subclause two ems from the left margin;
 23 and

24 (B) in subparagraph (G)(ii), by inserting
 25 “of State” after “by the Secretary”;

1 (2) in subsection (c), by inserting “the Sec-
2 retary or” before “the Attorney General” each place
3 that term appears; and

4 (3) in subsection (e), by inserting “to” after
5 “admitted”.

6 (d) Section 208 of the Immigration and Nationality
7 Act (8 U.S.C. 1158) is amended—

8 (1) in subsection (a)(2)—

9 (A) by inserting “the Secretary of Home-
10 land Security or” before “Attorney General” in
11 subparagraph (A);

12 (B) by inserting “the Secretary of Home-
13 land Security or” before “Attorney General” in
14 subparagraph (D);

15 (2) in subsection (b)(2) by inserting “the Sec-
16 retary of Homeland Security or” before “Attorney
17 General” wherever the term appears;

18 (3) in subsection (c)(1), by striking “the Attor-
19 ney General” and inserting “the Secretary of Home-
20 land Security”;

21 (4) in paragraphs (2) and (3) of subsection (c),
22 by inserting “the Secretary of Homeland Security
23 or” before “Attorney General”; and

24 (5) in subsection (d)—

1 (A) in paragraph (1), by inserting “the
2 Secretary of Homeland Security or” before “the
3 Attorney General”,

4 (B) in paragraph (2), by striking “Attor-
5 ney General” and inserting “Secretary of
6 Homeland Security”; and

7 (C) in paragraph (3)—

8 (i) by striking “Attorney General”
9 each place that term appears and inserting
10 “Secretary of Homeland Security”; and

11 (ii) by striking “Attorney General’s”
12 and inserting “Secretary’s”.

13 (D) in paragraphs (4) through (6), by in-
14 serting “the Secretary of Homeland Security
15 or” before “the Attorney General”; and

16 (e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C.
17 1159(a)(1)(A)) is amended by striking “Secretary of
18 Homeland Security or the Attorney General” each place
19 that term appears and inserting “Secretary”.

20 (f) SECTION 212.—Section 212 (8 U.S.C. 1182) is
21 amended—

22 (1) in subsection (a)—

23 (A) in paragraphs (2)(C), (2)(H)(ii),
24 (2)(I), (3)(A), and (3)(B)(ii)(II), by inserting “,

1 the Secretary,” before “or the Attorney Gen-
 2 eral” each place that term appears;

3 (B) in paragraph (3)(D), by inserting “the
 4 Secretary or” before “the Attorney General”
 5 each place that term appears;

6 (C) in paragraph (4)—

7 (i) in subparagraph (A), by inserting
 8 “the Secretary or” before “the Attorney
 9 General”; and

10 (ii) in subparagraph (B), by inserting
 11 “, the Secretary,” before “or the Attorney
 12 General” each place that term appears;

13 (D) in paragraph (5)(C), by striking “or,
 14 in the case of an adjustment of status, the At-
 15 torney General, a certificate from the Commis-
 16 sion on Graduates of Foreign Nursing Schools,
 17 or a certificate from an equivalent independent
 18 credentialing organization approved by the At-
 19 torney General” and inserting “or, in the case
 20 of an adjustment of status, the Secretary or the
 21 Attorney General, a certificate from the Com-
 22 mission on Graduates of Foreign Nursing
 23 Schools, or a certificate from an equivalent
 24 independent credentialing organization ap-
 25 proved by the Secretary”;

1 (E) in paragraph (9)—

2 (i) in subparagraph (B)(v)—

3 (I) by inserting “or the Sec-
4 retary” after “Attorney General” each
5 place that term appears; and

6 (II) by striking “has sole discre-
7 tion” and inserting “have discretion”;
8 and

9 (ii) in subparagraph (C)(iii), by in-
10 sserting “or the Attorney General” after
11 “Secretary of Homeland Security”; and

12 (F) in paragraph (10)(C), in clauses
13 (ii)(III) and (iii)(II), by striking “Secretary’s”
14 and inserting “Secretary of State’s”;

15 (2) in subsection (d), in paragraphs (11) and
16 (12), by inserting “or the Secretary” after “Attor-
17 ney General” each place that term appears;

18 (3) in subsection (e), by striking the first pro-
19 viso and inserting “Provided, That upon the favor-
20 able recommendation of the Director, pursuant to
21 the request of an interested United States Govern-
22 ment agency (or, in the case of an alien described
23 in clause (iii), pursuant to the request of a State
24 Department of Public Health, or its equivalent), or
25 of the Secretary after the Secretary has determined

1 that departure from the United States would impose
2 exceptional hardship upon the alien’s spouse or child
3 (if such spouse or child is a citizen of the United
4 States or a lawfully resident alien), or that the alien
5 cannot return to the country of his or her nation-
6 ality or last residence because the alien would be
7 subject to persecution on account of race, religion,
8 or political opinion, the Secretary may waive the re-
9 quirement of such two-year foreign residence abroad
10 in the case of any alien whose admission to the
11 United States is found by the Secretary to be in the
12 public interest except that in the case of a waiver re-
13 quested by a State Department of Public Health, or
14 its equivalent, or in the case of a waiver requested
15 by an interested United States Government agency
16 on behalf of an alien described in clause (iii), the
17 waiver shall be subject to the requirements under
18 section 214(l):”.

19 (4) in subsections (g), (h), (i), and (k), by in-
20 serting “or the Secretary” after “Attorney General”
21 each place that term appears;

22 (5) in subsection (m)(2)(E)(iv), by inserting “of
23 Labor” after “Secretary” the second and third place
24 that term appears;

1 (6) in subsection (n), by inserting “of Labor”
 2 after “Secretary” each place that term appears, ex-
 3 cept that this amendment shall not apply to ref-
 4 erences to the “Secretary of Labor”; and

5 (7) in subsection (s), by inserting “, the Sec-
 6 retary,” before “or the Attorney General”.

7 (g) SECTION 213A.—Section 213A (8 U.S.C. 1183a)
 8 is amended—

9 (1) in subsection (a)(1), in the matter pre-
 10 ceding paragraph (1), by inserting “, the Secretary,”
 11 after “the Attorney General”; and

12 (2) in subsection (f)(6)(B), by inserting “the
 13 Secretary,” after “The Secretary of State,”.

14 (h) SECTION 214.—Subparagraph (A) of section
 15 214(c)(9) (8 U.S.C. 1184(c)(9)(A) is amended, in the
 16 matter preceding clause (i), by striking “before”.

17 (i) SECTION 217.—Section 217 (8 U.S.C. 1187) is
 18 amended—

19 (1) in subsection (e)(3)(A), by inserting a
 20 comma after “Regulations”;

21 (2) in subsection (f)(2)(A), by striking “section
 22 (c)(2)(C),” and inserting “subsection (c)(2)(C),”;
 23 and

24 (3) in subsection (h)(3)(A), by striking “the”
 25 before “alien” and inserting “an”.

1 (j) SECTION 218.—Section 218 (8 U.S.C. 1188) is
2 amended—

3 (1) by inserting “of Labor” after “Secretary”
4 each place that term appears, except that this
5 amendment shall not apply to references to the
6 “Secretary of Labor” or to the “Secretary of Agri-
7 culture”;

8 (2) in subsection (c)(3)(B)(iii), by striking
9 “Secretary’s” and inserting “Secretary of Labor’s”;
10 and

11 (3) in subsection (g)(4), by striking “Sec-
12 retary’s” and inserting “Secretary of Agriculture’s”.

13 (k) SECTION 219.—Section 219 (8 U.S.C. 1189) is
14 amended—

15 (1) in subsection (a)(1)(B)—

16 (A) by inserting a close parenthetical after
17 “section 212(a)(3)(B)”;

18 (B) by deleting “terrorism);” and inserting
19 “terrorism;”;

20 (2) in subsection (c)(3)(D), by striking “(2),”
21 and inserting “(2);”;

22 (3) in subsection (d)(4), by inserting “Secretary
23 of Homeland Security,” after “with the”.

24 (l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

1 (1) by inserting “or the Secretary” after “Sec-
2 retary of State” each place that term appears; and

3 (2) in subsection (f)—

4 (A) in the matter preceding paragraph (1),
5 by inserting “, the Department,” after “De-
6 partment of State”; and

7 (B) in paragraph (2), by striking “Sec-
8 retary’s” and inserting “their”.

9 (m) SECTION 231.—Section 231 (8 U.S.C. 1221) is
10 amended—

11 (1) in subsection (c)(10), by striking “Attorney
12 General,” and inserting “Secretary,”;

13 (2) in subsection (f), by striking “Attorney
14 General” each place that term appears and inserting
15 “Secretary”;

16 (3) in subsection (g)—

17 (A) by striking “of the Attorney General”
18 and inserting “of the Secretary”;

19 **[(B) by striking “by the Attorney Gen-
20 eral” and inserting “by the Secretary”; and]**

21 (C) by striking “Commissioner” each place
22 that term appears and inserting “Secretary”;
23 and

1 (4) in subsection (h), by striking “Attorney
2 General” each place that term appears and inserting
3 “Secretary”.

4 (n) SECTION 236.—Section 236 (8 U.S.C. 1226) is
5 amended—

6 (1) in subsection (a)(2)(A), by inserting “the
7 Secretary or” before “the Attorney General” the
8 third place that term appears; and

9 (2) in subsection (e)—

10 (A) by striking “review.” and inserting
11 “review, other than administrative review by the
12 Attorney General pursuant to the authority
13 granted by section 103(g).”; and

14 (B) by inserting “the Secretary or” before
15 “Attorney General under”.

16 (o) SECTION 236A.—Paragraph (4) of section
17 236A(a) (8 U.S.C. 1226a(a)(4)) is amended by striking
18 “Deputy Attorney General” both places that term appears
19 and inserting “Deputy Secretary of Homeland Security”.

20 (p) SECTION 237.—Section 237(a) (8 U.S.C.
21 1227(a)) is amended—

22 (1) in the matter preceding paragraph (1), by
23 inserting “following the initiation by the Secretary
24 of removal proceedings” after “upon the order of the
25 Attorney General”; and

1 (2) in the heading of subparagraph (E) of para-
2 graph (2), by striking “CHILDREN AND.—” and
3 inserting “CHILDREN.—”.

4 (q) SECTION 238.—Section 238 (8 U.S.C. 1228) is
5 amended—

6 (1) in subsection (a)—

7 (A) in paragraph (2), by striking “Attor-
8 ney General” each place that term appears and
9 inserting “Secretary”; and

10 (B) in paragraphs (3) and (4)(A), by in-
11 serting “and the Secretary” after “Attorney
12 General” each place that term appears;

13 (2) in subsection (b)—

14 (A) in paragraph (3) and (4), by striking
15 “Attorney General” each place the term ap-
16 pears and inserting “Secretary of Homeland
17 Security”; and

18 (B) in paragraph (5) by inserting “or the
19 Secretary” after “Attorney General”; and

20 (3) in subsection (d), as so redesignated—

21 (A) by striking “Commissioner” and “At-
22 torney General” each place those terms appear
23 and inserting “Secretary”; and

1 (B) in subparagraph (D)(iv), by striking
2 “Attorney General” and inserting “United
3 States Attorney”.

4 (r) SECTION 239.—Section 239(a)(1) (8 U.S.C.
5 1229(a)(1)) is amended by inserting “and the Secretary”
6 after “Attorney General” each place that term appears.

7 (s) SECTION 240.—Section 240 (8 U.S.C. 1229a) is
8 amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by inserting “, with
11 the concurrence of the Secretary with respect to
12 employees of the Department” after “Attorney
13 General”; and

14 (B) in paragraph (5)(A), by inserting “the
15 Secretary or” before “the Attorney General”;
16 and

17 (2) in subsection (c)—

18 (A) in paragraph (2), by inserting “, the
19 Secretary of State, or the Secretary” before “to
20 be confidential”; and

21 **[(B) in paragraph (7)(C)(iv)(I), by strik-**
22 **ing the extra comma after the second reference**
23 **to the term “this title”. Note: please clarify how**
24 **to execute this amendment.]**

1 (t) SECTION 240A.—Section 240A(b) (8 U.S.C.
2 1229b(b)) is amended—

3 (1) in paragraph (3), by striking “Attorney
4 General shall” and inserting “Secretary shall”; and

5 (2) in paragraph (4)(A), by striking “Attorney
6 General” and inserting “Secretary”.

7 (u) SECTION 240B.—Section 240B (8 U.S.C. 1229c)
8 is amended—

9 (1) in paragraphs (1) and (3) of subsection (a),
10 by inserting “or the Secretary” after “Attorney Gen-
11 eral”; and

12 (2) in subsection (c), by inserting “and the Sec-
13 retary” after “Attorney General”.

14 (v) SECTION 241.—Section 241 (8 U.S.C. 1231) is
15 amended—

16 (1) in subsection (a)(4)(B)(i), by inserting a
17 close parenthetical after “(L)”;

18 (2) in paragraph (2) of subsection (g)—

19 (A) by striking the paragraph heading and
20 inserting “DETENTION FACILITIES OF THE DE-
21 PARTMENT OF HOMELAND SECURITY.—”;

22 (B) by striking “Service,” and inserting
23 “Department”; and

24 (C) by striking “Commissioner” and in-
25 serting “Secretary”.

1 (w) SECTION 242.—Section 242(g) (8 U.S.C.
2 1252(g)) is amended by inserting “the Secretary or” be-
3 fore “the Attorney General”.

4 (x) SECTION 243.—Section 243 (8 U.S.C. 1253) is
5 amended—

6 (1) in subparagraphs (A) and (B) of subsection
7 (c)(1)—

8 (A) by striking “Attorney General” each
9 place that term appears and inserting “Sec-
10 retary”; and

11 (B) by striking “Commissioner” each place
12 that term appears and inserting “Secretary”;
13 and

14 (2) in subsection (d), by inserting “of State”
15 after “notifies the Secretary”.

16 (y) SECTION 244.—Section 244 (8 U.S.C. 1254a) is
17 amended—

18 (1) in subsection (c)(2), by inserting “or the
19 Secretary” after “Attorney General” each place the
20 term appears; and

21 (2) in subsection (g), by inserting “or the Sec-
22 retary” after “Attorney General”.

23 (z) SECTION 245.—Section 245 (8 U.S.C. 1255) is
24 amended—

1 (1) by inserting “or the Secretary” after “At-
 2 torney General” each place that term appears except
 3 in subsections (j) (other than the first reference), (l),
 4 and (m);

5 (2) in subsection (c), striking the comma after
 6 “section 101(a)(15)(S)” and inserting a semicolon;

7 (3) in subsection (k)(1), adding an “and” at
 8 the end;

9 (4) in subsection (l)—

10 (A) in paragraph (1), by inserting a
 11 comma after “appropriate”; and

12 (B) in paragraph (2)—

13 (i) in the matter preceding paragraph
 14 (1), by striking “Attorney General’s” and
 15 inserting “Secretary’s”; and

16 (ii) in subparagraph (B), by striking
 17 “(10(E))” and inserting “(10)(E))”.

18 (aa) SECTION 245A.—Section 245A (8 U.S.C.
 19 1255a) is amended—

20 (1) by striking subparagraph (C) of subsection
 21 (c)(7); and

22 (2) in subsection (h)(5)—

23 **[(A) in subparagraph (A), by striking the**
 24 **second reference to “The”; and Note: Please**
 25 **clarify how to execute this amendment]**

1 (3) striking “(Public Law 96–122),” and in-
2 serting “(Public Law 96–422),”.

3 (bb) SECTION 246.—Section 246(a) (8 U.S.C.
4 1256(a)) is amended—

5 (1) by inserting “or the Secretary” after “of
6 the Attorney General”;

7 (2) by inserting “or the Secretary” after “sta-
8 tus, the Attorney General”; and

9 (3) by striking “Attorney General to rescind”
10 and inserting “Secretary to rescind”.

11 (cc) SECTION 249.—Section 249 (8 U.S.C. 1259) is
12 amended by inserting “or the Secretary” after “Attorney
13 General” each place that term appears.

14 (dd) SECTION 251.—Subsection (d) of section 251 (8
15 U.S.C. 1281(d)) is amended by striking “Attorney Gen-
16 eral” and “Commissioner” each place those terms appear
17 and inserting “Secretary”.

18 (ee) SECTION 254.—Subsection (a) of section 254 (8
19 U.S.C. 1284(a)) is amended by striking “Commissioner”
20 each place that term appears and inserting “Secretary”.

21 (ff) SECTION 255.—Section 255 (8 U.S.C. 1285) is
22 amended by striking “Commissioner” each place that term
23 appears and inserting “Secretary”.

24 (gg) SECTION 256.—Section 256 (8 U.S.C. 1286) is
25 amended—

1 (1) by striking “Commissioner” each place that
2 term appears and inserting “Secretary”;

3 (2) in the first and second sentences, by strik-
4 ing “Attorney General” each places that term ap-
5 pears and inserting “Secretary”.

6 (hh) SECTION 258.—Section 258 (8 U.S.C. 1288) is
7 amended—

8 (1) by inserting “of Labor” after “Secretary”
9 each place that term appears, except that this
10 amendment shall not apply to references to the
11 “Secretary of Labor”, **the Secretary of State,** or
12 to subsection (e)(2);

13 (2) in subsection (d)(2)(A), by striking “at”
14 after “while”; and

15 (3) in subsection (e)(2), by striking “the Sec-
16 retary shall” and inserting “the Secretary of State
17 shall”.

18 (ii) SECTION 264.—Section 264(f) (8 U.S.C. 1304)
19 is amended by striking “Attorney General is” and insert-
20 ing “Attorney General and Secretary are”.

21 (jj) SECTION 272.—Section 272 (8 U.S.C. 1322) is
22 amended by striking “Commissioner” each place that term
23 appears and inserting “Secretary”.

24 (kk) SECTION 273.—Section 273 (8 U.S.C. 1323) is
25 amended—

1 (1) by striking “Commissioner” each place that
2 term appears and inserting “Secretary”; and

3 (2) by striking “Attorney General” each place
4 that term appears, except in subsection (e) in the
5 matter preceding paragraph (1), and inserting “Sec-
6 retary”.

7 (ll) SECTION 274.—Section 274(b)(2) (8 U.S.C.
8 1324(b)(2)) is amended by striking “Secretary of the
9 Treasury” and inserting “Secretary”.

10 (mm) SECTION 274B.—Paragraph (2) of section
11 274B(f) (8 U.S.C. 1324b(f)(2)) is amended by striking
12 “subsection” and inserting “section”.

13 (nn) SECTION 274C.—Section 274C(d)(2)(A) (8
14 U.S.C. 1324c(d)(2)(A)) is amended by inserting “or the
15 Secretary” after “subsection (a), the Attorney General”.

16 (oo) SECTION 274D.—Section 274D (8 U.S.C.
17 1324d) is amended in subsection (a)(2) of section 274D(a)
18 (8 U.S.C. 1324d(a)(2)) is amended by striking “Commis-
19 sioner” and inserting “Secretary”.

20 (pp) SECTION 286.—Section 286 (8 U.S.C. 1356) is
21 amended—

22 (1) in subsection (q)(1)(B), by striking “, in
23 consultation with the Secretary of the Treasury,”;

24 (2) in subsection (r)(2), by striking “section
25 245(i)(3)(b)” and inserting “section 245(i)(3)(B)”;

1 (3) in subsection (s)(5)—

2 (A) by striking “5 percent” and inserting
3 “USE OF FEES FOR DUTIES RELATING TO PETI-
4 TIONS.—Five percent”; and

5 (4) by striking “paragraph (1) (C) or (D) of
6 section 204” and inserting “subparagraph (C) or
7 (D) of section 204(a)(1)”; and

8 (5) in subsection (v)(2)(A)(i), by adding “of”
9 after “number”.

10 (qq) SECTION 294.—Section 294 (8 U.S.C. 1363a)
11 is amended—

12 (1) in the undesignated matter following para-
13 graph (4) of subsection (a), by striking “Commis-
14 sioner, in consultation with the Deputy Attorney
15 General,” and inserting “Secretary”; and

16 (2) in subsection (d), by striking “Deputy At-
17 torney General” and inserting “Secretary”.

18 **SEC. 804. TITLE III TECHNICAL AMENDMENTS.**

19 (a) SECTION 316.—Section 316 (8 U.S.C. 1427) is
20 amended—

21 (1) in subsection (d), by inserting “or by the
22 Secretary” after “Attorney General”; and

23 (2) in subsection (f)(1), by striking “Intel-
24 ligence, the Attorney General and the Commissioner

1 of Immigration” and inserting “Intelligence and the
2 Secretary”.

3 (b) SECTION 322.—Paragraph (1) of section 322(a)
4 (8 U.S.C. 1433(a)) is amended—

5 (1) by inserting “is” before “(or,”; and

6 (2) by striking “is” before “a citizen”.

7 (c) SECTION 342.—

8 (1) SECTION HEADING.—

9 (A) IN GENERAL.—Section 342 (8 U.S.C.
10 1453) is amended by striking the section head-
11 ing and inserting “**CANCELLATION OF CER-**
12 **TIFICATES; ACTION NOT TO AFFECT CITI-**
13 **ZENSHIP STATUS**”.

14 (B) CLERICAL AMENDMENT.—The table of
15 contents in the first section is amended by
16 striking the item relating to section 342 and in-
17 serting the following:

“Sec. 342. Cancellation of certificates; action not to affect citizenship status.”.

18 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453)
19 is amended—

20 (A) by striking “heretofore issued or made
21 by the Commissioner or a Deputy Commis-
22 sioner or hereafter made by the Attorney Gen-
23 eral”; and

24 (B) by striking “practiced upon, him or
25 the Commissioner or a Deputy Commissioner;”.

1 **SEC. 805. TITLE IV TECHNICAL AMENDMENTS.**

2 Clause (i) of section 412(a)(2)(C) (8 U.S.C.
3 1522(a)(2)(C)(i)) is amended by striking “insure” and in-
4 serting “ensure”.

5 **SEC. 806. TITLE V TECHNICAL AMENDMENTS.**

6 (a) SECTION 504.—Section 504 (8 U.S.C. 1534) is
7 amended—

8 (1) in subsection (a)(1)(A), by striking “a” be-
9 fore “removal proceedings”;

10 (2) in subsection (i), by striking “Attorney Gen-
11 eral” inserting “Government”; and

12 (3) in subsection (k)(2), by striking “by”.

13 (b) SECTION 505.—Section 505(e)(2) (8 U.S.C.
14 1535(e)(2)) is amended by inserting “and the Secretary”
15 after “Attorney General”.

16 **SEC. 807. OTHER AMENDMENTS.**

17 (a) CORRECTION OF COMMISSIONER OF IMMIGRA-
18 TION AND NATURALIZATION.—

19 (1) IN GENERAL.—The Immigration and Na-
20 tionality Act (8 U.S.C. 1101 et seq.) as amended by
21 this Act, is further amended by striking “Commis-
22 sioner” and “Commissioner of Immigration and
23 Naturalization” each place those terms appear and
24 inserting “Secretary”.

25 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL
26 SECURITY.—The amendment made by paragraph (1)

1 shall not apply to any reference to the “Commis-
2 sioner of Social Security”.

3 (b) CORRECTION OF IMMIGRATION AND NATU-
4 RALIZATION SERVICE.—The Immigration and Nationality
5 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is
6 further amended by striking “Service” and “Immigration
7 and Naturalization Service” each place those terms appear
8 and inserting “Department”.

9 (c) CORRECTION OF DEPARTMENT OF JUSTICE.—

10 (1) IN GENERAL.—The Immigration and Na-
11 tionality Act (8 U.S.C. 1101 et seq.), as amended by
12 this Act, is further amended by striking “Depart-
13 ment of Justice” each place that term appears and
14 inserting “Department”.

15 (2) EXCEPTIONS.—The amendment made by
16 paragraph (1) shall not apply in subsections
17 (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C.
18 1184), section 274B(c)(1) (8 U.S.C. 1324b(c)(1)),
19 or title V (8 U.S.C. 1531 et seq.).

20 (d) CORRECTION OF ATTORNEY GENERAL.—The Im-
21 migration and Nationality Act (8 U.S.C. 1101 et seq.) as
22 amended by this Act, is further amended by striking “At-
23 torney General” each place that term appears and insert-
24 ing “Secretary”, except for in the following:

1 (1) Any joint references to the “Attorney Gen-
2 eral and the Secretary of Homeland Security” or
3 “the Secretary of Homeland Security and the Attor-
4 ney General”.

5 (2) Section 101(a)(5).

6 (3) Subparagraphs (S), (T), and (V) of section
7 101(a)(15).

8 (4) Section 101(a)(47)(A).

9 (5) Section 101(b)(4).

10 (6) Section 103(a)(1).

11 (7) Section 103(g).

12 (8) Section 105(b)(1).

13 (9) Section 105(c).

14 (10) Section 204(c).

15 (11) Section 208.

16 (12) Section 212(a)(2)(C).

17 (13) Section 212(a)(2)(H).

18 (14) Section 212(a)(2)(I).

19 (15) Section 212(a)(3)(A).

20 (16) Section 212(a)(3)(B)(ii)(II).

21 (17) Section 212(a)(3)(D).

22 (18) Section 212(a)(4).

23 (19) Section 212(a)(9)(B)(v).

24 (20) Section 212(a)(9)(C)(iii).

25 (21) Section 212(d)(11).

- 1 (22) Section 212(d)(12).
- 2 (23) Section 212(g).
- 3 (24) Section 212(h).
- 4 (25) Section 212(i).
- 5 (26) Section 212(k).
- 6 (27) Section 212(s).
- 7 **[(28) Section 213A(a)(1).]**
- 8 **[(29) Section 213A(f)(6)(B).]**
- 9 (30) Section 216(d)(2)(c).
- 10 (31) Section 219(d)(4).
- 11 (32) Section 235(b)(1)(B)(iii)(III).
- 12 (33) The second sentence of section 236(e).
- 13 (34) Section 237.
- 14 (35) Section 238(a)(1).
- 15 (36) Section 238(a)(3).
- 16 (37) Section 238(a)(4)(A).
- 17 (38) Section 238(b)(1).
- 18 (39) Section 238(b)(5).
- 19 (40) Section 238(c)(2)(D)(iv).
- 20 (41) Section 239(a).
- 21 (42) Section 239(b).
- 22 (43) Section 240.
- 23 (44) Section 240A.
- 24 (45) Section 240B(a)(1).
- 25 (46) Section 240B(a)(3).

1 (47) Section 240B(b).

2 (48) Section 240B(c).

3 (49) The first reference in section
4 241(a)(4)(B)(i).

5 (50) Section 241(b)(3) (except for the first ref-
6 erence in subparagraph (A), to which the amend-
7 ment shall apply).

8 (51) Section 241(i) (except for paragraph
9 (3)(B)(i), to which the amendment shall apply).

10 (52) Section 242(a)(2)(B).

11 (53) Section 242(b) (except for paragraph (8),
12 to which the amendment shall apply).

13 (54) Section 242(g).

14 (55) Section 244(a)(3)(C).

15 (56) Section 244(c)(2).

16 (57) Section 244(e).

17 (58) Section 244(g).

18 (59) Section 245 (except for subsection
19 (i)(1)(B)(i), subsection (i)(3)) and the first reference
20 to the Attorney General in subsection 245(j)).

21 (60) Section 245A(a)(1)(A).

22 (61) Section 246(a).

23 (62) Section 249.

24 (63) Section 264(f).

25 (64) Section 274(e).

1 (65) Section 274A.

2 (66) Section 274B.

3 (67) Section 274C.

4 (68) Section 292.

5 (69) Section 316(d).

6 (70) Section 316(f)(1).

7 (71) Section 342.

8 (72) Section 412(f)(1)(A).

9 (73) Title V (except for subsections 506(a)(1)
10 and 507(b), (c), and (d) (first reference), to which
11 the amendment shall apply).

12 **SEC. 808. REPEALS; CONSTRUCTION.**

13 (a) REPEALS.—

14 (1) IMMIGRATION AND NATURALIZATION SERV-
15 ICE.—

16 (A) IN GENERAL.—Section 4 of the Act of
17 February 14, 1903 (32 Stat. 826, chapter 552;
18 8 U.S.C. 1551) is repealed.

19 (B) 8 U.S.C. 1551.—The language of the
20 compilers set out in section 1551 of title 8 of
21 the United States Code shall be removed from
22 the compilation of such title 8.

23 (2) COMMISSIONER OF IMMIGRATION AND NAT-
24 URALIZATION; OFFICE.—

1 (A) IN GENERAL.—Section 7 of the Act of
2 March 3, 1891 (26 Stat. 1085, chapter 551; 8
3 U.S.C. 1552) is repealed.

4 (B) 8 U.S.C. 1552.—The language of the
5 compilers set out in section 1552 of title 8 of
6 the United States Code shall be removed from
7 the compilation of such title 8.

8 (3) ASSISTANT COMMISSIONERS AND DISTRICT
9 DIRECTOR; COMPENSATION AND SALARY GRADE.—
10 Title II of the Department of Justice Appropriation
11 Act, 1957 (70 Stat. 307, chapter 414; 8 U.S.C.
12 1553) is amended in the matter under the heading
13 “Immigration and Naturalization Service” and
14 under the subheading “SALARIES AND EX-
15 PENSES” by striking “That the compensation of
16 the five assistant commissioners and one district di-
17 rector shall be at the rate of grade GS–16: Provided
18 further”.

19 (4) SPECIAL IMMIGRANT INSPECTORS AT WASH-
20 INGTON.—The Act of March 2, 1895 (28 Stat. 780,
21 chapter 177; 8 U.S.C. 1554) is amended in the mat-
22 ter following the heading “Bureau of Immigration:”
23 by striking “That hereafter special immigrant in-
24 spectors, not to exceed three, may be detailed for

1 duty in the Bureau at Washington: And provided
2 further,”.

3 (b) CONSTRUCTION.—Nothing in this title shall be
4 construed to repeal or limit the applicability of sections
5 462 and 1512 of the Homeland Security Act of 2002 (6
6 U.S.C. 279 and 552) with respect to any provision of law
7 or matter not specifically addressed by the amendments
8 made by this title.

9 **SEC. 809. MISCELLANEOUS TECHNICAL CORRECTIONS.**

10 (a) CORRECTION TO THE INTELLIGENCE REFORM
11 AND TERRORISM PREVENTION ACT OF 2004.—Section
12 5502(b) of the Intelligence Reform and Terrorism Preven-
13 tion Act of 2004, Pub. L. 108–458, in amended by strik-
14 ing “(E) Participated in the commission of severe viola-
15 tions of religious freedom.” and inserting “(F) Partici-
16 pated in the commission of severe violations of religious
17 freedom”.

18 (b) CONFORMING AMENDMENT TO THE CHILD SOL-
19 DIERS ACCOUNTABILITY ACT OF 2008.—Section 2(c) of
20 the Child Soldier’s Accountability Act of 2008, Pub. L.
21 110–340, in amended by striking “(F) Recruitment or use
22 of child soldiers.” and inserting “(G) Recruitment or use
23 of child soldiers.”.

24 (c) CENTRAL INTELLIGENCE AGENCY ACT OF
25 1949.—Section 7 of the Central Intelligence Agency Act

1 of 1949 (50 U.S.C. 3508) is amended by striking “Com-
2 missioner of Immigration” and inserting “Secretary of
3 Homeland Security”.

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115TH CONGRESS
1ST Session

S. 1757

A BILL

To strengthen border security, increase resources for enforcement of immigration laws, and for other purposes.

SEPTEMBER 5, 2017

Read the second time and placed on the calendar