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

SA 1982. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1959 proposed by Mr. GRASSLEY (for himself, Mrs. ERNST, Mr. TILLIS, Mr. LANKFORD, Mr. COTTON, Mr. PERDUE, Mr. CORNYN, Mr. ALEXANDER, and Mr. ISAKSON) to the bill H.R. 2579, supra; which was ordered to lie on the table.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SA 2001. Ms. KLOBUCHAR (for herself and Ms. HEITKAMP) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

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

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

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

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

SA 2006. Mrs. SHAHEEN (for herself and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

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

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

SA 2009. Ms. CORTEZ MASTO (for herself, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, supra; which was ordered to lie on the table.

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

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

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

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

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

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

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

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

TEXT OF AMENDMENTS

SA 1957. Mr. FLAKE (for himself and Ms. HEITKAMP) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

TITLE I—BORDER SECURITY

Sec. 101. Authorization of appropriations.
Sec. 102. Operations and support.

TITLE II—DACA EXTENSION

Sec. 201. Provisional protected presence for young individuals.

TITLE I—BORDER SECURITY

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,013,000,000 to the Department of Homeland Security for fiscal years 2018 through 2020 for the purpose of improving border security.

SEC. 102. OPERATIONS AND SUPPORT.

(a) PURPOSE.—It is the purpose of this section to establish a Border Security Enforcement Fund (referred to in this section as the ''Fund''), to be administered through the Department of Homeland Security and, in fiscal year 2018 only, through the Department of State, to provide for costs necessary to implement this Act and other Acts related to border security for activities, including—

(1) constructing, installing, deploying, operating, and maintaining tactical infrastructure and technology in the vicinity of the United States border—

(A) to achieve situational awareness and operational control of the border; and

(B) to deter, impede, and detect illegal activity in high traffic areas; and

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

(2) implementing port of entry provisions under titles I and II;

(3) purchasing new aircraft, vessels, spare parts, and equipment to operate and maintain such craft; and

(4) hiring and recruitment.

(b) FUNDING.—There are authorized to be appropriated, and are appropriated, to the Fund, out of any monies in the Treasury not otherwise appropriated, a total of $7,639,000,000, as follows:

(1) For fiscal year 2018, $2,947,000,000, to remain available through fiscal year 2022.

(2) For fiscal year 2019, $2,225,000,000, to remain available through fiscal year 2023.

(3) For fiscal year 2020, $2,467,000,000, to remain available through fiscal year 2024.

(c) PHYSICAL BARRIERS.—

(1) IN GENERAL.—In each of the following fiscal years, the Secretary of Homeland Security shall transfer, from the Fund to the U.S. Customs and Border Protection—Procurement, Construction and Improvements account, for the purpose of constructing, replacing, or planning physical barriers along the United States land border, a total of $5,013,000,000, as follows:

(A) $1,571,000,000 for fiscal year 2018.

(B) $1,600,000,000 for fiscal year 2019.

(C) $1,842,000,000 for fiscal year 2020.

(2) AVAILABILITY OF FUNDS.—Notwithstanding section 1552(a) of title 31, United States Code, any amounts obligated for the purposes described in this subsection shall remain available for disbursement until expended.

(d) TRANSFER AUTHORITY.—Other than the amounts transferred by the Secretary of

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

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

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

(e) USE OF FUND.—If the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives do not provide for the transfer of funds in a full-year appropriation in any fiscal year in accordance with subsection (d), the Secretary of Homeland Security shall transfer amounts in the Fund to accounts within the Department of Homeland Security for eligible activities under this section, including not less than the amounts specified in subsection (c) for the purpose of constructing, replacing, or planning for physical barriers along the United States land border.

(f) BUDGET REQUEST.—A request for the transfer of amounts in the Fund under this section—

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

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

(g) REPORTING REQUIREMENT.—At the beginning of fiscal year 2019, and annually thereafter until the funding made available under this title has been expended, the Secretary of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that describes—

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

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

TITLE II—DACA EXTENSION

SEC. 201. PROVISIONAL PROTECTED PRESENCE FOR YOUNG INDIVIDUALS.

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

"SEC. 244A. PROVISIONAL PROTECTED PRESENCE.

''(a) DEFINITIONS.—In this section:

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

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

''(3) MISDEMEANOR.—The term 'misdemeanor' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status, a significant misdemeanor, and a minor traffic offense) for which—

''(A) the maximum term of imprisonment is greater than five days and not greater than 1 year; and

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

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

''(5) SIGNIFICANT MISDEMEANOR.—The term 'significant misdemeanor' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) for which the maximum term of imprisonment is greater than 5 days and not greater than 1 year that—

''(A) regardless of the sentence imposed, is a crime of domestic violence (as defined in section 237(a)(2)(E)(i)) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence if the State law requires, as an element of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher; or

''(B) resulted in a sentence of time in custody of more than 90 days, excluding an offense for which the sentence was suspended.

''(6) THREAT TO NATIONAL SECURITY.—An alien is a 'threat to national security' if the alien is—

''(A) inadmissible under section 212(a)(3); or

''(B) deportable under section 237(a)(4).

''(7) THREAT TO PUBLIC SAFETY.—An alien is a 'threat to public safety' if the alien—

''(A) has been convicted of an offense for which an element was participation in a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(B) has engaged in a continuing criminal enterprise (as defined in section 408(c) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848(c))).

''(b) AUTHORIZATION.—The Secretary—

''(1) shall grant provisional protected presence to an alien who files an application demonstrating that he or she meets the eligibility criteria under subsection (c) and pays the appropriate application fee;

''(2) may not remove such alien from the United States during the period in which such provisional protected presence is in effect unless such status is rescinded pursuant to subsection (g); and

''(3) shall provide such alien with employment authorization.

''(c) ELIGIBILITY CRITERIA.—An alien is eligible for provisional protected presence under this section and employment authorization if the alien—

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

''(2) entered the United States before reaching 16 years of age;

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

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

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

''(6) on the date on which the alien files an application for provisional protected presence—

''(A) is enrolled in school or in an education program assisting students in obtaining a regular high school diploma or its recognized equivalent under State law, or in passing a general educational development exam or other State-authorized exam;

''(B) has graduated or obtained a certificate of completion from high school;

''(C) has obtained a general educational development certificate; or

''(D) is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;

''(7) has not been convicted of—

''(A) a felony;

''(B) a significant misdemeanor; or

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

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

''(d) DURATION OF PROVISIONAL PROTECTED PRESENCE AND EMPLOYMENT AUTHORIZATION.—Provisional protected presence and the employment authorization provided under this section shall be effective until the date that is 3 years after the date of the enactment of this section.

''(e) STATUS DURING PERIOD OF PROVISIONAL PROTECTED PRESENCE.—

''(1) IN GENERAL.—An alien granted provisional protected presence is not considered to be unlawfully present in the United States during the period beginning on the date such status is granted and ending on the date described in subsection (d).

''(2) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section does not excuse previous or subsequent periods of unlawful presence.

''(f) APPLICATION.—

''(1) AGE REQUIREMENT.—

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

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

''(2) APPLICATION FEE.—

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

''(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—

''(i)(I) is younger than 18 years of age;

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

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

''(ii) is younger than 18 years of age and is homeless;

''(iii)(I) cannot care for himself or herself because of a serious, chronic disability; and

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

''(iv)(I) as of the date on which the alien files an application under this section, has accumulated $10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

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

''(3) REMOVAL STAYED WHILE APPLICATION PENDING.—The Secretary may not remove an alien from the United States who appears prima facie eligible for provisional protected

presence while the alien's application for provisional protected presence is pending.

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

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

''(6) CONFIDENTIALITY.—

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

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

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

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

''(ii) to identify or prevent fraudulent claims;

''(iii) for national security purposes; and

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

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

''(g) RESCISSION OF PROVISIONAL PROTECTED PRESENCE.—The Secretary may not rescind an alien's provisional protected presence or employment authorization granted under this section unless the Secretary determines that the alien—

''(1) has been convicted of—

''(A) a felony;

''(B) a significant misdemeanor; or

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

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

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

''(4) has ceased to continuously reside in the United States.

''(h) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—For purposes of subsections (c)(3) and (g)(4), an alien shall not be considered to have failed to continuously reside in the United States due to—

''(1) brief, casual, and innocent absences from the United States during the period beginning on June 15, 2007, and ending on August 14, 2012; or

''(2) travel outside of the United States on or after August 15, 2012, if such travel was authorized by the Secretary.

''(i) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of subsections (c)(7) and (g)(1), an expunged conviction shall not automatically be treated as a disqualifying felony, significant misdemeanor, or misdemeanor, but shall be evaluated on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, the alien should be eligible for provisional protected presence under this section.

''(j) EFFECT OF DEFERRED ACTION UNDER DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

''(1) PROVISIONAL PROTECTED PRESENCE.—A DACA recipient is deemed to have provisional protected presence under this section through the expiration date of the alien's deferred action status, as specified by the Secretary in conjunction with the approval of the alien's DACA application.

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

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

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

''Sec. 244A. Provisional protected presence.''.

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Immigration Reform Act of 2018''.

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

Sec. 1. Short title; table of contents.

TITLE I—BORDER SECURITY

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

Sec. 101. Operations and support.
Sec. 102. Procurement, construction, and improvements.
Sec. 103. Administrative provisions.

Subtitle B—Improving Border Safety and Security

Sec. 111. Border access roads.
Sec. 112. Flexibility in employment authorities.
Sec. 113. Distress beacons.
Sec. 114. Southern border region emergency communications grants.
Sec. 115. Office of Professional Responsibility.

Subtitle C—Body-Worn Cameras With Privacy Protections

Sec. 121. Short title.
Sec. 122. Pilot program on use of body-worn cameras.
Sec. 123. Development of policies with respect to body-worn cameras.
Sec. 124. Consultations; public comment.
Sec. 125. Implementation plan.
Sec. 126. Deployment.

Subtitle D—GAO Studies

Sec. 131. GAO study on the use of visa fees.
Sec. 132. GAO study on deaths in custody.
Sec. 133. GAO studies on migrant deaths.

TITLE II—DREAM ACT AND PROVISIONAL PROTECTED PRESENCE

Subtitle A—Dream Act

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Permanent resident status on a conditional basis for certain long-term residents who entered the United States as children.
Sec. 204. Terms of permanent resident status on a conditional basis.
Sec. 205. Removal of conditional basis of permanent resident status.
Sec. 206. Documentation requirements.
Sec. 207. Rulemaking.
Sec. 208. Confidentiality of information.
Sec. 209. Restoration of State option to determine residency for purposes of higher education benefits.

TITLE I—BORDER SECURITY

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

SEC. 101. OPERATIONS AND SUPPORT.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $675,000,000 to U.S. Customs and Border Protection for ''Operations and Support'', to remain available until September 30, 2019, which shall be available as follows:

(1) $531,000,000 for—

(A) border security technologies;

(B) facilities;

(C) equipment; and

(D) the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems.

(2) $48,000,000 for retention, recruitment, and relocation of Border Patrol Agents, Customs Officers, and Air and Marine personnel.

(3) $75,000,000 to hire 615 additional U.S. Customs and Border Protection Officers for deployment to ports of entry.

(4) $21,000,000 for data circuits and network bandwidth surveillance and associated personnel.

SEC. 102. PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $2,030,239,000 for ''Procurement, Construction, and Improvements'', to remain available until September 30, 2022, which shall be available as follows:

(1) $784,000,000 for 32 miles of border bollard fencing in the Rio Grande Valley Sector, Texas.

(2) $498,000,000 for 28 miles of a bollard levee fencing in the Rio Grande Valley Sector, Texas.

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

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

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

(6) $15,000,000 for chemical screening devices (as defined in section 2 of the INTERDICT Act (Public Law 115–112)).

SEC. 103. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.—Amounts appropriated under paragraphs (1) through (3) of section 102 shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

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

(1) identifies, with respect to the physical barriers described in paragraphs (1) through (3) of section 102—

(A) all necessary land acquisitions;

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

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

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

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

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

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) drones or other airborne assets;

(E) integrated fixed towers; and

(F) the deployment of additional border personnel.

(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report containing all of the information required under paragraphs (1) through (4) of subsection (b) to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, and the Comptroller General of the United States.

(d) GAO EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits each report described in subsections (b) and (c), the Comptroller General of the United States shall submit an evaluation of the strengths and weaknesses of the report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations of the House of Representatives.

(e) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under paragraphs (1) through (3) of section 102 that remain available after the completion of the construction projects described in such paragraphs shall be rescinded and returned to the general fund of the Treasury.

(f) PROHIBITION.—Notwithstanding any other provision of law, none of the amounts appropriated under this subtitle may be reprogrammed or transferred for any other activity within the Department of Homeland Security.

Subtitle B—Improving Border Safety and Security

SEC. 111. BORDER ACCESS ROADS.

(a) CONSTRUCTION.—

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

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

(A) access roads;

(B) border roads;

(C) patrol roads; and

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

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

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

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of roads under subsection (a) as the Secretary determines to be necessary;

(2) share the policies and guidance developed under paragraph (1) with each Border Patrol Sector of U.S. Customs and Border Protection;

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

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

SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.

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

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

''(a) DEFINITIONS.—In this section—

''(1) the term 'CBP employee' means an employee of U.S. Customs and Border Protection;

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

''(3) the term 'Director' means the Director of the Office of Personnel Management;

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

''(5) the term 'Secretary' means the Secretary of Homeland Security.

''(b) DEMONSTRATION OF RECRUITMENT AND RETENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

''(1) IN GENERAL.—For purposes of subsections (c) and (d), the Secretary shall determine, for a rural or remote area, whether there is—

''(A) a critical hiring need in the area; and

''(B) a direct relationship between—

''(i) the rural or remote nature of the area; and

''(ii) difficulty in the recruitment and retention of CBP employees in the area.

''(2) FACTORS.—To inform the determination of a direct relationship under paragraph (1)(B), the Secretary may consider evidence—

''(A) that the Secretary—

''(i) is unable to efficiently and effectively recruit individuals for positions as CBP employees, which may be demonstrated with various types of evidence, including—

''(I) evidence that multiple positions have been continuously vacant for significantly longer than the national average period for which similar positions in U.S. Customs and Border Protection are vacant; or

''(II) recruitment studies that demonstrate the inability of the Secretary to efficiently and effectively recruit CBP employees for positions in the area; or

''(ii) experiences a consistent inability to retain CBP employees that negatively impacts agency operations at a local or regional level; or

''(B) of any other inability, directly related to recruitment or retention difficulties, that the Secretary determines sufficient.

''(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

''(1) DIRECT HIRE AUTHORITY.—

''(A) IN GENERAL.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees, in a rural or remote area, if the Secretary—

''(i) determines that—

''(I) there is a critical hiring need; and

''(II) there exists a severe shortage of qualified candidates because of the direct relationship identified by the Secretary under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(ii) has given public notice for the positions.

''(B) PRIORITIZATION OF HIRING VETERANS.—If the Secretary uses the direct hiring authority under subparagraph (A), the Secretary shall apply the principles of preference for the hiring of veterans established under subchapter I of chapter 33.

''(2) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a bonus to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

''(A) the Secretary determines that—

''(i) conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to any other provision of that section); and

''(ii) the position to which the individual is appointed or to which the individual moves or must relocate—

''(I) is a position as a CBP employee; and

''(II) is in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

''(A) the Secretary determines that—

''(i) a condition consistent with the condition described in subsection (b)(1) of such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

''(ii) the CBP employee is employed in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

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

''(iii) in the absence of a retention bonus, the CBP employee would be likely to leave—

''(I) the Federal service; or

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(4) RULES FOR BONUSES.—

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

''(i) paragraph (2) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

''(ii) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period.

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

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

''(A) set aside a determination of the Secretary under this subsection if the Director finds substantial evidence that the Secretary abused the discretion of the Secretary in making the determination; and

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

''(d) SPECIAL PAY AUTHORITY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section if the Director finds that the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in 1 or more areas or locations are, or are likely to become, significantly handicapped because the positions are located in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(1) the rural or remote nature of the area; and

''(2) difficulty in the recruitment and retention of CBP employees in the area.

''(e) REGULAR CBP REVIEW.—

''(1) ENSURING FLEXIBILITIES MEET CBP NEEDS.—Each year, the Secretary shall review the use of hiring flexibilities under subsections (c) and (d) to fill positions at a location in a rural or remote area to determine—

''(A) the impact of the use of those flexibilities on solving hiring and retention challenges at the location;

''(B) whether hiring and retention challenges still exist at the location; and

''(C) whether the Secretary needs to continue to use those flexibilities at the location.

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

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

''(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

''(3) DISTRIBUTION.—The Secretary shall submit to Congress a report on each review required under paragraph (1).

''(f) IMPROVING CBP HIRING AND RETENTION.—

''(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment of the Immigration Reform Act of 2018, and in conjunction with the Chief Human Capital Officer of the Department of Homeland Security, the Secretary shall develop and implement a strategy to improve education regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

''(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

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

''(B) Regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

''(C) The development of pilot programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

''(D) Developing and enhancing strategic recruiting efforts through relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

''(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area.

''(F) Feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families.

''(G) Feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families.

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

''(3) EVALUATION.—

''(A) IN GENERAL.—Each year, the Secretary shall —

''(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

''(ii) make any appropriate updates to the strategy under paragraph (1).

''(B) INFORMATION.—The evaluation conducted under subparagraph (A) shall include—

''(i) any reduction in the time taken by the Secretary to fill mission-critical positions in rural or remote areas;

''(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges in rural or remote areas; and

''(iii) other information the Secretary determines relevant.

''(g) INSPECTOR GENERAL REVIEW.—Not later than 2 years after the date of the enactment of the Immigration Reform Act of 2018, the Inspector General of the Department of Homeland Security shall review the use of hiring flexibilities by the Secretary under subsections (c) and (d) to determine whether the use of those flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

''(h) EXERCISE OF AUTHORITY.—

''(1) SOLE DISCRETION.—The exercise of authority under subsection (c) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71.

''(2) DELEGATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may delegate any authority under this section to the Commissioner.

''(B) OVERSIGHT.—The Commissioner may not make a determination under subsection (b)(1) unless the Secretary approves the determination.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

''(j) SUNSET.—The authorities under subsections (c) and (d) shall terminate on the date that is 5 years after the date of the enactment of the Immigration Reform Act of 2018.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

''9702. U.S. Customs and Border Protection employment authorities.''.

SEC. 113. DISTRESS BEACONS.

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, working through U.S. Border Patrol, shall—

(A) identify areas near the international border between the United States and Canada or the international border between the

United States and Mexico where migrant deaths are occurring due to climatic and environmental conditions; and

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

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

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

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

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

(i) to mitigate migrant deaths;

(ii) to facilitate access to emergency personnel; and

(iii) to address any use of the beacons for diversion by criminals.

SEC. 114. SOUTHERN BORDER REGION EMERGENCY COMMUNICATIONS GRANTS.

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

(b) ELIGIBILITY FOR GRANTS.—An individual is eligible for a grant under this section if the individual demonstrates that he or she—

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

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

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

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

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

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

SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY.

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

Subtitle C—Body-Worn Cameras With Privacy Protections

SEC. 121. SHORT TITLE.

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

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

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

(b) REQUIREMENTS FOR PILOT PROGRAM AT U.S. CUSTOMS AND BORDER PROTECTION.—

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

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

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

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

(A) not fewer than 500 body-worn cameras are deployed to officers and agents of U.S. Customs and Border Protection;

(B) not fewer than ½ of such cameras are deployed to agents of U.S. Border Patrol; and

(C) not fewer than ½ of such cameras are deployed along the international border between the United States and Mexico.

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

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

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

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

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

(5) the disposition of complaints described in paragraphs (3) and (4);

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

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

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

(7) an assessment of the effect of the use of body-worn cameras under the pilot program on the safety of officers and agents;

(8) an assessment of the effect of the use of body-worn cameras under the pilot program on public safety;

(9) an assessment of the effect of the use of body-worn cameras under the pilot program on the collection of evidence for criminal investigations and civil immigration enforcement, including the number of cases in which data from a body-worn camera was used as evidence;

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

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

(12) a description of issues that arose under the pilot program relating to the access of the public to recordings from body-worn cameras, including—

(A) issues that arose in situations in which the use of force by an officer or agent was involved; and

(B) an accounting of any body-worn camera footage released to the public;

(13) best practices for the development of protocols for the safe and effective use of body-worn cameras;

(14) a description of issues that arose under the pilot program relating to violations of policies developed under section 123, including—

(A) the number of violations detected, disaggregated by the type of violation; and

(B) the number of internal affairs cases opened and the disposition of such cases;

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

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

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

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

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

(a) IN GENERAL.—The Secretary of Homeland Security shall develop draft policies with respect to the use of body-worn cameras by officers and agents of U.S. Customs and Border Protection.

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

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

(A) specify under what circumstances a body-worn camera is required to be activated, including that such cameras shall be activated, at a minimum, at the inception of any calls for service or law enforcement encounters, including vehicle stops, pedestrian stops, foot pursuits, witness and victim interviews, in-custody transports, and uses of force, except that when an immediate threat to an officer's or agent's life or safety makes activating the camera impossible or dangerous, the officer or agent shall activate the camera at the first reasonable opportunity to do so;

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

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

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

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

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

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

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

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

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

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

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

(3) with respect to privacy protections—

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

to fully and accurately ascertain the events that transpired;

(B) require the consent of victims of and witnesses to a crime before recording interviews relating to the crime may be recorded;

(C) require that an officer or agent who is wearing a body-worn camera notify an individual that is the subject of a recording that the individual is being recorded as close to the inception of the encounter as reasonably possible;

(D) require that, before entering a residence without a warrant or in nonexigent circumstances, an officer or agent obtain consent from the occupant of the residence to continue the use of a body-worn camera; and

(E) ensure that recordings unrelated to law enforcement purposes are minimized to the greatest extent practicable;

(4) with respect to access to recordings from body-worn cameras—

(A) ensure that any officer or agent wearing a body-worn camera is prohibited from accessing a recording on the camera without an authorized purpose;

(B) clearly describe the circumstances in which officers and agents and their supervisors may view recordings from body-worn cameras;

(C) permit supervisors to view recordings from body-worn cameras only for training purposes (and not for use in any disciplinary action against an agent or officer) or when there is a complaint filed against an agent or officer or a use of force incident; and

(D) establish—

(i) under what circumstances a recording from a body-worn camera will be released to the subject of the recording or to another law enforcement or intelligence agency or to the public; and

(ii) protocols for such release;

(5) establish under what circumstances recordings from body-worn cameras will be used to investigate potential misconduct of officers or agents or for other law enforcement purposes;

(6) establish disciplinary procedures for violations of body-worn camera policies by agency personnel, including agents, officers and supervisors; and

(7) ensure that training—

(A) is required and provided to all officers and agents who use body-worn cameras and any personnel involved in the management, storage, or use of body-worn camera data; and

(B) is provided before the use of any body-worn camera by such an officer or agent or the involvement of such agency personnel in the direct management, storage, or use of body-worn camera data.

SEC. 124. CONSULTATIONS; PUBLIC COMMENT.

In developing the pilot program under section 122 and the draft policies required under section 123, the Secretary of Homeland Security shall—

(1) consult with—

(A) the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security;

(B) the Chief Privacy Officer of the Department of Homeland Security;

(C) the Director of the Office of Privacy and Civil Liberties of the Department of Justice; and

(D) any labor organizations representing employees of the Department of Homeland Security who are involved with the use of body-worn cameras;

(2) provide an opportunity for public comment; and

(3) compile a report, which shall be posted on a publicly available website of the Department of Homeland Security, that—

(A) summarizes the comments received pursuant to paragraph (2); and

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

SEC. 125. IMPLEMENTATION PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a plan to Congress for the permanent implementation of the use of body-worn cameras by officers and agents of U.S. Customs and Border Protection.

(b) ELEMENTS.—The plan required under subsection (a) shall include—

(1) a detailed description of the draft policies developed under section 123;

(2) an identification of—

(A) the number of body-worn cameras to be purchased and deployed;

(B) operational requirements for body-worn cameras, including systems and support staff;

(C) the locations where body-worn cameras will be used;

(D) costs associated with the use of body-worn cameras; and

(E) a description of the cost-benefit analysis used to determine the number, placement, and location of body-worn cameras specified in the plan.

SEC. 126. DEPLOYMENT.

Not later than 6 months after the date on which the implementation plan is submitted under section 125, the Secretary of Homeland Security shall ensure the agency-wide deployment of body-worn cameras for U.S. Customs and Border Protection personnel at the Office of Field Operations, U.S. Border Patrol, and the Office of Air and Marine whose job duties involve or may reasonably be expected to involve law-enforcement contacts with the public.

Subtitle D—GAO Studies

SEC. 131. GAO STUDY ON THE USE OF VISA FEES.

Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Committee on Appropriations of the House of Representatives that—

(1) describes the impact of authorizing—

(A) surcharges on immigration-related fees, including visa application and border crossing fees, to be dedicated to border security; and

(B) the use of currently collected fees for border security; and

(2) addresses the potential impact on U.S. Citizenship and Immigration Services operations of imposing surcharges on immigration-related fees, including the potential impact on processing times and backlogs.

SEC. 132. GAO STUDY ON DEATHS IN CUSTODY.

Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives on the deaths of detainees who were in the custody of the Department of Homeland Security, including, with respect to such deaths—

(1) whether any such deaths could have been prevented by the delivery of medical treatment administered while the detainee was in such custody;

(2) whether the practices and procedures of the Department of Homeland Security were properly followed and obeyed;

(3) whether such practices and procedures are sufficient to protect the health and safety of such detainees; and

(4) whether such deaths were reported through the Deaths in Custody Reporting Program.

SEC. 133. GAO STUDIES ON MIGRANT DEATHS.

Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives that includes—

(1) the total number of migrant deaths along the international border between the United States and Mexico during the most recent 5-year period;

(2) the total number of unidentified deceased migrants found along such border during such period;

(3) the level of cooperation between U.S. Customs and Border Protection, local and State law enforcement, foreign diplomatic and consular posts, nongovernmental organizations, and family members to accurately identify deceased individuals;

(4) the use of DNA testing and sharing of such data between U.S. Customs and Border Protection, State and local law enforcement, foreign diplomatic and consular posts, and nongovernmental organizations to accurately identify deceased individuals;

(5) the comparison of DNA data with information on Federal, State, and local missing person registries; and

(6) the procedures and processes used by U.S. Customs and Border Protection for notifying relevant authorities or family members after missing persons are identified through DNA testing.

TITLE II—DREAM ACT AND PROVISIONAL PROTECTED PRESENCE

Subtitle A—Dream Act

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Dream Act of 2018''.

SEC. 202. DEFINITIONS.

In this subtitle:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall have the meaning given the term in the immigration laws.

(2) APPLICABLE FEDERAL TAX LIABILITY.—The term ''applicable Federal tax liability'' means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on taxes imposed under the Internal Revenue Code of 1986.

(3) DACA.—The term ''DACA'' means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals program announced by President Obama on June 15, 2012.

(4) DISABILITY.—The term ''disability'' has the meaning given the term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(5) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ''early childhood education program'' has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(6) ELEMENTARY SCHOOL; HIGH SCHOOL; SECONDARY SCHOOL.—The terms ''elementary school'', ''high school'', and ''secondary school'' have the meanings given the terms

in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

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

(8) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

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

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

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

(10) MISDEMEANOR.—

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

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

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

(11) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term ''permanent resident status on a conditional basis'' means status as an alien lawfully admitted for permanent residence on a conditional basis under this subtitle.

(12) POVERTY LINE.—The term ''poverty line'' has the meaning given the term in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902).

(13) SECRETARY.—Except as otherwise specifically provided, the term ''Secretary'' means the Secretary of Homeland Security.

(14) SIGNIFICANT MISDEMEANOR.—The term ''significant misdemeanor'' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) for which the maximum term of imprisonment is greater than 5 days and not greater than 1 year that—

(A) regardless of the sentence imposed, is a crime of domestic violence (as defined in section 237(a)(2)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(E)(i)) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence if the State law requires, as an element of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher; or

(B) resulted in a sentence of time in custody of more than 90 days, excluding an offense for which the sentence was suspended.

(15) UNIFORMED SERVICES.—The term ''Uniformed Services'' has the meaning given the term ''uniformed services'' in section 101(a) of title 10, United States Code.

SEC. 203. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, an alien who obtains the status of an alien lawfully admitted for permanent residence under this section shall be considered to have obtained that status on a conditional basis as of the date on which the alien obtained the status, subject to this subtitle.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), if—

(A) the alien has been continuously physically present in the United States since June 15, 2012;

(B) the alien was younger than 18 years of age on the date on which the alien initially entered the United States;

(C) subject to paragraphs (2) and (3), the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) has not been convicted of—

(I) a felony;

(II) a significant misdemeanor; or

(III) 3 or more misdemeanors—

(aa) not occurring on the same date; and

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

(D) the alien—

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

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

(iii) is enrolled in secondary school or in an education program assisting students in—

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

(II) passing a general educational development exam, a high school equivalence diploma examination, or other similar State-authorized exam; or

(iv)(I) has served, is serving, or has enlisted in the Armed Forces; and

(II) in the case of an alien who has been discharged from the Armed Forces, has received an honorable discharge; and

(E)(i) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was a DACA recipient; or

(ii) the alien has entered into an agreement to pay any applicable Federal tax liability incurred by the alien during the entire period for which the alien was a DACA recipient through a payment installment plan approved by the Commissioner of Internal Revenue.

(2) WAIVER.—

(A) IN GENERAL.—With respect to any benefit under this subtitle, the Secretary may, on a case-by-case basis, waive the grounds of inadmissibility under paragraph (2), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a))—

(i) for humanitarian purposes; or

(ii) if the waiver is otherwise in the public interest.

(B) QUARTERLY REPORTS.—Not later than 180 days after the date of enactment of this Act, and quarterly thereafter, the Secretary shall submit to Congress a report that includes, for the preceding quarter—

(i) the number of requests submitted by aliens for a waiver under subparagraph (A);

(ii) the number of waivers granted under that subparagraph; and

(iii) the number of requests for a waiver under that subparagraph denied by the Secretary.

(3) TREATMENT OF EXPUNGED CONVICTIONS.—

(A) IN GENERAL.—An expunged conviction shall not automatically be treated as a conviction referred to in paragraph (1)(C)(iii).

(B) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged conviction on a case-by-case basis according to the nature and severity of the offense underlying the expunged conviction, based on the record of conviction, to determine whether, under the particular circumstances, the alien is eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

(4) DACA RECIPIENTS.—With respect to an alien granted DACA, the Secretary shall cancel the removal of the alien and adjust the status of the alien to the status of an alien lawfully admitted for permanent residence on a conditional basis unless, since the date on which the alien was granted DACA, the alien has engaged in conduct that would render an alien ineligible for DACA.

(5) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may require an alien applying for permanent resident status on a conditional basis to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) only if the alien—

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

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

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

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

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

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

(iv)(I) during the 1-year period immediately preceding the date on which the alien files an application under this section, accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

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

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any alien who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical impairment.

(7) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for permanent resident status on a conditional basis.

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

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

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

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

(8) MEDICAL EXAMINATION.—

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

(B) POLICIES AND PROCEDURES.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination under subparagraph (A).

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

(c) DETERMINATION OF CONTINUOUS PRESENCE.—

(1) TERMINATION OF CONTINUOUS PERIOD.—Any period of continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis shall not terminate on the date on which the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period greater than 90 days or for any periods, in the aggregate, greater than 180 days.

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

(C) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

(d) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

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

(2) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

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

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

(i) meets all the requirements under subparagraphs (A), (B), and (C) of subsection (b)(1), subject to paragraphs (2) and (3) of that subsection;

(ii) is at least 5 years of age; and

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

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

(C) EMPLOYMENT.—An alien whose removal is stayed pursuant to subparagraph (A) or who may not be placed in removal proceedings pursuant to subparagraph (B) shall, upon application to the Secretary, be granted an employment authorization document.

(D) LIFT OF STAY.—The Secretary or Attorney General may not lift the stay granted to an alien under subparagraph (A) unless the alien ceases to meet the requirements under such subparagraph.

(e) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status on a conditional basis.

SEC. 204. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.

(a) PERIOD OF STATUS.—Permanent resident status on a conditional basis is—

(1) valid for a period of 8 years, unless that period is extended by the Secretary; and

(2) subject to termination under subsection (c).

(b) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this subtitle and the requirements to have the conditional basis of such status removed.

(c) TERMINATION OF STATUS.—The Secretary may terminate the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section; and

(2) prior to the termination, provides the alien—

(A) notice of the proposed termination; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise contest the termination.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the immigration status of an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied shall return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for such status, as appropriate.

(2) SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied and who had temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) immediately before receiving or applying for permanent resident status on a conditional basis, as appropriate, may not return to temporary protected status if—

(A) the relevant designation under section 244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) has been terminated; or

(B) the Secretary determines that the reason for terminating the permanent resident status on a conditional basis renders the alien ineligible for temporary protected status.

(e) INELIGIBILITY FOR PUBLIC BENEFITS.—An alien who has been granted permanent resident status on a conditional basis shall not be eligible for any Federal means-tested public benefit (within the meaning of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) until the date on which the conditional permanent resident status of the alien is removed.

SEC. 205. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional basis of the permanent resident status of an alien granted under this subtitle and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section;

(B) has not abandoned the residence of the alien in the United States;

(C)(i) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

(ii)(I) has served in the Uniformed Services for at least 2 years; or

(II) in the case of an alien who has been discharged from the Uniformed Services, has received an honorable discharge; or

(iii) has been employed for periods totaling at least 3 years and at least 75 percent of the time that the alien has had a valid employment authorization, except that any period during which the alien is not employed while having a valid employment authorization and is enrolled in an institution of higher education, a secondary school, or an education program described in section 203(b)(1)(D)(iii), shall not count toward the time requirements under this clause; and

(D)(i) has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was in permanent resident status on a conditional basis; or

(ii) has entered into an agreement to pay the applicable Federal tax liability incurred by the alien during the entire period for which the alien was in permanent resident status on a conditional basis through a payment installment plan approved by the Commissioner of Internal Revenue.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary shall remove the conditional basis of the permanent resident status of an alien and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(i) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(iii) demonstrates that—

(I) the alien has a disability;

(II) the alien is a full-time caregiver of a minor child; or

(III) the removal of the alien from the United States would result in extreme hardship to the alien or the alien's spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) CITIZENSHIP REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of the permanent resident status granted to an alien under this subtitle may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) due to disability.

(4) APPLICATION FEE.—

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

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) only if the alien—

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

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

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

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

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

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

(iv)(I) during the 1-year period immediately preceding the date on which the alien files an application under this section, the alien accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(5) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

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

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any applicant who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to physical impairment.

(6) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the permanent resident status of the alien; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of the conditional basis if the permanent resident status of the alien.

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

(b) NATURALIZATION.—

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

(2) LIMITATIONS ON APPLICATION FOR NATURALIZATION.—

(A) IN GENERAL.—An alien may not be naturalized—

(i) on any date on which the alien is in permanent resident status on a conditional basis; or

(ii) before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

(B) REDUCTION IN PERIOD.—

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

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

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

SEC. 206. DOCUMENTATION REQUIREMENTS.

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

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

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

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

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

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

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

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under section 203(b)(1)(A), or to establish that an alien has not abandoned residence in the United States, as required under section 205(a)(1)(B), the alien may submit documents to the Secretary, including—

(1) employment records that include the employer's name and contact information;

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

(3) records of service from the Uniformed Services;

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

(5) passport entries;

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

(7) automobile license receipts or registration;

(8) deeds, mortgages, or rental agreement contracts;

(9) tax receipts;

(10) insurance policies;

(11) remittance records;

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

(13) copies of money order receipts for money sent in or out of the United States;

(14) dated bank transactions; or

(15) 2 or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(c) DOCUMENTS ESTABLISHING INITIAL ENTRY INTO THE UNITED STATES.—To establish under section 203(b)(1)(B) that an alien was younger than 18 years of age on the date on which the alien initially entered the United States, an alien may submit documents to the Secretary, including—

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

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

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

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

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

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

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

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

(9) automobile license receipts or registration;

(10) deeds, mortgages, or rental agreement contracts;

(11) tax receipts;

(12) travel records;

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

(14) dated bank transactions;

(15) remittance records; or

(16) insurance policies.

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

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

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

(f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate recognized under State law or a high school equivalency diploma in the United States, the alien shall submit to the Secretary—

(1) a high school diploma, certificate of completion, or other alternate award;

(2) a high school equivalency diploma or certificate recognized under State law; or

(3) evidence that the alien passed a State-authorized exam, including the general educational development exam, in the United States.

(g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in section 203(b)(1)(D)(iii), 203(d)(3)(A)(iii), or 205(a)(1)(C)(i), the alien shall submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien's name, periods of attendance, and current grade or educational level.

(h) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under section 203(b)(5)(B) or 205(a)(4)(B), the alien shall submit to the Secretary the following relevant documents:

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien shall provide proof of identity, as described in subsection (a), that establishes that the alien is younger than 18 years of age.

(2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien shall provide—

(A) employment records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(B) bank records; or

(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien.

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

(A) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, is homeless, or has a serious, chronic disability, as appropriate;

(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(4) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

(A) bear the provider's name and address;

(B) bear the name of the individual receiving treatment; and

(C) document that the alien has accumulated $10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien.

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

(1) the name, address, and telephone number of the affiant; and

(2) the nature and duration of the relationship between the affiant and the alien.

(j) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien shall submit to the Secretary—

(1) a Department of Defense form DD-214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or

(4) health records from the appropriate Uniformed Service.

(k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

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

(A) establish compliance with such employment requirement; and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

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

(A) bank records;

(B) business records;

(C) employer records;

(D) records of a labor union, day labor center, or organization that assists workers in employment;

(E) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work, that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien; and

(F) remittance records.

(l) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status on a conditional basis is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 207. RULEMAKING.

(a) INITIAL PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register regulations implementing this subtitle.

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

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

(c) FINAL REGULATIONS.—Not later than 180 days after the date on which interim regulations are published under this section, the Secretary shall publish final regulations implementing this subtitle.

(d) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the ''Paperwork Reduction Act'') shall not apply to any action to implement this subtitle.

SEC. 208. CONFIDENTIALITY OF INFORMATION.

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

(1) an application filed under this subtitle; or

(2) a request for DACA.

(b) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection any individual who—

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

(2) was granted DACA.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for permanent resident status on a conditional basis or a request for DACA may be shared with a Federal security or law enforcement agency—

(1) for assistance in the consideration of an application for permanent resident status on a conditional basis;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

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

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

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

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

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SA 1959. Mr. GRASSLEY (for himself, Mrs. ERNST, Mr. TILLIS, Mr. LANKFORD, Mr. COTTON, Mr. PERDUE, Mr. CORNYN, Mr. ALEXANDER, and Mr. ISAKSON) proposed an amendment to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the

premium tax credit with respect to unsubsidized COBRA continuation coverage; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLES.—This Act may be cited as the ''SECURE and SUCCEED Act''.

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

Sec. 1. Short titles; table of contents.

TITLE I—BUILDING AMERICA'S TRUST ACT

Sec. 1001. Short title.

Subtitle A—Border Security

Sec. 1101. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

Sec. 1111. Strengthening the requirements for barriers along the southern border.
Sec. 1112. Air and Marine Operations flight hours.
Sec. 1113. Capability deployment to specific sectors and transit zone.
Sec. 1114. U.S. Border Patrol activities.
Sec. 1115. National Guard support to secure the southern border.
Sec. 1116. Operation Phalanx.
Sec. 1117. Merida Initiative.
Sec. 1118. Prohibitions on actions that impede border security on certain Federal land.
Sec. 1119. Landowner and rancher security enhancement.
Sec. 1120. Limitation on land owner's liability.
Sec. 1121. Eradication of carrizo cane and salt cedar.
Sec. 1122. Prevention, detection, control, and eradication of diseases and pests.
Sec. 1123. Transnational criminal organization illicit spotter prevention and detection.
Sec. 1124. Southern border threat analysis.
Sec. 1125. Amendments to U.S. Customs and Border Protection.
Sec. 1126. Agent and officer technology use.
Sec. 1127. Integrated Border Enforcement Teams.
Sec. 1128. Land use or acquisition.
Sec. 1129. Tunnel Task Forces.
Sec. 1130. Pilot program on use of electromagnetic spectrum in support of border security operations.
Sec. 1131. Foreign migration assistance.

CHAPTER 2—PERSONNEL

Sec. 1141. Additional U.S. Customs and Border Protection agents and officers.
Sec. 1142. Fair labor standards for border patrol agents.
Sec. 1143. U.S. Customs and Border Protection retention incentives.
Sec. 1144. Rate of pay for U.S. Immigration and Customs Enforcement officers and agents.
Sec. 1145. Anti-Border Corruption Reauthorization Act.
Sec. 1146. Training for officers and agents of U.S. Customs and Border Protection.
Sec. 1147. Additional U.S. Immigration and Customs Enforcement personnel.
Sec. 1148. Other immigration and law enforcement personnel.
Sec. 1149. Judicial resources for border security.
Sec. 1150. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

CHAPTER 3—GRANTS

Sec. 1151. State Criminal Alien Assistance Program.
Sec. 1152. Southern border security assistance grants.
Sec. 1153. Operation Stonegarden.
Sec. 1154. Grants for identification of victims of cross-border human smuggling.
Sec. 1155. Grant accountability.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

Sec. 1201. Definitions.
Sec. 1202. Ports of entry infrastructure.
Sec. 1203. Secure communications.
Sec. 1204. Border security deployment program.
Sec. 1205. Pilot and upgrade of license plate readers at ports of entry.
Sec. 1206. Biometric technology.
Sec. 1207. Nonintrusive inspection operational demonstration project.
Sec. 1208. Biometric exit data system.
Sec. 1209. Sense of Congress on cooperation between agencies.

Subtitle C—Border Security Enforcement Fund

Sec. 1301. Border Security Enforcement Fund.

Subtitle D—Stop the Importation and Trafficking of Synthetic Analogues Act

Sec. 1401. Short titles.
Sec. 1402. Establishment of Schedule A.
Sec. 1403. Temporary and permanent scheduling of schedule A substances.
Sec. 1404. Penalties.
Sec. 1405. False labeling of schedule A controlled substances.
Sec. 1406. Registration requirements for handlers of schedule A substances.
Sec. 1407. Additional conforming amendments.
Sec. 1408. Clarification of the definition of controlled substance analogue under the Analogue Enforcement Act.
Sec. 1409. Rules of construction.

Subtitle E—Domestic Security

CHAPTER 1—GENERAL MATTERS

Sec. 1501. Keep Our Communities Safe Act.
Sec. 1502. Deterring visa overstays.
Sec. 1503. Increase in immigration detention capacity.
Sec. 1504. Collection of DNA from criminal and detained aliens.
Sec. 1505. Collection, use, and storage of biometric data.
Sec. 1506. Pilot program for electronic field processing.
Sec. 1507. Ending abuse of parole authority.
Sec. 1508. Reports to Congress on parole.
Sec. 1509. Reinstatement of the Secure Communities Program.
Sec. 1510. Ensuring that local and Federal law enforcement officers may cooperate to safeguard our communities.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

Sec. 1520. Short title.
Sec. 1521. Repatriation of unaccompanied alien children.
Sec. 1522. Child welfare and law enforcement information sharing.
Sec. 1523. Accountability for children and taxpayers.
Sec. 1524. Custody of unaccompanied alien children in formal removal proceeding.
Sec. 1525. Fraud in connection with the transfer of custody of unaccompanied alien children.
Sec. 1526. Notification of States and foreign governments, reporting, and monitoring.
Sec. 1527. Reports to Congress.

CHAPTER 3—COOPERATION WITH MEXICO AND OTHER COUNTRIES ON ASYLUM AND REFUGEE ISSUES

Sec. 1541. Strengthening internal asylum systems in Mexico and other countries.
Sec. 1542. Expanding refugee processing in Mexico and Central America for third country resettlement.

Subtitle F—Penalties for Smuggling, Drug Trafficking, Human Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to Readmission of Removed Aliens

Sec. 1601. Dangerous human smuggling, human trafficking, and human rights violations.
Sec. 1602. Putting the Brakes on Human Smuggling Act.
Sec. 1603. Drug trafficking and crimes of violence committed by illegal aliens.
Sec. 1604. Establishing inadmissibility and deportability.
Sec. 1605. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.
Sec. 1606. Penalties for reentry of removed aliens.
Sec. 1607. Laundering of monetary instruments.
Sec. 1608. Freezing bank accounts of international criminal organizations and money launderers.
Sec. 1609. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
Sec. 1610. Closing the loophole on drug cartel associates engaged in money laundering.

Subtitle G—Protecting National Security and Public Safety

CHAPTER 1—GENERAL MATTERS

Sec. 1701. Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
Sec. 1702. Terrorist and security-related grounds of inadmissibility.
Sec. 1703. Expedited removal for aliens inadmissible on criminal or security grounds.
Sec. 1704. Detention of removable aliens.
Sec. 1705. GAO study on deaths in custody.
Sec. 1706. GAO study on migrant deaths.
Sec. 1707. Statute of limitations for visa, naturalization, and other fraud offenses involving war crimes, crimes against humanity, or human rights violations.
Sec. 1708. Criminal detention of aliens to protect public safety.
Sec. 1709. Recruitment of persons to participate in terrorism.
Sec. 1710. Barring and removing persecutors, war criminals, and participants in crimes against humanity from the United States.
Sec. 1711. Child soldier recruitment ineligibility technical correction.
Sec. 1712. Gang membership, removal, and increased criminal penalties related to gang violence.
Sec. 1713. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
Sec. 1714. Protecting immigrants from convicted sex offenders.
Sec. 1715. Enhanced criminal penalties for high speed flight.
Sec. 1716. Prohibition on asylum and cancellation of removal for terrorists.
Sec. 1717. Aggravated felonies.
Sec. 1718. Failure to obey removal orders.

Sec. 1719. Sanctions for countries that delay or prevent repatriation of their nationals.
Sec. 1720. Enhanced penalties for construction and use of border tunnels.
Sec. 1721. Enhanced penalties for fraud and misuse of visas, permits, and other documents.
Sec. 1722. Expansion of criminal alien repatriation programs.
Sec. 1723. Prohibition on flight training and nuclear studies for nationals of high-risk countries.

CHAPTER 2—STRONG VISA INTEGRITY SECURES AMERICA ACT

Sec. 1731. Short title.
Sec. 1732. Visa security.
Sec. 1733. Electronic passport screening and biometric matching.
Sec. 1734. Reporting visa overstays.
Sec. 1735. Student and exchange visitor information system verification.
Sec. 1736. Social media review of visa applicants.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

Sec. 1741. Cancellation of additional visas.
Sec. 1742. Visa information sharing.
Sec. 1743. Visa interviews.
Sec. 1744. Visa revocation and limits on judicial review.

CHAPTER 4—SECURE VISAS ACT

Sec. 1751. Short title.
Sec. 1752. Authority of the Secretary of Homeland Security and the Secretary of State.

CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2018

Sec. 1761. Short title.
Sec. 1762. Expanded usage of fraud prevention and detection fees.
Sec. 1763. Inadmissibility of spouses and sons and daughters of traffickers.
Sec. 1764. DNA testing and criminal history.
Sec. 1765. Access to NCIC criminal history database for diplomatic visas.
Sec. 1766. Elimination of signed photograph requirement for visa applications.

CHAPTER 6—OTHER MATTERS

Sec. 1771. Requirement for completion of background checks.
Sec. 1772. Withholding of adjudication.
Sec. 1773. Access to the National Crime Information Center Interstate Identification Index.
Sec. 1774. Appropriate remedies for immigration litigation.
Sec. 1775. Use of 1986 IRCA legalization information for national security purposes.
Sec. 1776. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
Sec. 1777. Conforming amendment to the definition of racketeering activity.
Sec. 1778. Validity of electronic signatures.

Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States

CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS

Sec. 1801. Lawful permanent residents as applicants for admission.
Sec. 1802. Date of admission for purposes of adjustment of status.
Sec. 1803. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.
Sec. 1804. Revocation of lawful permanent resident status for human rights violators.
Sec. 1805. Removal of condition on lawful permanent resident status prior to naturalization.
Sec. 1806. Prohibition on terrorists and aliens who pose a threat to national security or public safety from receiving an adjustment of status.
Sec. 1807. Treatment of applications for adjustment of status during pending denaturalization proceedings.
Sec. 1808. Extension of time limit to permit rescission of permanent resident status.
Sec. 1809. Barring persecutors and terrorists from registry.

CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES CITIZENSHIP

Sec. 1821. Barring terrorists from becoming naturalized United States citizens.
Sec. 1822. Terrorist bar to good moral character.
Sec. 1823. Prohibition on judicial review of naturalization applications for aliens in removal proceedings.
Sec. 1824. Limitation on judicial review when agency has not made decision on naturalization application and on denials.
Sec. 1825. Clarification of denaturalization authority.
Sec. 1826. Denaturalization of terrorists.
Sec. 1827. Treatment of pending applications during denaturalization proceedings.
Sec. 1828. Naturalization document retention.

CHAPTER 3—FORFEITURE OF PROCEEDS FROM PASSPORT AND VISA OFFENSES, AND PASSPORT REVOCATION.

Sec. 1831. Forfeiture of proceeds from passport and visa offenses.
Sec. 1832. Passport Revocation Act.

TITLE II—PERMANENT REAUTHORIZATION OF VOLUNTARY E–VERIFY

Sec. 2001. Permanent reauthorization.
Sec. 2002. Preemption; liability.
Sec. 2003. Information sharing.
Sec. 2004. Small Business Demonstration Program.
Sec. 2005. Fraud prevention.
Sec. 2006. Identity authentication employment eligibility verification pilot programs.

TITLE III—SUCCEED ACT

Sec. 3001. Short titles.
Sec. 3002. Definitions.
Sec. 3003. Cancellation of removal of certain long-term residents who entered the United States as children.
Sec. 3004. Conditional temporary resident status.
Sec. 3005. Removal of conditional basis for temporary residence.
Sec. 3006. Benefits for relatives of aliens granted conditional temporary resident status.
Sec. 3007. Exclusive jurisdiction.
Sec. 3008. Confidentiality of information.
Sec. 3009. Restriction on welfare benefits for conditional temporary residents.
Sec. 3010. GAO report.
Sec. 3011. Military enlistment.
Sec. 3012. Eligibility for naturalization.
Sec. 3013. Funding.

TITLE IV—ENSURING FAMILY REUNIFICATION

Sec. 4001. Short title.
Sec. 4002. Family-Sponsored immigration priorities.
Sec. 4003. Elimination of Diversity Visa Program.

TITLE V—OTHER MATTERS

Sec. 5001. Other Immigration and Nationality Act amendments.
Sec. 5002. Exemption from the Administrative Procedure Act.
Sec. 5003. Exemption from the Paperwork Reduction Act.
Sec. 5004. Exemption from government contracting and hiring rules.
Sec. 5005. Ability to fill and retain Department of Homeland Security positions in United States territories.
Sec. 5006. Severability.
Sec. 5007. Funding.

TITLE VI—TECHNICAL AMENDMENTS

Sec. 6001. References to the Immigration and Nationality Act.
Sec. 6002. Technical amendments to title I of the Immigration and Nationality Act.
Sec. 6003. Technical amendments to title II of the Immigration and Nationality Act.
Sec. 6004. Technical amendments to title III of the Immigration and Nationality Act.
Sec. 6005. Technical amendment to title IV of the Immigration and Nationality Act.
Sec. 6006. Technical amendments to title V of the Immigration and Nationality Act.
Sec. 6007. Other amendments.
Sec. 6008. Repeals; rule of construction.
Sec. 6009. Miscellaneous technical correction.

TITLE I—BUILDING AMERICA'S TRUST ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Building America's Trust Act''.

Subtitle A—Border Security

SEC. 1101. DEFINITIONS.

In this subtitle:

(1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term ''advanced unattended surveillance sensors'' means sensors that utilize an onboard computer to analyze detections in an effort to discern between vehicles, humans, and animals, and ultimately filter false positives before transmission.

(2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term ''appropriate congressional committee'' has the meaning given the term in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of U.S. Customs and Border Protection.

(4) HIGH TRAFFIC AREAS.—The term ''high traffic areas'' has the meaning given the term in section 102(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as added by section 1111.

(5) OPERATIONAL CONTROL.—The term ''operational control'' has the meaning given the term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(7) SITUATIONAL AWARENESS.—The term ''situational awareness'' has the meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

(8) SMALL UNMANNED AERIAL VEHICLE.—The term ''small unmanned aerial vehicle'' has the meaning given the term ''small unmanned aircraft'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(9) TRANSIT ZONE.—The term ''transit zone'' has the meaning given the term in section 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

(10) UNMANNED AERIAL SYSTEM.—The term ''unmanned aerial system'' has the meaning given the term ''unmanned aircraft system'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(11) UNMANNED AERIAL VEHICLE.—The term ''unmanned aerial vehicle'' has the meaning given the term ''unmanned aircraft system'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208; 8 U.S.C. 1103 note) is amended—

(1) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—The Secretary of Homeland Security shall take such actions as may be necessary (including the removal of obstacles to detection of illegal entrants) to construct, install, deploy, operate, and permanently maintain physical barriers, tactical infrastructure and technology in the vicinity of the United States border to achieve situational awareness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas.'';

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''subsection (a)'' and inserting ''this section'';

(II) by striking ''roads, lighting, cameras, and sensors'' and inserting ''tactical infrastructure, and technology''; and

(III) by striking ''gain'' and inserting ''achieve situational awareness and''; and

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

''(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this section, shall deploy along the United States border the most practical and effective physical barriers and tactical infrastructure available for achieving situational awareness and operational control of the border.

''(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—The deployment of physical barriers and tactical infrastructure under this subparagraph shall not apply in any area or region along the border where natural terrain features, natural barriers, or the remoteness of such area or region would make any such deployment ineffective, as determined by the Secretary, for the purposes of gaining situational awareness or operational control of such area or region.'';

(iii) in subparagraph (C)—

(I) by amending clause (i) to read as follows:

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall, before constructing physical barriers in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of Federal, State, local, and tribal governments, and appropriate private property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such physical barriers are to be constructed.'';

(II) by redesignating clause (ii) as clause (iii); and

(III) by inserting after clause (i), as amended, the following:

''(ii) NOTIFICATION.—Not later than 60 days after the consultation required under clause (i), the Secretary of Homeland Security shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the type of physical barriers, tactical infrastructure, or technology the Secretary has determined is most practical and effective to achieve situational awareness and operational control in a specific area and the other alternatives the Secretary considered before making such a determination.''; and

(IV) in clause (iii), as redesignated—

(aa) in subclause (I), by striking ''or'' at the end;

(bb) by amending subclause (II) to read as follows:

''(II) delay the transfer of the possession of property to the United States or affect the validity of any property acquisition by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any state; or''; and

(cc) by adding at the end the following:

''(III) create any right or liability for any party.''; and

(iv) by striking subparagraph (D);

(C) in paragraph (2)—

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

(ii) by striking ''this subsection'' and inserting ''this section''; and

(iii) by striking ''construction of fences'' and inserting ''the construction of physical barriers''; and

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

''(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, constructing, and deploying physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into the design, construction, or deployment of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines, in the Secretary's sole discretion, are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.'';

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

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements that the Secretary, in the Secretary's sole discretion, determines necessary to ensure the expeditious design, testing, construction, installation, deployment, operation, and maintenance of the physical barriers, tactical infrastructure and technology under this section. Any such decision by the Secretary shall be effective upon publication in the Federal Register.''; and

(4) by adding after subsection (d) the following:

''(e) TECHNOLOGY.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this section, shall deploy, operate, and permanently maintain along the United States border the most practical and effective technology available for achieving situational awareness and operational control of the border.

''(f) LIMITATION ON REQUIREMENTS.—Nothing in this section may be construed as requiring the Secretary to install tactical infrastructure, technology, and physical barriers in a particular location along an international border of the United States if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain situational awareness and operational control over the international border at such location.

''(g) DEFINITIONS.—In this section:

''(1) HIGH TRAFFIC AREAS.—The term 'high traffic areas' means areas in the vicinity of the United States border that—

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

''(B) have significant unlawful cross-border activity, as determined by the Secretary of Homeland Security.

''(2) OPERATIONAL CONTROL.—The term 'operational control' has the meaning given the term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

''(3) PHYSICAL BARRIERS.—The term 'physical barriers' includes reinforced fencing, a border wall system, and levee walls.

''(4) SITUATIONAL AWARENESS DEFINED.—The term 'situational awareness' has the meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

''(5) TACTICAL INFRASTRUCTURE.—The term 'tactical infrastructure' includes boat ramps, access gates, checkpoints, lighting, and roads.

''(6) TECHNOLOGY.—The term 'technology' means border surveillance and detection technology, including—

''(A) tower-based surveillance technology;

''(B) deployable, lighter-than-air ground surveillance equipment;

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

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

''(E) advanced unattended surveillance sensors;

''(F) mobile vehicle-mounted and man-portable surveillance capabilities;

''(G) unmanned aerial vehicles; and

''(H) other border detection, communication, and surveillance technology.

''(7) UNMANNED AERIAL VEHICLES.—The term 'unmanned aerial vehicle' has the meaning given the term 'unmanned aircraft' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).''.

SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.

(a) INCREASED FLIGHT HOURS.—The Secretary shall ensure that not fewer than 95,000 annual flight hours are carried out by Air and Marine Operations of U.S. Customs and Border Protection.

(b) UNMANNED AERIAL SYSTEM.—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that Air and Marine Operations operate unmanned aerial systems on the southern border of the United States for not fewer than 24 hours per day for 5 days per week.

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

(d) PRIMARY MISSION.—The Commissioner shall ensure that—

(1) the primary missions for Air and Marine Operations are to directly support U.S.

Border Patrol activities along the southern border of the United States and Joint Interagency Task Force South operations in the transit zone; and

(2) the Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions established by the Commissioner to carry out the requirements under this Act.

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

(1) identify critical flight hour requirements; and

(2) direct Air and Marine Operations to support requests from Sector Chiefs as their primary mission.

(f) SMALL UNMANNED AERIAL VEHICLES.—

(1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent for U.S. Customs and Border Protection's use of small, unmanned aerial vehicles for the purpose of meeting the U.S. Border Patrol's unmet flight hour operational requirements and to achieve situational awareness and operational control.

(2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol shall—

(A) coordinate flight operations with the Administrator of the Federal Aviation Administration to ensure the safe and efficient operation of the National Airspace System; and

(B) coordinate with the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection to ensure the safety of other aircraft flying in the vicinity of small, unmanned aerial vehicles operated by the U.S. Border Patrol.

(3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of 2002 (6 U.S.C. 211(e)(3)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

''(C) carry out the small unmanned aerial vehicle requirements pursuant to section 1112(f) of the Building America's Trust Act; and''.

(g) SAVINGS CLAUSE.—Nothing in this section may be construed to confer, transfer, or delegate to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration relating to the use of airspace or aviation safety.

SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS AND TRANSIT ZONE.

(a) IN GENERAL.—Not later than September 30, 2022, the Secretary, in implementing section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 1111, and acting through the appropriate component of the Department of Homeland Security, shall deploy to each sector or region of the southern border and the northern border, in a prioritized manner to achieve situational awareness and operational control of such borders, the following additional capabilities:

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

(A) Tower-based surveillance technology.

(B) Subterranean surveillance and detection technologies.

(C) To increase coastal maritime domain awareness, the following:

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

(ii) Unmanned aerial vehicles with maritime surveillance capability.

(iii) U.S. Customs and Border Protection maritime patrol aircraft.

(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Man-portable unmanned aerial vehicles.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

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

(F) Mobile vehicle-mounted and man-portable surveillance systems.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(E) Mobile vehicle-mounted and man-portable surveillance systems.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(6) BIG BEND SECTOR.—For the Big Bend sector, the following:

(A) Tower-based surveillance technology.

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

(C) Improved agent communications capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Increased monitoring for cross-river dams, culverts, and footpaths.

(C) Improved agent communications capabilities.

(D) Improved maritime capabilities in the Amistad National Recreation Area.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Maritime detection resources for the Falcon Lake region.

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Increased monitoring for cross-river dams, culverts, and footpaths.

(E) Ultralight aircraft detection capability.

(F) Advanced unattended surveillance sensors.

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Ultralight aircraft detection capability.

(E) Advanced unattended surveillance sensors.

(F) Increased monitoring for cross-river dams, culverts, footpaths.

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

(H) Increased maritime interdiction capabilities.

(I) Mobile vehicle-mounted and man-portable surveillance capabilities.

(J) Man-portable unmanned aerial vehicles.

(K) Improved agent communications capabilities.

(10) BLAINE SECTOR.—For the Blaine sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Coastal radar surveillance systems.
(C) Increased maritime interdiction capabilities.
(D) Mobile vehicle-mounted and man-portable surveillance capabilities.
(E) Advanced unattended surveillance sensors.
(F) Ultralight aircraft detection capabilities.
(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications capabilities.
(11) SPOKANE SECTOR.—For the Spokane sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Increased maritime interdiction capabilities.
(C) Mobile vehicle-mounted and man-portable surveillance capabilities.
(D) Advanced unattended surveillance sensors.
(E) Ultralight aircraft detection capabilities.
(F) Completion of six miles of the Bog Creek road.
(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications systems.
(12) HAVRE SECTOR.—For the Havre sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Mobile vehicle-mounted and man-portable surveillance capabilities.
(C) Advanced unattended surveillance sensors.
(D) Ultralight aircraft detection capabilities.
(E) Man-portable unmanned aerial vehicles.
(F) Improved agent communications systems.
(13) GRAND FORKS SECTOR.—For the Grand Forks sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Mobile vehicle-mounted and man-portable surveillance capabilities.
(C) Advanced unattended surveillance sensors.
(D) Ultralight aircraft detection capabilities.
(E) Man-portable unmanned aerial vehicles.
(F) Improved agent communications systems.
(14) DETROIT SECTOR.—For the Detroit sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Coastal radar surveillance systems.
(C) Increased maritime interdiction capabilities.
(D) Mobile vehicle-mounted and man-portable surveillance capabilities.
(E) Advanced unattended surveillance sensors.
(F) Ultralight aircraft detection capabilities.
(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications systems.
(15) BUFFALO SECTOR.—For the Buffalo sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Coastal radar surveillance systems.
(C) Increased maritime interdiction capabilities.
(D) Mobile vehicle-mounted and man-portable surveillance capabilities.
(E) Advanced unattended surveillance sensors.
(F) Ultralight aircraft detection capabilities.
(G) Man-portable unmanned aerial vehicles.
(H) Improved agent communications systems.
(16) SWANTON SECTOR.—For the Swanton sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Mobile vehicle-mounted and man-portable surveillance capabilities.
(C) Advanced unattended surveillance sensors.
(D) Ultralight aircraft detection capabilities.
(E) Man-portable unmanned aerial vehicles.
(F) Improved agent communications systems.
(17) HOULTON SECTOR.—For the Houlton sector, the following:
(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Mobile vehicle-mounted and man-portable surveillance capabilities.
(C) Advanced unattended surveillance sensors.
(D) Ultralight aircraft detection capabilities.
(E) Man-portable unmanned aerial vehicles.
(F) Improved agent communications systems.
(18) TRANSIT ZONE.—For the transit zone, the following:
(A) Not later than 2 years after the date of the enactment of this Act, an increase in the number of overall cutter, boat, and aircraft hours spent conducting interdiction operations over the average number of such hours during the preceding 3 fiscal years.
(B) Increased maritime signals intelligence capabilities.
(C) To increase maritime domain awareness—
(i) unmanned aerial vehicles with maritime surveillance capability; and
(ii) increased maritime aviation patrol hours.
(D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Deployable Specialized Forces of the Coast Guard.
(E) Coastal radar surveillance systems with long range day and night cameras capable of providing full maritime domain awareness of the United States territorial waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island, Culebra Island, Saint Thomas, Saint John, and Saint Croix.
(b) REIMBURSEMENT RELATED TO THE LOWER RIO GRANDE VALLEY FLOOD CONTROL PROJECT.—The International Boundary and Water Commission is authorized to reimburse State and local governments for any expenses incurred before, on, or after the date of the enactment of this Act by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley Flood Control Project of the Commission.
(c) TACTICAL FLEXIBILITY.—
(1) SOUTHERN AND NORTHERN LAND BORDERS.—
(A) IN GENERAL.—Beginning on September 30, 2021, or after the Secretary has deployed at least 25 percent of the capabilities required in each sector specified in subsection (a), whichever comes later, the Secretary may deviate from such capability deployments if the Secretary determines that such deviation is required to achieve situational awareness or operational control.
(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is the subject of such exercise. If the Secretary makes any changes to such deviation, the Secretary shall, not later than 90 days after any such change, notify such committees regarding such change.
(2) TRANSIT ZONE.—
(A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives regarding the capability deployments for the transit zone specified in paragraph (18) of subsection (a), including information relating to—
(i) the number and types of assets and personnel deployed; and
(ii) the impact such deployments have on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).
(B) ALTERATION.—The Secretary may alter the capability deployments referred to in this section if the Secretary—
(i) determines, after consultation with the committees referred to in subparagraph (A), that such alteration is necessary; and
(ii) not later than 30 days after making a determination under clause (i), notifies the committees referred to in such subparagraph regarding such alteration, including information relating to—
(I) the number and types of assets and personnel deployed pursuant to such alteration; and
(II) the impact such alteration has on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).
(d) EXIGENT CIRCUMSTANCES.—
(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the capabilities referred to in subsection (a) in a manner that is inconsistent with the requirements specified in such subsection if, after the Secretary has deployed at least 25 percent of such capabilities, the Secretary determines that exigent circumstances demand such an inconsistent deployment or that such an inconsistent deployment is vital to the national security interests of the United States.
(2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, , not later than 30 days after making a determination under paragraph (1). Such notification shall include a detailed justification for such determination.

SEC. 1114. U.S. BORDER PATROL ACTIVITIES.

The Chief of the U.S. Border Patrol shall prioritize the deployment of U.S. Border Patrol agents to as close to the physical land border as possible, consistent with border security enforcement priorities and accessibility to such areas.

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

''Sec. 434. Border security technology program management.''.

(b) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 434 of the Homeland Security Act of 2002, as added by subsection (a). Such section shall be carried out using amounts otherwise authorized for such purposes.

SEC. 1115. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER.

(a) IN GENERAL.—The Secretary may request that the Secretary of Defense support, pursuant to chapter 15 of title 10, United States Code, the Secretary's efforts to secure the southern border of the United States. The Secretary of Defense may authorize the provision of such support under section 502(f) of title 32, United States Code, including pursuant to chapter 9 of such title 32.

(b) TYPE OF SUPPORT AUTHORIZED.—The support provided in accordance with subsection (a) may include—

(1) construction of reinforced fencing or other physical barriers;

(2) operation of ground-based surveillance systems;

(3) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(4) intelligence analysis support.

(c) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment, and logistical support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).

(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State authorized pursuant to this section does not degrade the training and readiness of such units and personnel, in determining the homeland defense activities that such units and personnel may perform, the following requirements shall apply:

(1) The performance of such activities shall not affect adversely the quality of such training or readiness or otherwise interfere with the ability of a unit or personnel of the National Guard of a State to perform the military functions of such member or unit.

(2) The performance of such activities shall not degrade the military skills of the units or personnel of the National Guard of a State performing such activities.

(e) REIMBURSEMENT NOTIFICATION.—Prior to providing any support in accordance with subsection (a), the Secretary of Defense shall notify the Secretary whether such support qualifies for a reimbursement waiver under chapter 15 of title 10, United States Code.

(f) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and biannually thereafter through December 31, 2021, the Secretary of Defense shall submit a report to the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) that describes any support provided pursuant to subsection (a) during the 6-month period preceding each such report.

(2) ELEMENTS.—Each report under paragraph (1) shall include a description of—

(A) the support provided; and

(B) the sources and amounts of funds obligated and expended to provide such support

SEC. 1116. OPERATION PHALANX.

(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary, shall provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern border.

(b) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include—

(1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(2) intelligence analysis support.

(c) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment, and logistics support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Defense $75,000,000 to provide assistance under this section. The Secretary of Defense may not seek reimbursement from the Secretary for any assistance provided under this section.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and annually thereafter, the Secretary of Defense shall submit a report to the appropriate congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) regarding any assistance provided under subsection (a) during the period specified in paragraph (3).

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

(A) the assistance provided;

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

(C) the amounts obligated to provide such assistance.

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

(A) in the case of the first report required under paragraph (1), the 90-day period beginning on the date of the enactment of this Act; and

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

SEC. 1117. MERIDA INITIATIVE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that assistance to Mexico, including assistance from the Department of State and the Department of Defense and any aid related to the Merida Initiative—

(1) should be focused on providing enhanced border security at Mexico's northern and southern borders, judicial reform, and support for Mexico's anti-drug efforts; and

(2) should return to its original focus and prioritize security, training, and acquisition of equipment for Mexican security forces involved in border security and anti-drug efforts as well as be used to train prosecutors in ongoing justice reform efforts.

(b) ASSISTANCE FOR MEXICO.—The Secretary of State, in coordination with the Secretary and the Secretary of Defense, shall provide level and consistent assistance to Mexico—

(1) to combat drug production and trafficking and related violence, transnational organized criminal organizations, and corruption;

(2) to build a secure, modern border security system capable of preventing illegal migration;

(3) to support border security and cooperation with United States military, intelligence, and law enforcement agencies on border incursions;

(4) to support judicial reform, institution building, and rule of law activities to build judicial capacity, address corruption and impunity, and support human rights; and

(5) to provide for training and equipment for Mexican security forces involved in efforts to eradicate and interdict drugs.

(c) ALLOCATION OF FUNDS; REPORT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any assistance appropriated in any appropriations Act to implement this section shall be withheld until after the Secretary of State submits a written report to the congressional committees specified in paragraph (3) certifying that the Government of Mexico is—

(A) significantly reducing illegal migration, drug trafficking, and cross-border criminal activities on Mexico's northern and southern borders;

(B) taking significant action to address corruption, impunity, and human rights abuses; and

(C) improving the transparency and accountability of Mexican Federal police forces and working with Mexican State and municipal authorities to improve the transparency and accountability of Mexican State and municipal police forces.

(2) MATTERS TO INCLUDE.—The report required under paragraph (1) shall include a description of—

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

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

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

(3) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this paragraph are—

(A) the Committee on Appropriations of the Senate;

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

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

(D) the Committee on Foreign Relations of the Senate;

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

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

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

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

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

(1) the notification procedures set forth in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1); and

(2) the notification requirements of—

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

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

(C) the Committee on Foreign Relations of the Senate;

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

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

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

(e) SPENDING PLAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall submit, to the congressional committees specified in subsection (c)(3), a detailed spending plan for assistance to Mexico under this section, which shall include a strategy, developed after consulting with relevant authorities of the Government of Mexico, for—

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

(2) anti-corruption and rule of law activities, which shall include concrete goals, actions to be taken, budget proposals, and a description of anticipated results.

SEC. 1118. PROHIBITIONS ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

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

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

(2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct activities described in subsection (b) on covered Federal land applies without regard to whether a state of emergency exists.

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

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

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(A) the execution of search and rescue operations;

(B) the use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(C) the design, testing, construction, installation, deployment, and operation of physical barriers, tactical infrastructure, and technology pursuant to section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 1111 of this title.

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

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

(A) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

(C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the ''Clean Water Act'').

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

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

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

(G) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

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

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

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

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

(L) Chapter 3125 of title 54, United States Code (formerly known as the ''Archeological and Historic Preservation Act'').

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

(N) Chapter 3203 of title 54, United States Code (formerly known as the ''Historic Sites, Buildings, and Antiquities Act'').

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

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

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

(R) The Wilderness Act (16 U.S.C. 1131 et seq.).

(S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

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

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

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

(W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'').

(X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

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

(AA) The National Park Service General Authorities Act (Public Law 91–383, 16 U.S.C. 1a–1 et seq.).

(BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).

(CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law 101–628).

(DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).

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

(FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

(GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).

(HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

(II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

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

(3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1, 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1) shall apply to the provision of such title that corresponds to the provision of law specified in paragraph (2) to the same extent the waiver applied to that provision of law.

(4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act''), in any relevant matter.

(d) PROTECTION OF LEGAL USES.—Nothing in this section may be construed to provide—

(1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

(e) EFFECT ON STATE AND PRIVATE LAND.—This section shall have no force or effect on State lands or private lands and shall not provide authority, on or access to, State lands or private lands.

(f) TRIBAL SOVEREIGNTY.—Nothing in this section may be construed to supersede, replace, negate, or diminish treaties or other agreements between the United States and Indian tribes.

(g) MEMORANDA OF UNDERSTANDING.—The requirements under this section shall not apply to the extent that such requirements are incompatible with any memorandum of understanding or similar agreement entered into between the Commissioner of U.S. Customs and Border Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) COVERED FEDERAL LAND.—The term ''covered Federal land'' includes all land under the control of the Secretary concerned that is located within 100 miles of the southern border or the northern border.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.

SEC. 1119. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) ESTABLISHMENT OF NATIONAL BORDER SECURITY ADVISORY COMMITTEE.—The Secretary shall establish a National Border Security Advisory Committee, which—

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

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

(c) MEMBERSHIP.—The National Border Security Advisory Committee shall consist of at least 1 member from each State who—

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

(2) lives and works in the United States within 80 miles of the southern border or within 80 miles of the northern border.

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

SEC. 1120. LIMITATION ON LAND OWNER'S LIABILITY.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following:

''(i) INDEMNITY FOR ACTIONS OF LAW ENFORCEMENT OFFICERS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'land' includes roads, water, watercourses, and private ways, and buildings, structures, machinery, and equipment that is attached to real property; and

''(B) the term 'owner' includes the possessor of a fee interest, a tenant, a lessee, an occupant, the possessor of any other interest in land, and any person having a right to grant permission to use the land.

''(2) REIMBURSEMENT AUTHORIZED.—Notwithstanding any other provision of law, and subject to the availability of appropriations, any owner of land located in the United States within 150 miles of the southern border of the United States may seek reimbursement from the Department and the Secretary shall pay for any adverse final tort judgment for negligence (excluding attorneys' fees and costs) authorized under Federal or State tort law, arising directly from any border patrol action, such as apprehensions, tracking, and detention of aliens, that is conducted on privately-owned land if—

''(A) such land owner has been found negligent by a Federal or State court in any tort litigation;

''(B) such land owner has not already been reimbursed for the final tort judgment, including outstanding attorneys' fees and costs;

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

''(D) such tort action was brought against such land owner as a direct result of activity of law enforcement officers of the Department of Homeland Security, acting in their official capacity, on the owner's land.

''(3) EXCEPTIONS.—Nothing in this subsection may be construed to require the Secretary to reimburse a land owner under paragraph (2) for any adverse final tort judgment for negligence or to limit land owner liability which would otherwise exist for—

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

''(B) maintaining an attractive nuisance;

''(C) gross negligence; or

''(D) direct interference with, or hindrance of, any agent or officer of the Federal Government who is authorized to enforce the immigration laws during—

''(i) a patrol of such landowner's land; or

''(ii) any action taken to apprehend or detain any alien attempting to enter the United States illegally or to evade execution of an arrest warrant for a violation of any immigration law.

''(4) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect any right or remedy available pursuant to chapter 171 of title 28, United States Code (commonly known as the 'Federal Tort Claims Act').''.

SEC. 1121. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

Not later than September 30, 2022, the Secretary, after coordinating with the heads of the relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River.

SEC. 1122. PREVENTION, DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) DEFINITIONS.—In this section:

(1) ANIMAL.—The term ''animal'' means any member of the animal kingdom (except a human).

(2) ARTICLE.—The term ''article'' means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) DISEASE.—The term ''disease'' has the meaning given such term by the Secretary of Agriculture.

(4) LIVESTOCK.—The term ''livestock'' means all farm-raised animals.

(5) MEANS OF CONVEYANCE.—The term ''means of conveyance'' means any personal property used for, or intended for use for, the movement of any other personal property.

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

(A) A protozoan.

(B) A plant or plant part.

(C) An animal.

(D) A bacterium.

(E) A fungus.

(F) A virus or viroid.

(G) An infectious agent or other pathogen.

(H) An arthropod.

(I) A parasite or parasitic plant.

(J) A prion.

(K) A vector.

(L) Any organism similar to or allied with any of the organisms described in this paragraph.

(7) PLANT.—The term ''plant'' means any plant (including any plant part) capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(8) STATE.—The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, and any territory or possession of the United States.

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

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

(2) COMPENSATION.—

(A) IN GENERAL.—The Secretary of Agriculture may pay a claim arising out of—

(i) the destruction of any animal, plant, plant part, article, or means of conveyance consistent with the purposes of this section; and

(ii) implementing measures to prevent, detect, control, or eradicate the spread of any pest disease of livestock or plant that threatens any segment of agriculture.

(B) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary of Agriculture shall compensate industry participants and State agencies that cooperate with the Secretary of Agriculture in carrying out operations and measures under this subsection for up to 100 percent of eligible costs relating to—

(i) cooperative programs involving Federal, State, or industry participants to control diseases of low or high pathogenicity and pests in accordance with regulations issued by the Secretary of Agriculture; and

(ii) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

(C) REVIEWABILITY.—The action of any officer, employee, or agent of the Secretary of Agriculture under paragraph (1) shall not be subject to review by any officer or employee of the Federal Government other than the Secretary of Agriculture or a designee of the Secretary of Agriculture.

(c) COOPERATION.—

(1) IN GENERAL.—In carrying out this section, the Secretary of Agriculture may cooperate with other Federal agencies, States, State agencies, political subdivisions of States, national and local governments of foreign countries, domestic and international organizations and associations, domestic nonprofit corporations, Indian tribes, and other persons.

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

(A) on all land and property within a foreign country or State, or under the jurisdiction of an Indian tribe, other than on land and property owned or controlled by the United States; and

(B) using other facilities and means, as determined by the Secretary of Agriculture.

(d) FUNDING.—For fiscal year 2018, and for each subsequent fiscal year, the Secretary of Agriculture shall use such amounts from the Commodity Credit Cooperation as may be necessary to carry out operations and measures to prevent, detect, control, or eradicate the spread of any pest or disease of livestock or plant that threatens any segment of agriculture.

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

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

(a) BRINGING IN AND HARBORING CERTAIN ALIENS.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

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

(2) by adding at the end the following:

''(5) The sentence otherwise provided for a person who has brought aliens into the United States in violation of this subsection may be increased by up to 10 years if that person—

''(A) at the time of the offense, used or carried a firearm; or

''(B) in furtherance of any such crime, possessed a firearm.''.

(b) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

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

(2) by adding at the end the following: ''The sentence otherwise provided for a person convicted of an offense under this section may be increased by up to 10 years if that person, at the time of the offense, used or carried a firearm or who, in furtherance of any such crime, possessed a firearm.''.

(c) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Section 1361 of title 18, United States Code, is amended—

(1) by striking ''If the damage'' and inserting the following:

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

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

(3) by striking ''if the damage'' after ''both.'' and inserting the following:

''(2) Except as otherwise provided in this section, if the damage''; and

(4) by adding at the end the following:

''(3) If the injury or depredation was made or attempted against any fence, barrier, sensor, camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry or otherwise was intended to construct, excavate, or make any structure intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry, by a fine under this title, imprisonment for not more than 15 years, or both.

''(4) If the injury or depredation was described under paragraph (2) and, in the commission of the offense, the offender used or carried a firearm or, in furtherance of any such offense, possessed a firearm, by a fine under this title, imprisonment for not more than 20 years, or both.''.

(d) UNLAWFULLY HINDERING IMMIGRATION, BORDER, AND CUSTOMS CONTROLS.—

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

''SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BORDER, AND CUSTOMS CONTROLS.

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

''(b) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Any person who knowingly and without lawful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control the border or a port of entry—

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

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

''(c) CONSPIRACY AND ATTEMPT.—Any person who attempts or conspires to violate subsection (a) or (b) shall be punished in the same manner as a person who completes a violation of such subsection.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 294 the following:

''Sec. 295. Unlawfully hindering immigration, border, and customs controls.''.

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

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''crime of violence'' each place that term appears; and

(B) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence'';

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

(3) by redesignating paragraph (5) as paragraph (2); and

(4) by adding at the end the following:

''(3) For purposes of this subsection—

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

''(B) the term 'brandish' means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person;

''(C) the term 'crime of violence' means a felony offense that—

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

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

''(D) the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.''.

(f) STATUTE OF LIMITATIONS.—Section 3298 of title 18, United States Code, is amended by inserting '', or 295'' after ''274(a)''.

SEC. 1124. SOUTHERN BORDER THREAT ANALYSIS.

(a) THREAT ANALYSIS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a southern border threat analysis.

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

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

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

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

(B) improvements needed at and between ports of entry along the southern border to prevent terrorists and instruments of terror from entering the United States;

(C) gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts;

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

(E) the current percentage of operational control achieved by the Department of Homeland Security along the southern border; and

(F) traveler crossing times and any potential security vulnerability associated with prolonged wait times.

(3) ANALYSIS REQUIREMENTS.—In compiling the southern border threat analysis under this subsection, the Secretary shall consider and examine—

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

(B) the personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(C) the infrastructure needs and challenges;

(D) the roles and authorities of State, local, and tribal law enforcement in general border security activities;

(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(F) the terrain, population density, and climate along the southern border; and

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

(4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.

(b) U.S. BORDER PATROL STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat analysis under subsection (a) or June 30, 2018, and every 5 years thereafter, the Secretary, acting through the Chief of the U.S. Border Patrol, shall issue a Border Patrol Strategic Plan.

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

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

(B) efforts to analyze and disseminate border security and border threat information between border security components of the Department of Homeland Security and other appropriate Federal departments and agencies with missions associated with the southern border;

(C) efforts to increase situational awareness, including—

(i) surveillance capabilities, including capabilities developed or utilized by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense; and

(ii) the use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets;

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

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

(F) efforts to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States;

(G) efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department of Homeland Security;

(H) any technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary determines to be necessary;

(I) operational coordination unity of effort initiatives of the border security components of the Department of Homeland Security, including any relevant task forces of the Department of Homeland Security;

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

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

(L) border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the northern border or the southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the northern border or the southern border;

(M) staffing requirements for all departmental border security functions;

(N) a prioritized list of departmental research and development objectives to enhance the security of the southern border;

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

(i) identifying and detecting fraudulent documents;

(ii) understanding the scope of enforcement authorities and the use of force policies; and

(iii) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and

(P) an assessment of how border security operations affect border crossing times.

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

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

(1) in paragraph (18), by striking ''and'' at the end;

(2) by redesignating paragraph (19) as paragraph (21); and

(3) by inserting after paragraph (18) the following:

''(19) administer the U.S. Customs and Border Protection public private partnerships under subtitle G;

''(20) administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and''.

(b) OFFICE OF FIELD OPERATIONS STAFFING.—Section 411(g)(5)(A) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)(A)) is amended by inserting before the period at the end the following: ''compared to the number indicated by the current fiscal year work flow staffing model''.

(c) IMPLEMENTATION PLAN.—Subparagraph (B) of section 814(e)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 4433(e)(1)), as enacted in subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4301 et seq.) is amended to read as follows:

''(B) a port of entry vacancy rate which compares the number of officers identified in subparagraph (A) with the number of officers at the port at which such officer is currently assigned.''.

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

(1) by striking ''this section, the terms'' and inserting the following: ''this section:''

''(1) the terms'';

(2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the term 'unmanned aerial systems' has the meaning given the term 'unmanned aircraft system' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).''.

SEC. 1126. AGENT AND OFFICER TECHNOLOGY USE.

In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 1111, and in carrying out section 1112, the Secretary, to the greatest extent practicable, shall ensure that technology deployed to gain situational awareness and operational control of the border be provided to front-line officers and agents of the Department of Homeland Security.

SEC. 1127. INTEGRATED BORDER ENFORCEMENT TEAMS.

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

''SEC. 434. INTEGRATED BORDER ENFORCEMENT TEAMS.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Department a program, which shall be known as the Integrated Border Enforcement Team program (referred to in this section as the 'IBET Program').

''(b) PURPOSE.—The Secretary shall administer the IBET Program in a manner that results in a cooperative approach between the United States and Canada to—

''(1) strengthen security between designated ports of entry;

''(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

''(3) facilitate collaboration among components and offices within the Department and international partners;

''(4) execute coordinated activities in furtherance of border security and homeland security; and

''(5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

''(c) COMPOSITION AND LOCATION OF IBETS.—

''(1) COMPOSITION.—IBETs shall be led by the U.S. Border Patrol and may be comprised of personnel from—

''(A) other subcomponents of U.S. Customs and Border Protection;

''(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations;

''(C) the Coast Guard, for the purpose of securing the maritime borders of the United States;

''(D) other Department personnel, as appropriate;

''(E) other Federal departments and agencies, as appropriate;

''(F) appropriate State law enforcement agencies;

''(G) foreign law enforcement partners;

''(H) local law enforcement agencies from affected border cities and communities; and

''(I) appropriate tribal law enforcement agencies.

''(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider—

''(A) whether the region in which the IBET would be established is significantly impacted by cross-border threats;

''(B) the availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET; and

''(C) whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

''(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

''(d) OPERATION.—

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

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

''(B) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

''(2) LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(1)(C).

''(e) COORDINATION.—The Secretary shall coordinate the IBET Program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

''(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET Program. Such memoranda with entities specified in subsection (c)(1)(G) shall be entered into with the concurrence of the Secretary of State.

''(g) REPORT.—Not later than 180 days after the date on which an IBET is established, and biannually thereafter for the following 6 years, the Secretary shall submit a report to the appropriate congressional committees, including the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and in the case of Coast Guard personnel used to secure the maritime borders of the United States, to the Committee on Transportation and Infrastructure of the House of Representatives, that—

''(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

''(2) assesses the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;

''(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

''(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.''.

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

''Sec. 434. Integrated Border Enforcement Teams.''.

SEC. 1128. LAND USE OR ACQUISITION.

Section 103(b) of the Immigration and Nationality Act (8 U.S.C. 1103) is amended to read as follows:

''(b)(1) The Secretary may lease, contract for, or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Secretary determines that such land is essential to control and guard the boundaries and borders of the United States against any violation of this Act.

''(2) The Secretary may lease, contract for, or buy any interest in land described in paragraph (1) if—

''(A) the lawful owner of that interest fixes a price for leasing, contracting, or buying such interest; and

''(B) the Secretary considers the price referred to in subparagraph (A) to be reasonable.

''(3) If the Secretary and the lawful owner of an interest in land described in paragraph (1) are unable to agree to lease, contract for, or buy such interest at a reasonable price for such lease, contract, or purchase, the Secretary may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

''(4) The Secretary may accept, on behalf of the United States, a gift of any interest in land described in paragraph (1)''.

SEC. 1129. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and remediating tunnels that breach the international borders of the United States.

SEC. 1130. PILOT PROGRAM ON USE OF ELECTROMAGNETIC SPECTRUM IN SUPPORT OF BORDER SECURITY OPERATIONS.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall conduct a pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and Border Protection in support of border security operations through—

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

(2) automated spectrum management to enable greater efficiency and speed for U.S. Customs and Border Protection in addressing emerging challenges in overall spectrum use on the United States border; and

(3) coordinated use of spectrum resources to better facilitate interoperability and interagency cooperation and interdiction efforts at or near the United States border.

(b) REPORT TO CONGRESS.—Not later than 180 days after the conclusion of the pilot program under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit a report to the Committee on Homeland Security of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science, and Transportation of the Senate that contains the findings and data derived from such pilot program.

SEC. 1131. FOREIGN MIGRATION ASSISTANCE.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 1127, is further amended by adding at the end the following:

''SEC. 435. FOREIGN MIGRATION ASSISTANCE.

''(a) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, may provide, to a foreign government, financial assistance for foreign country operations to address migration flows that may affect the United States.

''(b) DETERMINATION.—Assistance provided under subsection (a) may be provided only if such assistance would enhance the recipient government's capacity to address irregular migration flows that may affect the United States, including any detention or removal operations of the recipient government, including procedures to screen and provide protection for certain individuals.

''(c) REIMBURSEMENT OF EXPENSES.—The Secretary may, if appropriate, seek reimbursement from the receiving foreign government for the provision of financial assistance under this section.

''(d) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any reimbursement collected pursuant to subsection (c) shall—

''(1) be credited as offsetting collections to the account that finances the security assistance under this section for which such reimbursement is received; and

''(2) shall remain available until expended for the purpose of carrying out this section.

''(e) EFFECTIVE PERIOD.—The authority provided under this section shall remain in effect until September 30, 2022.

''(f) DEVELOPMENT AND PROGRAM EXECUTIVE.—The Secretary and the Secretary of State shall jointly develop and implement any financial assistance under this section.

''(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $50,000,000,000 for the 5-year period ending on September 30, 2022, to carry out this section.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 434, as added by section 1127, the following:

''Sec. 435. Security assistance.''.

CHAPTER 2—PERSONNEL

SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION AGENTS AND OFFICERS.

(a) BORDER PATROL AGENTS.—Not later than September 30, 2022, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient agents to maintain an active duty presence of not fewer than 26,370 full-time equivalent agents.

(b) CBP OFFICERS.—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection as of such date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2022—

(1) sufficient U.S. Customs and Border Protection officers to maintain an active duty presence of not fewer than 27,725 full-time equivalent officers; and

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

(c) AIR AND MARINE OPERATIONS.—Not later than September 30, 2022, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient agents for Air and Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern border air and maritime operations.

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

(1) K–9 UNITS.—Not later than September 30, 2022, the Commissioner shall deploy not fewer than 300 new K–9 units, with supporting officers of U.S. Customs and Border Protection and other required staff, at land ports of entry and checkpoints, on the southern border and the northern border.

(2) USE OF CANINES.—The Commissioner shall prioritize the use of canines at the primary inspection lanes at land ports of entry and checkpoints.

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

(1) INCREASE.—Not later than September 30, 2022, the Commissioner shall increase the number of horseback units, with supporting officers of U.S. Customs and Border Protection and other required staff, by not fewer than 100 officers and 50 horses for security patrol along the Southern border.

(2) HORSE UNIT SUPPORT.—The Commissioner of U.S. Customs and Border Protection shall construct new stables, maintain and improve existing stables, and provide other resources needed to maintain the health and well-being of the horses that serve in the horseback units.

(f) U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of officers engaged in search and rescue activities along the southern border.

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

(h) AGRICULTURAL SPECIALISTS.—Not later than September 30, 2022, the Secretary shall hire, train, and assign to duty, in addition to the officers and agents authorized under subsections (a) through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry along the southern border and the northern border.

(i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

(j) OFFICE OF INTELLIGENCE.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to maintain not fewer than 700 full-time equivalent employees.

(k) GAO REPORT.—If the staffing levels required under this section are not achieved by September 30, 2022, the Comptroller General of the United States shall conduct a review of the reasons why such levels were not achieved.

SEC. 1142. FAIR LABOR STANDARDS FOR BORDER PATROL AGENTS.

(a) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(s) EMPLOYMENT AS A BORDER PATROL AGENT.—No public agency shall be deemed to have violated subsection (a) with respect to the employment of any border patrol agent (as defined in section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days, the border patrol agent receives compensation at a rate that is not less than 150 percent of the regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours. Payments required under this section shall be in additional to any payments made under section 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set forth in that title.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) in paragraph (16), by adding ''or'' at the end;

(2) in paragraph (17), in the undesignated matter following subparagraph (D), by striking ''; or'' and inserting a period; and

(3) by striking paragraph (18).

SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES.

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

"SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION TEMPORARY EMPLOYMENT AUTHORITIES.

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'CBP employee' means an employee of U.S. Customs and Border Protection described under any of subsections (a) through (h) of section 1141 of the Building America's Trust Act;

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

''(3) the term 'Director' means the Director of the Office of Personnel Management;

''(4) the term 'Secretary' means the Secretary of Homeland Security; and

''(5) the term 'appropriate congressional committees' means—

''(A) the Committee on Oversight and Government Reform of the House of Representatives;

''(B) the Committee on Homeland Security of the House of Representatives;

''(C) the Committee on Ways and Means of the House of Representatives;

''(D) the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(E) the Committee on Finance of the Senate.

''(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

''(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and staffing levels required under section 1141 of the Building America's Trust Act. The Secretary may not use such authority beyond meeting the requirements under such section.

''(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees if the Secretary has given public notice for the positions.

''(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year) in the required service period to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

''(A) the Secretary determines that conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of section 5753 are satisfied with respect to the individual (without regard to the regulations referenced in section 5753(b)(2)(B(ii)(I) or to any other provision of section 5753); and

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent of basic pay to an individual CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

''(A) the Secretary determines that—

''(i) a condition consistent with the condition described in subsection (b)(1) of section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

''(ii) in the absence of a retention bonus, the CBP employee would be likely to leave—

''(I) the Federal service; or

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements under this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(5) RULES FOR BONUSES.—

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

''(i) under paragraph (3) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

''(ii) under paragraph (4) may not exceed 50 percent of the annual rate of basic pay of the employee.

''(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph (3) or (4) shall not be considered part of the basic pay of the employee for any purpose, including for retirement or in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or section 5552.

''(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—

''(i) IN GENERAL.—A bonus paid to an employee under paragraph (4) may not be based on any period of such service which is the basis for a recruitment or relocation bonus under paragraph (3).

''(ii) FURTHER LIMITATION.—A bonus paid to an employee under paragraph (3) or (4) may not be based on any period of service which is the basis for a recruitment or relocation bonus under section 5753 or a retention bonus under section 5754.

''(c) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section to assist the Secretary in meeting the requirements of section 1141 of the Building America's Trust Act. The Director shall prioritize the consideration of requests from the Secretary for such special rates of pay and issue a decision as soon as practicable. The Secretary shall provide such information to the Director as the Director deems necessary to evaluate special rates of pay under this subsection.

''(d) OPM OVERSIGHT.—

''(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to the Director on U.S. Customs and Border Protection's use of authorities provided under subsections (b) and (c). In each report, the Secretary shall provide such information as the Director determines is appropriate to ensure appropriate use of authorities under such subsections. Each report shall also include an assessment of—

''(A) the impact of the use of authorities under subsections (b) and (c) on implementation of section 1141 of the Building America's Trust Act;

''(B) solving hiring and retention challenges at the agency, including at specific locations;

''(C) whether hiring and retention challenges still exist at the agency or specific locations; and

''(D) whether the Secretary needs to continue to use authorities provided under this section at the agency or at specific locations.

''(2) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary shall consider—

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

''(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

''(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report required under this subsection to the appropriate congressional committees.

''(e) OPM ACTION.—If the Director determines that the Secretary has inappropriately used the authority under subsection (b) or a special rate of pay authorized under subsection (c), the Director shall submit written notification to the appropriate congressional committees. Upon receipt of such notification, the Secretary may not make any new appointments or issue any new bonuses under subsection (b), or provide CBP employees with further special rates of pay, until the Director has submitted written notice to the Secretary and the appropriate congressional committees stating that the Director is satisfied that safeguards are in place to prevent further inappropriate use.

''(f) IMPROVING CBP HIRING AND RETENTION.—

''(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment of this section, and in conjunction with the Chief Human Capital Officer of the Department of Homeland Security, the Secretary shall develop and implement a strategy to improve the education regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

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

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

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

''(C) the development of pilot programs or other programs, as appropriate, consistent with authorities provided to the Secretary to

address identified hiring challenges, including in rural or remote areas;

''(D) developing and enhancing strategic recruiting efforts through the relationships with institutions of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas;

''(E) examination of existing agency programs to determine how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area;

''(F) feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families;

''(G) feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families; and

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

''(3) EVALUATION.—

''(A) IN GENERAL.—Each year the Secretary shall—

''(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

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

''(B) INFORMATION.—The evaluation under subparagraph (A) shall include—

''(i) any reduction in the time taken by the Secretary to fill mission-critical positions, including in rural or remote areas;

''(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges, including in rural or remote areas; and

''(iii) other information the Secretary determines relevant.

''(g) INSPECTOR GENERAL REVIEW.—Not later than 2 years after the date of the enactment of this section, the Inspector General of the Department of Homeland Security shall review the use of hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such flexibilities is helping the Secretary meet hiring and retention needs, including in rural and remote areas.

''(h) REPORT ON POLYGRAPH REQUESTS.—The Secretary shall submit a report to the appropriate congressional committees that identifies the number of requests the Secretary has received from any other Federal agency for the file of an applicant for a position in U.S. Customs and Border Protection that includes the results of a polygraph examination.

''(i) EXERCISE OF AUTHORITY.—

''(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining agreement.

''(2) DELEGATION.—The Secretary may delegate any authority under this section to the Commissioner.

''(j) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from applicability of the merit system principles under section 2301.

''(k) SUNSET.—The authorities under subsections (b) and (c) shall terminate on September 30, 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may continue until such bonus has been paid, subject to the conditions specified in this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

''9702. U.S. Customs and Border Protection temporary employment authorities.''.

(c) 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. 1144. RATE OF PAY FOR U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS AND AGENTS.

(a) IN GENERAL.—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

''(l)(1) The provisions of subsections (a) through (h), providing for availability pay, shall apply to a law enforcement officer employed by U.S. Immigration and Customs Enforcement who is authorized to carry out the powers or authorities under section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) or section 589 of the Tariff Act of 1930 (19 U.S.C. 1589a) and who would not otherwise be covered by such subsections.

''(2) For the purposes of this section, section 5542(d) of this title, and subsections (a)(16) and (b)(30) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213), an officer described in paragraph (1) shall be deemed to be a criminal investigator.''.

(b) RULEMAKING.—The Director of the Office of Personnel Management may prescribe regulations to carry out section 5545a(l) of title 5, United States Code, as added by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first applicable pay period beginning on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 1145. ANTI-BORDER CORRUPTION REAUTHORIZATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Anti-Border Corruption Reauthorization Act of 2018''.

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

''(b) WAIVER AUTHORITY.—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—

''(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

''(A) has continuously served as a law enforcement officer for not fewer than 3 years;

''(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;

''(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) has, during the past 10 years, successfully completed a polygraph examination as a condition of employment with such officer's current law enforcement agency;

''(2) to a current, full-time Federal law enforcement officer who—

''(A) has continuously served as a law enforcement officer for not fewer than 3 years;

''(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

''(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; and

''(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

''(A) has served in the Armed Forces for not fewer than 3 years;

''(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

''(C) holds, or has undergone within the past 5 years, a current Tier 4 background investigation or current Tier 5 background investigation;

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

''(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

''(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is 4 years after the date of the enactment of the SECURE and SUCCEED Act.''.

(c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

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

''SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

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

''(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) and holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.

''(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for, or receives a waiver under, section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.''.

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

''SEC. 5. REPORTING.

''(a) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this section, and annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that includes, with respect to each such reporting period—

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

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

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

''(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

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

''(6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

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

''(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

''(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).''.

(3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs (1) and (2), is further amended by adding at the end the following:

''SEC. 6. DEFINITIONS.

''In this Act:

''(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' has the meaning given the term 'law enforcement officer' in sections 8331(20) and 8401(17) of title 5, United States Code.

''(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term 'serious military or civil offense' means an offense for which—

''(A) a member of the Armed Forces may be discharged or separated from service in the Armed Forces; and

''(B) a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Court-Martial, as pursuant to Army Regulation 635-200 chapter 14–12.

''(3) TIER 4; TIER 5.—The terms 'Tier 4' and 'Tier 5' with respect to background investigations have the meaning given such terms under the 2012 Federal Investigative Standards.

''(4) VETERAN.—The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''.

(d) POLYGRAPH EXAMINERS.—Not later than September 30, 2022, the Secretary shall increase to not fewer than 150 the number of trained full-time equivalent polygraph examiners for administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this section.

SEC. 1146. TRAINING FOR OFFICERS AND AGENTS OF U.S. CUSTOMS AND BORDER PROTECTION.

(a) IN GENERAL.—Section 411(l) of the Homeland Security Act of 2002 (6 U.S.C. 211(l)) is amended to read as follows:

''(l) TRAINING AND CONTINUING EDUCATION.—

''(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—The Commissioner shall ensure that every agent and officer of U.S. Customs and Border Protection receives at least 21 weeks of training that is directly related to the mission of the U.S. Border Patrol, Air and Marine, and the Office of Field Operations before the initial assignment of such agents and officers.

''(2) FLETC.—The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

''(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than 8 hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.

''(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the Ensuring Family Reunification Act of 2018, the Commissioner shall develop and require training courses geared towards the development of leadership skills for mid- and senior-level career employees not later than 1 year after such employees assume duties in supervisory roles.''.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that identifies the guidelines and curriculum established to carry out subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a).

(c) ASSESSMENT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Finance of the Senate that assesses the training and education, including continuing education, required under subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a).

SEC. 1147. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.

(a) ENFORCEMENT AND REMOVAL OFFICERS.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time, active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Operations law enforcement officers performing interior immigration enforcement functions by not fewer than 8,500.

(b) HOMELAND SECURITY INVESTIGATIONS SPECIAL AGENTS.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time, active duty Homeland Security Investigations special agents by not fewer than 1,500.

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

SEC. 1148. OTHER IMMIGRATION AND LAW ENFORCEMENT PERSONNEL.

(a) DEPARTMENT OF JUSTICE.—

(1) UNITED STATES ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department of Justice on such date of enactment, the Attorney General shall—

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

(B) increase by not fewer than 50 the number of Special Assistant United States Attorneys in the United States Attorneys' office to litigate denaturalization and other immigration cases in the Federal courts.

(2) IMMIGRATION JUDGES.—

(A) ADDITIONAL IMMIGRATION JUDGES.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase by 200 the number of trained full-time immigration judges.

(B) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney General is authorized to procure space, temporary facilities, support staff, and full-time interpreters on an expedited basis, to accommodate the additional immigration judges authorized under subparagraph (A).

(3) BOARD OF IMMIGRATION APPEALS.—

(A) BOARD MEMBERS.—By not later than September 30, 2022, the Attorney General shall increase the number of Board Members authorized to serve on the Board of Immigration Appeals to 25.

(B) STAFF ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing staff attorney vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase the number of staff attorneys assigned to support the Board of Immigration Appeals by not fewer than 50.

(C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General is authorized to procure space, temporary facilities, and required administrative support staff, on an expedited basis, to accommodate the additional Board Members authorized under subparagraph (A).

(4) OFFICE OF IMMIGRATION LITIGATION.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing vacancies within the Department of Justice on such date of enactment, the Attorney General shall increase by not fewer than 100 the number of attorneys for the Office of Immigration Litigation.

(b) DEPARTMENT OF HOMELAND SECURITY.—

(1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Citizenship and Immigration Services shall increase by not fewer than 100 the number of trained full-time active duty Fraud Detection and National Security (FDNS) officers.

(2) ICE HOMELAND SECURITY INVESTIGATIONS FORENSIC DOCUMENT LABORATORY PERSONNEL.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Immigration and Customs Enforcement shall increase—

(A) the number of trained, full-time Forensic Document Laboratory Examiners by 15;

(B) the number of trained, full-time Fingerprint Specialists by 15;

(C) the number of trained, full-time Intelligence Officers by 10; and

(D) the number of trained, full-time administrative staff by 3.

(3) IMMIGRATION ATTORNEYS.—

(A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time, active duty Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of such attorneys shall perform duties related to litigation of removal proceedings and representing the Department of Homeland Security in immigration matters before the immigration courts within the Department of Justice, the Executive Office for Immigration Review, and enforcement of U.S. customs and trade laws. At least 50 of these additional attorney positions shall be used by the Attorney General to increase the number of U.S. Immigration and Customs Enforcement attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

(B) USCIS IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department of Homeland Security on such date of enactment, the Director of U.S. Citizenship and Immigration Services shall increase the number of trained, full-time, active duty Office of Chief Counsel attorneys by not fewer than 250. Such attorneys shall primarily handle national security and public safety cases, denaturalization cases, and legal sufficiency reviews of immigration benefit decisions. At least 50 of these additional attorney positions shall be used by the Attorney General to increase the number of U.S. Citizenship and Immigration Service attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

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

(D) AUTHORITY TO ACQUIRE LEASEHOLD.—Notwithstanding any other provision of law, the Secretary may acquire a leasehold interest in real property, and may provide in a lease entered into under this subparagraph for the construction or modification of any facility on the leased property, if Secretary determines that the acquisition of such interest, and such construction or modification, are necessary in order to facilitate the implementation of this Act.

(E) USE OF USCIS FEE FUNDS.—Adjudication fees described in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) may not be used to pay for the cost of employing or contracting for the services of any person who is not an employee or contractor of U.S. Citizenship and Immigration Services or the Department of Homeland Security's Administrative Appeals Office.

(c) DEPARTMENT OF STATE.—

(1) VISA SPECIALISTS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department on such date of enactment, the Assistant Secretary of State for Consular Affairs shall increase the number of trained, full-time analysts within the Bureau of Consular Affairs by not fewer than 50. Such analysts primarily should handle and advise on cases and matters involving the potential for visa denial on the basis of national security and public safety concerns.

(2) IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to positions authorized before the date of the enactment of this Act and any existing attorney vacancies within the Department on such date of enactment, the Assistant Secretary of State for Consular Affairs shall increase the number of trained, full-time, active attorneys adviser within the Bureau of Consular Affairs by not fewer than 25. Such attorneys primarily should handle and advise on cases and matters involving the potential for visa denial on the basis of national security and public safety concerns.

(3) FOREIGN SERVICE CONSULAR FELLOWS PROGRAM.—By not later than September 30, 2020, the Secretary of State shall—

(A) increase the number of Consular Fellows to double the number of Consular Fellows employed as of the date of the enactment of this Act;

(B) offer Consular Fellows permanent career appointments; and

(C) make language training available to Consular Fellows for assignment to posts outside of their area of core linguistic ability.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this section.

SEC. 1149. JUDICIAL RESOURCES FOR BORDER SECURITY.

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

(1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

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

(i) attorneys and administrative support staff in offices of United States attorneys;

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

(iii) pre-trial services;

(iv) activities of the Office of the Federal Public Defender, including payments to retain appointed counsel under section 3006A of title 18, United States Code; and

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

(B) to reimburse Federal, State, local, and tribal law enforcement agencies for any detention costs related to the increased border crossing prosecutions carried out pursuant to subparagraph (A).

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

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this subsection.

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

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

(A) 4 additional district judges for the District of Arizona;

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

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

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

(2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The judgeships for the District of Arizona and the Central District of California authorized under section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note), in existence on the day before the date of the enactment of this Act, shall be authorized under section 133 of title 28, United States Code, and the individuals holding such judgeships on such day shall hold office under section 133 of title 28, United States Code, as amended by paragraph (3).

(3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to the district of Arizona and inserting the following:

"Arizona	17";

(B) by striking the items relating to California and inserting the following :

"California:	
Northern	19
Eastern	12
Central	28
Southern	15"; and

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

"Texas:	
Northern	12
Southern	21
Eastern	7
Western	17".

(c) INCREASE IN FILING FEES.—

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

(A) by striking ''$350'' and inserting ''$375''; and

(B) by striking ''$5'' and inserting ''$7''.

(2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the amendments made by paragraph (1)—

(A) shall be deposited as offsetting receipts in the special fund of the Treasury established under section 1931 of title 28, United States Code; and

(B) shall be available solely for the purpose of facilitating the processing of civil cases, but only to the extent specifically appropriated by an Act of Congress enacted after the date of the enactment of this Act.

SEC. 1150. REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR FEDERALLY INITIATED, IMMIGRATION-RELATED CRIMINAL CASES.

(a) IN GENERAL.—The Attorney General shall reimburse State, county, tribal, and municipal governments for costs associated with the prosecution of federally initiated criminal cases declined to be prosecuted by local offices of the United States attorneys, including costs relating to pre-trial services, detention, clerical support, and public defenders' services associated to such prosecution.

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

CHAPTER 3—GRANTS

SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

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

(1) in paragraph (1)—

(A) by inserting ''AUTHORIZATION.—'' before ''If the chief''; and

(B) by inserting ''or an alien with an unknown status'' after ''undocumented criminal alien'' each place that term appears;

(2) by striking paragraphs (2) and (3) and inserting the following:

''(2) COMPENSATION.—

''(A) CALCULATION OF COMPENSATION.—Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State, as determined by the Attorney General.

''(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall compensate the State or political subdivision of the State, in accordance with subparagraph (A), for the incarceration of an alien—

''(i) whose immigration status cannot be verified by the Secretary; and

''(ii) who would otherwise be an undocumented criminal alien if the alien is unlawfully present in the United States.

''(3) DEFINITIONS.—In this subsection:

''(A) ALIEN WITH AN UNKNOWN STATUS.—The term 'alien with an unknown status' means an individual—

''(i) who has been incarcerated by a Federal, State, or local law enforcement entity; and

''(ii) whose immigration status cannot be definitively identified.

''(B) UNDOCUMENTED CRIMINAL ALIEN.—The term 'undocumented criminal alien' means an alien who—

''(i) has been charged with or convicted of a felony or any misdemeanors; and

''(ii)(I) entered the United States without inspection or at any time or place other than as designated by the Secretary;

''(II) was the subject of exclusion or deportation or removal proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

''(III) was admitted as a nonimmigrant and, at the time he or she was taken into custody by the State or a political subdivision of the State, has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.'';

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

(4) in paragraph (5)(C), by striking ''to carry out this subsection'' and all that follows and inserting ''$950,000,000, for each of the fiscal years 2018 through 2022, to carry out this subsection.''; and

(5) by adding at the end the following:

''(7) DISTRIBUTION OF REIMBURSEMENT.—Any amounts provided to a State or to a political subdivision of a State as compensation under paragraph (1)(A) for a fiscal year shall be distributed to such State or political subdivision not later than 120 days after the last day of the period specified by the Attorney General for the submission of requests under that paragraph for that fiscal year.''.

SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE GRANTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary, in consultation with State and local law enforcement agencies, may award border security assistance grants to law enforcement agencies located in the Southwest border region for the purposes described in subsection (b).

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to law enforcement agencies located in a county that is located within 25 miles of the Southern border.

(b) PURPOSES.—Each grant awarded under subsection (a) shall be used to address drug trafficking, smuggling, and border violence—

(1) by obtaining law enforcement equipment and tools, including secure 2-way communication devices, portable laptops and office computers, license plate readers, unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night viewing capabilities, and any other appropriate law enforcement equipment;

(2) by hiring additional personnel, including administrative support personnel, dispatchers, and jailers, and to provide overtime pay for such personnel;

(3) by purchasing law enforcement vehicles;

(4) by providing high performance aircraft and helicopters for border surveillance and other critical mission applications and paying for the operational and maintenance costs associated with such craft;

(5) by providing critical power generation systems, infrastructure, and technological upgrades to support State and local data management systems and fusion centers; or

(6) by providing specialized training and paying for the direct operating expenses associated with detecting and prosecuting drug trafficking, human smuggling, and other illegal activity or violence that occurs at or near the Southern border.

(c) APPLICATION.—

(1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a nonprofit organization or coalition acting as an agent for 1 or more such law enforcement entities, shall submit an application to the Secretary that includes the information described in paragraph (2) at such time and in such manner as the Secretary may require.

(2) CONTENT.—Each application submitted under paragraph (1) shall include—

(A) a description of the activities to be carried out with a grant awarded under subsection (a);

(B) if equipment will be purchased with the grant, a detailed description of—

(i) the type and quantity of such equipment; and

(ii) the personnel who will be using such equipment;

(C) a description of the need of the law enforcement agency or agencies for the grant, including a description of the inability of the agency or agencies to carry out the proposed activities without the grant; and

(D) an assurance that the agency or agencies will, to the extent practicable, seek, recruit, and hire women and members of racial and ethnic minority groups in law enforcement positions of the agency or agencies.

(d) REVIEW AND AWARD.—

(1) REVIEW.—Not later than 90 days after receiving an application submitted under subsection (c), the Secretary shall review and approve or reject the application.

(2) AWARD OF FUNDS.—Subject to the availability of appropriations, not later than 45 days after the date an application is approved under paragraph (1), the Secretary shall transmit the grant funds to the applicant.

(3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to high-intensity areas for drug trafficking, smuggling, and border violence.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for each of the fiscal years 2018 through 2022, $300,000,000 for grants authorized under this section.

SEC. 1153. OPERATION STONEGARDEN.

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

''SEC. 2009. OPERATION STONEGARDEN.

''(a) ESTABLISHMENT.—There is established in the Department a program to be known as 'Operation Stonegarden', under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

''(b) ELIGIBLE RECIPIENTS.—To be eligible to receive a grant under this section, a law enforcement agency—

''(1) shall be located in—

''(A) a State bordering Canada or Mexico; or

''(B) a State or territory with a maritime border; and

''(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

''(1) equipment, including maintenance and sustainment costs;

''(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

''(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security's most recent Homeland Security Grant Program Notice of Funding Opportunity; and

''(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

''(d) PERIOD OF PERFORMANCE.—The Secretary shall award grants under this section

to grant recipients for a period of not less than 36 months.

''(e) REPORT.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives containing information on the expenditure of grants made under this section by each grant recipient.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $110,000,000, for each of the fiscal years 2018 through 2022, for grants under this section.''.

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

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

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 2008 the following:

''Sec. 2009. Operation Stonegarden.''.

SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS OF CROSS-BORDER HUMAN SMUGGLING.

In addition to any funding for grants made available to the Attorney General for State and local law enforcement assistance, the Attorney General shall award grants to county, municipal, or tribal governments in States along the southern border for costs, or reimbursement of costs, associated with the transportation and processing of unidentified alien remains that have been transferred to an official medical examiner's office or an institution of higher education in the area with the capacity to analyze human remains using forensic best practices, including DNA testing, where such expenses may contribute to the collection and analysis of information pertaining to missing and unidentified persons.

SEC. 1155. GRANT ACCOUNTABILITY.

(a) DEFINITIONS.—In this section:

(1) AWARDING ENTITY.—The term ''awarding entity'' means the Secretary, the Administrator of the Federal Emergency Management Agency, the Director of the National Science Foundation, or the Chief of the Office of Citizenship and New Americans.

(2) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(3) UNRESOLVED AUDIT FINDING.—The term ''unresolved audit finding'' means a finding in a final audit report conducted by the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 1 year after the date when the final audit report is issued.

(b) ACCOUNTABILITY.—All grants awarded by an awarding entity pursuant to this subtitle shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and in each fiscal year thereafter, the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, shall conduct audits of recipients of grants under this subtitle or any amendments made by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such Inspectors General shall determine the appropriate number of grantees to be audited each year.

(B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this subtitle or any amendment made by this subtitle during the first 2 fiscal years beginning after the end of the fiscal year in which a finding described in subsection (A) was discovered.

(C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by this subtitle, the awarding entity shall give priority to eligible applicants that did not have an unresolved audit finding during the 3 fiscal years immediately preceding the date on which the entity submitted the application for such grant.

(D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any amendment made by this subtitle during the 2-year period when the entity is barred from receiving grants under subparagraph (B), the awarding entity shall—

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to such entity into the general fund of the Treasury; and

(ii) seek to recover the costs of the repayment under clause (i) from such entity.

(2) NONPROFIT ORGANIZATION REQUIREMENTS.—

(A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or any amendment made by this subtitle to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of the Internal Revenue Code of 1986.

(B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this subtitle or any amendment made by this subtitle and uses the procedures prescribed by Internal Revenue regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees, and key employees, shall disclose to the awarding entity, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the awarding entity shall make the information disclosed under this subparagraph available for public inspection.

(3) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—Amounts authorized to be appropriated to the Department of Homeland Security or the National Science Foundation for grant programs under this subtitle or any amendment made by this subtitle may not be used by an awarding entity to host or support any expenditure for conferences that uses more than $20,000 in funds made available by the Department of Homeland Security or the National Science Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director of the National Science Foundation, or their designee, provides prior written authorization that the funds may be expended to host the conference.

(B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director of the National Science Foundation shall submit an annual report to Congress that identifies all conference expenditures approved under this paragraph.

(4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and annually thereafter, each awarding entity shall submit a report to Congress that—

(A) indicates whether—

(i) all audits issued by the Offices of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate individuals;

(ii) all mandatory exclusions required under paragraph (1)(B) have been issued; and

(iii) all reimbursements required under paragraph (1)(D) have been made; and

(B) includes a list of any grant recipients excluded under paragraph (1) during the previous year.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 1201. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

(B) the Committee on Finance of the Senate;

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

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

(E) the Committee on Ways and Means of the House of Representatives; and

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

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

(1) AUTHORITY.—Subject to section 3307 of title 40, United States Code, the Administrator of General Services may construct new ports of entry along the northern border and along the southern border at locations determined by the Secretary.

(2) CONSULTATION.—

(A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Transportation, the Administrator of General Services, and appropriate representatives of State and local governments, Indian tribes, and property owners in the United States prior to determining a location for any new port constructed pursuant to paragraph (1).

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

(b) EXPANSION AND MODERNIZATION OF HIGH-VOLUME SOUTHERN BORDER PORTS OF ENTRY.—Not later than September 30, 2022, the Administrator of General Services, subject to section 3307 of title 40, United States Code, and in coordination with the Secretary, shall expand or modernize high-priority ports of entry on the southern border, as determined by the Secretary, for the purposes of reducing wait times and enhancing security.

(c) PORT OF ENTRY PRIORITIZATION.—Prior to constructing any new ports of entry pursuant to subsection (a), the Administrator of

General Services shall complete the expansion and modernization of ports of entry pursuant to subsection (b), to the extent practicable.

(d) NOTIFICATIONS.—

(1) RELATING TO NEW PORTS OF ENTRY.—Not later than 15 days after determining the location of any new port of entry for construction pursuant to subsection (a), the Secretary and the Administrator of General Services shall jointly notify the Members of Congress who represent the State or congressional district in which such new port of entry will be located, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on the Judiciary of the House of Representatives. Such notification shall include—

(A) information relating to the location of such new port of entry;

(B) a description of the need for such new port of entry and associated anticipated benefits;

(C) a description of the consultations undertaken by the Secretary and the Administrator pursuant to subsection (a)(2)(A);

(D) any actions that will be taken to minimize negative impacts of such new port of entry; and

(E) the anticipated time line for the construction and completion of such new port of entry.

(2) EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Administrator of General Services shall jointly notify the congressional committees listed in paragraph (1) of—

(A) the ports of entry on the southern border selected for expansion or modernization pursuant to subsection (b); and

(B) the plan of the Secretary and the Administrator for expanding or modernizing each such port of entry.

(e) SAVINGS PROVISION.—Nothing in this section may be construed—

(1) to create or negate any right of action for a State, local government, or other person or entity affected by this section;

(2) to delay the transfer of the possession of property to the United States;

(3) to affect the validity of any property acquisitions by purchase or eminent domain or to otherwise affect the eminent domain laws of the United States or of any State; or

(4) to create any right or liability for any party.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as providing the Secretary new authority related to the construction, acquisition, or renovation of real property.

SEC. 1203. SECURE COMMUNICATIONS.

(a) IN GENERAL.—The Secretary shall ensure that each U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a secure radio or other 2-way communication device, supported by system interoperability, that allows each such officer to communicate—

(1) between ports of entry and inspection stations; and

(2) with other Federal, State, tribal, and local law enforcement entities.

(b) U.S. BORDER PATROL AGENTS.—The Secretary shall ensure that each U.S. Customs and Border Protection agent or officer assigned or required to patrol on foot, by horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-band encrypted portable radio.

SEC. 1204. BORDER SECURITY DEPLOYMENT PROGRAM.

(a) EXPANSION.—Not later than September 30, 2022, the Secretary shall fully implement U.S. Customs and Border Protection's Border Security Deployment Program and expand the integrated surveillance and intrusion detection system at land ports of entry along the southern border and the northern border.

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

SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READERS AT PORTS OF ENTRY.

(a) UPGRADE.—Not later than 2 years after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate readers on the northern border and on the southern border on incoming and outgoing vehicle lanes.

(b) PILOT PROGRAM.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program on the southern border using license plate readers for 1 to 2 cargo lanes at the top 2 high-volume southern border land ports of entry or checkpoints and at the top 2 high-volume northern border land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait times for commercial traffic and tractor-trailers.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that contains the results of the pilot program under subsection (b) and makes recommendations for using the technology described in such subsection on the southern border.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $125,000,000 for the 2-year period ending on September 30, 2019, to carry out subsection (a).

SEC. 1206. BIOMETRIC TECHNOLOGY.

(a) BIOMETRIC STORAGE.—

(1) CREATION OR EXPANSION OF SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall create a system (or upgrade and expand the capability and capacity of an existing system, if a Department of Homeland Security system already has capability and capacity for storage) to allow for the storage of fingerprints, photographs, iris scans, voice prints, and any other biometric data of aliens that can be used by the Department of Homeland Security, other Federal agencies, and State and local law enforcement agencies for identity verification, authentication, background checks, and document production.

(2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system created or expanded under paragraph (1) is compatible with existing State and local law enforcement systems that are used for the collection and storage of biometric data for criminal aliens.

(b) PILOT PROGRAM.—When the system created under subsection (a) is operational, U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall conduct a 6-month pilot program on the collection and use of iris scans and voice prints for identity verification, authentication, background checks, and document production.

(c) REPORT.—Not later than 6 months after the conclusion of the pilot program under subsection (b), the Secretary shall submit a report containing the results of the pilot program and recommendations for using such technology to—

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

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Homeland Security of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through 2022, $10,000,000 carry out this section.

SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION PROJECT.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Commissioner shall establish a 6-month operational demonstration project to deploy a high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land ports of entry along the United States-Mexico border with significant cross-border traffic.

(2) LOCATION.—The demonstration project established under paragraph (1)—

(A) shall be located within the pre-primary traffic flow; and

(B) should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

(b) REPORT.—Not later than 90 days after the conclusion of the operational demonstration project under subsection (a), the Commissioner shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that describes—

(1) the effects of the demonstration project on legitimate travel and trade;

(2) the effects of the demonstration project on wait times, including processing times, for non-pedestrian traffic; and

(3) the effectiveness of the demonstration project in combating terrorism and smuggling.

SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

(a) IN GENERAL.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by inserting after section 415 the following:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

''(a) ESTABLISHMENT.—The Secretary—

''(1) not later than 180 days after the date of the enactment of this section, shall submit an implementation plan to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the

Judiciary of the House of Representatives for establishing a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

''(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs of such a system, that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(C) a consideration of training programs necessary to establish such a system that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(D) a consideration of how such a system will affect arrival and departure wait times that takes into account prior reports on such matter issued by the Government Accountability Office and the Department;

''(E) information received after consultation with private sector stakeholders, including the—

''(i) trucking industry;

''(ii) airport industry;

''(iii) airline industry;

''(iv) seaport industry;

''(v) travel industry; and

''(vi) biometric technology industry;

''(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this section may be impacted by, or incorporated into, such a system;

''(G) defined metrics of success and milestones;

''(H) identified risks and mitigation strategies to address such risks;

''(I) a consideration of how other countries have implemented a biometric exit data system; and

''(J) a list of statutory, regulatory, or administrative authorities needed to integrate such a system into the operations of the Transportation Security Administration; and

''(2) not later than 2 years after the date of the enactment of this section, shall establish a biometric exit data system at—

''(A) the 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

''(B) the 10 United States seaports that support the highest volume of international sea travel, as determined by available Federal travel data; and

''(C) the 15 United States land ports of entry that support the highest volume of vehicle, pedestrian, and cargo crossings, as determined by available Federal border crossing data.

''(b) IMPLEMENTATION.—

''(1) PILOT PROGRAM AT LAND PORTS OF ENTRY.—Not later than 6 months after the date of the enactment of this section, the Secretary, in collaboration with industry stakeholders, shall establish a 6-month pilot program to test the biometric exit data system referred to in subsection (a)(2) on nonpedestrian outbound traffic at not fewer than 3 land ports of entry with significant cross-border traffic, including at not fewer than 2 land ports of entry on the southern land border and at least 1 land port of entry on the northern land border. Such pilot program may include a consideration of more than 1 biometric mode, and shall be implemented to determine—

''(A) how a nationwide implementation of such biometric exit data system at land ports of entry shall be carried out;

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

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

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

''(E) the effects of such pilot program on combating terrorism; and

''(F) the effects of such pilot program on identifying visa holders who violate the terms of their visas.

''(2) EXPANSION TO LAND PORTS OF ENTRY.—

''(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry.

''(B) EXTENSION.—The Secretary may extend, for a single 2-year period, the date specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that the 15 land ports of entry that support the highest volume of passenger vehicles, as determined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a biometric exit data system. Such extension shall only apply to nonpedestrian outbound traffic.

''(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all air and sea ports of entry.

''(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary, in consultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

''(d) TERMINATION OF PROCEEDING.—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate the proceeding entitled 'Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (''US-VISIT'')', issued on April 24, 2008 (73 Fed. Reg. 22065).

''(e) DATA-MATCHING.—The biometric exit data system established under this section shall—

''(1) match biometric information for an individual who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

''(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

''(3) be interoperable with, and allow matching against, other Federal databases that—

''(A) store biometrics of known or suspected terrorists; and

''(B) identify visa holders who violate the terms of their visas.

''(f) SCOPE.—

''(1) IN GENERAL.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

''(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the case of an individual who exits and then enters the United States on a passenger vessel (as such term is defined in section 2101 of title 46, United States Code) the itinerary of which originates and terminates in the United States.

''(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a United States or Canadian citizen who exits the United States through a land port of entry.

''(g) COLLECTION OF DATA.—The Secretary may not require any entity that is not part of the Federal Government to collect biometric data, or to contribute to the costs of collecting or administering the biometric exit data system established under this section, except through a mutual agreement.

''(h) MULTI-MODAL COLLECTION.—In carrying out subsections (a)(1) and (b), the Secretary shall make every effort to collect biometric data using multiple modes of biometrics.

''(i) FACILITIES.—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity. For non-federally owned facilities, such space shall be provided and maintained at no cost to the Government.

''(j) NORTHERN LAND BORDER.—The requirements under subsections (a)(2)(C) and (b)(2)(A) may be achieved on the northern land border through the sharing of biometric data provided to the Department by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement.

''(k) FULL AND OPEN COMPETITION.—The Secretary shall procure goods and services to implement this section through full and open competition in accordance with the Federal Acquisition Regulation.

''(l) OTHER BIOMETRIC INITIATIVES.—The Secretary may pursue biometric initiatives at air, land, and sea ports of entry for the purposes of border security and trade facilitation distinct from the biometric exit data system described in this section.

''(m) CONGRESSIONAL REVIEW.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit reports and recommendations to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives regarding the Science and Technology Directorate's Air Entry and Exit Re-Engineering Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

''(n) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 415 the following:

''Sec. 416. Biometric entry-exit.''.

SEC. 1209. SENSE OF CONGRESS ON COOPERATION BETWEEN AGENCIES.

(a) FINDING.—Congress finds that personnel constraints exist at land ports of entry with regard to sanitary and phytosanitary inspections for exported goods.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in the best interest of cross-border trade and the agricultural community—

(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate the crossing and trade of perishable goods in a manner consistent with rules of the Department of Agriculture; and

(2) cross designation should be available for personnel who will assist more than 1 agency or department at land ports of entry to facilitate increased trade and commerce.

Subtitle C—Border Security Enforcement Fund

SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.

(a) PURPOSE.—There shall be established in the Treasury of the United States a Border Security Enforcement Fund (referred to in this section as the ''Fund''), to be administered through the Department of Homeland Security and, in fiscal year 2018 only, through the Department of State only with respect to section 1120, which shall be available to carry out activities necessary to implement this Act and other Acts related to border security, including—

(1) the design, planning, construction, installation, deployment, operation, and maintenance of tactical infrastructure, technology, including physical barriers, and necessary mobility access and personnel support infrastructure in the vicinity of the United States border—

(A) to achieve situational awareness and operational control of such border;

(B) to deter, impede, and detect illegal activity; or

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

(2) the implementation of port of entry provisions under titles I and II;

(3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such craft; and

(4) hiring and recruitment.

(b) FUNDING.—There are appropriated to the Fund, out of any amounts in the Treasury not otherwise appropriated, $25,000,000,000, of which—

(1) $2,947,000,000 is appropriated for fiscal year 2018, and shall remain available through September 30, 2022;

(2) $2,225,000,000 is appropriated for fiscal year 2019, and shall remain available through September 30, 2023;

(3) $2,467,000,000 is appropriated for fiscal year 2020, and shall remain available through September 30, 2024;

(4) $2,644,000,000 is appropriated for fiscal year 2021, and shall remain available through September 30, 2025;

(5) $2,862,000,000 is appropriated for fiscal year 2022, and shall remain available through September 30, 2026;

(6) $2,370,000,000 is appropriated for fiscal year 2023, and shall remain available through September 30, 2027;

(7) $2,371,000,000 is appropriated for fiscal year 2024, and shall remain available through September 30, 2028;

(8) $2,401,000,000 is appropriated for fiscal year 2025, and shall remain available through September 30, 2029;

(9) $2,371,000,000 is appropriated for fiscal year 2026, and shall remain available through September 30, 2030; and

(10) $2,342,000,000 is appropriated for fiscal year 2027, and shall remain available through September 30, 2031.

(c) TACTICAL INFRASTRUCTURE.—

(1) TRANSFERS.—The Secretary shall transfer, from the Fund to the ''U.S. Customs and Border Protection—Procurement, Construction and Improvements'' account, for the purpose described in subsection (a)(1), $18,000,000,000, of which—

(A) $1,571,000,000 shall be transferred in fiscal year 2018;

(B) $1,600,000,000 shall be transferred in fiscal year 2019;

(C) $1,842,000,000 shall be transferred in fiscal year 2020;

(D) $2,019,000,000 shall be transferred in fiscal year 2021;

(E) $2,237,000,000 shall be transferred in fiscal year 2022;

(F) $1,745,000,000 shall be transferred in fiscal year 2023;

(G) $1,746,000,000 shall be transferred in fiscal year 2024;

(H) $1,776,000,000 shall be transferred in fiscal year 2025;

(I) $1,746,000,000 shall be transferred in fiscal year 2026; and

(J) $1,718,000,000 shall be transferred in fiscal year 2027.

(2) AVAILABILITY OF FUNDS.—Notwithstanding section 1532 of title 31, United States Code, any amounts transferred pursuant to paragraph (1) shall merge with the ''U.S. Customs and Border Protection—Procurement, Construction and Improvements'' account and remain available until expended.

(d) TRANSFER TO DEPARTMENT OF STATE.—During fiscal year 2018, the Secretary shall transfer $200,000,000 to the Secretary of State to implement section 1120.

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

(f) USE OF FUND.—If the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives do not provide for the full transfer of funds pursuant to subsection (e) in an appropriation enacted in the fiscal year in which such funds are made available from the Fund pursuant to subsection (b), the Secretary of Homeland Security may transfer any remaining amounts in the Fund to accounts within the Department of Homeland Security for eligible activities under this section.

Subtitle D—Stop the Importation and Trafficking of Synthetic Analogues Act

SEC. 1401. SHORT TITLES.

This subtitle may be cited as the ''Stop the Importation and Trafficking of Synthetic Analogues Act of 2018'' or the ''SITSA Act''.

SEC. 1402. ESTABLISHMENT OF SCHEDULE A.

Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

(1) in subsection (a), by striking ''five schedules of controlled substances, to be known as schedules I, II, III, IV, and V'' and inserting ''six schedules of controlled substances, to be known as schedules I, II, III, IV, V, and A'';

(2) in subsection (b), by adding at the end the following:

''(6) SCHEDULE A.—

''(A) IN GENERAL.—The drug or substance—

''(i) has—

''(I) a chemical structure that is substantially similar to the chemical structure of a controlled substance in schedule I, II, III, IV, or V; and

''(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I, II, III, IV, or V; and

''(ii) is not—

''(I) listed or otherwise included in any other schedule in this section or by regulation of the Attorney General; and

''(II) with respect to a particular person, subject to an exemption that is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption.

''(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central nervous system may be based on—

''(i) the chemical structure, structure activity relationships, binding receptor assays, or other relevant scientific information about the substance;

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

''(II) the clandestine importation, manufacture, or distribution, or diversion from legitimate channels, of the substance; or

''(iii) the capacity of the substance to cause a state of dependence, including physical or psychological dependence that is similar to or greater than that of a controlled substance in schedule I, II, III, IV, or V.''; and

(3) in subsection (c)—

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

(B) by adding at the end the following:

''SCHEDULE A

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

''(1) 4-fluoroisobutyryl fentanyl.

''(2) Valeryl fentanyl.

''(3) 4-methoxybutyryl fentanyl.

''(4) 4-methylphenethyl acetyl fentanyl.

''(5) 3-furanyl fentanyl.

''(6) Ortho-fluorofentanyl.

''(7) Tetrahydrofuranyl fentanyl.

''(8) Ocfentanil.

''(9) 4-fluorobutyryl fentanyl.

''(10) Methoxyacetyl fentanyl.

''(11) Meta-fluorofentanyl.

''(12) Isobutyryl fentanyl.

''(13) Acryl fentanyl.''.

SEC. 1403. TEMPORARY AND PERMANENT SCHEDULING OF SCHEDULE A SUBSTANCES.

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

''(k) TEMPORARY AND PERMANENT SCHEDULING OF SCHEDULE A SUBSTANCES.—

''(1) The Attorney General may issue a temporary order adding a drug or substance to schedule A if the Attorney General finds that—

''(A) the drug or other substance satisfies the criteria for being considered a schedule A substance; and

''(B) adding such drug or substance to schedule A will assist in preventing abuse or misuse of the drug or other substance.

''(2)(A) A temporary scheduling order issued under paragraph (1) shall not take effect until 30 days after the date on which the

Attorney General publishes a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued.

''(B) The Attorney General may amend, withdraw, or rescind a temporary scheduling order at any time by publication of a notice in the Federal Register.

''(C) Subject to paragraph (B), the temporary scheduling order shall expire not later than 5 years after the date on which it becomes effective, except that the Attorney General may, during the pendency of proceedings under paragraph (5), extend the temporary scheduling order for up to 180 days.

''(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the issuance of a permanent order issued under paragraph (5) with regard to the same substance, or upon the subsequent issuance of any scheduling order under this section.

''(4) A temporary scheduling order issued under paragraph (1) shall not be subject to judicial review.

''(5) The Attorney General may, by rule, issue a permanent order adding a drug or other substance to schedule A if such drug or substance satisfies the criteria for being considered a schedule A substance. Such rulemaking may be commenced simultaneously with the issuance of the temporary scheduling order issued under paragraph (1) with regard to the same substance.

''(6) Before initiating proceedings under paragraph (1) or (5), the Attorney General shall transmit notice of an order proposed to be issued to the Secretary of Health and Human Services. In issuing an order under paragraph (1) or (5), the Attorney General shall take into consideration any comments submitted by the Secretary of Health and Human Services in response to a notice transmitted pursuant to this paragraph.''.

SEC. 1404. PENALTIES.

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

(1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

''(F)(i) In the case of any controlled substance in schedule A, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

''(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

''(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 4 years in addition to such term of imprisonment.'';

(2) in section 403(a) (21 U.S.C. 843(a))—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) to export a substance in violation of the controlled substance laws of the country to which the substance is exported.''; and

(3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

''(b) A person shall not be subject to a criminal or civil penalty under this title or under any other Federal law solely for possession of a schedule A controlled substance.''.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the following:

''(8) In the case of a violation under subsection (a) involving a controlled substance in schedule A, the person committing such violation shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, United States Code, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results.''.

SEC. 1405. FALSE LABELING OF SCHEDULE A CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 305 of the Controlled Substances Act (21 U.S.C. 825) is amended by adding at the end the following:

''(f) FALSE LABELING OF SCHEDULE A CONTROLLED SUBSTANCES.—

''(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a schedule A substance or product containing a schedule A substance, unless the substance or product bears a label clearly identifying a schedule A substance or product containing a schedule A substance by the nomenclature used by the International Union of Pure and Applied Chemistry.

''(2)(A) A product described in subparagraph (B) is exempt from the International Union of Pure and Applied Chemistry nomenclature requirement of this subsection if such product is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act.

''(B) A product is described in this subparagraph if the product—

''(i) is the subject of an approved application as described in section 505(b) or (j) of the Federal Food, Drug, and Cosmetic Act; or

''(ii) is exempt from the provisions of section 505 of such Act relating to new drugs because—

''(I) it is intended solely for investigational use as described in section 505(i) of such Act; and

''(II) such product is being used exclusively for purposes of a clinical trial that is the subject of an effective investigational new drug application.''.

(b) PENALTIES.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

(1) in subsection (a)(16), by inserting ''or subsection (f)'' after ''subsection (e)''; and

(2) in subsection (c)(1)(D), by inserting ''or a schedule A substance'' after ''anabolic steroid''.

SEC. 1406. REGISTRATION REQUIREMENTS FOR HANDLERS OF SCHEDULE A SUBSTANCES.

(a) CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended—

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

(A) by inserting ''or A'' after ''schedule I'' each place it appears; and

(B) by adding at the end the following: ''A separate registration for engaging in research with a controlled substance in schedule A for practitioners already registered under this part to engage in research with controlled substances in schedule I shall not be required. The Secretary shall determine the merits of the research protocol submitted by the practitioner registering to engage in research with a controlled substance in schedule A, and the Attorney General may deny or revoke the registration only on a ground specified in section 304.''; and

(2) by adding at the end the following:

''(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances if—

''(A) the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

''(B) the Attorney General determines that such registration is consistent with the public interest and with the United States obligations under international treaties, conventions, or protocols in effect on the date of enactment of this subsection.

''(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider—

''(A) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule A compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

''(B) compliance with applicable State and local law;

''(C) promotion of technical advances in the art of manufacturing substances described in subparagraph (A) and the development of new substances;

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

''(E) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

''(F) such other factors as may be relevant to and consistent with the public health and safety.

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

''(l)(1) The Attorney General shall register an applicant to distribute schedule A substances—

''(A) if the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

''(B) unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest.

''(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider—

''(A) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

''(B) compliance with applicable State and local law;

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

''(D) past experience in the distribution of controlled substances; and

''(E) such other factors as may be relevant to and consistent with the public health and safety.

''(3) If an applicant is registered to distribute a controlled substance in schedule I or II under subsection (b), the applicant shall not be required to apply for a separate registration under this subsection.

''(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any practitioner who was engaged in research on the substance before the placement of the substance in schedule A and any manufacturer or distributor who was handling the substance before the placement of the substance in schedule A shall register with the Attorney General.

''(2)(A) Not later than 60 days after the date on which the Attorney General receives an application for registration to conduct research on a schedule A substance, the Attorney General shall—

''(i) grant, or initiate proceedings under section 304(c) to deny, the application; or

''(ii) request supplemental information from the applicant.

''(B) Not later than 30 days after the date on which the Attorney General receives supplemental information requested under subparagraph (A)(ii) in connection with an application described in subparagraph (A), the Attorney General shall grant or deny the application.''.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:

''(j)(1) The Attorney General shall register an applicant to import or export a schedule A substance if—

''(A) the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

''(B) the Attorney General determines that such registration is consistent with the public interest and with the United States obligations under international treaties, conventions, or protocols in effect on the date of enactment of this subsection.

''(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider the factors described in subparagraphs (A) through (F) of section 303(k)(2).

''(3) If an applicant is registered to import or export a controlled substance in schedule I or II under subsection (a), the applicant shall not be required to apply for a separate registration under this subsection.''.

SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

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

(1) in section 303(c) (21 U.S.C. 823(c))—

(A) by striking ''subsections (a) and (b)'' and inserting ''subsection (a), (b), (k), or (l)''; and

(B) by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(2) in section 306 (21 U.S.C. 826)—

(A) in subsection (a), in the first sentence, by striking ''schedules I and II'' and inserting ''schedules I, II, and A'';

(B) in subsection (b), in the second sentence, by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(C) in subsection (c), in the first sentence, by striking ''schedules I and II'' and inserting ''schedules I, II, and A'';

(D) in subsection (d), in the first sentence, by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(E) in subsection (e), in the first sentence, by striking ''schedule I or II'' and inserting ''schedule I, II, or A''; and

(F) in subsection (f), in the first sentence, by striking ''schedules I and II'' and inserting ''schedules I, II, and A'';

(3) in section 308(a) (21 U.S.C. 828(a)), by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking ''schedule I or II'' and inserting ''schedule I, II, or A''; and

(6) in section 511(f) (21 U.S.C. 881(f)), by striking ''schedule I or II'' each place it appears and inserting ''schedule I, II, or A''.

(b) CONTROLLED SUBSTANCES IMPORT EXPORT ACT.—The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended—

(1) in section 1002(a) (21 U.S.C. 952(a))—

(A) in the matter preceding paragraph (1), by striking ''schedule I or II'' and inserting ''schedule I, II, or A''; and

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

(2) in section 1003 (21 U.S.C. 953)—

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

(B) in subsection (d), by striking ''schedule I or II'' and inserting ''schedule I, II, or A'';

(3) in section 1004(1) (21 U.S.C. 954(1)), by striking ''schedule I'' and inserting ''schedule I or A'';

(4) in section 1005 (21 U.S.C. 955), by striking ''schedule I or II'' and inserting ''schedule I, II, or A''; and

(5) in section 1009(a) (21 U.S.C. 959(a)), by striking ''schedule I or II'' and inserting ''schedule I, II, or A''.

SEC. 1408. CLARIFICATION OF THE DEFINITION OF CONTROLLED SUBSTANCE ANALOGUE UNDER THE ANALOGUE ENFORCEMENT ACT.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (6), by striking ''or V'' and inserting ''V, or A'';

(2) in paragraph (14)—

(A) by striking ''schedule I(c) and'' and inserting ''schedule I(c), schedule A, and''; and

(B) by striking ''schedule I(c),'' and inserting ''schedule I(c) and schedule A,''; and

(3) in paragraph (32)(A), by striking ''(32)(A)'' and all that follows through clause (iii) and inserting the following:

''(32)(A) Except as provided in subparagraph (C), the term 'controlled substance analogue' means a substance whose chemical structure is substantially similar to the chemical structure of a controlled substance in schedule I or II—

''(i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

''(ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.''.

SEC. 1409. RULES OF CONSTRUCTION.

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

(1) the prosecution of offenses involving controlled substance analogues under the Controlled Substances Act (21 U.S.C. 801 et seq.); or

(2) the authority of the Attorney General to temporarily or permanently schedule, reschedule, or decontrol controlled substances under provisions of section 201 of the Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of enactment of this Act.

Subtitle E—Domestic Security

CHAPTER 1—GENERAL MATTERS

SEC. 1501. KEEP OUR COMMUNITIES SAFE ACT.

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking the section designation and heading and all that follows through the period at the end of subsection (c) and inserting the following:

''SEC. 236. APPREHENSION AND DETENTION OF ALIENS.

''(a) ARREST, DETENTION, AND RELEASE.—

''(1) IN GENERAL.—The Secretary, on a warrant issued by the Secretary, may arrest an alien and detain the alien pending a decision on whether the alien is to be removed from the United States until the date on which the alien has an administratively final order of removal. Except as provided in subsection (c) and pending such decision, the Secretary—

''(A) may—

''(i) continue to detain the arrested alien if the Secretary or the Attorney General determines that continued detention is warranted;

''(ii) release the alien on bond of at least $5,000, with security approved by, and containing conditions prescribed by, the Secretary or the Attorney General; or

''(iii) release the alien on his or her own recognizance, subject to appropriate conditions set forth by the Secretary or the Attorney General, if the Secretary or the Attorney General determines that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; and

''(B) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit) or advance parole to travel outside of the United States, unless the alien

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

''(b) REVOCATION OF BOND OR PAROLE.—The Secretary, at any time, may revoke bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

''(c) MANDATORY DETENTION OF CRIMINAL ALIENS.—

''(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any alien at any time if the alien—

''(A)(i) has not been admitted or paroled into the United States; and

''(ii) was apprehended anywhere within 100 miles of the international border of the United States;

''(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2);

''(C) is deportable by reason of having committed any offense covered in section 237(a)(2);

''(D) is convicted for an offense under section 275(a);

''(E) is convicted for an offense under section 276;

''(F) is convicted for any felony; or

''(G) is inadmissible under subparagraph (A) or (B) of section 212(a)(3) or deportable under subparagraph (A) or (B) of section 237(a)(4).

''(2) RELEASE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may release an alien described in paragraph (1) only if the Secretary decides pursuant to section 3521 of title 18, United States Code, and in accordance with a procedure that considers the severity of the offense committed by the alien, that—

''(i) release of the alien from custody is necessary to provide protection to—

''(I) a witness;

''(II) a potential witness;

''(III) a person cooperating with an investigation into major criminal activity; or

''(IV) an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation; and

''(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

''(I) is not a flight risk;

''(II) poses no danger to the safety of other persons or of property;

''(III) is not a threat to national security or public safety; and

''(IV) is likely to appear at any scheduled proceeding.

''(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

''(i) RELEASE FOR PROCEEDINGS.—The Secretary may release any alien held pursuant to paragraph (1) to the appropriate authority for any proceedings subsequent to the arrest.

''(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i), the Secretary shall—

''(I) resume custody of the alien during any period pending the final disposition of any proceedings subsequent to arrest for which the alien is not in the custody of the appropriate authority referred to in clause (i); and

''(II) if the alien is not convicted of the offense for which the alien was arrested, the Secretary shall continue to detain the alien until the date on which removal proceedings are completed.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by striking the item relating to section 236 and inserting the following:

''Sec. 236. Apprehension and detention of aliens.''.

SEC. 1502. DETERRING VISA OVERSTAYS.

(a) ADMISSION OF NONIMMIGRANTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by striking the section designation and heading and all that follows through the end of subsection (a)(1) and inserting the following:

''SEC. 214. ADMISSION OF NONIMMIGRANTS.

''(a) IN GENERAL.—

''(1) TERMS AND CONDITIONS OF ADMISSION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the admission to the United States of any alien as a nonimmigrant may be for such time and under such conditions as the Secretary may prescribe, in his or her sole and unreviewable discretion, including when the Secretary deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Secretary shall prescribe, to ensure that at the expiration of such time or upon failure to maintain the status under which the alien was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States.

''(B) GUAM OR CNMI VISA WAIVER NONIMMIGRANTS.—No alien admitted to Guam or the Commonwealth of the Northern Mariana Islands without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States, other than in Guam or the Commonwealth of the Northern Mariana Islands, or to remain in Guam or the Commonwealth of the Northern Mariana Islands for a period exceeding 45 days after the date on which the alien was admitted to Guam or the Commonwealth of the Northern Mariana Islands.

''(C) VISA WAIVER PROGRAM NONIMMIGRANTS.—An alien admitted to the United States without a visa pursuant to section 217 shall not be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date on which the alien was admitted.

''(D) BAR TO IMMIGRATION BENEFITS AND TO CONTESTING REMOVAL.—

''(i) DEFINITION OF GOOD CAUSE.—In this subparagraph, the term 'good cause' means extreme exigent humanitarian circumstances, determined on a case-by-case basis only, such as a medical emergency or force majeure.

''(ii) CONSEQUENCE OF OVERSTAY.—Subject to clause (iii), except for an alien admitted as a nonimmigrant under of subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15) or as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant, any alien who remains in the United States for a period of more than 30 days after the date on which the period of stay or parole authorized by the Secretary for the alien ends, without good cause, is inadmissible and ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than—

''(I) asylum;

''(II) relief as a victim of trafficking under section 101(a)(15)(T);

''(III) relief as a victim of criminal activity under section 101(a)(15)(U);

''(IV) relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty;

''(V) relief as a battered spouse or child under section 240A(b)(2);

''(VI) withholding of removal under section 241(b)(3); or

''(VII) protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

''(iii) EXCEPTION.—The Secretary may, in the Secretary's sole and unreviewable discretion, determine that a nonimmigrant is not subject to clause (ii) if—

''(I) the alien was lawfully inspected and admitted to the United States as a nonimmigrant;

''(II) the alien filed a nonfrivolous application for change of status to another nonimmigrant category or for an extension of stay before the date on which the alien's authorized period of stay as a nonimmigrant expired;

''(III) the alien has not been employed without authorization in the United States, before or during pendency of the application referred to in subclause (II);

''(IV) the alien has not otherwise violated the terms of the alien's nonimmigrant status; and

''(V) the Secretary, in the Secretary's sole and unreviewable discretion, determines that the alien is not a threat to national security or public safety.

''(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause (ii) who remains in the United States more than 30 days after the date on which the period of stay authorized by the Secretary ends, without good cause, shall be detained and the Secretary shall expeditiously remove the alien from the United States not later than 90 days after the date on which the alien is detained.

''(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from, or relating to, the detention and expedited removal of an alien pursuant to clause (iv).''.

(b) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—Section 217(b) of the Immigration and Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

''(b) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the program unless the alien has—

''(1) signed, under penalty of perjury, an acknowledgement confirming that the alien was notified and understands that he or she will be—

''(A) ineligible for any form of relief or immigration benefit under the Act or any other immigration laws, including sections 240A(b)(1), 240B(b), 245, 248, and 249 (other than a request for asylum), relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984; and

''(B) subject to detention and expedited removal from the United States, if the alien fails to depart from the United States at the end of the 90-day period for admission;

''(2) waived any right to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States; and

''(3) waived any right to contest any action for removal of the alien.''.

(c) DETENTION AND REPATRIATION OF VISA WAIVER VIOLATORS.—Section 217(c)(2)(E) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

''(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from the United States at the end of the 90-day period for admission shall be detained pending removal.''.

(d) ISSUANCE OF NONIMMIGRANT VISAS.—Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended by adding at the end the following:

''(3) The Secretary of State shall ensure that every application for a nonimmigrant visa includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the alien—

''(A) has been notified of the terms and conditions of the nonimmigrant visa, including the waiver of rights under subsection (j); and

''(B) understands that he or she will be ineligible for all immigration benefits and any form of relief or protection from removal, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than a request for asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, and from contesting removal if the alien violates any term or condition of his or her nonimmigrant visa or fails to depart the United States not later than 30 days after the end of the alien's authorized period of stay.''.

(e) REQUIREMENT THAT ALL NONIMMIGRANTS HAVE A SPECIFIED AUTHORIZED PERIOD OF STAY END DATE.—Section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended by adding at the end the following:

''(6) PERIOD OF STAY.—Any alien who an examining immigration officer has determined to be admissible as a nonimmigrant, except for aliens who are admissible under subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or who such officer has determined to be eligible for parole—

''(A) shall be admitted or paroled, as appropriate, into the United States for a specific period; and

''(B) shall be issued documentation stating the end date of the alien's period of stay in the United States.''.

(f) BARS TO IMMIGRATION RELIEF.—Section 221 of the Immigration and Nationality Act is amended by adding at the end the following:

''(j) WAIVER OF RIGHTS.—The Secretary of State may not issue a nonimmigrant visa under section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or (G) of section 101(a)(15), who is eligible for relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, or qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant) until the alien has waived any right to relief under sections 240A(b)(1), 240B(b), 245, 248, and 249 (other than relief from removal under section 241(b)(3) or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984), any form of relief established after the date on which the nonimmigrant visa is issued, and from contesting removal if the alien—

''(1) violates a term or condition of his or her nonimmigrant status; or

''(2) fails to depart the United States not later than the date that is 30 days after last day of the alien's authorized period of stay (as described in section 214(a)(1)).''.

(g) EFFECTIVE DATE; APPLICABILITY.—

(1) IN GENERAL.—This section and the amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply only to new visas, initial admissions of nonimmigrants, and initial requests for change of status from a nonimmigrant category to another nonimmigrant category under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

(2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the United States on a nonimmigrant visa who is present in the United States before the date of the enactment of this Act shall not be subject to this section or to the amendments made by this section until the alien departs from the United States or requests a change of nonimmigrant classification under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

SEC. 1503. INCREASE IN IMMIGRATION DETENTION CAPACITY.

Not later than September 30, 2022, and subject to the availability of appropriations, the Secretary of Homeland Security shall increase the immigration detention capacity to a daily immigration detention capacity of not fewer than 48,879 detention beds.

SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND DETAINED ALIENS.

Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is amended—

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

''(C) The Secretary of Homeland Security shall collect DNA samples from any alien (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

''(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

''(ii) is the subject of a final order of removal under section 240 of such Act (8 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)).''; and

(2) in subsection (b), by striking ''or the probation office responsible (as applicable)'' and inserting ''the probation office responsible, or the Secretary of Homeland Security''.

SEC. 1505. COLLECTION, USE, AND STORAGE OF BIOMETRIC DATA.

(a) COLLECTION AND USE OF BIOMETRIC INFORMATION FOR IMMIGRATION PURPOSES.—

(1) COLLECTION.—The Secretary of Homeland Security and the Secretary of State may require any individual filing with the Department of Homeland Security or the Department of State an application, petition, or other request for an immigration benefit or immigration status or seeking an immigration benefit or other authorization, employment authorization, identity, or travel document, or requesting relief or protection under any provision of the immigration laws to submit to either Secretary biometric information, including fingerprints, photograph, signature, voice print, iris scan, or DNA.

(2) USE.—The Secretary of Homeland Security and the Secretary of State may use any biometric information submitted under paragraph (1) to conduct background and security checks, verify an individual's identity, adjudicate, revoke, or terminate an immigration benefit or immigration status, and perform other functions related to administering and enforcing the immigration laws.

(b) BIOMETRIC AND BIOGRAPHIC INFORMATION SHARING.—

(1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation—

(A) shall exchange appropriate biometric and biographic information to determine or confirm the identity of an individual and to assess whether the individual is a threat to national security or public safety; and

(B) may use information exchanged pursuant to subparagraph (A)—

(i) to compare biometric and biographic information contained in applicable systems of the Department of Homeland Security, the Department of Defense, the Department of State, or the Federal Bureau of Investigation to determine if there is a match between such information; and

(ii) if there is a match between such information, to relay such information to the requesting agency.

(2) USE OF BIOMETRIC DATA BY THE DEPARTMENT OF STATE.—The Secretary of State shall use biometric information from applicable systems of the Department of Homeland Security, the Department of Defense, and the Federal Bureau of Investigation to screen and track visa applicants and other individuals who are—

(A)(i) known or suspected terrorists; or

(ii) identified as a potential threat to national security; and

(B) using an alias while traveling.

(3) REPORT ON BIOMETRIC INFORMATION SHARING WITH MEXICO AND OTHER COUNTRIES FOR IDENTITY VERIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint report on the status of efforts to engage with the Government of Mexico and the governments of other appropriate foreign countries located in Central America or South America—

(A) to discuss coordination on biometric information sharing between the United States and such countries; and

(B) to enter into bilateral agreements that provide for the sharing of such biometric information with the Department of State, the Department of Defense, the Department of Justice, the Federal Bureau of Investigation, and the Department of Homeland Security to use in—

(i) identifying individuals who are known or suspected terrorists or potential threats to national security; and

(ii) verifying the entry and exit of individuals to and from the United States.

(4) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric information from any individual arriving to or departing from the United States.

SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S. Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers to electronically—

(1) process and serve charging documents, including notices to appear, while in the field;

(2) process and place detainers while in the field;

(3) collect biometric data for the purpose of identifying an alien and establishing both immigration status and criminal history while in the field;

(4) enter any required data, including personal information about an alien subject and the reason for issuing a document;

(5) apply the electronic signature of the issuing U.S. Immigration and Customs Enforcement officer or agent;

(6) apply or capture the electronic signature of the alien on any charging document or notice, including any electronic signature captured to acknowledge service of such documents or notices;

(7) set the date on which the alien is required to appear before an immigration judge, in the case of a notice to appear;

(8) print any documents the alien may be required to sign, along with additional copies of documents to be served on the alien; and

(9) interface with the ENFORCE database so that all data is collected, stored, and retrievable in real-time.

(b) CONTRACT SUPPORT.—The Secretary of Homeland Security may contract with commercial vendors to test prototypes for electronic handheld or vehicle-mounted computers capable of meeting the requirements under subsection (a).

(c) RULE OF CONSTRUCTION.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data entry process used for issuing charging documents and detainers referred to in that subsection.

(d) REPORT.—Not later than 1 year after the date on which the pilot program described in subsection (a) commences, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on the Judiciary of the House of Representatives a report that includes—

(1) the results of the pilot program; and

(2) recommendations for using the technology described in subsection (a) on a nationwide basis.

SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

(a) IN GENERAL.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

''(5) PAROLE AUTHORITY.—

''(A) DEFINITIONS.—In this paragraph:

''(i) PUBLIC INTEREST.—With respect to a reason for parole, the term 'public interest' means the alien has assisted the United States Government in a significant matter, such as an important criminal investigation, espionage, or other similar law enforcement or national security activity, or that involves law enforcement functions related to international extradition or mutual legal assistance activities, and either the alien's presence in the United States is required by the Government or the alien's life would be threatened if the alien were not permitted to come to the United States.

''(ii) URGENT HUMANITARIAN REASON DEFINED.—With respect to an alien, the term 'urgent humanitarian reason' means—

''(I) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient time for the alien to be admitted through the normal visa process;

''(II) the alien is needed in the United States in order to donate an organ or other tissue for transplant into a close family member;

''(III) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process;

''(IV) the alien is a lawful applicant for adjustment of status under section 245; or

''(V) the alien was lawfully granted status under section 208 or lawfully admitted under section 207.

''(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section 214(f), the Secretary may, in his or her sole and unreviewable discretion, temporarily parole into the United States any alien applying for admission to the United States, under such conditions as the Secretary may prescribe, including requiring the posting of a bond, but only on a case-by-case basis and not according to eligibility criteria describing an entire class of potential parole recipients, for an urgent humanitarian reason or a reason deemed strictly in the public interest.

''(C) PAROLE NOT AN ADMISSION.—In accordance with section 101(a)(13)(B), parole of an alien under subparagraph (B) shall not be regarded as an admission of the alien to the United States. When the purposes of the parole of an alien have been served, as determined by the Secretary, the alien shall immediately return to his or her country of citizenship, nationality, or origin. If the alien was paroled from custody, the alien shall be returned to the custody from which the alien was paroled and the alien shall be considered for admission to the United States on the same basis as other similarly situated applicants for admission.

''(D) PROHIBITED USES OF PAROLE AUTHORITY.—

''(i) IN GENERAL.—The Secretary may not use the authority under subparagraph (B) to parole into the United States generalized categories of aliens or classes of aliens based solely on nationality, presence, or residence in the United States, family relationships, or any other criteria that would cover a broad group of foreign nationals either inside or outside of the United States.

''(ii) ALIENS WHO ARE NATIONAL SECURITY OR PUBLIC SAFETY THREATS.—

''(I) DEFINITION OF EXTREME EXIGENT CIRCUMSTANCES.—In this clause, the term 'extreme exigent circumstances' means circumstances under which—

''(aa) the failure to parole the alien would result in the immediate significant risk of loss of life or bodily function due to a medical emergency;

''(bb) the failure to parole the alien would conflict with medical advice as to the health or safety of the individual, detention facility staff, or other detainees; or

''(cc) there is an urgent need for the alien's presence for a law enforcement purpose, including for a prosecution or to serve a sentence or securing the alien's presence to appear as a material witness, or a national security purpose.

''(II) PROHIBITION ON PAROLE.—The Secretary shall not parole in any alien whom the Secretary, in the Secretary's sole and unreviewable discretion, determines to be a threat to national security or public safety, except in extreme exigent circumstances.

''(E) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Secretary may not use the parole authority under this paragraph to permit to come to the United States aliens who have applied for and have been found to be ineligible for refugee status or any alien to whom the provisions of this paragraph do not apply.

''(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of parole of an alien has been served and, upon such determination—

''(i) the alien's case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States; and

''(ii) if the alien was previously detained, the alien shall be returned to the custody from which the alien was paroled.

''(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

''(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term 'advance parole' means advance approval for an alien who is lawfully present in the United States and is applying for admission to the United States to request at a port of entry in the United States, a pre-inspection station, or a designated field office of the Department of Homeland Security, to be paroled into the United States under subparagraph (B).

''(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary, in the Secretary's discretion, may grant an application for advance parole. Approval of an application for advance parole shall not constitute a grant of parole under subparagraph (B). A grant of parole into the United States based on an approved application for advance parole shall not be considered a parole for purposes of qualifying for adjustment of status to lawful permanent resident status in the United States under section 245 or 245A.

''(iii) REVOCATION OF ADVANCE PAROLE.—The Secretary may revoke a grant of advance parole to an alien at any time. Such revocation shall not be subject to administrative appeal or judicial review.

''(iv) TEMPORARY DEPARTURE.—An alien who leaves the United States temporarily pursuant to a grant of advance parole makes a departure from the United States pursuant to the immigration laws.''.

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

SEC. 1508. REPORTS TO CONGRESS ON PAROLE.

(a) REPORT ON NUMBER AND CATEGORY OF ALIENS PAROLED INTO THE UNITED STATES.—Not later than 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that, with respect to the most recently completed fiscal year—

(1) describes the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act; and

(2) contains information and data concerning—

(A) the number and categories of aliens paroled;

(B) the duration of parole granted to aliens referred to in subparagraph (A); and

(C) the current immigration status of the aliens referred to in subparagraph (A).

(b) REPORT ON PAROLE PROCEDURES.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Attorney General and the Secretary of Homeland Security shall jointly—

(1) conduct a review regarding the effectiveness of parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts; and

(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report based on the results of such review, that includes—

(A) an analysis of—

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

aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts throughout the United States; and

(ii) any disparity that exists between locations or geographical areas, including an explanation of the reasons for this disparity and what actions are being taken to have consistent and uniform application of the standards for granting parole;

(B) an analysis of the effect of the procedures and policies applied with respect to parole and custody determinations by the Attorney General and by the Secretary of Homeland Security on the alien's pursuit of an asylum claim before an immigration court;

(C) an analysis of the effectiveness of the procedures and policies applied with respect to parole and custody determinations by the Attorney General and by the Secretary of Homeland Security in securing the alien's presence at the immigration court proceedings;

(D) recommendations with respect to whether the existing parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination by the immigration courts with respect to asylum claims—

(i) respect the interests of the aliens; and

(ii) ensure the presence of the aliens at the immigration court proceedings; and

(E) an assessment on corresponding failure to appear rates, in absentia orders, and absconders.

SEC. 1509. REINSTATEMENT OF THE SECURE COMMUNITIES PROGRAM.

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

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

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

(a) AUTHORITY TO COOPERATE WITH FEDERAL OFFICIALS.—A State, a political subdivision of a State, or an officer, employee, or agent of such State or political subdivision that complies with a detainer issued by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357)—

(1) shall be deemed to be acting as an agent of the Department of Homeland Security; and

(2) with regard to actions taken to comply with the detainer, shall have all authority available to officers and employees of the Department of Homeland Security.

(b) LEGAL PROCEEDINGS.—In any legal proceeding brought against a State, a political subdivision of State, or an officer, employee, or agent of such State or political subdivision which challenges the legality of the seizure or detention of an individual pursuant to a detainer issued by the Department of Homeland Security under section 236 or 287 of the Immigration and Nationality Act (8 U.S.C. 1226 and 1357)—

(1) no liability shall lie against the State or political subdivision of a State for actions taken in compliance with the detainer; and

(2) if the actions of the officer, employee, or agent of the State or political subdivision were taken in compliance with the detainer—

(A) the officer, employee, or agent shall be deemed—

(i) to be an employee of the Federal Government and an investigative or law enforcement officer; and

(ii) to have been acting within the scope of his or her employment under section 1346(b) and chapter 171 of title 28, United States Code;

(B) section 1346(b) of title 28, United States Code, shall provide the exclusive remedy for the plaintiff; and

(C) the United States shall be substituted as defendant in the proceeding.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to provide immunity to any person who knowingly violates the civil or constitutional rights of an individual.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

SEC. 1520. SHORT TITLE.

This chapter may be cited as the ''Protecting Children and America's Homeland Act of 2018''.

SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

Section 235(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)) is amended—

(1) in paragraph (2)—

(A) by amending the paragraph heading to read as follows: ''RULES FOR UNACCOMPANIED ALIEN CHILDREN.—'';

(B) in subparagraph (A), in the matter preceding clause (i), by striking ''who is a national or habitual resident of a country that is contiguous with the United States shall be treated in accordance with subparagraph (B)'' and inserting ''shall be treated in accordance with subparagraph (B) or subsection (b), as appropriate''; and

(C) in subparagraph (C)—

(i) by amending the subparagraph heading to read as follows: ''AGREEMENTS WITH FOREIGN COUNTRIES.—''; and

(ii) in the matter preceding clause (i), by striking ''countries contiguous to the United States'' and inserting ''Canada, El Salvador, Guatemala, Honduras, Mexico, and any other foreign country that the Secretary determines to be appropriate'';

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(3) inserting after paragraph (2) the following:

''(3) MANDATORY EXPEDITED REMOVAL OF CRIMINALS AND GANG MEMBERS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall place an unaccompanied alien child in a proceeding in accordance with section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) if, the Secretary determines or has reason to believe that the alien—

''(A) has been convicted of any offense carrying a maximum term of imprisonment of more than 180 days;

''(B) has been convicted of, or found to be a juvenile offender based on, an offense that involved—

''(i) the use or attempted use of physical force, or threatened use of a deadly weapon;

''(ii) the purchase, sale, offering for sale, exchange, use, ownership, possession, or carrying, or, of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law;

''(iii) child abuse and neglect (as defined in section 40002(a)(3) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)(3)));

''(iv) assault resulting in bodily injury (as defined in section 2266 of title 18, United States Code);

''(v) the violation of a protection order (as defined in section 2266 of title 18, United States Code);

''(vi) driving while intoxicated or driving under the influence (as such terms are defined in section 164 of title 23, United States Code); or

''(vii) any offense under foreign law (except a purely political offense) that, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

''(C) has been convicted of, or found to be a juvenile offender based on, more than 1 criminal offense (other than minor traffic offenses);

''(D) has been convicted of, or found to be a juvenile offender based on a crime of violence or an offense under Federal, State, or Tribal law, that has, as an element, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon;

''(E) has engaged in, is engaged in, or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))), or intends to participate or has participated in the activities of a foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

''(F) has engaged in, is engaged in, or any 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 section 101(a)(53) 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 inaccurately classified as an unaccompanied alien child; or

''(I) has entered the United States more than once in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was unlawful.''.

SEC. 1522. CHILD WELFARE AND LAW ENFORCEMENT INFORMATION SHARING.

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

''(5) INFORMATION SHARING.—

''(A) IMMIGRATION STATUS.—If the Secretary of Health and Human Services considers placement of an unaccompanied alien child with a potential sponsor, the Secretary of Homeland Security shall provide to the Secretary of Health and Human Services the immigration status of such potential sponsor before the placement of the unaccompanied alien child.

''(B) OTHER INFORMATION.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security and the Attorney General, upon request, any relevant information related to an unaccompanied alien child who is or has been in the custody of the Secretary of Health and Human Services, including the location of the child and any person to whom custody of the child has been transferred, for any legitimate law enforcement objective, including the enforcement of the immigration laws.''.

SEC. 1523. ACCOUNTABILITY FOR CHILDREN AND TAXPAYERS.

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

''(6) INSPECTION OF FACILITIES.—The Inspector General of the Department of Health and

Human Services shall conduct regular inspections of facilities utilized by the Secretary of Health and Human Services to provide care and custody of unaccompanied alien children who are in the immediate custody of the Secretary to ensure that such facilities are operated in the most efficient manner practicable.

''(7) FACILITY OPERATIONS COSTS.—The Secretary of Health and Human Services shall ensure that facilities utilized to provide care and custody of unaccompanied alien children are operated efficiently and at a rate of cost that is not greater than $500 per day for each child housed or detained at such facility, unless the Secretary certifies that compliance with this requirement is temporarily impossible due to emergency circumstances.''.

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

(a) IN GENERAL.—Section 235(c)(2) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(2)) is amended by adding at the end the following:

''(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—

''(i) LIMITATION ON PLACEMENT.—Notwithstanding any settlement or consent decree previously issued before the date of the enactment of this subparagraph, and section 236.3 of title 8, Code of Federal Regulations, or a similar successor regulation, an unaccompanied alien child who has been placed in a proceeding under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) may not be placed in the custody of a nongovernmental sponsor or otherwise released from the immediate custody of the United States Government unless—

''(I) the nongovernmental sponsor is a biological or adoptive parent or legal guardian of the unaccompanied alien child;

''(II) the parent or legal guardian is legally present in the United States at the time of the placement;

''(III) the parent or legal guardian has undergone a mandatory biometric criminal history check;

''(IV) if the nongovernmental sponsor is the biological parent, the parent's relationship to the alien child has been verified through DNA testing conducted by the Secretary of Health and Human Services;

''(V) if the nongovernmental sponsor is the adoptive parent, the parent's relationship to the alien child has been verified with the judicial court that issued the final legal adoption decree by the Secretary of Health and Human Services; and

''(VI) the Secretary of Health and Human Services has determined that the alien child is not a danger to self, a danger to the community, or at risk of flight.

''(ii) EXCEPTIONS.—If the Secretary of Health and Human Services determines that an unaccompanied alien child is a victim of severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child with mental health needs that require ongoing assistance from a social welfare agency, the alien child may be placed with a grandparent or adult sibling if the grandparent or adult sibling meets the requirements under subclauses (II), (III), and (IV) of clause (i).

''(iii) FAILURE TO APPEAR.—

''(I) CIVIL PENALTY.—If an unaccompanied alien child is placed with a sponsor and fails to appear in a mandatory court appearance, the sponsor shall be subject to a civil penalty of $250 for each day until the alien appears in court, up to a maximum of $5,000.

''(II) BURDEN OF PROOF.—The sponsor is not subject to the penalty imposed under subclause (I) if the sponsor—

''(aa) appears in person and proves to the immigration court that the failure to appear by the unaccompanied alien child was not the fault of the sponsor; and

''(bb) supplies the immigration court with documentary evidence that supports the assertion described in item (aa).

''(iv) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN TRAFFICKERS.—The Secretary of Health and Human Services may not place an unaccompanied alien child under this subparagraph in the custody of an individual who has been convicted of, or the Secretary has reason to believe was otherwise involved in the commission of—

''(I) a sex offense (as defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911));

''(II) a crime involving severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); or

''(III) an offense under Federal, State, or Tribal law that has, as an element of the offense, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

''(v) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—A biometric criminal history check required under clause (i)(III) shall be conducted using a set of fingerprints or other biometric identifier through—

''(I) the Federal Bureau of Investigation;

''(II) criminal history repositories of all States that the individual lists as current or former residences; and

''(III) any other State or Federal database or repository that the Secretary of Health and Human Services determines to be appropriate.''.

(b) DEFINITION OF SPECIAL IMMIGRANT JUVENILE.—Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)), is amended by striking ''1 or both of the immigrant's parents'' and inserting ''either of the immigrant's parents''.

(c) HOME STUDIES AND FOLLOW-UP SERVICES FOR UNACCOMPANIED ALIEN CHILDREN.—Section 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) HOME STUDIES.—

''(i) IN GENERAL.—Except as required under clause (ii), before placing a child with an individual, the Secretary of Health and Human Services shall determine whether a home study is necessary.

''(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

''(I) who is a victim of a severe form of trafficking in persons or is a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

''(II) who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened;

''(III) whose proposed sponsor presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence) if more than 2 other children are residing with the proposed sponsor, or if such sponsor has custody of at least 1 other unaccompanied alien child; or

''(IV) if more than 2 other children are residing with the proposed sponsor, or if such sponsor has custody of at least 1 other unaccompanied alien child.

''(C) FOLLOW-UP SERVICES AND ADDITIONAL HOME STUDIES.—

''(i) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every 180 days until the date on which initial removal proceedings are completed and the immigration judge issues an order of removal, grants voluntary departure under section 240B, or grants the alien relief from removal, the Secretary of Health and Human Services shall conduct follow-up services for any child for whom a home study was conducted and who was placed with a nongovernmental sponsor.

''(ii) CHILDREN WITH MENTAL HEALTH OR OTHER NEEDS.—Not less frequently than every 180 days, until the date that is 2 years after the date on which a child is placed with a nongovernmental sponsor, the Secretary of Health and Human Services shall conduct follow-up services for any child with mental health needs or other needs who could benefit from ongoing assistance from a social welfare agency.

''(iii) CHILDREN AT RISK.—Not less frequently than every 90 days until the date that is 2 years after the date on which a child is placed with a nongovernmental sponsor, the Secretary of Health and Human Services shall conduct home studies and follow-up services, including partnering with local community programs that focus on early morning and after school programs for at-risk children who—

''(I) need a secure environment to engage in studying, training, and skills-building programs; and

''(II) are at risk for recruitment by criminal gangs or other transnational criminal organizations in the United States.''.

(d) DETENTION OF ACCOMPANIED MINORS.—

(1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is further amended—

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

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

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

''(1) the detention of any alien minor who is not described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231);

''(2) the decision whether to detain or release the alien minor shall be in the sole and unreviewable discretion of the Secretary of Homeland Security;

''(3) the release of an alien minor who is not described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) may not be presumed and an alien minor not described in such section may not be released by the Secretary to anyone other than a parent or legal guardian; and

''(4) the conditions of confinement applicable to alien minors who are not described in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be determined in the sole and unreviewable discretion of the Secretary of Homeland Security, and specific licensing requirements may not be imposed other than requirements determined appropriate by the Secretary.''.

(2) FUNDING LIMITATION.—No appropriated funds may be used to implement the terms of the settlement agreement in Flores v. Reno,

CV 85–4544–RJK, nor shall any appropriated funds be used for purposes of complying with any judicial order, decree, or judgment interpreting the terms of such settlement agreement.

(3) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this subsection shall—

(A) take effect on the date of enactment of this Act; and

(B) apply regardless of the date on which the actions giving rise to removability or detention take place.

SEC. 1525. FRAUD IN CONNECTION WITH THE TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1041. Fraud in connection with the transfer of custody of unaccompanied alien children

''(a) IN GENERAL.—It shall be unlawful for a person to obtain custody of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))) by—

''(1) making any materially false, fictitious, or fraudulent statement or representation; or

''(2) making or using any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

''(b) PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, this section shall be fined under this title and imprisoned for not less than 1 year.

''(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of the violation, attempted violation, or conspiracy to violate this section was to subject the child to sexually explicit activity or any other form of exploitation, the offender shall be fined under this title and imprisoned for not less than 15 years.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1040 the following:

''1041. Fraud in connection with the transfer of custody of unaccompanied alien children.''.

SEC. 1526. NOTIFICATION OF STATES AND FOREIGN GOVERNMENTS, REPORTING, AND MONITORING.

(a) NOTIFICATION.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1524(d)(1) of this Act) is further amended by adding at the end the following:

''(k) NOTIFICATION TO STATES.—

''(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of Health and Human Services shall notify the Governor of a State not later than 48 hours before the placement of an unaccompanied alien child in the custody of such Secretary into the care of a facility or sponsor in such State.

''(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this subsection, the Secretary of Health and Human Services shall submit a report to the Governor of each State in which an unaccompanied alien child was discharged to a sponsor or placed in a facility while remaining in the legal custody of the Secretary during the period beginning October 1, 2013 and ending on the date of enactment of this subsection.

''(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a monthly report to the Governor of each State in which, during the reporting period, an unaccompanied alien child was discharged to a sponsor or placed in a facility while remaining in the legal custody of the Secretary of Health and Human Services.

''(4) CONTENTS.—Each report required to be submitted to the Governor of a State under paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the State during the reporting period, disaggregated by—

''(A) the locality in which the aliens were placed; and

''(B) the age of such aliens.

''(l) NOTIFICATION OF FOREIGN COUNTRY.—The Secretary of Homeland Security shall provide information regarding each unaccompanied alien child to the government of the country of which the child is a national to assist such government with the identification and reunification of such child with their parent or other qualifying relative.

''(m) MONITORING REQUIREMENT.—The Secretary of Health and Human Services shall—

''(1) require all sponsors to agree—

''(A) to receive approval from the Secretary of Health and Human Services before changing the location in which the sponsor is housing an unaccompanied alien child placed in the sponsor's custody; and

''(B) to provide a current address for the child and the reason for the change of address;

''(2) provide regular and frequent monitoring of the physical and emotional well-being of each unaccompanied alien child who has been discharged to a sponsor or remained in the legal custody of the Secretary until the child's immigration case is resolved; and

''(3) not later than 60 days after the date of enactment of this subsection, submit a plan to Congress for implementing the requirements under paragraphs (1) and (2).''.

SEC. 1527. REPORTS TO CONGRESS.

(a) REPORTS ON CARE OF UNACCOMPANIED ALIEN CHILDREN.—Not later than September 30, 2019, the Secretary of Health and Human Services shall submit to Congress and make publicly available a report that includes—

(1) a detailed summary of the contracts in effect to care for and house unaccompanied alien children, including the names and locations of contractors and the facilities being used;

(2) the cost per day to care for and house an unaccompanied alien child, including an explanation of such cost;

(3) the number of unaccompanied alien children who have been released to a sponsor, if any;

(4) a list of the States to which unaccompanied alien children have been released from the custody of the Secretary of Health and Human Services to the care of a sponsor or placement in a facility;

(5) the number of unaccompanied alien children who have been released to a sponsor who is not lawfully present in the United States, including the country of nationality or last habitual residence and age of such children;

(6) a determination of whether more than 1 unaccompanied alien child has been released to the same sponsor, including the number of children who were released to such sponsor;

(7) an assessment of the extent to which the Secretary of Health and Human Services is monitoring the release of unaccompanied alien children, including home studies done and electronic monitoring devices used;

(8) an assessment of the extent to which the Secretary of Health and Human Services is making efforts—

(A) to educate unaccompanied alien children about their legal rights; and

(B) to provide unaccompanied alien children with access to pro bono counsel; and

(9) the extent of the public health issues of unaccompanied alien children, including contagious diseases, the benefits or medical services provided, and the outreach to States and localities about public health issues, that could affect the public.

(b) REPORTS ON REPATRIATION AGREEMENTS.—Not later than September 30, 2019, the Secretary of State shall submit to Congress and make publicly available a report that—

(1) includes a copy of any repatriation agreement in effect for unaccompanied alien children;

(2) describes any such repatriation agreement that is being considered or negotiated; and

(3) describes the funding provided to the 20 countries that have the highest number of nationals entering the United States as unaccompanied alien children, including amounts provided—

(A) to deter the nationals of each country from illegally entering the United States; and

(B) to care for or reintegrate repatriated unaccompanied alien children in the country of nationality or last habitual residence.

(c) REPORTS ON RETURNS TO COUNTRY OF NATIONALITY.—Not later than September 30, 2019, the Secretary of Homeland Security shall submit to Congress and make publicly available a report that describes—

(1) the number of unaccompanied alien children who have voluntarily returned to their country of nationality or habitual residence, disaggregated by—

(A) country of nationality or habitual residence; and

(B) age of the unaccompanied alien children;

(2) the number of unaccompanied alien children who have been returned to their country of nationality or habitual residence, including the length of time such children were present in the United States;

(3) the number of unaccompanied alien children who have not been returned to their country of nationality or habitual residence pending travel documents or other requirements from such country, including how long they have been waiting to return; and

(4) the number of unaccompanied alien children who were granted relief in the United States, whether through asylum, any other immigration benefit or status, or deferred action.

(d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not later than September 30, 2019, and not less frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination with the Director of the Executive Office for Immigration Review, shall submit to Congress and make publicly available a report that describes—

(1) the number of unaccompanied alien children who, after proceedings under section 235B of the Immigration and Nationality Act were returned to their country of nationality or habitual residence, disaggregated by—

(A) country of nationality or residence; and

(B) age and gender of such aliens;

(2) the number of unaccompanied alien children who, after proceedings under section 235B of the Immigration and Nationality Act, prove a claim of admissibility and are placed in proceedings under section 240 of that Act (8 U.S.C. 1229a);

(3) the number of unaccompanied alien children who fail to appear at a removal hearing that such alien was required to attend;

(4) the number of sponsors who were levied a penalty, including the amount and whether the penalty was collected, for the failure of an unaccompanied alien child to appear at a removal hearing; and

(5) the number of aliens that are classified as unaccompanied alien children, the ages and countries of nationality of such children, and the orders issued by the immigration judge at the conclusion of proceedings under section 235B of the Immigration and Nationality Act for such children.

CHAPTER 3—COOPERATION WITH MEXICO AND OTHER COUNTRIES ON ASYLUM AND REFUGEE ISSUES

SEC. 1541. STRENGTHENING INTERNAL ASYLUM SYSTEMS IN MEXICO AND OTHER COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall work with international partners, including the United Nations High Commissioner for Refugees, to support and provide technical assistance to strengthen the domestic capacity of Mexico and other countries in the region to provide asylum to eligible children and families—

(1) by establishing and expanding temporary and long-term in country reception centers and shelter capacity to meet the humanitarian needs of those seeking asylum or other forms of international protection;

(2) by improving the asylum registration system to ensure that all individuals seeking asylum or other humanitarian protection—

(A) are properly screened for security, including biographic and biometric capture;

(B) receive due process and meaningful access to existing legal protections; and

(C) receive proper documents in order to prevent fraud and ensure freedom of movement and access to basic social services;

(3) by creating or expanding a corps of trained asylum officers capable of evaluating and deciding individual asylum claims consistent with international law and obligations; and

(4) by developing the capacity to conduct best interest determinations for unaccompanied alien children to ensure that their needs are properly met, which may include family reunification or resettlement based on international protection needs.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report that describes the plans of the Secretary of State to assist in developing the asylum processing capabilities described in subsection (a) to—

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

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

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

(4) the Committee on Foreign Affairs of the House of Representatives;

(5) the Committee on Homeland Security of the House of Representatives; and

(6) the Committee on the Judiciary of the House of Representatives.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

SEC. 1542. EXPANDING REFUGEE PROCESSING IN MEXICO AND CENTRAL AMERICA FOR THIRD COUNTRY RESETTLEMENT.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall coordinate with the United Nations High Commissioner for Refugees to support and provide technical assistance to the Government of Mexico and the governments of other countries in the region to increase access to global resettlement for eligible children and families with protection needs—

(1) by establishing and expanding in country refugee reception centers to meet the humanitarian needs of those seeking international protection;

(2) by improving the refugee registration system to ensure that all refugees—

(A) are properly screened for security, including biographic and biometric capture;

(B) receive due process and meaningful access to existing legal protections; and

(C) receive proper documents in order to prevent fraud and ensure freedom of movement and access to basic social services;

(3) by creating or expanding a corps of trained refugee officers capable of evaluating and deciding individual claims for protection, consistent with international law and obligations; and

(4) by developing the capacity to conduct best interest determinations for unaccompanied alien children to ensure that—

(A) such children with international protection needs are properly registered; and

(B) the needs of such children are properly met, which may include family reunification or resettlement based on international protection needs.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report to the committees listed in section 1541(b) that describes the plans of the Secretary of State to assist in developing the refugee processing capabilities described in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

Subtitle F—Penalties for Smuggling, Drug Trafficking, Human Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to Readmission of Removed Aliens

SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.

(a) CRIMINAL PENALTIES FOR HUMAN SMUGGLING AND TRAFFICKING.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by amending clause (ii) to read as follows:

''(ii) knowing, or in reckless disregard of the fact, that an alien has come to, entered into, or remains in the United States in violation of law—

''(I) transports, moves, or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law; or

''(II) transports or moves the alien with the purpose of facilitating the illegal entry of the alien into Canada or Mexico;''; and

(B) in subparagraph (B)—

(i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

(ii) in clause (vi), as redesignated, by inserting ''for not less than 10 years and'' before ''not more than 20 years,''; and

(iii) by inserting after clause (ii) the following:

''(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) that is the third or subsequent violation committed by such person under this section, shall be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;

''(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) that recklessly, knowingly, or intentionally results in a victim being involuntarily forced into labor or prostitution, shall be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;

''(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph (A) during and in relation to which any person is subjected to any illegal sexual act or sexual contact (as those terms are defined in section 2246 of title 18, United States Code), be fined under title 18, United States Code, imprisoned for not less than 5 years and not more than 25 years, or both;''; and

(2) by adding at the end the following:

''(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to another or on the high seas, transports, moves, harbors, conceals, or shields from detection such alien outside of the United States for profit or gain when the alien is seeking to enter the United States without official permission or legal authority, shall for, each alien in respect to whom a violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not more than 10 years, or both.''.

(b) SEIZURE AND FORFEITURE.—Section 274(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(b)(1)) is amended to read as follows:

''(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the commission of a violation or attempted violation of subsection (a), the gross proceeds of such violation or attempted violation, and any property traceable to such property or proceeds, shall be seized and subject to forfeiture.''.

SEC. 1602. PUTTING THE BRAKES ON HUMAN SMUGGLING ACT.

(a) SHORT TITLE.—This section may be cited as the ''Putting the Brakes on Human Smuggling Act''.

(b) FIRST VIOLATION.—Section 31310(b)(1) of title 49, United States Code, is amended—

(1) in subparagraph (D), by striking the ''or'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(F) using a commercial motor vehicle in willfully aiding or abetting an alien's illegal entry into the United States by transporting, guiding, directing, or attempting to assist the alien with the alien's entry in violation of section 275 of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section; or

''(G) using a commercial motor vehicle in willfully aiding or abetting the transport of controlled substances, monetary instruments, bulk cash, or weapons by any individual departing the United States.''.

(c) SECOND OR MULTIPLE VIOLATIONS.—Section 31310(c)(1) of title 49, United States Code, is amended—

(1) in subparagraph (E), by striking the ''or'' at the end;

(2) by redesignating subparagraph (F) as subparagraph (H);

(3) in subparagraph (H), as redesignated, by striking ''(E)'' and inserting ''(G)''; and

(4) by inserting after subparagraph (E) the following:

''(F) using a commercial motor vehicle more than once in willfully aiding or abetting an alien's illegal entry into the United States by transporting, guiding, directing and attempting to assist the alien with the alien's entry in violation of section 275 of the Immigration and Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an act in violation of such section;

''(G) using a commercial motor vehicle more than once in willfully aiding or abetting the transport of controlled substances,

monetary instruments, bulk cash, or weapons by any individual departing the United States; or''.

(d) LIFETIME DISQUALIFICATION.—Section 31310(d) of title 49, United States Code, is amended to read as follows:

''(d) LIFETIME DISQUALIFICATION.—The Secretary shall permanently disqualify an individual from operating a commercial motor if the individual uses a commercial motor vehicle—

''(1) in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance;

''(2) in committing an act for which the individual is convicted under—

''(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

''(B) section 277 of such Act (8 U.S.C. 1327); or

''(3) in willfully aiding or abetting the transport of controlled substances, monetary instruments, bulk cash, and weapons by any individual departing the United States.''.

(e) REPORTING REQUIREMENTS.—

(1) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking ''and'' at the end;

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(G) whether the operator was disqualified, either temporarily or permanently, from operating a commercial motor vehicle under section 31310, including under subsection (b)(1)(F), (c)(1)(F), or (d) of such section.''.

(2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is amended by inserting ''including such a disqualification, revocation, suspension, or cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of section 31310,'' after ''60 days,''.

SEC. 1603. DRUG TRAFFICKING AND CRIMES OF VIOLENCE COMMITTED BY ILLEGAL ALIENS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 27 the following:

''CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF VIOLENCE COMMITTED BY ILLEGAL ALIENS

''581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

''§ 581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens

''(a) OFFENSE.—Any alien unlawfully present in the United States, who commits, conspires to commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of which involves the use or attempted use of physical force or the threatened use of physical force or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under this title, imprisoned for not less than 5 years, or both.

''(b) ENHANCED PENALTIES FOR ALIENS ORDERED REMOVED.—Any alien unlawfully present in the United States who violates subsection (a) and was ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the violation of subsection (a), shall be fined under this title, imprisoned for not less than 15 years, or both.

''(c) REQUIREMENT FOR CONSECUTIVE SENTENCES.—Any term of imprisonment imposed under this section shall be consecutive to any term imposed for any other offense.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following:

''28 . Drug trafficking and crimes of violence committed by illegal aliens ..... 581''.

SEC. 1604. ESTABLISHING INADMISSIBILITY AND DEPORTABILITY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

''(iii) CONSIDERATION OF OTHER EVIDENCE.—If the statute of conviction or conviction records do not conclusively establish whether a crime does or does not constitute a crime involving moral turpitude, the Secretary, the Attorney General, or the consular officer, as applicable, may consider other documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to determine whether the other evidence clearly establishes that the conduct in which the alien was engaged constitutes a crime involving moral turpitude.''.

(b) DEPORTABLE ALIENS.—

(1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)) is amended by—

(A) redesignating clause (vi) and clause (vii); and

(B) inserting after clause (v) the following:

''(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Secretary or the Attorney General may consider other documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to determine whether the other evidence clearly establishes that the conduct in which the alien was engaged constitutes a crime involving moral turpitude.''.

(2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(E)) is amended—

(A) in clause (i), by striking ''For purposes of this clause'' and inserting ''For purposes of this subparagraph''; and

(B) by adding at the end the following:

''(iii) CRIME OF VIOLENCE.—If the conviction records do not conclusively establish whether a conviction constitutes a crime of domestic violence, the Secretary or the Attorney General may consider other documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, that clearly establishes that the conduct in which the alien was engaged constitutes a crime of domestic violence.''.

(c) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(1) take effect on the date of enactment of this Act; and

(2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

SEC. 1605. PENALTIES FOR ILLEGAL ENTRY; ENHANCED PENALTIES FOR ENTERING WITH INTENT TO AID, ABET, OR COMMIT TERRORISM.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by striking the section designation and heading and all that follows through ''may be imposed.'' in the undesignated matter following subsection (b)(2) and inserting the following:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if the alien—

''(A) enters, crosses, or attempts to enter or cross the border into, the United States at any time or place other than as designated by immigration officers;

''(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including failing to stop at the command of such officer); or

''(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or willful concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

''(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3) if the alien—

''(A) enters, crosses, or attempts to enter or cross the border into, the United States at any time or place other than as designated by immigration officers;

''(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including failing to stop at the command of such officer); or

''(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

''(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurs after the alien has been convicted of 3 or more misdemeanors (at least 1 of which involves controlled substances, abuse of a minor, trafficking or smuggling, or any offense that may result in serious bodily harm or injury to another person), a significant misdemeanor, or a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurs after the alien has been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurs after the alien has been convicted of a felony for which the

alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(4) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (3) are elements of the offenses described in that paragraph and the penalties described in such subparagraphs shall apply only in cases in which the 1 or more convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial; or

''(C) admitted by the defendant.

''(5) DURATION OF OFFENSES.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer.

''(6) ATTEMPT.—Any person who attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or crossing or attempting to cross the border to the United States at a time or place other than as designated by an immigration officer shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 but not more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount described in subparagraph (A) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in place of, any criminal or other civil penalties that may be imposed.''.

(b) ENHANCED PENALTIES.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by adding at the end the following:

''(e) ENHANCED PENALTY FOR TERRORIST ALIENS.—Any alien who commits an offense described in subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime of terrorism (as defined in section 2332b(g) of title 18, United States Code) shall be imprisoned for not less than 10 years and not more than 30 years.''.

(c) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

(d) APPLICATION.—

(1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act shall apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on or after the date of enactment of this Act.

(2) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Section 275(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this Act and apply to any alien who, on or after that date of enactment—

(A) enters or crosses, or attempts to enter or cross, the border into the United States at any time or place other than as designated by immigration officers;

(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including failing to stop at the command of such officer); or

(C) enters or crosses the border to the United States and, upon examination or inspection, makes a false or misleading representation or conceals a material fact, including such representation or concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws.

SEC. 1606. PENALTIES FOR REENTRY OF REMOVED ALIENS.

(a) SHORT TITLES.—This section may be cited as the ''Stop Illegal Reentry Act'' or ''Kate's Law''.

(b) INCREASED PENALTIES FOR REENTRY OF REMOVED ALIEN.—

(1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) IN GENERAL.—

''(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding shall be ineligible for all immigration benefits or relief available under the immigration laws, including relief under sections 240A(b)(1), 240B(b), 245, 248, and 249, other than asylum, relief as a victim of trafficking under section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if, after such denial, exclusion, deportation, removal, or departure, the alien enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

''(A) if the alien is seeking admission more than 10 years after the date of the alien's last departure from the United States, the Secretary, before the alien's reembarkation at a place outside of the United States or the alien's application for admission from a foreign contiguous territory, has expressly consented to such alien's reapplying for admission; or

''(B) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to obtain such advance consent under this Act or any other Act.

''(2) CRIMINAL OFFENSES.—Any alien who—

''(A) has been denied admission, deported, or removed or has departed the United States while an order of deportation, or removal is outstanding; and

''(B) after such denial, removal or departure, enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

''(i) if the alien is seeking admission more than 10 years after the date of the alien's last departure from the United States, the Secretary, before the alien's reembarkation at a place outside the United States or the alien's application for admission from a foreign contiguous territory, has expressly consented to such alien's 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 other Act,

''shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

''(b) CRIMINAL PENALTIES FOR REENTRY OF CERTAIN REMOVED ALIENS.—

''(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2), and except as provided in subsection (c)—

''(A) an alien described in subsection (a) who has been 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 the United States pursuant to the provisions of title V, and thereafter, without the permission of the Secretary, enters the United States, or attempts to enter the United States, shall be fined under title 18, United States Code, and imprisoned for a period of 15 years, which sentence shall not run concurrently with any other sentence;

''(B) an alien described in subsection (a) who was removed from the United States pursuant to section 237(a)(4)(B) and thereafter, without the permission of the Secretary, enters, attempts to enter, or is at any time found in, the United States (unless the Secretary has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 15 years, or both; and

''(C) an alien described in subsection (a) who has been denied admission, excluded, deported, or removed 2 or more times for any reason and thereafter enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, shall be fined under title 18, United States Code, imprisoned not more than 15 years, or both.

''(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2), and except as provided in subsection (c)—

''(A) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of a significant misdemeanor shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(B) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of 2 or more misdemeanors involving drugs, crimes against the person, or both, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(C) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of 3 or more misdemeanors for which the alien was sentenced to a term of imprisonment of not less than 90 days for each offense, or 12 months in the aggregate, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(D) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months shall be fined under such title, imprisoned not more than 15 years, or both;

''(E) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure, of a felony for which the alien was sentenced to a term of imprisonment of not less than 5 years shall be fined under such title, imprisoned not more than 20 years, or both;

''(F) an alien described in subsection (a) who was convicted of 3 or more felonies of

any kind shall be fined under such title, imprisoned not more than 25 years, or both; and

''(G) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or departure or after such removal or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title shall be fined under such title, imprisoned not more than 25 years, or both.

''(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR REENTRY OF CERTAIN REMOVED ALIENS.—Notwithstanding the penalties under subsections (a) and (b), an alien described in subsection (a) shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be fined under title 18, United States Code, if the alien—

''(1) was convicted, on a date that is before the date on which the alien was subject to removal or departure, of an aggravated felony; or

''(2) was convicted at least twice of illegal reentry under this section on 1 or more dates that are before the date on which such removal or departure.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b)(2) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the 1 or more convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2)(A) proven beyond a reasonable doubt at trial; or

''(B) admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) on a date that is before the date of the alleged violation, the alien sought and received the express consent of the Secretary to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under this Act or any other Act; and

''(B) complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of a removal order described in subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the removal or deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED BEFORE THE COMPLETION OF THE TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States—

''(1) shall be incarcerated for the remainder of the sentence of imprisonment that was pending at the time of deportation or removal without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary has expressly consented to the alien's reentry (if a request for consent to reapply is authorized under this section); and

''(2) shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) DEFINITIONS.—In this section:

''(1) CROSS THE BORDER.—The term 'cross the border' refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

''(2) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, deportation, or removal, or any agreement by which an alien stipulates or agrees to deportation, or removal.

''(5) SIGNIFICANT MISDEMEANOR.—The term 'significant misdemeanor' means a misdemeanor crime that—

''(A) involves the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim;

''(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

''(C) involved the unlawful possession of a firearm (as defined in section 921 of title 18, United States Code);

''(D) is a crime of violence (as defined in section 16 of title 18, United States Code); or

''(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

''(6) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) EFFECTIVE DATE; APPLICABILITY.—Section 276(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1326(a)(1)) shall take effect on the date of enactment of this Act and shall apply to any alien who, on or after that date of enactment—

(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

(2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

(A) if the alien is seeking admission more than 10 years after the date of the alien's last departure from the United States, the Secretary of Homeland Security, before the alien's reembarkation at a place outside the United States or the alien's application for admission from a foreign contiguous territory, has expressly consented to such alien's reapplying for admission; or

(B) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to obtain such advance consent under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

SEC. 1607. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''.

SEC. 1608. FREEZING BANK ACCOUNTS OF INTERNATIONAL CRIMINAL ORGANIZATIONS AND MONEY LAUNDERERS.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

''(5)(A) If a person is arrested or charged in connection with an offense described in subparagraph (C) involving the movement of funds into or out of the United States, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the arrest is made or where the charges are filed for an ex parte order restraining any account held by the person arrested or charged for not more than 30 days. Such 30-day period may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43 of the Federal Rules of Civil Procedure. The court may receive and consider evidence and information submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

''(B) The application for a restraining order under subparagraph (A) shall—

''(i) identify the offense for which the person has been arrested or charged;

''(ii) identify the location and description of the accounts to be restrained; and

''(iii) state that the restraining order is needed to prevent the removal of the funds in the account by the person arrested or charged, or by others associated with such person, during the time needed by the Government to conduct such investigation as may be necessary to establish whether there is probable cause to believe that the funds in the accounts are subject to forfeiture in connection with the commission of any criminal offense.

''(C) An offense described in this subparagraph is any offense for which forfeiture is authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

''(D) For purposes of this section—

''(i) the term 'account' includes any safe deposit box and any account (as defined in paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial institution; and

''(ii) the term 'account held by the person arrested or charged' includes an account held in the name of such person, and any account over which such person has effective control as a signatory or otherwise.

''(E) A restraining order issued under this paragraph shall not be considered a 'seizure' for purposes of section 983(a).

''(F) A restraining order issued under this paragraph may be executed in any district in which the subject account is found, or transmitted to the central authority of any foreign State for service in accordance with any treaty or other international agreement.''.

SEC. 1609. CRIMINAL PROCEEDS LAUNDERED THROUGH PREPAID ACCESS DEVICES, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.

(a) IN GENERAL.—

(1) DEFINITIONS.—

(A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:

''(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital currency;''.

(B) ADDITION OF PREPAID ACCESS DEVICES TO THE DEFINITION OF MONETARY INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by inserting ''prepaid access devices,'' after ''delivery,''.

(C) PREPAID ACCESS DEVICE.—Section 5312 of such title is amended—

(i) by redesignating paragraph (6) as paragraph (7); and

(ii) by inserting after paragraph (5) the following:

''(6) 'prepaid access device' means an electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future.''.

(2) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that describes—

(A) the impact of amendments made by paragraph (1) on law enforcement, the prepaid access device industry, and consumers; and

(B) the implementation and enforcement by the Department of the Treasury of the final rule relating to ''Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access'' (76 Fed. Reg. 45403 (July 29, 2011)).

(b) U.S. CUSTOMS AND BORDER PROTECTION STRATEGY FOR PREPAID ACCESS DEVICES.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Commissioner of U.S. Customs and Border Protection, shall submit to Congress a report that—

(1) details a strategy to interdict and detect prepaid access devices, digital currencies, or other similar instruments, at border crossings and other ports of entry for the United States; and

(2) includes an assessment of the infrastructure needed to carry out the strategy detailed pursuant to paragraph (1).

(c) MONEY SMUGGLING THROUGH BLANK CHECKS IN BEARER FORM.—Section 5316 of title 31, United States Code, is amended by adding at the end the following:

''(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank, such that the amount could be filled in by the bearer, shall be considered to have a value of more than $10,000 if the monetary instrument was drawn on an account that contained or was intended to contain more than $10,000 at the time the monetary instrument was—

''(1) transported; or

''(2) negotiated.''.

SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL ASSOCIATES ENGAGED IN MONEY LAUNDERING.

(a) INTENT TO CONCEAL OR DISGUISE.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking ''(B) knowing that'' and all that follows through ''Federal law,'' in clause (ii) and inserting the following:

''(B) knowing that the transaction—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''; and

(2) in paragraph (2)(B), by striking ''(B) knowing that'' and all that follows through ''Federal law,'' in clause (ii) and inserting the following:

''(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

''(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

''(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,''.

(b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of title 18, United States Code, is amended by inserting '', and regardless of whether the person knew that the activity constituted a felony'' before the semicolon at the end.

Subtitle G—Protecting National Security and Public Safety

CHAPTER 1—GENERAL MATTERS

SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, ENGAGE IN TERRORIST ACTIVITY, AND TERRORIST ORGANIZATION.

(a) DEFINITION OF ENGAGE IN TERRORIST ACTIVITY.—Section 212(a)(3)(B)(iv)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

''(I) to commit a terrorist activity or, under circumstances indicating an intention to cause death, serious bodily harm, or substantial damage to property, to incite another person to commit a terrorist activity;''.

(b) DEFINITION OF TERRORIST ORGANIZATION.—Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C. 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

''(III) that is a group of 2 or more individuals, whether organized or not, which engages in, or has a subgroup that engages in, the activities described in subclauses (I) through (VI) of clause (iv), if the group or subgroup presents a threat to the national security of the United States.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICABILITY.—Section 212(a)(3) of the Immigration and Nationality Act, as amended by this section, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS OF INADMISSIBILITY.

(a) SECURITY AND RELATED GROUNDS.—Section 212(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

''(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the Secretary knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally, in, or who is engaged in—

''(i) any activity—

''(I) to violate any law of the United States relating to espionage or sabotage; or

''(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;

''(ii) any other activity which would be unlawful if committed in the United States; or

''(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is inadmissible.''.

(b) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by inserting ''or substantial damage to property'' before '', incited terrorist activity'';

(2) in subclause (IV), by inserting ''or has been'' before ''a representative'';

(3) in subclause (V), by inserting ''or has been'' before ''a member'';

(4) in subclause (VI), by inserting ''or has been'' before ''a member'';

(5) by amending subclause (VII) to read as follows:

''(VII) endorses or espouses, or has endorsed or espoused, terrorist activity or persuades or has persuaded others to endorse or espouse terrorist activity or support a terrorist organization;'';

(6) by amending subclause (IX) to read as follows:

''(IX) is the spouse or child of an alien who is inadmissible under this subparagraph if—

''(aa) the activity causing the alien to be found inadmissible occurred within the last 10 years; and

''(bb)(AA) the spouse or child knew, or should reasonably have known, of the activity causing the alien to be found inadmissible under this section; and

''(BB) the consular officer or Attorney General does not have reasonable grounds to believe that the spouse or child has renounced the activity causing the alien to be found inadmissible under this section.''; and

(7) by striking the undesignated matter following subclause (IX).

(c) PALESTINE LIBERATION ORGANIZATION.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

''(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in terrorist activity.''.

(d) BARS TO IMMIGRATION RELIEF.—Any alien described in section 212(a)(3)(B) or 237(a)(4)(B) is not eligible and may not apply for any immigration benefits or relief available under this Act. Such aliens are only eligible to seek deferral of removal pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

SEC. 1703. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended—

(1) in the section heading, by adding at the end the following: ''or who are subject to terrorism-related grounds for removal'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''Attorney General'' and inserting ''Secretary, in the Secretary's sole and unreviewable discretion,''; and

(ii) by striking ''set forth in this subsection or'' and inserting ''set forth in this subsection, in lieu of removal proceedings under'';

(B) in paragraphs (3) and (4), by striking ''Attorney General'' each place that term appears and inserting ''Secretary'';

(C) in paragraph (5)—

(i) by striking ''described in this section'' and inserting ''described in paragraph (1) or (2)''; and

(ii) by striking ''the Attorney General may grant in the Attorney General's discretion.'' and inserting ''the Secretary or the Attorney General may grant, in the sole and unreviewable discretion of the Secretary or the Attorney General, in any proceeding.'';

(D) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(E) by inserting after paragraph (2) the following:

''(3) The Secretary, in the exercise of discretion, may determine inadmissibility under section 212(a)(2) and issue an order of removal pursuant to the procedures set forth in this subsection, in lieu of removal proceedings under section 240, with respect to an alien who—

''(A) has not been admitted or paroled;

''(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in 235(b)(1)(B); and

''(C) is not eligible for a waiver of inadmissibility or relief from removal.'';

(3) by redesignating the first subsection (c) as subsection (d);

(4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–720)), as subsection (e); and

(5) by inserting after subsection (b) the following:

''(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO TERRORISM-RELATED GROUNDS FOR REMOVAL.—

''(1) IN GENERAL.—The Secretary—

''(A) notwithstanding section 240, shall—

''(i) determine the inadmissibility of every alien under subclause (I), (II), or (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section 237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

''(ii) issue an order of removal pursuant to the procedures set forth in this subsection to every alien determined to be inadmissible or deportable on a ground described in clause (i); and

''(B) may—

''(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of section 212(a)(3) (other than subclauses (I), (II), and (III) of section 212(a)(3)(B)(i)), or the deportability of the alien under subparagraph (A) or (B) of section 237(a)(4) (as a consequence of being described in subclause (I), (II), or (III) of section 212(a)(3)(B)(i)); and

''(ii) issue an order of removal pursuant to the procedures set forth in this subsection to every alien determined to be inadmissible or deportable on a ground described in clause (i).

''(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1) until 30 days after the date on which such order was issued, unless waived by the alien, to give the alien an opportunity to petition for judicial review under section 242.

''(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings under this subsection, which shall require that—

''(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

''(B) the alien has the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

''(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

''(D) a determination is made on the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;

''(E) a record is maintained for judicial review; and

''(F) the final order of removal is not adjudicated by the same person who issues the charges.

''(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall be eligible for any relief from removal that the Secretary may grant in the Secretary's discretion.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 238 and inserting the following:

''Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who are subject to terrorism-related grounds for removal.''.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of the enactment of this Act, but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such date of enactment.

SEC. 1704. DETENTION OF REMOVABLE ALIENS.

(a) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end the following:

''(j) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary may enter into a written agreement with a State, or with any political subdivision of a State, to authorize the temporary placement of 1 or more U.S. Customs and Border Protection agents or officers or U.S. Immigration and Customs Enforcement agents or investigators at a local police department or precinct—

''(A) to determine the immigration status of any individual arrested by a State, county, or local police, enforcement, or peace officer for any criminal offense;

''(B) to issue charging documents and notices related to the initiation of removal proceedings or reinstatement of prior removal orders under section 241(a)(5);

''(C) to enter information directly into the National Crime Information Center (NCIC) database, Immigration Violator File, including—

''(i) the alien's address;

''(ii) the reason for the arrest;

''(iii) the legal cite of the State law violated or for which the alien is charged;

''(iv) the alien's driver's license number and State of issuance, if the alien has a driver's license;

''(v) any other identification document held by the alien and issuing entity for such identification documents; and

''(vi) any identifying marks, such as tattoos, birthmarks, and scars;

''(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of the alien and to enter such information into the Automated Biometric Identification System (IDENT) and any other Department of Homeland Security or law enforcement database authorized for storage of biometric information for aliens; and

''(E) to make advance arrangements for the immediate transfer from State to Federal custody of any criminal alien when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested and imprisoned again for the same offense.

''(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary duty assignment authorized under this subsection shall be 1 year. The temporary duty assignment may be extended for additional periods of time as agreed to by the Secretary and the State or political subdivision of the State to ensure continuity of operations, cooperation, and coverage.

''(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement agents, officers, and investigators on a temporary duty assignment under this subsection mobile access to Federal databases containing alien information, live scan technology for collection of biometrics, and video-conferencing capability for use at local police departments or precincts in remote locations.

''(4) REPORT.—Not later than 1 year after the date of the enactment of the SECURE and SUCCEED Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives that identifies—

''(A) the number of States that have entered into an agreement under this subsection;

''(B) the number of criminal aliens processed by the U.S. Customs and Border Protection agent or officer or U.S. Immigration and Customs Enforcement agent or investigator during the temporary duty assignment; and

''(C) the number of criminal aliens transferred from State to Federal custody during the agreement period.''.

(b) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

(1) REMOVAL PERIOD.—

(A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(1)(A)) is amended by striking ''Attorney General'' and inserting ''Secretary''.

(B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C. 1231(a)(1)(B)) is amended to read as follows:

''(B) BEGINNING OF PERIOD.—

''(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date that is the latest of the following:

''(I) If the alien is ordered removed, the date pursuant to an administratively final removal order and the Secretary takes the alien into custody for removal.

''(II) If the alien is detained or confined (except under an immigration process), the date on which the alien is released from detention or confinement.

''(ii) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If the Secretary transfers custody of the alien pursuant to law to another Federal agency or to an agency of a State or local government in connection with the official duties of such agency, the removal period for the alien—

''(I) shall be tolled; and

''(II) shall resume on the date on which the alien is returned to the custody of the Secretary.''.

(C) SUSPENSION OF PERIOD.—Section 241(a)(1)(C) of such Act (8 U.S.C. 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—

''(i) the alien fails or refuses to make all reasonable efforts to comply with the order of removal or to fully cooperate with the efforts of the Secretary to 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;

''(ii) the alien conspires or acts to prevent the alien's removal subject to an order of removal; or

''(iii) the court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien.''.

(2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(2)) is amended—

(A) by inserting ''(A) IN GENERAL.—'' before ''During'';

(B) by striking ''Attorney General'' and inserting ''Secretary''; and

(C) by adding at the end the following:

''(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an order of removal, the Secretary, in the Secretary's sole and unreviewable exercise of discretion, and notwithstanding any provision of law, including section 2241 of title 28, United States Code, may detain the alien during the pendency of such stay of removal.''.

(3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in subparagraph (C), by striking ''Attorney General'' and inserting ''Secretary''; and

(C) by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.''.

(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(4)) is amended—

(A) in subparagraph (A), by striking ''Attorney General'' and inserting ''Secretary''; and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking ''Attorney General'' and inserting ''Secretary'';

(ii) in clause (i), by striking ''if the Attorney General'' and inserting ''if the Secretary''; and

(iii) in clause (ii)(III), by striking ''Attorney General'' and inserting ''Secretary''.

(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

(A) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

''(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Secretary determines that an alien has entered the United States illegally after having been removed, deported, or excluded, or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

''(A) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

''(B) the alien is not eligible and may not apply for any relief under this Act, regardless of the date on which an application or request for such relief may have been filed or made;

''(C) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry; and

''(D) reinstatement under subparagraph (A) shall not require proceedings under section 240 or other proceedings before an immigration judge.''.

(B) JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended by—

(i) in subsection (g), by inserting ''grant, rescind, or deny any form of discretionary relief under this title, or to'' before ''commence''; and

(ii) by adding at the end the following:

''(h) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION 241(A)(5).—

''(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—Judicial review of determinations under section 241(a)(5) is available in an action under subsection (a).

''(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from, or relating to, any challenge to the original order.''.

(C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated or after that date by the Secretary of Homeland Security (or by the Attorney General before March 1, 2003), regardless of the date of the original order.

(6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed,''.

(7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(A) in paragraph (7), by striking ''Attorney General'' and inserting ''Secretary'';

(B) by redesignating paragraph (7) as paragraph (15); and

(C) by inserting after paragraph (6) the following:

''(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens subject to detention under section 236(c), 236A, or 238, if an alien who is detained is an applicant for admission, the Secretary, in the Secretary's sole and unreviewable discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless the alien violates the conditions of such parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE PREVIOUSLY ADMITTED TO THE UNITED STATES.—

''(A) APPLICATION.—The procedures set out under this paragraph—

''(i) apply only to an alien who was previously admitted to the United States; and

''(ii) do not apply to any other alien, including an alien detained pursuant to paragraph (6).

''(B) ESTABLISHMENT OF DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY COOPERATE WITH REMOVAL.—

''(i) REQUIREMENT TO ESTABLISH.—If an alien has made all reasonable efforts to comply with a removal order and to cooperate fully with the efforts of the Secretary to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, and has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions.

''(ii) DETERMINATIONS.—The Secretary shall—

''(I) make a determination whether to release an alien described in clause (i) after the end of the alien's removal period; and

''(II) in making a determination under subclause (I), consider any evidence submitted by the alien, and may consider any other evidence, including any information or assistance provided by the Department of State or other Federal agency and any other information available to the Secretary pertaining to the ability to remove the alien.

''(9) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C))—

''(A) until the alien is removed, if the Secretary determines that—

''(i) there is a significant likelihood that the alien will be removed in the reasonably foreseeable future;

''(ii) the alien would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspiracies or acts to prevent removal;

''(iii) the government of the foreign country of which the alien is a citizen, subject, national, or resident is denying or unreasonably delaying accepting the return of the alien after the Secretary asks whether the government will accept an alien under section 243(d); or

''(iv) the government of the foreign country of which the alien is a citizen, subject, national, or resident is refusing to issue any required travel or identity documents to allow the alien to return to that country;

''(B) until the alien is removed, if the Secretary certifies in writing—

''(i) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(ii) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

''(iii) based on information available to the Secretary (including classified, sensitive, or other information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(iv) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either—

''(I) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)), 1 or more crimes identified by the Secretary by regulation, or 1 or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, provided that the aggregate term of

imprisonment for such attempts or conspiracies is at least 5 years; or

''(II) the alien has committed 1 or more violent offenses (but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

''(v) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one aggravated felony (as defined in section 101(a)(43)); and

''(C) pending a determination under subparagraph (B), if the Secretary has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period as provided in paragraph (1)(C)).

''(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(A) RENEWAL.—The Secretary may renew a certification under paragraph (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under paragraph (9)(B).

''(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification described in clause (ii), (iii), or (iv) of paragraph (9)(B) to an official below the level of the Director of U.S. Immigration and Customs Enforcement.

''(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be released from detention, the Secretary, in the exercise of discretion, may impose conditions on release as provided in paragraph (3).

''(12) REDETENTION.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release or to continue to satisfy the conditions described in paragraph (8), or if, upon reconsideration, the Secretary determines that the alien can be detained under paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

''(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States, but has not been lawfully admitted nor physically present in the United States continuously for the 2-year period immediately preceding the commencement of removal proceedings under this Act against the alien, the Secretary, in the exercise of discretion, may decide not to apply paragraph (8) and detain the alien without any limitations except those which the Secretary shall adopt by regulation.

''(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision pursuant to paragraph (6) through (14) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.''.

(c) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following:

''(e) LENGTH OF DETENTION.—

''(1) IN GENERAL.—An alien may be detained under this section while proceedings are pending, without limitation, until the alien is subject to an administratively final order of removal or final grant of relief.

''(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this section shall not affect the validity of any detention under section 241.

''(f) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(A) by redesignating subsection (e) as subsection (f);

(B) by inserting after subsection (d) the following new subsection (e):

''(e) LENGTH OF DETENTION.—

''(1) IN GENERAL.—An alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal or final grant of relief.

''(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this section shall not affect the validity of any detention under section 241.''; and

(C) in subsection (f), as so redesignated, by adding at the end the following: ''Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(d) ATTORNEY GENERAL'S DISCRETION IN DETERMINING COUNTRIES OF REMOVAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)(C)(iv), by striking the period at the end and inserting '', or the Attorney General decides that removing the alien to such country is prejudicial to the interests of the United States.''; and

(2) in paragraph (2)(E)(vii), by inserting ''or the Attorney General decides that removing the alien to 1 or more of such countries is prejudicial to the interests of the United States,'' after ''this subparagraph,''.

(e) EFFECTIVE DATES AND APPLICATION.—

(1) AMENDMENTS MADE BY SUBSECTION (B).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act. Section 241 of the Immigration and Nationality Act, as amended by subsection (b), shall apply to—

(A) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(B) acts and conditions occurring or existing before, on, or after the date of the enactment of this Act.

(2) AMENDMENTS MADE BY SUBSECTION (C).—The amendments made by subsection (c) shall take effect upon the date of the enactment of this Act. Sections 235 and 236 of the Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in detention under provisions of such sections on or after the date of the enactment of this Act.

SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the deaths in custody of detainees held by the Department of Homeland Security, which shall include, with respect to any such deaths—

(1) whether such death could have been prevented by the delivery of medical treatment administered while the detainee was in the custody of the Department of Homeland Security;

(2) whether Department practices and procedures were properly followed and obeyed;

(3) whether such practices and procedures are sufficient to protect the health and safety of such detainees; and

(4) whether reports of such deaths were made to the Deaths in Custody Reporting Program.

SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives a report that describes—

(1) the total number of migrant deaths along the southern border during the previous 7 years;

(2) the total number of unidentified deceased migrants found along the southern border in the previous 7 years;

(3) the level of cooperation between U.S. Customs and Border Protection, State and local law enforcement agencies, foreign diplomatic and consular posts, nongovernmental organizations, and family members to accurately identify deceased individuals;

(4) the use of DNA testing and sharing of such data between U.S. Customs and Border Protection, State and local law enforcement agencies, foreign diplomatic and consular posts, and nongovernmental organizations to accurately identify deceased individuals;

(5) the comparison of DNA data with information on Federal, State, and local missing person registries; and

(6) the procedures and processes U.S. Customs and Border Protection has in place for notification of relevant authorities or family members after missing persons are identified through DNA testing.

SEC. 1707. STATUTE OF LIMITATIONS FOR VISA, NATURALIZATION, AND OTHER FRAUD OFFENSES INVOLVING WAR CRIMES, CRIMES AGAINST HUMANITY, OR HUMAN RIGHTS VIOLATIONS.

(a) STATUTE OF LIMITATIONS FOR VISA FRAUD AND OTHER OFFENSES.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3302. Fraud in connection with certain human rights violations, crimes against humanity, or war crimes

''(a) IN GENERAL.—No person shall be prosecuted, tried, or punished for violation of any provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment, or fraudulent, fictitious, or false statement 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, crime against humanity, or war crime; or

''(2) membership in, service in, or authority over a military, paramilitary, or law enforcement 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, unless the indictment is found or the information is instituted within 20 years after the commission of the offense.

''(b) DEFINITIONS.—In this section—

''(1) the term 'extrajudicial killing under color of law' means conduct described in section 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));

''(2) the term '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 crimes, torture, female genital mutilation, extrajudicial killing under color of law, persecution, particularly severe violations of religious freedom, the use or recruitment of child soldiers, or other serious violation of human rights;

''(5) the term 'incitement to genocide' means conduct described in section 1091(c);

''(6) the term 'particularly severe violation of religious freedom' means conduct described in section 3(3) of the International Religious Freedom Act of 1998 (22 U.S.C. 6402(13));

''(7) the term 'persecution' means conduct that is a bar to relief under section 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));

''(8) the term 'torture' means conduct described in paragraphs (1) and (2) of section 2340;

''(9) the term 'use or recruitment of child soldiers' means conduct described in subsections (a) and (d) of section 2442;

''(10) the term 'war crimes' means conduct described in subsections (c) and (d) of section 2441; and

''(11) the term 'crimes against humanity' means conduct described in section 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(iii)).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3302. Fraud in connection with certain human rights violations, crimes against humanity, or war crimes.''.

(c) APPLICATION.—The amendments made by this section shall apply to fraudulent conduct, misrepresentations, concealments, and fraudulent, fictitious, or false statements made or committed before, on, or after the date of enactment of this Act.

SEC. 1708. CRIMINAL DETENTION OF ALIENS TO PROTECT PUBLIC SAFETY.

(a) IN GENERAL.—Section 3142(e) of title 18, United States Code, is amended to read as follows:

''(e) DETENTION.—

''(1) IN GENERAL.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.

''(2) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case described in subsection (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judicial officer finds that—

''(A) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

''(B) the offense described in subparagraph (A) was committed while the person was on release pending trial for a Federal, State, or local offense; and

''(C) not more than 5 years has elapsed since the later of the date of conviction or the date of the release of the person from imprisonment for the offense described in subparagraph (A).

''(3) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES, FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed—

''(A) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

''(B) an offense under section 924(c), 956(a), or 2332b;

''(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or

''(D) an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

''(4) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person is an alien and that the person—

''(A) has no lawful immigration status in the United States;

''(B) is the subject of a final order of removal; or

''(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015, 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328).''.

(b) IMMIGRATION STATUS AS FACTOR IN DETERMINING CONDITIONS OF RELEASE.—Section 3142(g)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(C) whether the person is in a lawful immigration status, has previously entered the United States illegally, has previously been removed from the United States, or has otherwise violated the conditions of his or her lawful immigration status; and''.

SEC. 1709. RECRUITMENT OF PERSONS TO PARTICIPATE IN TERRORISM.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332b the following:

''§ 2332c. Recruitment of persons to participate in terrorism

''(a) OFFENSES.—

''(1) IN GENERAL.—It shall be unlawful for any person to employ, solicit, induce, command, or cause another person to commit an act of domestic terrorism or international terrorism or a Federal crime of terrorism, with the intent that the other person commit such act or crime of terrorism.

''(2) ATTEMPT AND CONSPIRACY.—It shall be unlawful for any person to attempt or conspire to commit an offense under paragraph (1).

''(b) PENALTIES.—Any person who violates subsection (a)—

''(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not more than 10 years, or both;

''(2) if death of an individual results, shall be fined under this title, punished by death or imprisoned for any term of years or for life, or both;

''(3) if serious bodily injury to any individual results, shall be fined under this title, imprisoned not less than 10 years nor more than 25 years, or both; and

''(4) in any other case, shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed or applied to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

''(d) LACK OF CONSUMMATED TERRORIST ACT NOT A DEFENSE.—It is not a defense under this section that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is the object of the employment, solicitation, inducement, commanding, or causing has not been carried out.

''(e) DEFINITIONS.—In this section—

''(1) the term 'Federal crime of terrorism' has the meaning given that term in section 2332b; and

''(2) the term 'serious bodily injury' has the meaning given that term in section 1365(h).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332b the following:

''2332c. Recruitment of persons to participate in terrorism.''.

SEC. 1710. BARRING AND REMOVING PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY FROM THE UNITED STATES.

(a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) by striking the subparagraph heading and inserting ''PARTICIPANTS IN PERSECUTION (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—'';

(2) in clause (iii)(II)—

(A) by striking ''of any foreign nation'' and inserting ''(including acts taken as part of an armed group exercising de facto authority)''; and

(3) by adding after clause (iii) the following:

''(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST HUMANITY.—Any alien, including an alien who has or had superior responsibility, who committed, ordered, incited, assisted, or otherwise participated in a war crime (as defined in section 2441(c) of title 18, United States Code) or 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 that is part of a widespread or systematic attack targeting any civilian population, with knowledge that the conduct was part of the attack or with the intent that the conduct be part of the attack—

''(I) that, if such conduct occurred in the United States or in the special maritime and territorial jurisdiction of the United States, would violate—

''(aa) section 1111 of title 18, United States Code (relating to murder);

''(bb) section 1201(a) of such title (relating to kidnapping);

''(cc) section 1203(a) of such title (relating to hostage taking), notwithstanding any exception under subsection (b) of such section 1203;

''(dd) section 1581(a) of such title (relating to peonage);

''(ee) section 1583(a)(1) of such title (relating to kidnapping or carrying away individuals for involuntary servitude or slavery);

''(ff) section 1584(a) of such title (relating to sale into involuntary servitude);

''(gg) section 1589(a) of such title (relating to forced labor);

''(hh) section 1590(a) of such title (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor);

''(ii) section 1591(a) of such title (relating to sex trafficking of children or by force, fraud, or coercion);

''(jj) section 2241(a) of such title (relating to aggravated sexual abuse by force or threat); or

''(kk) section 2242 of such title (relating to sexual abuse);

''(II) that would constitute torture (as defined in section 2340(1) of such title);

''(III) that would constitute cruel or inhuman treatment, as described in section 2441(d)(1)(B) of such title;

''(IV) that would constitute performing biological experiments, as described in section 2441(d)(1)(C) of such title;

''(V) that would constitute mutilation or maiming, as described in section 2441(d)(1)(E) of such title; or

''(VI) that would constitute intentionally causing serious bodily injury, as described in section 2441(d)(1)(F) of such title.

''(vi) DEFINITIONS.—In this subparagraph—

''(I) the term 'superior responsibility' means—

''(aa) a leader, a member of a military, or a person with effective control of military forces, or a person with de facto or de jure control of an armed group;

''(bb) who knew or should have known that a subordinate or someone under his or her de facto or de jure control is committing acts described in subsection (a), is about to commit such acts, or had committed such acts; and

''(cc) who fails to take the necessary and reasonable measures to prevent such acts or, for acts that have been committed, to punish the perpetrators of such acts;

''(II) the term 'systematic' means the commission of a series of acts following a regular pattern and occurring in an organized, nonrandom manner; and

''(III) the term 'widespread' means a single, large scale act or a series of acts directed against a substantial number of victims.''.

(b) REMOVAL OF PERSECUTORS.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) in the subparagraph heading, by striking ''NAZI''; and

(2) by striking ''or (iii)'' and inserting ''(iii), or (iv)''.

(c) SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G) is amended—

(1) in the subparagraph heading, by striking ''FOREIGN GOVERNMENT OFFICIALS'' and inserting ''ANY PERSONS''; and

(2) by striking '', while serving as a foreign government official,''.

(d) BARRING PERSECUTORS FROM ESTABLISHING GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking ''killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).'' and inserting ''killings), 212(a)(2)(G) (relating to severe violations of religious freedom), or 212(a)(3)(G) (relating to recruitment and use of child soldiers); or''; and

(3) by inserting after paragraph (9) the following:

''(10) one who at any time 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 the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.''.

(e) INCREASING CRIMINAL PENALTIES FOR ANYONE WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by striking ''(other than subparagraph (E) thereof)''.

(f) INCREASING CRIMINAL PENALTIES FOR FEMALE GENITAL MUTILATION.—Section 116 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''shall be fined under this title or imprisoned not more than 5 years, or both'' and inserting ''has engaged in a violent crime against children under section 3559(f)(3), shall be imprisoned for life or for 10 years or longer''; and

(2) in subsection (d), by striking ''shall be fined under this title or imprisoned not more than 5 years, or both.'' and inserting ''shall be imprisoned for life or for 10 years or longer.''.

(g) TECHNICAL AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting ''committed,'' before ''ordered'';

(2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting ''committed,'' before ''ordered''; and

(3) in section 241(b)(3)(B)(i) (8 U.S.C. 1231(b)(3)(B)(i)), by inserting ''committed,'' before ''ordered''.

(h) APPLICATION.—The amendments made by this section shall apply to any offense committed before, on, or after the date of the enactment of this Act.

SEC. 1711. CHILD SOLDIER RECRUITMENT INELIGIBILITY TECHNICAL CORRECTION.

Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is amended by striking ''section 2442'' and inserting ''section 2442(a)''.

SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE.

(a) DEFINITION OF CRIMINAL GANG.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

''(53)(A) The term 'criminal gang' means any ongoing group, club, organization, or association, inside or outside the United States, of 2 or more persons that—

''(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal offenses described in subparagraph (B) and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses; or

''(ii) has been designated as a criminal gang by the Secretary, in consultation with the Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

''(B) The offenses described in this subparagraph, whether in violation of Federal or State law or the law of a foreign country and regardless of whether the offenses occurred before, on, or after the date of the enactment of the SECURE and SUCCEED Act, are the following:

''(i) Any aggravated felony.

''(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(iii) Any criminal offense described in section 212 or 237.

''(iv) An offense involving illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code).

''(v) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

''(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the offense, the use or attempted use of physical force or the threatened use of physical force or a deadly weapon.

''(vii) Any offense that has, as an element of the offense, the use, attempted use, or threatened use of any physical object to inflict or cause (either directly or indirectly) serious bodily injury, including an injury that may ultimately result in the death of a person.

''(viii) An offense involving obstruction of justice or tampering with or retaliating against a witness, victim, or informant.

''(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

''(x) A conspiracy or attempt to commit an offense described in clauses (i) through (v).

''(C) Notwithstanding any other provision of law (including any effective date), a group, club, organization, or association shall be considered a criminal gang regardless of whether the conduct occurred before, on, or after the date of the enactment of the SECURE and SUCCEED Act.''.

(b) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

''(i) IN GENERAL.—Any alien who a consular officer, the Secretary, or the Attorney General knows or has reasonable ground to believe—

''(I) to be or to have been a member of a criminal gang; or

''(II) to have participated in the activities of a criminal gang, knowing or having reason to know that such activities promoted or will promote, further, aid, or support the illegal activity of the criminal gang,

is inadmissible.

''(ii) EXCEPTION.—Clause (i) shall not apply to an alien who did not know, or should not reasonably have known, of the activity causing the alien to be found inadmissible under this section.''.

(c) DESIGNATION OF CRIMINAL GANGS.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"SEC. 220. DESIGNATION OF CRIMINAL GANGS.

''(a) IN GENERAL.—The Secretary, in consultation with the Attorney General, and the Secretary of State, may designate a group or association as a criminal gang if their conduct is described in section 101(a)(53) or if the group's or association's conduct poses a significant risk that threatens the security and the public safety of United States nationals or the national security, homeland security, or economy of the United States.

''(b) EFFECTIVE DATE.—A designation under subsection (a) shall remain in effect until the designation is revoked, after consultation between the Secretary, the Attorney General, and the Secretary of State, or is terminated in accordance with Federal law.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

''220. Designation of criminal gangs.''

(d) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

''(i) IN GENERAL.—Any alien who the Secretary or the Attorney General knows or has reason to believe—

''(I) is or has been a member of a criminal gang; or

''(II) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang,

is deportable.

''(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

''(I) who did not know, or should not reasonably have known, of the activity causing the alien to be found deportable under this section; or

''(II) whom the Secretary or the Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found deportable under this section.''.

(e) CANCELLATION OF REMOVAL.—Section 240A(c) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

''(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating to participation in criminal gangs).''.

(f) VOLUNTARY DEPARTURE.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C. 1229c(c)) is amended to read as follows:

''(c) LIMITATION ON VOLUNTARY DEPARTURE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien—

''(1) was previously permitted to depart voluntarily after having been found inadmissible under section 212(a)(6)(A); or

''(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in criminal gangs).''.

(g) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended in the matter preceding clause (i) by inserting ''who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) or who is'' after ''to an alien''.

(2) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(A) in clause (v), by striking ''or'' at the end;

(B) by redesignating clause (vi) as clause (vii);

(C) by inserting after clause (v) the following:

''(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating to participation in criminal gangs); or''; and

(D) by amending clause (vii), as redesignated, to read as follows:

''(vii) the alien was firmly resettled in another country in any legal status prior to arriving in the United States.''.

(h) GOOD MORAL CHARACTER BAR FOR CRIMINAL GANG MEMBERS.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d), and 1822(a) of this Act, is further amended by inserting after paragraph (10) the following:

''(11) is a member of 1 or more classes of persons described in section 212(a)(2)(J) or 237(a)(2)(G) and has been convicted of any offense described in section 101(a)(43), 212(a)(2), or 237(a)(2); or''.

(i) ANNUAL REPORT ON DETENTION OF CRIMINAL GANG MEMBERS.—Not later than March 1 of the first calendar year beginning at least 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security, after consultation with the heads of appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that identifies the number of aliens detained described in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as added by subsections (b) and (d).

(j) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

SEC. 1713. BARRING AGGRAVATED FELONS, BORDER CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM ADMISSION TO THE UNITED STATES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)(i)—

(i) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(ii) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(iii) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any statute relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification documents, authentication features, and information)''; and

(B) by inserting after subparagraph (K), as added by section 1713(b) of this Act, the following:

''(L) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the procurement of citizenship or naturalization unlawfully), is inadmissible.

''(M) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, admits having committed, or admits committing acts which constitute the essential elements of, any law relating to, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law, is inadmissible. For purposes of this subparagraph the term 'any law' includes State laws that do not contain an exception for antique firearms. If the State law does not contain an exception for antique firearms, the Secretary or the Attorney General may consider documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to establish that the offense involved at least 1 firearm that is not an antique firearm.

''(N) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of section 758 of title 18, United States Code (relating to high speed flight from an immigration checkpoint) is inadmissible.

''(P) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted under section 2250 of title 18, United States Code, is inadmissible.

''(Q) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS; CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Except as provided in subsection (v), any alien who at any time is or has been convicted of a crime involving the use or attempted use of physical force, or threatened use of a deadly weapon, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term 'crime of domestic violence' has the meaning given the term in section 237(a)(2)(E)(i).

''(ii) VIOLATORS OF PROTECTION ORDERS.—Except as provided in subsection (v), any alien who at any time is or has been enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term 'protection order' has the meaning given the term in section 237(a)(2)(E)(ii).'';

(2) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (A), by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(C) in the matter preceding subparagraph (A), as redesignated and as amended by section 1713(e) of this Act—

(i) by inserting ''(1)'' before ''The Attorney General''; and

(ii) by striking '', and (K)'', and inserting ''(K), and (M)'';

(D) in the matter following subparagraph (B), as redesignated—

(i) by striking the first 2 sentences and inserting the following:

''(2) A waiver may not be provided under this subsection to an alien—

''(A) who has been convicted of (or who has admitted committing acts that constitute)—

''(i) murder or criminal acts of torture; or

''(ii) an attempt or conspiracy to commit murder or a criminal act involving torture;

''(B) who has been convicted of an aggravated felony; or

''(C) who has been lawfully admitted for permanent residence and who since the date of such admission has not lawfully resided continuously in the United States for at least 7 years immediately preceding the date on which proceedings were initiated to remove the alien from the United States.''; and

(ii) by striking ''No court'' and inserting the following:

''(3) No court'';

(3) by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–449, as subsection (u); and

(4) by adding at the end the following:

''(v) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE.—

''(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship, upon a determination that—

''(A) the alien was acting in self-defense;

''(B) the alien was found to have violated a protection order intended to protect the alien; or

''(C) the alien committed or was convicted of committing a crime—

''(i) that did not result in serious bodily injury; and

''(ii) where there was a connection between the crime and the alien's having been battered or subjected to extreme cruelty.

''(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this subsection, the Secretary or the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary or the Attorney General.''.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and 1713(c) of this Act, is further amended by adding at the end the following:

''(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a conspiracy or attempt to violate) an offense relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification) is deportable.''.

(c) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (i), by striking the comma at the end and inserting a semicolon;

(2) in clause (ii), by striking '', or'' at the end and inserting a semicolon;

(3) in clause (iii), by striking the comma at the end and inserting ''; or''; and

(4) by inserting after clause (iii) the following:

''(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the unlawful procurement of citizenship or naturalization),''.

(d) APPLICABILITY.—The amendments made by this section shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act;

(2) all aliens who are required to establish admissibility on or after such date of enactment; and

(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date of enactment.

(e) RULE OF CONSTRUCTION.—The amendments made by this section may not be construed to create eligibility for relief from removal under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if such eligibility did not exist before such date of enactment.

SEC. 1714. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A), by amending clause (viii) to read as follows:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense against a minor (as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20911(7))) unless the Secretary, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(2) in subparagraph (B)(i)—

(A) by redesignating the second subclause (I) as subclause (II); and

(B) by amending such subclause (II) to read as follows:

''(II) Subclause (I) shall not apply to an alien lawfully admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense against a minor as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20911(7)) unless the Secretary, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended by striking ''204(a)(1)(A)(viii)(I))'' each place it appears and inserting ''204(a)(1)(A)(viii))''.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

SEC. 1715. ENHANCED CRIMINAL PENALTIES FOR HIGH SPEED FLIGHT.

(a) IN GENERAL.—Section 758 of title 18, United States Code, is amended to read as follows:

''§ 758. Unlawful flight from immigration or customs controls

''(a) EVADING A CHECKPOINT.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by the Department of Homeland Security or any other Federal law enforcement agency, and then knowingly or recklessly disregards or disobeys the lawful command of any law enforcement agent, shall be fined under this title, imprisoned not more than 5 years, or both.

''(b) FAILURE TO STOP.—Any person who, while operating a motor vehicle, aircraft, or vessel, knowingly or recklessly disregards or disobeys the lawful command of an officer of the Department of Homeland Security engaged in the enforcement of the immigration, customs, or maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall be fined under this title, imprisoned not more than 2 years, or both.

''(c) ALTERNATIVE PENALTIES.—Notwithstanding the penalties provided in subsection (a) or (b), any person who violates such subsection—

''(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the violation involved the operation of a motor vehicle, aircraft, or vessel—

''(A) in excess of the applicable or posted speed limit;

''(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel; or

''(C) in an otherwise dangerous or reckless manner;

''(2) shall be fined under this title, imprisoned not more than 20 years, or both, if the violation created a substantial and foreseeable risk of serious bodily injury or death to any person;

''(3) shall be fined under this title, imprisoned not more than 30 years, or both, if the violation caused serious bodily injury to any person; or

''(4) shall be fined under this title, imprisoned for any term of years or life, or both, if the violation resulted in the death of any person.

''(d) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

''(e) FORFEITURE.—Any property, real or personal, constituting or traceable to the gross proceeds of the offense and any property, real or personal, used or intended to be used to commit or facilitate the commission of the offense shall be subject to forfeiture.

''(f) FORFEITURE PROCEDURES.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General. Nothing in this section may be construed to limit the authority of the Secretary of Homeland Security to seize and forfeit motor vehicles, aircraft, or vessels under the customs laws or any other laws of the United States.

''(g) DEFINITIONS.—For purposes of this section—

''(1) the term 'checkpoint' includes any customs or immigration inspection at a port of entry or immigration inspection at a U.S. Border Patrol checkpoint;

''(2) the term 'law enforcement agent' means—

''(A) any Federal, State, local or tribal official authorized to enforce criminal law; and

''(B) when conveying a command described in subsection (b), an air traffic controller;

''(3) the term 'lawful command' includes a command to stop, decrease speed, alter course, or land, whether communicated orally, visually, by means of lights or sirens, or by radio, telephone, or other communication;

''(4) the term 'motor vehicle' means any motorized or self-propelled means of terrestrial transportation; and

''(5) the term 'serious bodily injury' has the meaning given in section 2119(2).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 18, United States Code, is amended by striking the item relating to section 758 and inserting the following:

''758. Unlawful flight from immigration or customs controls.''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) may not be construed to create eligibility for relief from removal under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if such eligibility did not exist before such date of enactment.

SEC. 1716. PROHIBITION ON ASYLUM AND CANCELLATION OF REMOVAL FOR TERRORISTS.

(a) ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)), as amended by 1712(f) of this Act, is further amended—

(1) by inserting ''or the Secretary'' after ''if the Attorney General''; and

(2) by amending clause (v) to read as follows:

''(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the Secretary or the Attorney General determines, in his or her sole and unreviewable discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) RESTRICTION ON REMOVAL.—

(1) IN GENERAL.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(A)) is amended—

(A) by inserting ''or the Secretary'' after ''Attorney General'' both places it appears;

(B) by striking ''Notwithstanding'' and inserting the following:

''(i) IN GENERAL.—Notwithstanding''; and

(C) by adding at the end the following:

''(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the alien's life or freedom would be threatened in such country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least 1 central reason for such threat.''.

(2) EXCEPTION.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(A) by inserting ''or the Secretary'' after ''Attorney General'' both places it appears;

(B) in clause (iii), striking ''or'' at the end;

(C) in clause (iv), striking the period at the end and inserting a semicolon;

(D) inserting after clause (iv) the following:

''(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B), unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the Secretary or the Attorney General determines, in his or her sole and unreviewable discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

''(vi) the alien is convicted of an aggravated felony.''; and

(E) by striking the undesignated matter at the end.

(3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C) of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking ''In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A),'' and inserting ''For purposes of this paragraph,''.

(4) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraphs (1) and (2) shall take effect as if enacted on May 11, 2005, and shall apply to applications for withholding of removal made on or after such date.

(d) EFFECTIVE DATES; APPLICATIONS.—Except as provided in subsection (c)(4), the amendments made by this section shall take effect on the date of the enactment of this Act and sections 208(b)(2)(A), 240A(c), and 241(b)(3) of the Immigration and Nationality Act, as amended by this section, shall apply to—

(1) all aliens in removal, deportation, or exclusion proceedings;

(2) all applications pending on, or filed after, the date of the enactment of this Act; and

(3) with respect to aliens and applications described in paragraph (1) or (2), acts and conditions constituting a ground for exclusion, deportation, or removal occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 1717. AGGRAVATED FELONIES.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

''(43)(A) The term 'aggravated felony' means—

''(i) any offense punishable by a maximum term of imprisonment of not less than 2 years regardless of the term of imprisonment, if any, actually imposed;

''(ii) any offense for which the term of imprisonment imposed was not less than 1 year even if that term is suspended or probated;

''(iii) any 2 or more offenses, regardless of whether the convictions for such offenses resulted from a single trial or plea or whether the offenses arose from a single scheme of misconduct, for which the aggregate term of imprisonment imposed was not less than 3 years;

''(iv) any offense not otherwise determined to be an aggravated felony offense under clauses (i) through (iii), regardless of the term of imprisonment imposed (unless otherwise indicated) or of the elements of the offense required for a conviction if the nature of the offense is described in 1 of the following subclauses:

''(I) Any crime of, or related to—

''(aa) murder, in any degree;

''(bb) voluntary or involuntary manslaughter;

''(cc) homicide (regardless of the required level of intent and including reckless or negligent homicide);

''(dd) sexual assault or battery;

''(ee) rape (including statutory rape);

''(ff) any offense for which the individual was required to register as a sex offender under Federal or state law;

''(gg) , or any other sex offense, including offenses related to the actual or attempted abuse of or contact with minors (defined as individuals under the age of 18 but including offenses in which the intended victim was actually a law enforcement officer), regardless of the reason and extent of the act.

''(II) Any drug trafficking crime (as defined in section 924(c) of title 18, United States Code).

''(III) Any other crime classified as a felony in the jurisdiction of conviction involving or related to a controlled substance that is classified as controlled in the jurisdiction of conviction, regardless of whether the substance is also classified as controlled by the Federal government and regardless of whether the crime would be classified as a felony under Federal law.

''(IV) Any offense relating to illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of such title).

''(V) Any offense relating to laundering of monetary instruments or engaging in monetary transactions in property derived from unlawful activity if the amount of the funds exceeded $10,000.

''(VI) A crime of violence (or an offense relating to a crime of violence), including any crime labeled as assault or battery by the relevant jurisdiction of conviction, state or Federal, regardless of whether the crime also meets the definition in section 16 of title 18, United States Code, for which the term of imprisonment imposed is at least 9 months.

''(VII) A theft offense (or an offense relating to a theft offense), including any crime labeled as theft, shoplifting, burglary, or embezzlement by the relevant jurisdiction of conviction, state or Federal, and regardless of the method of the theft , and regardless of whether any taking was temporary or permanent, for which the term of imprisonment imposed is at least 9 months.

''(VIII) Any offense relating to offenses described in—

''(aa) section 842 or 844 of title 18, United States Code;

''(bb) section 922 or 924 of such title; or

''(cc) section 5861 of the Internal Revenue Code of 1986.

''(IX) Any offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony.

''(X) Any offense relating to the demand for or receipt of ransom.

''(XI) Any offense relating to child pornography (as defined by the jurisdiction of conviction).

''(XII) Any offense relating to racketeer influenced corrupt organizations, or relating to transmission of wagering information (if it is a second or subsequent offense) or relating to illegal gambling business offenses.

''(XIII) Any offense relating to—

''(aa) the owning, controlling, managing, or supervising of a prostitution business;

''(bb) transportation for the purpose of prostitution, if committed for commercial advantage; or

''(cc) peonage, slavery, involuntary servitude, and trafficking in persons.

''(XIV) Any offense relating to—

''(aa) gathering or transmitting national defense information, disclosure of classified information, sabotage or treason;

''(bb) protecting the identity of undercover intelligence agents; or

''(cc) protecting the identity of undercover agents; or

''(XV) Any offense—

''(aa) involving fraud or deceit in which the loss to the victim or victims exceeds $10,000; or

''(bb) relating to those described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $10,000.

''(XVI) Any offense relating to an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act.

''(XVII) Any offense relating to offenses described in section 275(a) or 276 committed by an alien who was previously excluded, deported, or removed from the United States.

''(XVIII) An offense related to falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument relating to document fraud.

''(XIX) Any offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 3 years or more.

''(XX) Any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered.

''(XXI) Any offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness.

''(XXII)(aa) A single conviction for driving while intoxicated or impaired (as such terms are defined under the jurisdiction in which the conviction occurred), including a conviction for driving while under the influence of or impaired by alcohol or drugs, without regard to whether the conviction is classified as a misdemeanor or felony under State law when such impaired driving was a cause of serious bodily injury or death of another person.

''(bb) A second or subsequent conviction for driving while intoxicated or impaired (as such terms are defined under the jurisdiction in which the conviction occurred), including a conviction for driving while under the influence of or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law.

''(cc) A finding under this subclause does not require the Secretary or the Attorney General to prove the first conviction for driving while intoxicated or impaired (including a conviction for driving while under the influence of or impaired by alcohol or drugs) as a predicate offense.

''(dd) The Secretary or the Attorney General need only make a factual determination that the alien was previously convicted for driving while intoxicated or impaired (as such terms are defined under the jurisdiction in which the conviction occurred), including a conviction for driving while under the influence of or impaired by alcohol or drugs.

''(XXIII) An offense relating to terrorism or national security, including a conviction for a violation under chapter 113B of title 18, United States Code.

''(XXIV) A conviction for violating section 295.

''(XXV) Any offense relating to those described in chapter 50A (genocide), 113C (torture), or 118 (war crimes and recruitment or use of child soldiers) of title 18, United States Code, or section 116 of such title (female genital mutilation), or a felony conviction under chapter 35 of title 50, United States Code (relating to violations of International Emergency Economic Powers Act licenses, orders, regulations, or prohibitions) or under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(XXVI) An attempt, conspiracy, or solicitation to commit an offense described in subclauses I through XXV or any other inchoate form of an offense described in this clause.

''(B) Notwithstanding any other provision of law (including any effective date), the term 'aggravated felony' applies, regardless of whether the conviction was entered before, on, or after the effective date of theSECURE and SUCCEED Act, to—

''(i) an offense described in subparagraph (A), whether in violation of Federal or State law; and

''(ii) an offense described in subparagraph (A) in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.''.

(b) DEFINITION OF CONVICTION.—Section 101(a)(48) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(48)) is amended to read as follows:

''(48)(A) The term 'conviction' means, with respect to an alien—

''(i) a formal judgment of guilt of the alien entered by a court; or

''(ii) if adjudication of guilt has been withheld or deferred, where—

''(I) a judge, jury, or other adjudicator has found the alien guilty or the alien has entered a plea of guilty, an Alford plea, or a plea of nolo contendere, or the alien has admitted sufficient facts to warrant a finding of guilt; and

''(II) the judge or other adjudicator has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed, including, but not limited to, the imposition of probation or any fees or costs associated with the proceeding.

''(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part, including a sentence of imprisonment that is probated.

''(C) Any reference to a term of imprisonment of at least '1 year' includes any sentence of 365 days or more, or as '1 year' was defined under State or local law in the jurisdiction in which the conviction occurred at the time of the conviction.

''(D) Any reference to a term of imprisonment that is 'punishable by' shall include the maximum statutory term of imprisonment authorized by law for the most aggravated instance of the offense without regard to the individual circumstances of the defendant or the specific facts of the conviction, provided that for convictions under Federal law, the maximum statutory term of imprisonment shall not include a statutory sentence enhancement under title 18, United States Code, or the title IV of the Controlled Substances Act (21 U.S.C. 841 et seq.) unless the defendant's record of conviction reflects that he was convicted or sentenced pursuant to such an enhancement.

''(E) Subject to subparagraphs (F) and (G), no order purporting to vacate a conviction, modify a sentence, or clarify a sentence shall have any effect under this Act unless all 4 of the following conditions are met:

''(i) The order was entered prior to the initiation of any proceeding to remove the alien from the United States.

''(ii) The order was entered not later than 1 year after the date of the original order of conviction or sentencing.

''(iii) The court issuing the order had jurisdiction and authority to do so.

''(iv) The order was not entered for purposes of ameliorating the immigration consequences of the conviction or sentence.

''(F) No nunc pro tunc order purporting to vacate a conviction, modify a sentence, or clarify a sentence shall have any effect under the immigration laws.

''(G) No reversal, vacatur, expungement, or modification of a conviction or sentence that was granted, solely or in part, to ameliorate the immigration consequences of the conviction or sentence or was granted, solely or in part, for rehabilitative purposes shall have any effect under the immigration laws. For purposes of this subparagraph, any reversal, vacatur, expungement, or modification of a conviction or sentence due to an alleged procedural or constitutional defect shall be insufficient to meet the alien's burden of proof, even if the conditions in subparagraphs (E) and (F) are otherwise satisfied, unless the record contains a clear statement of position from the prosecutor on the issue and a clear explanation in the relevant order of the alleged defect.

''(H) In all cases under the immigration laws, the alien shall bear the burden of establishing that all 4 conditions in subparagraph (E) have been met and that the limitations in subparagraph (F) and (G) do not apply.

''(I) Any order purporting to vacate a conviction, modify a sentence, or clarify a sentence shall not be given any effect for immigration purposes unless the requirements under this paragraph have been met. The fact that these requirements have been met shall not preclude a finding by the Attorney General or Secretary, in the exercise of discretion, that the conviction is still valid for immigration purposes. Notwithstanding any other provision of law (statutory or nonstatutory) and regardless of whether the determination is made in removal proceedings, no court shall have jurisdiction to review a determination by the Attorney General or Secretary of Homeland Security regarding whether such an order should be given any effect under the immigration laws.

''(J) All references to a criminal offense or criminal conviction in the immigration laws shall be deemed to include any attempt, conspiracy, or solicitation to commit the offense or any other inchoate form of the offense.

''(K) In making a determination of whether a criminal conviction is for an aggravated felony or a crime involving moral turpitude or for any other provision under the immigration laws, the Attorney General shall not be required to apply any single or particular methodology. In making such determinations, the Attorney General shall not be limited to applying a categorical or modified categorical approach (including determining if a statute of conviction is divisible), shall not limit his consideration to a single generic definition of a crime, and shall not consider any hypothetical criminal offense beyond the facts of the actual conviction at issue. In all cases, the Attorney General may look behind the record of conviction and consider all reliable evidence (including charging documents, plea agreements, plea colloquies, jury instructions, police reports, testimony during the removal hearing, and any prior statements by the respondent or any other person about the crime) of relevant facts (including the underlying conduct at issue, the actual type of firearm involved (if any), the amount of a controlled substance involved (if any), and the identity of the victim).''.

SEC. 1718. FAILURE TO OBEY REMOVAL ORDERS.

(a) IN GENERAL.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''212(a) or'' before ''237(a),''; and

(B) by striking paragraph (3);

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsection (a)(1) shall take effect on the date of the enactment of this Act and shall apply to acts that are described in subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after such date of enactment.

SEC. 1719. SANCTIONS FOR COUNTRIES THAT DELAY OR PREVENT REPATRIATION OF THEIR NATIONALS.

Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253), as amended by section 1720(a), is further amended by adding at the end the following:

''(e) LISTING OF COUNTRIES WHO DELAY REPATRIATION OF REMOVED ALIENS.—

''(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the enactment of the SECURE and SUCCEED Act, and every 6 months thereafter, the Secretary shall publish a report in the Federal Register that includes a list of—

''(A) countries that have refused or unreasonably delayed repatriation of an alien who

is a national of that country since the date of enactment of this Act and the total number of such aliens, disaggregated by nationality;

''(B) countries that have an excessive repatriation failure rate; and

''(C) each country that was reported as noncompliant in the most recent reporting period.

''(2) EXEMPTION.—The Secretary, in the Secretary's sole and unreviewable discretion, and in consultation with the Secretary of State, may exempt a country from inclusion on the list under paragraph (1) if there are significant foreign policy or security concerns that warrant such an exemption.

''(f) DISCONTINUING GRANTING OF VISAS TO NATIONALS OF COUNTRIES DENYING OR DELAYING ACCEPTING ALIEN.—

''(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action described in paragraph (2)(A), and may take an action described in paragraph (2)(B), if the Secretary determines that—

''(A) an alien who is a national of a foreign country is inadmissible under section 212 or deportable under section 237, or has been ordered removed from the United States; and

''(B) the government of the foreign country referred to in subparagraph (A) is—

''(i) denying or unreasonably delaying accepting aliens who are citizens, subjects, nationals, or residents of that country after the Secretary asks whether the government will accept an alien under this section; or

''(ii) refusing to issue any required travel or identity documents to allow the alien who is citizen, subject, national, or resident of that country to return to that country.

''(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

''(A) Direct the Secretary of State to authorize consular officers in the foreign country referred to in paragraph (1) to deny visas under section 101(a)(15)(A)(iii) to attendants, servants, personal employees, and members of their immediate families, of the officials and employees of that country who receive nonimmigrant status under clause (i) or (ii) of section 101(a)(15)(A).

''(B) In consultation with the Secretary of State, deny admission to any citizens, subjects, nationals, or residents from the foreign country referred to in paragraph (1), consistent with other international obligations, and the imposition of any limitations, conditions, or additional fees on the issuance of visas or travel from that country, or the imposition of any other sanctions against that country that are authorized by law.

''(3) RESUMPTION OF VISA ISSUANCE.—Consular officers in the foreign country that refused or unreasonably delayed repatriation or refused to issue required identity or travel documents may resume visa issuance after the Secretary notifies the Secretary of State that the country has accepted the aliens.''.

SEC. 1720. ENHANCED PENALTIES FOR CONSTRUCTION AND USE OF BORDER TUNNELS.

Section 555 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''not more than 20 years.'' and inserting ''not less than 7 years and not more than 20 years.''; and

(2) in subsection (b), by striking ''not more than 10 years.'' and inserting ''not less than 3 years and not more than 10 years.''.

SEC. 1721. ENHANCED PENALTIES FOR FRAUD AND MISUSE OF VISAS, PERMITS, AND OTHER DOCUMENTS.

Section 1546(a) of title 18, United States Code, is amended—

(1) by striking ''Commissioner of the Immigration and Naturalization Service'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) by striking ''Shall be fined'' and all that follows and inserting ''Shall be fined under this title or imprisoned for not less than 12 years and not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331)), not less than 10 years and not more than 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more than 10 years (for the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or not less than 7 years and not more than 15 years (for any other offense), or both.''.

SEC. 1722. EXPANSION OF CRIMINAL ALIEN REPATRIATION PROGRAMS.

(a) EXPANSION OF CRIMINAL ALIEN REPATRIATION FLIGHTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall increase the number of criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not less than 15 percent compared to the number of such flights operated, and authorized to be operated, under existing appropriations and funding on the date of the enactment of this Act.

(b) U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AIR OPERATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive to expand U.S. Immigration and Customs Enforcement Air Operations (referred to in this subsection as ''ICE Air Ops'') so that ICE Air Ops provides additional services with respect to aliens who are illegally present in the United States. Such expansion shall include—

(1) increasing the daily operations of ICE Air Ops with buses and air hubs in the top 5 geographic regions along the southern border;

(2) allocating a set number of seats for such aliens for each metropolitan area; and

(3) allowing a metropolitan area to trade or give some of seats allocated to such area under paragraph (2) for such aliens to other areas in the region of such area based on the transportation needs of each area.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts otherwise authorized to be appropriated, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2018 through 2022 to carry out this section.

SEC. 1723. PROHIBITION ON FLIGHT TRAINING AND NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK COUNTRIES.

(a) IN GENERAL.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security may not admit or parole into the United States, any alien who—

(1) is a citizen of Libya, Iran, Syria, or any country designated by the Secretary of State as a state sponsor of terrorism; and

(2)(A)(i) is an applicant for a visa or for admission to the United States; and

(ii) the Secretary of State or the Secretary of Homeland Security determines seeks to enter the United States to participate in—

(I) coursework at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the alien for a career in nuclear science, nuclear engineering, or a related field; or

(II) coursework or training or otherwise engage in aviation maintenance or flight operations;

(B)(i) is in the United States; and

(ii) the Secretary of Homeland Security determines is applying to change status to participate in coursework, training, or activities described in subparagraph (A)(ii); or

(C)(i) is lawfully present in the United States, either as a nonimmigrant student or otherwise authorized to study at an institution of higher education; and

(ii) the Secretary of Homeland Security determines is participating in coursework, training, or activities described in subparagraph (A)(ii) or seeks to change his or her field of study to participate in such coursework, training, or activities.

(b) TERMINATION OF STATUS.—The Secretary of Homeland Security shall terminate the nonimmigrant status or otherwise revoke the authorization to remain in the United States of any alien in the United States who is described in subsection (a).

(c) HIGH-RISK COUNTRIES.—The Secretary of Homeland Security may, in the discretion of the Secretary, designate additional countries whose nationals are subject to the restrictions described in subsection (a) if the Secretary determines that the imposition of such restrictions on such nationals is in the national interest.

CHAPTER 2—STRONG VISA INTEGRITY SECURES AMERICA ACT

SEC. 1731. SHORT TITLE.

This chapter may be cited as the ''Strong Visa Integrity Secures America Act''.

SEC. 1732. VISA SECURITY.

(a) VISA SECURITY UNITS AT HIGH RISK POSTS.—Section 428(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(1)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph (B), the Secretary''; and

(2) by adding at the end the following:

''(B) RISK-BASED ASSIGNMENTS.—

''(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign employees of the Department to not fewer than 75 diplomatic and consular posts at which visas are issued. Assignments under this subparagraph shall be made—

''(I) in a risk-based manner;

''(II) after considering the criteria described in clause (iii); and

''(III) in accordance with Nationality Security Decision Directive 38, issued by President Reagan on June 2, 1982, or any superseding presidential directive concerning staffing at diplomatic and consular posts.

''(ii) PRIORITY CONSIDERATION.—In carrying out the presidential directive described in clause (i)(III), the Secretary of State shall ensure priority consideration of any staffing assignment under this subparagraph.

''(iii) CRITERIA DESCRIBED.—The criteria referred to in clause (i) are—

''(I) the number of nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located who were identified in United States Government databases related to the identities of known or suspected terrorists during the previous year;

''(II) information on cooperation of the country referred to in subclause (I) with the counterterrorism efforts of the United States;

''(III) information analyzing the presence, activity, or movement of terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or through such country;

''(IV) the number of formal objections based on derogatory information issued by the Visa Security Advisory Opinion Unit pursuant to paragraph (10) regarding nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located;

''(V) the adequacy of the border and immigration control of such country; and

''(VI) any other criteria the Secretary determines appropriate.''.

(b) ACCOMMODATION OF VISA SECURITY UNITS.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

''(j) EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwithstanding any other provision of law, and the processes set forth in National Security Defense Directive 38, issued by President Reagan on June 2, 1982, or any successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security has assigned personnel under subsection (e) or (i) shall ensure, not later than 1 year after the date on which the Secretary of Homeland Security communicates such assignment to the Secretary of State, that such personnel have been stationed and accommodated at post and are able to carry out their duties.''.

(c) FUNDING FOR THE VISA SECURITY PROGRAM.—

(1) IN GENERAL.—The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447) is amended, in the fourth paragraph under the heading ''Diplomatic and Consular Programs'', by striking ''Beginning'' and all that follows and inserting the following: ''Beginning in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the immigrant visa fees in effect on January 1, 2004: *Provided*, That funds collected pursuant to this authority shall be credited to the appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the fees were collected, and shall be available until expended for the funding of the Visa Security Program established by the Secretary of Homeland Security under section 428(e) of the Homeland Security Act of 2002 (Public Law 107–296): *Provided further*, That such surcharges shall be 10 percent of the fee assessed on immigrant visa applications.''.

(2) REPAYMENT OF APPROPRIATED FUNDS.—Of the amounts collected each fiscal year under the heading ''Diplomatic and Consular Programs'' in the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447), as amended by paragraph (1), 20 percent shall be deposited into the general fund of the Treasury.

(d) COUNTERTERRORISM VETTING AND SCREENING.—Section 428(e)(2) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) Screen any such applications against the appropriate criminal, national security, and terrorism databases maintained by the Federal Government.''.

(e) TRAINING AND HIRING.—Section 428(e)(6)(A) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(6)(A)) is amended—

(1) by striking ''The Secretary shall ensure, to the extent possible, that any employees'' and inserting ''The Secretary, acting through the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide training to any employees''; and

(2) by striking ''shall be provided the necessary training''.

(f) PRE-ADJUDICATED VISA SECURITY ASSISTANCE AND VISA SECURITY ADVISORY OPINION UNIT.—Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended by adding at the end the following:

''(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, assign employees of the Department to remotely perform the functions required under paragraph (2) at not fewer than 50 of such posts.

''(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S. Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond to requests from the Secretary of State to conduct a visa security review using information maintained by the Department on visa applicants, including terrorism association, criminal history, counter-proliferation, and other relevant factors, as determined by the Secretary.''.

(g) DEADLINES.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall implement the requirements under paragraphs (1) and (9) of section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this section.

SEC. 1733. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

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

''SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

''(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Strong Visa Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection shall—

''(1) screen electronic passports at airports of entry by reading each such passport's embedded chip; and

''(2) to the greatest extent practicable, utilize facial recognition technology or other biometric technology, as determined by the Commissioner, to inspect travelers at United States airports of entry.

''(b) APPLICABILITY.—

''(1) ELECTRONIC PASSPORT SCREENING.—Subsection (a)(1) 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.—Subsection (a)(2) shall apply, at a minimum, to individuals who are nationals of a program country pursuant to section 217 of such 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 submit an annual report, through fiscal year 2022, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that describes the utilization of facial recognition technology and other biometric technology pursuant to subsection (a)(2).

''(2) REPORT CONTENTS.—Each report submitted pursuant to paragraph (1) shall include—

''(A) information on the type of technology used at each airport of entry;

''(B) the number of individuals who were subject to inspection using either of such technologies at each airport of entry;

''(C) within the group of individuals subject to such inspection, the number of those individuals who were United States citizens and lawful permanent residents;

''(D) information on the disposition of data collected during the year covered by such report; and

''(E) information on protocols for the management of collected biometric data, including time frames and criteria for storing, erasing, destroying, or otherwise removing such data from databases utilized by the Department.

''SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS AND BORDER PROTECTION.

''The Commissioner of U.S. Customs and Border Protection shall, in a risk-based manner, continuously screen individuals issued any visa, and individuals who are nationals of a program country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are present, or expected to arrive within 30 days, in the United States, against the appropriate criminal, national security, and terrorism databases maintained by the Federal Government.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 419 the following:

''Sec. 420. Electronic passport screening and biometric matching.

''Sec. 420A. Continuous screening by U.S. Customs and Border Protection.''.

SEC. 1734. REPORTING VISA OVERSTAYS.

Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

(1) in subsection (a)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting '', and any additional information that the Secretary determines necessary for purposes of the report under subsection (b)'' before the period at the end; and

(2) by amending subsection (b) to read as follows:

''(b) ANNUAL REPORT.—Not later than September 30, 2018, and annually thereafter, the Secretary of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical estimates (including information on the methodology utilized to develop such numerical estimates) of—

''(1) for each country, the number of aliens from the country who are described in subsection (a), including—

''(A) the total number of such aliens within all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

''(B) the number of such aliens within each of the classes of nonimmigrant aliens, as well as the number of such aliens within each of the subclasses of such classes of nonimmigrant aliens, as applicable;

''(2) for each country, the percentage of the total number of aliens from the country who were present in the United States and were admitted to the United States as nonimmigrants who are described in subsection (a);

''(3) the number of aliens described in subsection (a) who arrived by land at a port of entry into the United States;

''(4) the number of aliens described in subsection (a) who entered the United States

using a border crossing identification card (as defined in section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6)); and

''(5) the number of Canadian nationals who entered the United States without a visa and whose authorized period of stay in the United States terminated during the previous fiscal year, but who remained in the United States.''.

SEC. 1735. STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM VERIFICATION.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall ensure that the information collected under the program established under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is available to officers of U.S. Customs and Border Protection conducting primary inspections of aliens seeking admission to the United States at each port of entry of the United States.

SEC. 1736. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.), as amended by sections 1127 and 1131, is further amended by adding at the end the following:

''SEC. 436. SOCIAL MEDIA SCREENING.

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Strong Visa Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk based manner and on an individualized basis, review the social media accounts of visa applicants who are citizens of, or who reside in, high risk countries, as determined by the Secretary based on the criteria described in subsection (b).

''(b) HIGH-RISK CRITERIA DESCRIBED.—In determining whether a country is high-risk pursuant to subsection (a), the Secretary shall consider the following criteria:

''(1) The number of nationals of the country who were identified in United States Government databases related to the identities of known or suspected terrorists during the previous year.

''(2) The level of cooperation of the country with the counter-terrorism efforts of the United States.

''(3) Any other criteria the Secretary determines appropriate.

''(c) COLLABORATION.—To develop the technology and procedures required to carry out the requirements under subsection (a), the Secretary shall collaborate with—

''(1) the head of a national laboratory within the Department's laboratory network with relevant expertise;

''(2) the head of a relevant university-based center within the Department's centers of excellence network; and

''(3) the heads of other appropriate Federal agencies, including the Secretary of State, the Director of National Intelligence, and the Attorney General.

''(d) WAIVER.—The Secretary, in collaboration with the Secretary of State, is authorized to waive the requirements under subsection (a) to the extent necessary to comply with the international obligations of the United States.

''(e) RULE OF CONSTRUCTION.—The requirement to screen social information under subsection (a) may not be construed as limiting the authority of the Secretary or the Secretary of State to screen social media information from any individual filing an application, petition, or other request with the Department or the Department of State for—

''(1) an immigration benefit or immigration status;

''(2) other authorization, employment authorization, identity, or travel document; or

''(3) relief or protection under any provision of the immigration laws.

''SEC. 437. OPEN SOURCE SCREENING.

''The Secretary shall, to the greatest extent practicable, and in a risk-based manner, review open source information of visa applicants.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002, as amended by this Act, is further amended by inserting after the item relating to section 435 the following:

''Sec. 436. Social media screening.
''Sec. 437. Open source screening.''.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

(a) IN GENERAL.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General,'' and inserting ''Secretary,''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by adding ''or foreign residence'' after ''the alien's nationality''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after such date.

SEC. 1742. VISA INFORMATION SHARING.

(a) IN GENERAL.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended—

(1) in the matter preceding paragraph (1), by striking ''issuance or refusal'' and inserting ''issuance, refusal, or revocation''; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''and on the basis of reciprocity'' and all that follows and inserting ''may provide to a foreign government information in a Department of State computerized visa database and, when necessary and appropriate, other records covered by this section related to information in such database'';

(B) by amending subparagraph (A) to read as follows:

''(A) on the basis of reciprocity, with regard to individual aliens, at any time on a case-by-case basis for the purpose of—

''(i) preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or

''(ii) determining a person's removability or eligibility for a visa, admission, or other immigration benefit;'';

(C) in subparagraph (B)—

(i) by inserting ''on basis of reciprocity,'' before ''with regard to'';

(ii) by striking ''in the database'' and inserting ''such database'';

(iii) by striking ''for the purposes'' and inserting ''for 1 of the purposes''; and

(iv) by striking ''or to deny visas to persons who would be inadmissible to the United States.'' and inserting ''; or''; and

(D) by adding at the end the following:

''(C) with regard to any or all aliens in such database, specified data elements from each record, if the Secretary of State determines that it is required for national security or public safety or in the national interest to provide such information to a foreign government.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of the Act.

SEC. 1743. VISA INTERVIEWS.

(a) IN GENERAL.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable discretion, determines, after reviewing the application, that an interview is unnecessary because the alien is ineligible for a visa; and''.

(2) in paragraph (2)—

(A) in subparagraph (E), by striking ''or'' at the end;

(B) in subparagraph (F), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(G) is an individual within a class of aliens that the Secretary of State, in his or her sole and unreviewable discretion, has determined may pose a threat to national security or public safety.''.

SEC. 1744. VISA REVOCATION AND LIMITS ON JUDICIAL REVIEW.

(a) IN GENERAL.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended—

(1) by inserting ''(1)'' after ''(i)'';

(2) in paragraph (1), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(B) by striking ''shall invalidate the visa or other documentation from the date of issuance: *Provided*, That carriers'' and inserting ''of any visa or documentation shall take effect immediately. Carriers''; and

(C) by striking the last sentence and inserting the following:

''(2) Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation, provided that the revocation is executed by the Secretary.

''(3) A revocation under this subsection of a visa or other documentation from an alien shall automatically cancel any other valid visa that is in the alien's possession.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to all revocations made on or after such date.

CHAPTER 4—SECURE VISAS ACT

SEC. 1751. SHORT TITLE.

This chapter may be cited as the ''Secure Visas Act''.

SEC. 1752. AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY AND THE SECRETARY OF STATE.

(a) IN GENERAL.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

''(b) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—

''(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) and any other provision of law, and except for the authority of the Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

''(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the

Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and

''(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or his or her designee, determines that such refusal or revocation is necessary or advisable in the security interests of the United States.

''(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

''(A) shall take effect immediately; and

''(B) shall automatically cancel any other valid visa that is in the alien's possession.

''(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no United States court has jurisdiction to review a decision by the Secretary or a consular officer to refuse or revoke a visa.

''(c) VISA REFUSAL AUTHORITY OF THE SECRETARY OF STATE.—

''(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse or revoke a visa to an alien if the Secretary determines that such refusal or revocation is necessary or advisable in the foreign policy interests of the United States.

''(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary under subsection (b).''.

(b) VISA REVOCATION.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended by adding at the end the following:

''(j) VISA REVOCATION INFORMATION.—If the Secretary or the Secretary of State revokes a visa—

''(1) the relevant consular, law enforcement, and terrorist screening databases shall be immediately updated on the date of the revocation; and

''(2) look-out notices shall be posted to all Department port inspectors and Department of State consular officers.''.

(c) CONFORMING AMENDMENT.—Section 104(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1104(a)(1)) is amended by inserting ''and the power authorized under section 428(c) of the Homeland Security Act of 2002 (6 U.S.C. 236(c))'' after ''United States,''.

CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2018

SEC. 1761. SHORT TITLE.

This chapter may be cited as the ''Visa Fraud and Security Improvement Act of 2018''.

SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION AND DETECTION FEES.

Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''at United States embassies and consulates abroad'';

(2) by amending clause (i) to read as follows:

''(i) to increase the number of diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting visa fraud;''; and

(3) in clause (ii), by striking '', including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)''.

SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS AND DAUGHTERS OF TRAFFICKERS.

Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(1) in subparagraph (C)(ii), by inserting '', or has been,'' after ''is''; and

(2) in subparagraph (H)(ii), by inserting '', or has been,'' after ''is''.

SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.

(a) DNA TESTING FOR VISA APPLICANTS.—Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by inserting after the second sentence the following: ''If considered necessary by a consular officer to establish the bona fides of a family relationship, the immigrant shall provide DNA evidence of such relationship in accordance with procedures established for submitting such evidence. The Secretary of State may issue regulations to require the submission of DNA evidence to establish family relationship from applicants for certain visa classifications.''.

(b) REQUIRED DOCUMENTARY EVIDENCE AND DNA TESTING.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) REQUIRED DOCUMENTARY EVIDENCE AND DNA TESTING FOR ADJUSTMENT OF STATUS.—

''(1) REQUIRED DOCUMENTARY EVIDENCE.—Any alien applying for adjustment of status under the immigration laws shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such documentation is required under regulations issued by the Secretary of Homeland Security. The alien shall furnish, with his or her application—

''(A) a copy of a certification by the appropriate police authorities, stating what their records show concerning the alien;

''(B) a certified copy of any existing prison record, military record, and record of his or her birth; and

''(C) a certified copy of all other records or documents concerning the alien or his or her case, which may be required by the Secretary or the Attorney General.

''(2) DNA TESTING.—If the Secretary or the Attorney General determine that DNA evidence is necessary to establish the bona fides of a family relationship, the immigrant shall provide DNA evidence of such relationship in accordance with procedures established for submitting such evidence. The Secretary may issue regulations to require the submission of DNA evidence to establish family relationship from applicants for certain visa classifications. If the alien establishes, to the satisfaction of the Secretary or the Attorney General, that any document or record required under this subsection is unobtainable, the Secretary or the Attorney General may permit the alien to submit, in lieu of such document or record, other satisfactory evidence of the fact to which such document or record, if obtainable, pertains.''.

SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY DATABASE FOR DIPLOMATIC VISAS.

Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting '', except for diplomatic visa applications for which only full biographical information is required'' before the period at the end.

SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH REQUIREMENT FOR VISA APPLICATIONS.

Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by striking the first sentence and insert the following: ''Each alien who applies for a visa shall be registered in connection with his or her application and shall furnish copies of his or her photograph for such use as may be required by regulation.''.

CHAPTER 6—OTHER MATTERS

SEC. 1771. REQUIREMENT FOR COMPLETION OF BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(h) COMPLETION OF BACKGROUND AND SECURITY CHECKS.—

''(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, the Secretary and the Attorney General may not approve or grant to an alien any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws, including an adjustment of status to lawful permanent residence or a grant of United States citizenship or issue to the alien any documentation evidencing a status or grant of any status, relief, protection from removal, employment authorization, or other benefit under the immigration laws until—

''(A) all background and security checks required by statute or regulation or deemed necessary by the Secretary or the Attorney General, in his or her sole and unreviewable discretion, for the alien have been completed; and

''(B) the Secretary or the Attorney General has determined that the results of such checks do not preclude the approval or grant of any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws or approval, grant, or the issuance of any documentation evidencing such status, relief, protection, authorization, or benefit.

''(2) PROHIBITION ON JUDICIAL ACTION.—No court shall have authority to order the approval of, grant, mandate, or require any action in a certain time period, or award any relief for the Secretary's or Attorney General's failure to complete or delay in completing any action to provide any status, relief, protection from removal, employment authorization, or any other benefit under the immigration laws, including an adjustment of status to lawful permanent residence, naturalization, or a grant of United States citizenship for an alien until—

''(A) all background and security checks for the alien have been completed; and

''(B) the Secretary or the Attorney General has determined that the results of such checks do not preclude the approval or grant of such status, relief, protection, authorization, or benefit, or issuance of any documentation evidencing such status, relief, protection, authorization, or benefit.''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any application, petition, or request for any benefit or relief or any other case or matter under the immigration laws pending with on or filed with the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer on or after such date of enactment.

SEC. 1772. WITHHOLDING OF ADJUDICATION.

(a) IN GENERAL.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103), as amended by section 1771 of this Act, is further amended by adding at the end the following:

''(i) WITHHOLDING OF ADJUDICATION.—

''(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any other law, including sections 1361 and 1651 of title 28, United States Code, may be construed to require, and no court can order, the Secretary, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other application, approve any petition, or grant or continue any relief, protection from removal, employment authorization, or any

other status or benefit under the immigration laws by, to, or on behalf of any alien with respect to whom a criminal proceeding or investigation is open or pending (including the issuance of an arrest warrant or indictment), if such proceeding or investigation is deemed by such official to be material to the alien's eligibility for the status, relief, protection, or benefit sought.

''(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold adjudication any application, petition, request for relief, request for protection from removal, employment authorization, status or benefit under the immigration laws pending final resolution of the criminal or other proceeding or investigation.

''(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to review a decision to withhold adjudication pursuant to this subsection.

''(4) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This subsection does not limit or modify the applicability of section 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with respect to an alien otherwise eligible for protection under such provisions.''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any application, petition, or request for any benefit or relief or any other case or matter under the immigration laws pending with or filed with the Secretary of Homeland Security on or after such date of enactment.

SEC. 1773. ACCESS TO THE NATIONAL CRIME INFORMATION CENTER INTERSTATE IDENTIFICATION INDEX.

(a) CRIMINAL JUSTICE ACTIVITIES.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended by adding at the end the following:

''(f) Notwithstanding any other provision of law, any Department of State personnel with authority to grant or refuse visas or passports may carry out activities that have a criminal justice purpose.''.

(b) LIAISON WITH INTERNAL SECURITY OFFICERS; DATA EXCHANGE.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting the following:

''(b) ACCESS TO NCIC-III.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General and the Director of the Federal Bureau of Investigation shall provide to the Department of Homeland Security and the Department of State access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the National Crime Information Center for the purpose of determining whether an applicant or petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws, or any beneficiary of an application, petition, relief, or status under the immigration laws, has a criminal history record indexed in the file.

''(2) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—The Secretary and the Secretary of State—

''(i) shall have direct access, without any fee or charge, to the information described in paragraph (1) to conduct name-based searches, file number searches, and any other searches that any criminal justice or other law enforcement officials are entitled to conduct; and

''(ii) may contribute to the records maintained by the National Crime Information Center.

''(B) SECRETARY OF HOMELAND SECURITY.—The Secretary shall receive, upon request, access to the information described in paragraph (1) by means of extracts of the records for placement in the appropriate database without any fee or charge.

''(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT PURPOSES.—Notwithstanding any other provision of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and other purposes relating to citizenship and immigration services, shall be considered to be criminal justice or law enforcement purposes with respect to access to or use of any information maintained by the National Crime Information Center or other criminal history information or records.''.

SEC. 1774. APPROPRIATE REMEDIES FOR IMMIGRATION LITIGATION.

(a) LIMITATION ON CLASS ACTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no court may certify, or continue the certification of, a class under Rule 23 of the Federal Rules of Civil Procedure in any civil action that—

(A) is pending or filed on or after the date of the enactment of this Act; and

(B) pertains to the administration or enforcement of the immigration laws.

(2) EXCEPTION.—A court may certify a class upon a motion by the Government if the Government is requesting such a certification to ensure efficiency in case management or uniformity in application of precedent decisions or interpretations of laws when there is a nationwide class.

(b) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety; and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in paragraph (1) shall be discussed and explained in writing in the order granting prospective relief and shall be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief granted under paragraph (1) shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) finds that such relief meets the requirements described in subparagraphs (A) through (D) of paragraph (1) for the entry of permanent prospective relief; and

(B) orders the preliminary relief to become a final order granting prospective relief before the expiration of such 90-day period.

(c) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on a motion made by the United States Government to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—A motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made by the United States Government in any civil action pertaining to the administration or enforcement of the immigration laws shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C)—

(i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise terminate an injunction; and

(ii) shall be immediately appealable under section 1292(a)(1) of title 28, United States Code.

(d) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with the requirements under subsection (b)(1).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection may be construed to preclude parties from entering into a private settlement agreement that does not comply with subsection (b)(1).

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

(f) CONSENT DECREE DEFINED.—In this section, the term ''consent decree''—

(1) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(2) does not include private settlements.

(g) COSTS AND FEES.—Section 2412(d)(2)(B) of title 28, United States Code, is amended—

(1) by striking ''an individual'' and inserting ''a United States citizen''; and

(2) by inserting ''United States citizen'' before ''owner''.

SEC. 1775. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary'';

(2) in subparagraph (A), in the matter preceding clause (i), by striking ''Justice'' and inserting ''Homeland Security'';

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) inserting after subparagraph (B) the following:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.''.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the Secretary's discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.

''(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary may use the information furnished under this section to adjudicate subsequent applications, petitions, or requests for immigration benefits filed by the alien.

''(iv) ALIEN CONSENT.—The Secretary may use the information furnished under this section for any purpose when the alien consents to its disclosure or use by the Secretary.

''(v) OTHER CIRCUMSTANCES.—The Secretary may use the information furnished under this section for other purposes and in other circumstances in which disclosure of the information is not related to removal of the alien from the United States.''; and

(5) in subparagraph (D), as redesignated, striking ''Service'' and inserting ''Department of Homeland Security''.

(b) ADJUSTMENT OF STATUS.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary'';

(2) in subparagraph (A), in the matter preceding clause (i), by striking ''Justice'' and inserting ''Homeland Security''; and

(3) by amending subparagraph (C) to read as follows:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the Secretary's discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.''.

SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Nationality, citizenship and passports

''No person shall be prosecuted, tried, or punished for a violation of any section of chapter 69 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration offenses), for a violation of any criminal provision of section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''.

SEC. 1777. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended by striking ''section 1542'' and all that follows through ''section 1546 (relating to fraud and misuse of visas, permits, and other documents)'' and inserting ''sections 1541 through 1546 (relating to passports and visas)''.

SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.

(a) CIVIL CASES.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C. 1351 et seq.), as amended by section 1126(a) of this Act, is further amended by adding at the end the following:

''SEC. 296. VALIDITY OF SIGNATURES.

''(a) IN GENERAL.—In any proceeding, adjudication, or any other matter arising under the immigration laws, an individual's hand written or electronic signature on any petition, application, or any other document executed or provided for any purpose under the immigration laws establishes a rebuttable presumption that the signature executed is that of the individual signing, that the individual is aware of the contents of the document, and intends to sign it.''.

''(b) RECORD INTEGRITY.—The Secretary shall establish procedures to ensure that when any electronic signature is captured for any petition, application, or other document submitted for purposes of obtaining an immigration benefit, the identity of the person is verified and authenticated, and the record of such identification and verification is preserved for litigation purposes.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 295, as added by section 1126(a)(2) of this Act, the following:

''Sec. 296. Validity of signatures.''.

(b) CRIMINAL CASES.—

(1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

''§ 3513. Signatures relating to immigration matters

''In a criminal proceeding in a court of the United States, if an individual's handwritten or electronic signature appears on a petition, application, or other document executed or provided for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was signed by that individual, and that the individual knew the contents of the document and intended to sign the document.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3512 the following:

''3513. Signatures relating to immigration matters.''.

Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States

CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS

SEC. 1801. LAWFUL PERMANENT RESIDENTS AS APPLICANTS FOR ADMISSION.

Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

(1) in clauses (i), (ii), (iii), and (iv), by striking the comma at the end of each clause and inserting a semicolon;

(2) in clause (v), by striking the '', or'' and inserting a semicolon;

(3) in clause (vi), by striking the period at the end and inserting ''; or'' and

(4) by adding at the end the following:

''(vii) is described in section 212(a)(3) or 237(a)(4).''.

SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF ADJUSTMENT OF STATUS.

(a) APPLICANTS FOR ADMISSION.—Section 101(a)(13) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)), as amended by section 1801, is further amended by adding at the end the following:

''(D) Notwithstanding subparagraph (A), adjustment of status of an alien to that of an alien lawfully admitted for permanent residence under section 245 or under any other provision of law is an admission of the alien.''.

(b) ELIGIBILITY TO BE REMOVED FOR A CRIME INVOLVING MORAL TURPITUDE.—Section 237(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking ''date of admission,'' inserting ''alien's most recent date of admission;''.

SEC. 1803. PRECLUDING ASYLEE AND REFUGEE ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF INADMISSIBILITY AND DEPORTABILITY.

(a) GROUNDS OF INADMISSIBILITY.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by striking ''(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3))'', and inserting ''(other than subparagraph (C) or (G) of paragraph (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3))''.

(b) GROUNDS OF DEPORTABILITY.—Section 209 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

''(d) An alien's status may not be adjusted under this section if the alien is in removal proceedings under section 238 or 240 and is charged with any ground of deportability under paragraph (2), (3), (4), or (6) of section 237(a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act; and

(2) all aliens who are required to establish admissibility on or after such date in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 1804. REVOCATION OF LAWFUL PERMANENT RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)) is amended by adding at the end the following:

''(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through (E) shall apply to any alien placed in proceedings under this section who—

''(i) is outside of the United States;

''(ii) has been provided written notice in accordance with section 239(a) (whether the alien is within or outside the United States); and

''(iii) is described in section 212(a)(2)(G) (persons who have committed particularly severe violations of religious freedom), 212(a)(3)(E) (Nazi and other persecution, genocide, war crimes, crimes against humanity, extrajudicial killing, torture, or specified human rights violations), or 212(a)(3)(G) (recruitment or use of child soldiers).''.

SEC. 1805. REMOVAL OF CONDITION ON LAWFUL PERMANENT RESIDENT STATUS PRIOR TO NATURALIZATION.

Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended—

(1) in section 216(e) (8 U.S.C. 1186a(e)), by inserting ''. if the alien has had the conditional basis removed pursuant to this section'' before the period at the end; and

(2) in section 216A(e) (8 U.S.C. 1186b(e)), by inserting ''. if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT OF STATUS.

(a) APPLICATION FOR ADJUSTMENT OF STATUS IN THE UNITED STATES.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by striking the section heading and subsection (a) and inserting the following:

''SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE.

''(a) IN GENERAL.—

''(1) ELIGIBILITY FOR ADJUSTMENT.—The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty may be adjusted by the Secretary or by the Attorney General, in the discretion of the Secretary or the Attorney General, and under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien files an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa, is admissible to the United States for permanent residence, and is not subject to exclusion, deportation, or removal from the United States; and

''(C) an immigrant visa is immediately available to the alien at the time the alien's application is filed.

''(2) REQUIREMENT TO OBTAIN AN IMMIGRANT VISA OUTSIDE OF THE UNITED STATES.—Notwithstanding any other provision of this section, if the Secretary determines that an alien may be a threat to national security or public safety or if the Secretary determines that a favorable exercise of discretion to allow an alien to seek to adjust his or her status in the United States is not warranted, the Secretary, in the Secretary's sole and unreviewable discretion, may deny the application for adjustment of status. If the Secretary denies an application for adjustment of status under this paragraph, the Secretary shall notify the Attorney General of such decision and the Attorney General shall deny any application for adjustment of status filed by the alien in an immigration proceeding.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by striking the item relating to section 245 and inserting the following:

''Sec. 245. Adjustment of status to that of a person admitted for permanent residence.''.

(b) PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

''(c) Except for an alien who has an approved petition for classification as a VAWA self-petitioner, subsection (a) shall not apply to—

''(1) an alien crewman;

''(2) subject to subsection (k), any alien (other than an immediate relative (as defined in section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of section 101(a)(27))) who—

''(A) continues in or accepts unauthorized employment before filing an application for adjustment of status;

''(B) is in unlawful immigration status on the date he or she files an application for adjustment of status; or

''(C) has failed (other than through no fault of his or her own or for technical reasons) to maintain continuously a lawful status since entry into the United States;

''(3) any alien admitted in transit without a visa under section 212(d)(4)(C);

''(4) an alien (other than an immediate relative (as defined in section 201(b))) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or 217;

''(5) an alien who was admitted as a nonimmigrant under section 101(a)(15)(S);

''(6) an alien described in section 212(a)(3)(B) or in subparagraph (B), (F), or (G) of section 237(a)(4);

''(7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status;

''(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; or

''(9) any alien who—

''(A) was employed while the alien was an unauthorized alien (as defined in section 274A(h)(3)); or

''(B) has otherwise violated the terms of a nonimmigrant visa.''.

SEC. 1807. TREATMENT OF APPLICATIONS FOR ADJUSTMENT OF STATUS DURING PENDING DENATURALIZATION PROCEEDINGS.

(a) VISA ISSUANCE.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g)) is amended—

(1) by inserting ''(1)'' before ''No visa'';

(2) by striking ''if (1) it appears'' and inserting the following: ''if—

''(A) it appears'';

(3) by striking ''law, (2) the application'' and inserting the following: ''law;

''(B) the application'';

(4) by striking ''thereunder, or (3) the consular officer'' and inserting the following: ''thereunder;

''(C) the consular officer'';

(5) by striking ''provision of law: *Provided*, That a visa'' and inserting the following: ''provision of law; or

''(D) the approved petition for classification under section 203 or 204 that is the underlying basis for the application for a visa was filed by an individual who has a judicial proceeding pending against him or her that would result in the individual's denaturalization under section 340.

''(2) A visa''; and

(6) by striking ''section 213: *Provided further*, That a visa'' and inserting the following: ''section 213.

''(3) A visa''.

(b) ADJUSTMENT OF STATUS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1451), as amended by sections 1764 and 1806, is further amended by adding at the end the following:

''(o) An application for adjustment of status may not be considered or approved by the Secretary or the Attorney General, and no court may order the approval of an application for adjustment of status if the approved petition for classification under section 204 that is the underlying basis for the application for adjustment of status was filed by an individual who has a judicial proceeding pending against him or her that would result in the revocation of the individual's naturalization under section 340.''.

SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESCISSION OF PERMANENT RESIDENT STATUS.

Section 246 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''within five years'' and inserting ''within 10 years'';

(C) by striking ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(D) by adding at the end the following:

''(2) In any removal proceeding involving an alien whose status has been rescinded under this subsection, the determination by the Secretary that the alien was not eligible for adjustment of status is not subject to review or reconsideration during such proceedings.''.

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) Nothing in subsection (a) may be construed to require the Secretary to rescind the alien's status before the commencement of removal proceedings under section 240. The Secretary may commence removal proceedings at any time against any alien who is removable, including aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence under section 245 or 249 or under any other provision of law. There is no statute of limitations with respect to the commencement of removal proceedings under section 240. An order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.''.

SEC. 1809. BARRING PERSECUTORS AND TERRORISTS FROM REGISTRY.

Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''(a) IN GENERAL.—The Secretary, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of lawful admission for permanent residence in the case of any alien, if no such record is otherwise available and the alien—

''(1) entered the United States before January 1, 1972;

''(2) has continuously resided in the United States since such entry;

''(3) has been a person of good moral character since such entry;

''(4) is not ineligible for citizenship;

''(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), (8), or (9)(C) of section 212(a);

''(6) is not described in paragraph (1)(E), (1)(G), (2), (4) of section 237(a); and

''(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability.

''(b) RECORDATION DATE OF PERMANENT RESIDENCE.—The record of an alien's lawful admission for permanence residence shall be the date on which the Secretary approves the application for such status under this section.''.

CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES CITIZENSHIP

SEC. 1821. BARRING TERRORISTS FROM BECOMING NATURALIZED UNITED STATES CITIZENS.

(a) IN GENERAL.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following:

''(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the Secretary determines, in the discretion of the Secretary, that the alien is described in section 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an application for naturalization.

''(B) Subparagraph (A) shall not apply to an alien described in section 212(a)(3) if—

''(i) the alien received an exemption under section 212(d)(3)(B)(i); and

''(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and would bar the alien from naturalization under this paragraph) are specifically covered by the exemption referred to in clause (i).

''(2) A determination under paragraph (1) may be based upon any relevant information or evidence, including classified, sensitive, or national security information.''.

(b) APPLICABILITY TO CITIZENSHIP THROUGH NATURALIZATION OF PARENT OR SPOUSE.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is amended—

(1) by striking the first sentence and inserting the following:

''(1) A person who claims United States citizenship through the naturalization of a parent or spouse shall be deemed to have lost his or her citizenship, and any right or privilege of citizenship which he or she may have acquired, or may hereafter acquire by virtue of the naturalization of such parent or spouse, if the order granting citizenship to such parent or spouse is revoked and set aside under the provisions of—

''(A) subsection (a) on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation; or

''(B) subsection (e) pursuant to a conviction under section 1425 of title 18, United States Code.''.

(2) in the second sentence, by striking ''Any person'' and inserting the following:

''(2) Any person''.

SEC. 1822. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by sections 1710(d), 1712(h), and 1713(d), is further amended—

(1) in paragraph (8), by inserting '', regardless of whether the crime was classified as an aggravated felony at the time of conviction'' before the semicolon at the end;

(2) by inserting after paragraph (11), the following:

''(12) one who the Secretary or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been an alien described in section 212(a)(3) or 237(a)(4), which determination—

''(A) may be based upon any relevant information or evidence, including classified, sensitive, or national security information; and

''(B) shall be binding upon any court regardless of the applicable standard of review.''; and

(3) in the undesignated matter at the end, by striking the first sentence and inserting following:

''The fact that a person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary or the Attorney General shall not be limited to the applicant's conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant's conduct and acts at any time. The Secretary or the Attorney General, in the unreviewable discretion of the Secretary or the Attorney General, may determine that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 15 years or longer before the date on which the person filed an application under this Act.''.

(b) AGGRAVATED FELONS.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note; Public Law 101–649) is amended by striking ''convictions'' and all that follows and inserting ''convictions occurring before, on, or after such date.''.

(c) EFFECTIVE DATES; APPLICATION.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date of enactment, and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after such date of enactment.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS FOR ALIENS IN REMOVAL PROCEEDINGS.

Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read as follows:

''SEC. 318. PREREQUISITE TO NATURALIZATION; BURDEN OF PROOF.

''(a) IN GENERAL.—Except as otherwise provided in this chapter, no person may be naturalized unless he or she has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter.

''(b) BURDEN OF PROOF.—A person described in subsection (a) shall have the burden of proof to show that he or she entered the United States lawfully, and the time, place, and manner of such entry into the United States. In presenting such proof, the person is entitled to the production of his or her immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Secretary to be confidential, pertaining to such entry, in the custody of the Department.

''(c) LIMITATIONS ON REVIEW.—Notwithstanding section 405(b), and except as provided in sections 328 and 329—

''(1) a person may not be naturalized against whom there is outstanding a final finding of removal, exclusion, or deportation;

''(2) an application for naturalization may not be considered by the Secretary or by any court if there is pending against the applicant any removal proceeding or other proceeding to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced; and

''(3) the findings of the Attorney General in terminating removal proceedings or in cancelling the removal of an alien pursuant to this Act may not be deemed binding in any way upon the Secretary with respect to the question of whether such person has established his or her eligibility for naturalization under this Act.''.

SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGENCY HAS NOT MADE DECISION ON NATURALIZATION APPLICATION AND ON DENIALS.

(a) LIMITATION ON REVIEW OF PENDING NATURALIZATION APPLICATIONS.—Section 336 of the Immigration and Nationality Act (8 U.S.C. 1447) is amended—

(1) in subsection (a), by striking ''If,'' and inserting the following:

''(b) IN GENERAL.—If,''; and

(2) by amending subsection (b) to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If a final administrative determination is not made on an application for naturalization under section 335 before the end of the 180-day period beginning on the date on which the Secretary completes all examinations and interviews under such section (as such terms are defined by the Secretary, by regulation), the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary for the Secretary's determination on the application.''.

(b) LIMITATIONS ON REVIEW OF DENIAL.—Section 310 of the Immigration and Nationality Act (8 U.S.C. 1421) is amended—

(1) by amending subsection (c) to read as follows:

''(c) JUDICIAL REVIEW.—

''(1) JUDICIAL REVIEW OF DENIAL.—A person whose application for naturalization under this title is denied may, not later than 120 days after the date of the Secretary's administratively final determination on the application and after a hearing before an immigration officer under section 336(a), seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code.

''(2) BURDEN OF PROOF.—The petitioner shall have burden of proof to show that the Secretary's denial of the application for naturalization was not supported by facially legitimate and bona fide reasons.

''(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, whether, for purposes of an application for naturalization, an alien—

''(A) is a person of good moral character;

''(B) understands and is attached to the principles of the Constitution of the United States; or

''(C) is well disposed to the good order and happiness of the United States.'';

(2) in subsection (d)—

(A) by inserting ''**SUBPOENAS.**—'' before ''The immigration officer'';

(B) by striking ''subpena'' and inserting ''subpoena''; and

(C) by striking ''subpenas'' each place such term appears and inserting ''subpoenas''; and

(3) in subsection (e), by inserting ''NAME CHANGE.—'' before ''It shall''.

(c) EFFECTIVE DATE; APPLICATION.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act;

(2) shall apply to any act that occurred before, on, or after such date of enactment; and

(3) shall apply to any application for naturalization or any other case or matter under the immigration laws that is pending on, or filed after, such date of enactment.

SEC. 1825. CLARIFICATION OF DENATURALIZATION AUTHORITY.

Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451) is amended—

(1) in subsection (a), by striking ''United States attorneys for the respective districts'' and inserting ''Attorney General''; and

(2) by amending subsection (c) to read as follows:

''(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and convincing evidence, that an order granting citizenship to an alien should be revoked and a certificate of naturalization cancelled because such order and certificate were illegally procured or were procured by concealment of a material fact or by willful misrepresentation.''.

SEC. 1826. DENATURALIZATION OF TERRORISTS.

(a) DENATURALIZATION FOR TERRORISTS ACTIVITIES.—Section 340 of the Immigration and Nationality Act, as amended by section 1825, is further amended—

(1) by redesignating subsections (d) through (h) as subsections (f) through (j), respectively; and

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

''(d)(1) If a person who has been naturalized, during the 15-year period after such naturalization, participates in any act described in paragraph (2)—

''(A) such act shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization; and

''(B) in the absence of countervailing evidence, such act shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation; and

''(C) such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

''(2) The acts described in this paragraph that shall subject a person to a revocation and setting aside of his or her naturalization under paragraph (1)(B) are—

''(A) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means;

''(B) engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section 212(a)(3)(B));

''(C) endorsing or espousing terrorist activity, or persuading others to endorse or espouse terrorist activity or a terrorist organization; and

''(D) receiving military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur on or after such date.

SEC. 1827. TREATMENT OF PENDING APPLICATIONS DURING DENATURALIZATION PROCEEDINGS.

(a) IN GENERAL.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended—

(1) by striking ''After'' and inserting ''(1) Except as provided in paragraph (2), after''; and

(2) by adding at the end the following:

''(2) The Secretary may not adjudicate or approve any petition filed under this section by an individual who has a judicial proceeding pending against him or her that would result in the individual's denaturalization under section 340 until—

''(A) such proceedings have concluded; and

''(B) the period for appeal has expired or any appeals have been finally decided, if applicable.''.

(b) WITHHOLDING OF IMMIGRATION BENEFITS.—Section 340 of such Act (8 U.S.C. 1451), as amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as added by section 1826(a)(2), the following:

''(e) The Secretary may not approve any application, petition, or request for any immigration benefit from an individual against whom there is a judicial proceeding pending that would result in the individual's denaturalization under this section until—

''(1) such proceedings have concluded; and

''(2) the period for appeal has expired or any appeals have been finally decided, if applicable.''.

SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

(a) IN GENERAL.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421 et seq.) is amended by inserting after section 344 the following:

''SEC. 345. NATURALIZATION DOCUMENT RETENTION.

''(a) IN GENERAL.—The Secretary shall retain all documents described in subsection (b) for a minimum of 7 years for law enforcement and national security investigations and for litigation purposes, regardless of whether such documents are scanned into U.S. Citizenship and Immigration Services' electronic immigration system or stored in any electronic format.

''(b) DOCUMENTS TO BE RETAINED.—The documents described in this subsection are—

''(1) the original paper naturalization application and all supporting paper documents submitted with the application at the time of filing, subsequent to filing, and during the course of the naturalization interview; and

''(2) any paper documents submitted in connection with an application for naturalization that is filed electronically.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act is amended by inserting after the item relating to section 344 the following:

''Sec. 345. Naturalization document retention.''.

CHAPTER 3—FORFEITURE OF PROCEEDS FROM PASSPORT AND VISA OFFENSES, AND PASSPORT REVOCATION.

SEC. 1831. FORFEITURE OF PROCEEDS FROM PASSPORT AND VISA OFFENSES.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(J) Any real or personal property that has been used to commit, or to facilitate the commission of, a violation of chapter 75, the gross proceeds of such violation, and any property traceable to any such property or proceeds.''.

SEC. 1832. PASSPORT REVOCATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Passport Revocation Act''.

(b) REVOCATION OR DENIAL OF PASSPORTS AND PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILIATED WITH FOREIGN TERRORIST ORGANIZATIONS.—The Act entitled ''An Act to regulate the issue and validity of passports, and for other purposes'', approved July 3, 1926 (22 U.S.C. 211a et seq.), which is commonly known as the ''Passport Act of 1926'', is amended by adding at the end the following:

''SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND PASSPORT CARD.

''(a) INELIGIBILITY.—

''(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall refuse to issue a passport or a passport card to any individual—

''(A) who has been convicted of a violation of chapter 113B of title 18, United States Code; or

''(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated with an organization the Secretary has designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(ii) has aided, abetted, or provided material support to an organization described in clause (i).

''(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to any individual described in paragraph (1).

''(b) EXCEPTIONS.—

''(1) EMERGENCY CIRCUMSTANCES, HUMANITARIAN REASONS, AND LAW ENFORCEMENT PURPOSES.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to revoke, a passport of an individual described in such subsection in emergency circumstances, for humanitarian reasons, or for law enforcement purposes.

''(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

''(A) limit a previously issued passport for use only for return travel to the United States; or

''(B) issue a limited passport that only permits return travel to the United States.

''(c) RIGHT OF REVIEW.—Any individual who, in accordance with this section, is denied issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise limited by the Secretary of State, may request a hearing before the Secretary of State not later than 60 days after receiving notice of such denial, revocation, or limitation.

''(d) REPORT.—If the Secretary of State denies, issues, limits, or declines to revoke a passport or passport card under subsection (b), the Secretary, not later than 30 days after such denial, issuance, limitation, or revocation, shall submit a report to Congress that describes such denial, issuance, limitation, or revocation, as appropriate.''.

TITLE II—PERMANENT REAUTHORIZATION OF VOLUNTARY E–VERIFY

SEC. 2001. PERMANENT REAUTHORIZATION.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''Unless the Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program on September 30, 2015.''.

SEC. 2002. PREEMPTION; LIABILITY.

Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following:

''(g) LIMITATION ON STATE AUTHORITY.—

''(1) PREEMPTION.—A State or local government may not prohibit a person or other entity from verifying the employment authorization of new hires or current employees through E-Verify.

''(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held liable under any Federal, State, or local law for any employment-related action taken with respect to the wrongful termination of an individual in good faith reliance on information provided through E-Verify.''.

SEC. 2003. INFORMATION SHARING.

The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary of the Treasury shall jointly establish a program to share information among their respective agencies that could lead to the identification of unauthorized aliens (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match letters and any information in the earnings suspense file.

SEC. 2004. SMALL BUSINESS DEMONSTRATION PROGRAM.

Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

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

''(d) SMALL BUSINESS DEMONSTRATION PROGRAM.—Not later than 9 months after the date of enactment of the SECURE and SUCCEED Act, the Director of U.S. Citizenship and Immigration Services shall establish a demonstration program that assists small businesses in rural areas or areas without internet capabilities to verify the employment eligibility of newly hired employees solely through the use of publicly accessible internet terminals.''.

SEC. 2005. FRAUD PREVENTION.

(a) BLOCKING MISUSED SOCIAL SECURITY ACCOUNT NUMBERS.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which Social Security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.

(b) ALLOWING SUSPENSION OF USE OF CERTAIN SOCIAL SECURITY ACCOUNT NUMBERS.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a reliable, secure method by which victims of identity fraud and other individuals may suspend or limit the use of their Social Security account number or other identifying information for purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

(c) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the Social Security account number or other identifying information of a minor under their care for the purposes of the employment eligibility verification system established under 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish, by regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot programs (referred to in this section as the ''Authentication Pilots''), each of which shall use a separate and distinct technology.

(b) PURPOSE.—The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees to any employer that elects to participate in an Authentication Pilot.

(c) CANCELLATION.—Any participating employer may cancel the employer's participation in an Authentication Pilot after 1 year after electing to participate without prejudice to future participation.

(d) REPORT.—Not later than 12 months after commencement of the Authentication Pilots, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes the Secretary's findings on the Authentication Pilots and the authentication technologies chosen.

TITLE III—SUCCEED ACT

SEC. 3001. SHORT TITLES.

This title may be cited as the ''Solution for Undocumented Children through Careers, Employment, Education, and Defending our Nation Act'' or the ''SUCCEED Act''.

SEC. 3002. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title that is also used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) ALIEN ENLISTEE.—The term ''alien enlistee'' means a conditional temporary resident that seeks to maintain or extend such status by complying with the requirements under this title relating to enlistment and service in the Armed Forces of the United States.

(3) ALIEN POSTSECONDARY STUDENT.—The term ''alien postsecondary student'' means a conditional temporary resident that seeks to maintain or extend such status by complying with the requirements under this title relating to enrollment in, and graduation from, an institution of higher education in the United States.

(4) CONDITIONAL TEMPORARY RESIDENT.—

(A) DEFINITION.—The term ''conditional temporary resident'' means an alien described in subparagraph (B) who is granted conditional temporary resident status under this title.

(B) DESCRIPTION.—An alien granted conditional temporary resident status under this title—

(i) shall not be considered to be an alien who is unlawfully present in the United States for purposes of the immigration laws, including section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623);

(ii) shall not be permitted to apply for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) until the date on which the alien is permitted to so apply under section 3005;

(iii) has the intention to permanently reside in the United States;

(iv) is not required to have a foreign residence which the alien has no intention of abandoning; and

(v) on the date on which the alien is eligible to apply for adjustment of status to that of an alien lawfully admitted for permanent residence under section 3005, the shall be considered to have been inspected and admitted for the purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)).

(5) FEDERAL PUBLIC BENEFIT.—The term ''Federal public benefit'' means—

(A) the American Opportunity Tax Credit authorized under section 25A(i) of the Internal Revenue Code of 1986;

(B) the Earned Income Tax Credit authorized under section 32 of the Internal Revenue Code of 1986;

(C) the Health Coverage Tax Credit authorized under section 35 of the Internal Revenue Code of 1986;

(D) Social Security benefits authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(E) Medicare benefits authorized under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(F) benefits received under the Federal-State Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(6) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(7) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include an institution of higher education outside of the United States.

(8) MILITARY-RELATED TERMS.—The terms ''active duty'', ''active service'', ''active status'', and ''armed forces'' have the meanings given those terms in section 101 of title 10, United States Code.

(9) APPLICABLE FEDERAL TAX LIABILITY.—The term ''applicable Federal tax liability'' means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on such taxes.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(11) SIGNIFICANT MISDEMEANOR.—The term ''significant misdemeanor'' means—

(A) a criminal offense involving—

(i) domestic violence;

(ii) sexual abuse or exploitation, including sexually explicit conduct involving minors (as such terms are defined in section 2256 of title 18, United States Code);

(iii) burglary;

(iv) unlawful possession or use of a firearm;

(v) drug distribution or trafficking; or

(vi) driving under the influence or driving while intoxicated; or

(B) any other misdemeanor for which the individual was sentenced to a term of imprisonment of not less than 90 days (excluding a suspended sentence).

SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this title, the Secretary may cancel the removal of an alien who is inadmissible or deportable from the United States and grant the alien conditional temporary resident status under this title, if—

(A) the alien has been physically present in the United States for a continuous period since June 15, 2012;

(B) the alien was younger than 16 years of age on the date on which the alien initially entered the United States;

(C) on June 15, 2012, the alien—

(i) was younger than 31 years of age; and

(ii) had no lawful status in the United States;

(D) in the case of an alien who is 18 years of age or older on the date of enactment of this Act, the alien—

(i) meets the other requirements of this section; and

(ii)(I) has, while in the United States, earned a high school diploma, obtained a general education development certificate recognized under State law, or received a high school equivalency diploma;

(II) has been admitted to an institution of higher education in the United States; or

(III) has served, is serving, or has enlisted in the Armed Forces of the United States;

(E) in the case of an alien who is younger than 18 years of age on the date of enactment of this Act, the alien—

(i) meets the other requirements of this section; and

(ii)(I) is attending, or has enrolled in, a primary or secondary school; or

(II) is attending, or has enrolled in, a postsecondary school;

(F) the alien has been a person of good moral character (as defined in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date on which the alien initially entered the United States;

(G) the alien has paid any applicable Federal tax liability or has agreed to cure such liability through a payment installment plan that has been approved by the Internal Revenue Service; and

(H) the alien, subject to paragraph (2)—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8), (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of such Act (unless the Secretary determines that the sole basis for the alien's removal under such subparagraph was unlawful presence under subparagraph (B) or (C) of such section 212(a)(9));

(ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(iv) does not, in the sole and unreviewable discretion of the Secretary, pose a threat to national security or public safety;

(v) is not a person who the Secretary knows, or has reason to believe—

(I) is a member of a criminal gang; or

(II) has participated in an activity of a criminal gang, knowing or having reason to believe that the activity promoted, furthered, aided, or supported, or will promote, further, aid, or support, the illegal activity of the criminal gang; and

(vi) has not been convicted of—

(I) a felony under Federal or State law, regardless of the sentence imposed;

(II) any combination of offenses under Federal or State law for which the alien was sentenced to imprisonment for at least 1 year;

(III) a significant misdemeanor; and

(IV) 3 or more misdemeanors; and

(I) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such final order was issued; or

(ii) received the final order before attaining 18 years of age.

(2) WAIVER.—

(A) IN GENERAL.—The Secretary, in the discretion of the Secretary, may waive, on a case-by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and a ground of deportability under paragraph (A), (B), (C), or (E) of section 237(a)(1) of such Act (8 U.S.C. 1227(a)(1)) for humanitarian purposes or if such waiver is otherwise in the public interest.

(B) QUARTERLY REPORT.—Not later than 180 days after the date of the enactment of this Act, and quarterly thereafter, the Secretary shall submit a report to Congress that identifies—

(i) the number of waivers under this paragraph that were requested by aliens during the preceding quarter;

(ii) the number of such requests that were granted; and

(iii) the number of such requests that were denied.

(C) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including sections 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a court shall not have jurisdiction to review a determination made by the Secretary under subparagraph (A).

(3) PROCEDURES.—

(A) APPLICATION FOR AFFIRMATIVE RELIEF.—

(i) REGULATIONS.—

(I) IN GENERAL.—The Secretary shall issue regulations that provide a procedure for eligible individuals to affirmatively apply for the relief available under this subsection without being placed in removal proceedings.

(II) REQUIREMENTS.—The regulations issued under subclause (I)—

(aa) shall establish a date after which an alien may not seek relief under this title; and

(bb) shall not allow an affidavit or a sworn statement to be considered sufficient evidence to establish any claim under this title.

(ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an application for relief under this title that includes all supporting documentation, in accordance with the regulations issued under clause (i).

(iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including sections 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a court shall not have jurisdiction to review a determination by the Secretary with respect to an application under this subsection.

(iv) DEADLINE FOR APPLICATION.—An alien shall submit an application under this section not later than the later of—

(I) in the case of an alien who is 18 years of age or older, 1 year after the date on which the Secretary begins accepting applications; and

(II) 180 days after the date on which the alien attains 18 years of age.

(v) FEE.—With respect to an application under this subsection, the Secretary shall collect a fee in an amount that will ensure the recovery of the full costs of administering the application and adjudication process.

(B) ACKNOWLEDGMENT TO BARS TO RELIEF.—

(i) ACKNOWLEDGMENT OF NOTIFICATION.—The regulations issued pursuant to subparagraph (A) shall include a requirement that each alien applying for conditional temporary resident status under this title who is at least 18 years of age sign, under penalty of perjury, an acknowledgment confirming that the alien was notified and understands that he or she will be ineligible for any form of relief or immigration benefit under this title or other immigration laws other than withholding of removal under section 241(b)(3), or relief from removal based on a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, if the alien violates a term for conditional temporary resident status under this title.

(ii) EXCEPTION.—Notwithstanding an acknowledgment under clause (ii), the Secretary, in the discretion of the Secretary, may allow an alien who violated the terms of conditional temporary resident status (other than a criminal alien or an alien deemed to be a national security or public safety risk) to seek relief from removal if the Secretary determines that such relief is warranted for humanitarian purposes or if otherwise in the public interest.

(iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a determination by the Secretary under clause (ii).

(4) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(A) IN GENERAL.—The Secretary may not cancel the removal of, or grant temporary permanent resident status to, an alien under this title before the date on which—

(i) the alien submits biometric and biographic data, in accordance with procedures established by the Secretary; and

(ii) the Secretary receives and reviews the results of the background and security checks of the alien under paragraph (5).

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any applicant who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical disability or impairment.

(5) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines to be appropriate, including information obtained pursuant to subparagraph (C)—

(i) to conduct security and law enforcement background checks of an alien seeking relief under this subsection; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such relief.

(B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary cancels the removal of an alien under this title.

(C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary of State, shall seek to obtain information about any criminal activity the alien engaged in, or for which the alien was convicted in his or her country of nationality, country of citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any other international or national law enforcement agency of the alien's country of nationality, country of citizenship, or country of last habitual residence.

(6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection shall undergo a medical examination conducted by a designated civil surgeon pursuant to procedures established by the Secretary.

(7) INTERVIEW.—The Secretary may conduct an in-person interview of an applicant for conditional temporary resident status as part of a determination with respect to whether the alien meets the eligibility requirements described in this section.

(8) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this subsection shall establish that the alien has registered for the Selective Service under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such registration requirement under such Act.

(9) TREATMENT OF EXPUNGED CONVICTIONS.—

(A) IN GENERAL.—The Secretary shall evaluate expunged convictions on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, an alien may be eligible for—

(i) conditional temporary resident status under this title; or

(ii) adjustment to that of an alien lawfully admitted for permanent residence under section 3005.

(B) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a determination by the Secretary under subparagraph (A).

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under subsection (a) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a)(1)(A) if the alien has departed from the United States for—

(A) any period exceeding 90 days; or

(B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be not less compelling than the serious illness of the alien, or the death or serious illness of the alien's parent, grandparent, sibling, or child.

(3) EXCEPTION FOR MILITARY SERVICE.—Any time spent outside of the United States that is due to the alien's active service in the Armed Forces of the United States shall not be counted towards the time limits set forth in paragraph (1).

(d) RULEMAKING.—

(1) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish regulations implementing this section.

(2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations required under paragraph (1) shall be effective, on an interim basis, immediately upon publication but may be subject to change and revision after public notice and opportunity for a period of public comment.

(3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations under paragraph (1), the Secretary shall publish final regulations implementing this section.

(e) REMOVAL OF ALIEN.—The Secretary may not seek to remove an alien who establishes prima facie eligibility for cancellation of removal and conditional temporary resident status under this title until the alien has been provided with a reasonable opportunity to file an application for conditional temporary resident status under this title.

SEC. 3004. CONDITIONAL TEMPORARY RESIDENT STATUS.

(a) INITIAL LENGTH OF STATUS.—Conditional temporary resident status granted to an alien under this title shall be valid—

(1) for an initial period of 7 years, subject to termination under subsection (c), if applicable; and

(2) if the alien will not reach 18 years of age before the end of the period described in paragraph (1), until the alien reaches 18 years of age.

(b) TERMS OF CONDITIONAL TEMPORARY RESIDENT STATUS.—

(1) EMPLOYMENT.—A conditional temporary resident may—

(A) be employed in the United States incident to conditional temporary resident status under this title; and

(B) enlist in the Armed Forces of the United States in accordance with section 504(b)(1)(D) of title 10, United States Code.

(2) TRAVEL.—A conditional temporary resident may travel outside the United States and may be admitted (if otherwise admissible) upon returning to the United States without having to obtain a visa if—

(A) the alien is the bearer of valid, unexpired documentary evidence of conditional temporary resident status under this title; and

(B) the alien's absence from the United States—

(i) was not for a period of 180 days or longer, or for multiple periods exceeding 180 days in the aggregate; or

(ii) was due to active service in the Armed Forces of the United States.

(c) TERMINATION OF STATUS.—The Secretary shall immediately terminate the conditional temporary resident status of an alien under this title—

(1) in the case of an alien who is 18 years of age or older, if the Secretary determines that the alien is a postsecondary student who was admitted to an accredited institution of higher education in the United States, but failed to enroll in such institution within 1 year after the date on which the alien was granted conditional temporary resident status under this title or to remain so enrolled;

(2) in the case of an alien who is younger than 18 years of age, if the Secretary determines that the alien enrolled in a primary or secondary school as a full-time student, but has failed to attend such school for a period exceeding 1 year during the 7-year period beginning on the date on which the alien was granted conditional temporary resident status under this title;

(3) in the case of an alien who was granted conditional temporary resident status under this title as an enlistee, if the alien—

(A) failed to complete basic training and begin active duty service or service in Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United States within 1 year after the date on which the alien was granted conditional temporary resident status under this title; or

(B) has received a dishonorable or other than honorable discharge from the Armed Forces of the United States;

(4) if the alien was granted conditional temporary resident status under this title as a result of fraud or misrepresentation;

(5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of section 3003(a)(1);

(6) if the alien violated a term or condition of his or her conditional resident status;

(7) if the alien has become a public charge;

(8) if the alien has not maintained employment in the United States for a period of at least 1 year since the alien was granted conditional temporary resident status under this title and while the alien was not enrolled as a student in a postsecondary school or institution of higher education or serving in the Armed Forces of the United States; or

(9) if the alien has not completed a combination of employment, military service, or postsecondary school totaling 62 months during the 7-year period beginning on the date on which the alien was granted conditional temporary resident status under this title.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—The immigration status of an alien the conditional temporary resident status of whom is terminated under subsection (c) shall return to the immigration status of the alien on the day before the date on which the alien received conditional temporary resident status under this title.

(e) EXTENSION OF CONDITIONAL TEMPORARY RESIDENT STATUS.—The Secretary shall extend the conditional temporary resident status of an alien granted such status under this title for 1 additional 5-year period beyond the period specified in subsection (a) if the alien—

(1) has demonstrated good moral character during the entire period the alien has been a conditional temporary resident under this title;

(2) is in compliance with section 3003(a)(1);

(3) has not abandoned the alien's residence in the United States by being absent from the United States for a period of 180 days, or multiple periods of at least 180 days, in the aggregate, during the period of conditional temporary resident status under this title, unless the absence of the alien was due to active service in the Armed Forces of the United States;

(4) does not have any delinquent tax liabilities;

(5) has not received any Federal public benefit; and

(6) while the alien has been a conditional temporary resident under this title—

(A) has graduated from an accredited institution of higher education in the United States;

(B) has attended an accredited institution of higher education in the United States on a full-time basis for not less than 8 semesters;

(C)(i) has served as a member of a regular or reserve component of the Armed Forces of the United States in an active duty status for at least 3 years; and

(ii) if discharged from such service, received an honorable discharge; or

(D) has, for a cumulative total of not less than 48 months—

(i) attended an accredited institution of higher education in the United States on a full-time basis;

(ii)(I) honorably served in the Armed Forces of the United States; and

(II) maintained employment in the United States; or

(iii)(I) attended an accredited institution of higher education in the United States;

(II) honorably served in the Armed Forces of the United States; and

(III) otherwise maintained lawful employment in the United States.

(f) RETURN TO PREVIOUS STATUS.—The immigration status of an alien receiving an extension of conditional temporary resident status shall return to the immigration status of the alien on the day before the date on which the alien received conditional temporary resident status if the alien has not filed to adjust status to that of an alien lawfully admitted for permanent residence under section 3005 by the date on which the 5-year period referred to in subsection (e) ends.

SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR TEMPORARY RESIDENCE.

(a) IN GENERAL.—An alien who has been a conditional temporary resident under this title for at least 7 years may file an application with the Secretary, in accordance with subsection (c), to adjust status to that of an alien lawfully admitted for permanent residence. The application shall include the required fee and shall be filed in accordance with the procedures established by the Secretary.

(b) ADJUDICATION OF APPLICATION FOR ADJUSTMENT OF STATUS.—

(1) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines that an alien who filed an application under subsection (a) meets the requirements described in subsection (d), the Secretary shall—

(A) notify the alien of such determination; and

(B) adjust the alien's status to that of an alien lawfully admitted for permanent residence.

(2) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that an alien who files an application under subsection (a) does not meet the requirements described in subsection (d), the Secretary shall—

(A) notify the alien of such determination; and

(B) terminate the conditional temporary status of the alien.

(c) TIME TO FILE APPLICATION.—

(1) IN GENERAL.—Applications for adjustment of status described in subsection (a) shall be filed during the period—

(A) beginning 180 days before the expiration of the 7-year period of conditional temporary resident status under this title; and

(B) ending—

(i) 7 years after the date on which conditional temporary resident status was initially granted to the alien under this title; or

(ii) after the conditional temporary resident status has been terminated.

(2) STATUS DURING PENDENCY.—An alien shall be deemed to be in conditional temporary resident status in the United States during the period in which an application filed by the alien under subsection (a) is pending.

(d) CONTENTS OF APPLICATION.—

(1) IN GENERAL.—Each application filed by an alien under subsection (a) shall contain information to permit the Secretary to determine whether the alien—

(A) has been a conditional temporary resident under this title for at least 7 years;

(B) has demonstrated good moral character during the entire period the alien has been a conditional temporary resident under this title;

(C) is in compliance with section 3003(a)(1); and

(D) has not abandoned the alien's residence in the United States.

(2) PRESUMPTIONS.—For purposes of paragraph (1)—

(A) the Secretary shall presume that an alien has abandoned the alien's residence in the United States if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional temporary resident status under this title, unless the alien demonstrates that the alien has not abandoned the alien's residence; and

(B) an alien who is absent from the United States due to active service in the Armed Forces of the United States has not abandoned the alien's residence in the United States during the period of such service.

(e) CITIZENSHIP REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien granted conditional temporary resident status under this title may not be adjusted to permanent resident status unless the alien demonstrates to the satisfaction of the Secretary that the alien satisfies the requirements under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

(2) EXCEPTION.—Paragraph (1) shall not apply to an alien whom the Secretary determines is unable because of a physical or developmental disability or mental impairment to meet the requirements of such paragraph. The Secretary, in coordination with the Secretary of Health and Human Services and the Surgeon General, shall establish procedures for making determinations under this subsection.

(f) PAYMENT OF FEDERAL TAXES.—Not later than the date on which an application for adjustment of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability due and owing on such date, as determined and verified by the Commissioner of Internal Revenue, notwithstanding section 6103 of title 26, United States Code, or any other provision of law.

(g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(1) IN GENERAL.—The Secretary may not adjust the status of an alien under this section unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.

(2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for an applicant who is unable to provide the biometric or biographic data referred to in paragraph (1) due to a physical disability or impairment.

(h) BACKGROUND CHECKS.—

(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines to be appropriate—

(A) to conduct security and law enforcement background checks of an alien applying for adjustment of status under this section; and

(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such adjustment of status.

(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks required under paragraph (1) shall be completed with respect to an alien, to the satisfaction of the Secretary, before the date on which the Secretary makes a decision on the application for adjustment of status of the alien.

(i) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status under this section.

(j) TREATMENT OF ALIENS MEETING REQUIREMENTS FOR EXTENSION OF CONDITIONAL TEMPORARY RESIDENT STATUS.—If an alien has satisfied all of the requirements under section 3003(a)(1) as of the date of enactment of this Act, the Secretary may cancel the removal of the alien and permit the alien to apply for conditional temporary resident status under this title. After the initial period of conditional temporary resident status described in section 3004(a), the Secretary shall extend such alien's conditional temporary resident status and permit the alien to apply for adjustment of status in accordance with subsection (a) if the alien has met the requirements under section 3004(e) during the entire period of conditional temporary resident status under this title.

SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS GRANTED CONDITIONAL TEMPORARY RESIDENT STATUS.

Notwithstanding any other provision of law, a natural parent, prior adoptive parent, spouse, parent, child, or any other family member of an alien provided conditional temporary resident status or lawful permanent resident status under this title shall not thereafter be accorded, by virtue of parentage or familial relationship, any right, privilege, or status under the immigration laws.

SEC. 3007. EXCLUSIVE JURISDICTION.

(a) SECRETARY OF HOMELAND SECURITY.—Except as provided in subsection (b), the Secretary shall have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties delegated to the Secretary under this title. If a final order is entered before relief is granted under this title, the Attorney General shall terminate such order only after the alien has been granted conditional temporary resident status under this title.

(b) ATTORNEY GENERAL.—The Attorney General shall have exclusive jurisdiction to determine eligibility for relief under this title for any alien who has been placed into deportation, exclusion, or removal proceedings, whether such placement occurred before or after the alien filed an application for cancellation of removal and conditional temporary resident status or adjustment of status under this title. Such exclusive jurisdiction shall continue until such proceedings are terminated.

SEC. 3008. CONFIDENTIALITY OF INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—The Secretary shall establish procedures to protect the confidentiality of information provided by an alien under this title.

(b) PROHIBITION.—Except as provided in subsection (c), an officer or employee of the United States may not—

(1) use the information provided by an individual pursuant to an application filed under this title as the sole basis to initiate removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against the parent or spouse of the individual;

(2) make any publication whereby the information provided by any particular individual pursuant to an application under this title can be identified; or

(3) permit anyone other than an officer or employee of the United States Government to examine such application filed under this title.

(c) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall disclose the information provided by an individual under this title and any other information derived from such information to—

(1) a Federal, State, Tribal, or local government agency, court, or grand jury in connection with an administrative, civil, or criminal investigation or prosecution;

(2) a background check conducted pursuant to the Brady Handgun Violence Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act;

(3) for homeland security or national security purposes;

(4) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime); or

(5) the Bureau of the Census in the same manner and circumstances as the information may be disclosed under section 8 of title 13, United States Code.

(d) FRAUD IN APPLICATION PROCESS OR CRIMINAL CONDUCT.—Nothing in this section may be construed to prevent the disclosure and use of information provided by an alien under this title to determine whether an alien seeking relief under this title has engaged in fraud in an application for such relief or at any time committed a crime from

being used or released for immigration enforcement, law enforcement, or national security purposes.

(e) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary may use the information provided by an individual pursuant to an application filed under this title to adjudicate an application, petition, or other request for an immigration benefit made by the individual on a date after the date on which the individual filed the application under this title.

(f) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR CONDITIONAL TEMPORARY RESIDENTS.

An individual who has met the requirements under section 3005 for adjustment from conditional temporary resident status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year eligibility waiting period under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

SEC. 3010. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that sets forth—

(1) the number of aliens who were eligible for cancellation of removal and grant of conditional temporary resident status under section 3003(a);

(2) the number of aliens who applied for cancellation of removal and grant of conditional temporary resident status under section 3003(a);

(3) the number of aliens who were granted conditional temporary resident status under section 3003(a); and

(4) the number of aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence pursuant to section 3005.

SEC. 3011. MILITARY ENLISTMENT.

Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following:

''(D) An alien who is a conditional temporary resident (as defined in section 3002 of the SUCCEED Act).''.

SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years after such adjustment of status.

SEC. 3013. FUNDING.

(a) DEPARTMENT OF HOMELAND SECURITY IMMIGRATION REFORM IMPLEMENTATION ACCOUNT.—

(1) IN GENERAL.—There is established in the Treasury a separate account, which shall be known as the ''Department of Homeland Security Immigration Reform Implementation Account'' (referred to in this section as the ''Implementation Account'').

(2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the Implementation Account, out of any funds in the Treasury not otherwise appropriated, $400,000,000, which shall remain available until September 30, 2022.

(3) USE OF APPROPRIATIONS.—The Secretary is authorized to use funds appropriated to the Implementation Account to pay for one-time and startup costs necessary to implement this title, including, but not limited to—

(A) personnel required to process applications and petitions;

(B) equipment, information technology systems, infrastructure, and human resources;

(C) outreach to the public, including development and promulgation of any regulations, rules, or other public notice; and

(D) anti-fraud programs and actions related to implementation of this title.

(4) REPORTING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a plan to the Committee on Appropriations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives for spending the funds appropriated under paragraph (2) that describes how such funds will be obligated in each fiscal year, by program.

(b) DEPOSIT AND USE OF PROCESSING FEES.—

(1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be deposited monthly in the general fund of the Treasury until the funding provided by subsection (a)(2) has been repaid.

(2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected under this title in excess of the amount referenced in paragraph (1) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(n) of such Act (8 U.S.C. 1356(n)).

TITLE IV—ENSURING FAMILY REUNIFICATION

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Ensuring Family Reunification Act of 2018''.

SEC. 4002. FAMILY-SPONSORED IMMIGRATION PRIORITIES.

(a) REDEFINITION OF IMMEDIATE RELATIVE.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking ''under twenty-one years of age who'' and inserting ''who is younger than 18 years of age and''; and

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection (b)(2)(A)—

(i) in clause (i), by striking ''children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.'' and inserting ''children and spouse of a citizen of the United States.''; and

(ii) in clause (ii), by striking ''such an immediate relative'' and inserting ''the immediate relative spouse of a United States citizen'';

(B) by amending subsection (c) to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—(1) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000 minus the number computed under paragraph (2).

''(2) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year who—

''(A) did not depart from the United States (without advance parole) within 1 year; and

''(B)(i) did not acquire the status of an alien lawfully admitted to the United States for permanent residence during the 2 preceding fiscal years; or

''(ii) acquired such status during such period under a provision of law (other than subsection (b)) that exempts adjustment to such status from the numerical limitation on the worldwide level of immigration under this section.''; and

(C) in subsection (f)—

(i) in paragraph (2), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)'';

(ii) by striking paragraph (3);

(iii) by redesignating paragraph (4) as paragraph (3); and

(iv) in paragraph (3), as redesignated, by striking ''(1) through (3)'' and inserting ''(1) and (2)''.

(b) FAMILY-BASED VISA PREFERENCES.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) SPOUSES AND MINOR CHILDREN OF PERMANENT RESIDENT ALIENS.—Family-sponsored immigrants described in this subsection are qualified immigrants who are the spouse or a child of an alien lawfully admitted for permanent residence.''.

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking ''section 203(a)(2)(A)'' each place such term appears and inserting ''section 203(a)''.

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B) and inserting the following:

''(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal year, 75 percent shall be issued without regard to the numerical limitation under paragraph (2).

''(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).—

''(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in any fiscal year, 25 percent shall be available, in the case of a foreign state or dependent area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or dependent area is less than the subsection (e) ceiling.

''(ii) SUBSECTION (e) CEILING DEFINED.—In clause (i), the term 'subsection (e) ceiling' means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area, consistent with subsection (e).''; and

(ii) by striking subparagraphs (C) and (D); and

(B) in subsection (e)—

(i) in paragraph (1), by adding ''and'' at the end;

(ii) by striking paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (2); and

(iv) in the undesignated matter after paragraph (2), as redesignated, by striking '', respectively,'' and all that follows and inserting a period.

(3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by striking ''(a)(2)(A)'' each place such term appears and inserting ''(a)(2)''.

(4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(i), by striking ''to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or'';

(ii) in subparagraph (B), by striking ''203(a)(2)(A)'' each place such term appears and inserting ''203(a)''; and

(iii) in subparagraph (D)(i)(I), by striking ''a petitioner'' and all that follows through ''(a)(1)(B)(iii).'' and inserting ''an individual younger than 18 years of age for purposes of adjudicating such petition and for purposes of admission as an immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant under section 203(a), as appropriate, notwithstanding the actual age of the individual.'';

(B) in subsection (f)(1), by striking '', 203(a)(1), or 203(a)(3), as appropriate''; and

(C) by striking subsection (k).

(5) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(A) in subsection (a)(6)(E)(ii), by striking ''section 203(a)(2)'' and inserting ''section 203(a)''; and

(B) in subsection (d)(11), by striking ''(other than paragraph (4) thereof)''.

(6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C. 1184(q)(1)(B)(i)) is amended by striking ''section 203(a)(2)(A)'' each place such term appears and inserting ''section 203(a)''.

(7) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C)) is amended by striking ''section 203(a)(2)'' and inserting ''section 203(a)''.

(8) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking ''section 203(a)(2)'' and inserting ''section 203(a)''.

(d) CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIEN PARENTS OF ADULT UNITED STATES CITIZENS.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a semicolon;

(B) in subparagraph (U)(iii), by striking ''or'' at the end;

(C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States, if the citizen is at least 21 years of age.''.

(2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s)(1) The initial period of authorized admission for a nonimmigrant described in section 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still residing in the United States.

''(2) A nonimmigrant described in section 101(a)(15)(W)—

''(A) is not authorized to be employed in the United States; and

''(B) is not eligible for any Federal, State, or local public benefit.

''(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the United States citizen son or daughter who sponsored the nonimmigrant parent shall be responsible for the nonimmigrant's support while the nonimmigrant resides in the United States.

''(4) An alien is ineligible to receive a visa or to be admitted into the United States as a nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof that the United States citizen son or daughter has arranged for health insurance coverage for the alien, at no cost to the alien, during the anticipated period of the alien's residence in the United States.''.

(e) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) NEW PETITIONS.—

(A) IN GENERAL.—The Director of U. S. Citizenship and Immigration Services shall only accept new family-based petitions for spouses and minor children of United States citizens and lawful permanent residents under—

(i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)(A)); or

(ii) subsection (a) or (b) of section 203 of such Act (8 U.S.C. 1153).

(B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services may not accept any new family-based petition other than a petition described in subparagraph (A).

(3) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the termination by this title of the family-sponsored immigrant visa categories under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available to, any alien who has—

(A) an approved family-based petition that has not been terminated or revoked, or

(B) a properly-filed family-based petition that is—

(i) pending with U.S. Citizenship and Immigration Services; and

(ii) based on subsection (a) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this Act).

(4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall continue to allocate a sufficient number of visas in family-sponsored immigrant visa categories until the date on which a visa has been made available, in conformance with the numeric and per country limitations in effect on the day before the date of enactment of this Act, to each beneficiary of an approved or pending petition described in subparagraph (A) or (B) of paragraph (3), if the beneficiary—

(A) indicates an intent to pursue the immigrant visa not later than 1 year after the date on which the Secretary of State notifies the beneficiary of the availability of the visa; and

(B) is otherwise qualified to receive a visa under this Act.

(f) TERMINATION OF REGISTRATION.—Section 203(g) of the Immigration and Nationality Act (8 U.S.C. 1153(g)) is amended—

(1) by striking the second sentence;

(2) by striking the subsection designation and heading and all that follows through ''For purposes'' in the first sentence and inserting the following:

''(g) LISTS.—

''(1) IN GENERAL.—For purposes''; and

(3) by adding at the end the following:

''(2) TERMINATION OF REGISTRATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within the 1-year period beginning on the date on which the Secretary of State notifies the alien of the availability of the immigrant visa.

''(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an alien under subparagraph (A) if the alien demonstrates that the failure of the alien to apply for an immigrant visa during the period described in that subparagraph was due to an extenuating circumstance beyond the control of the alien.''.

SEC. 4003. ELIMINATION OF DIVERSITY VISA PROGRAM.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), and (g), respectively;

(3) in subsection (c), as redesignated, by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)'';

(4) in subsection (d), as redesignated—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2);

(5) in subsection (e), as redesignated, by striking ''subsection (a), (b), or (c) of this section'' and inserting ''subsection (a) or (b)'';

(6) in subsection (f), as redesignated, by striking ''subsections (a), (b), and (c)'' and inserting ''subsections (a) and (b)''; and

(7) in subsection (g), as redesignated—

(A) by striking ''(d)'' each place it appears and inserting ''(c)''; and

(B) in paragraph (2)(B), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection (a)—

(i) in paragraph (1), by adding ''and'' at the end;

(ii) in paragraph (2), by striking ''; and'' and inserting a period; and

(iii) by striking paragraph (3);

(B) by striking subsection (e); and

(C) by redesignating subsection (f) as subsection (e);

(3) in section 203(b)(2)(B)(ii)(IV) (8 U.S.C. 1153(b)(2)(B)(ii)(IV)), by striking ''section 203(b)(2)(B)'' each place such term appears and inserting ''clause (i)'';

(4) in section 204 (8 U.S.C. 1154)—

(A) in subsection (a)(1)—

(i) by striking subparagraph (I); and

(ii) by redesignating subparagraphs (J) through (L) as subparagraphs (I) through (K), respectively;

(B) in subsection (e), by striking ''subsection (a), (b), or (c) of section 203'' and inserting ''subsection (a) or (b) of section 203''; and

(C) in subsection (l)(2)—

(i) in subparagraph (B), by striking ''section 203 (a) or (d)'' and inserting ''subsection (a) or (c) of section 203''; and

(ii) in subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(5) in section 214(q)(1)(B)(i) (8 U.S.C. 1184(q)(1)(B)(i)), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(6) in section 216(h)(1) (8 U.S.C. 1186a(h)(1)), in the undesignated matter following subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)''; and

(7) in section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)), by striking ''section 203(d)'' and inserting ''section 203(c)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year beginning on or after the date of the enactment of this Act.

(d) REALLOCATION OF VISAS; GRANDFATHERED PETITIONS.—

(1) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this section of the diversity visa program described in sections 201(e) and 203(c) of the Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available, to any alien whom the Secretary of State has selected to participate in the diversity visa lottery for fiscal year 2018.

(2) REALLOCATION OF VISAS.—

(A) REALLOCATION.—

(i) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on which the number of visas allocated for aliens who qualify for visas under the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make available the annual allocation of diversity visas as follows:

(I) 25,000 visas shall be made available to aliens who have an approved family-based petition based on section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or revoked as of the date of enactment of this Act.

(II) 25,000 visas shall be made available to qualified aliens who have an approved employment-based petition based on paragraphs (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153) that has not been terminated or revoked as of the date of enactment of this Act.

(ii) NACARA VISAS.—On the exhaustion of 5,000 visas made available under the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note), the remainder of the visas made available under that Act shall be equally divided and added to the visas provided under subclauses (I) and (II) of clause (i).

(B) NOTIFICATION.—

(i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall publish a notice in the Federal Register to notify affected aliens with respect to—

(I) the availability of visas under subparagraph (A);

(II) the manner in which the visas shall be allocated.

(ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the monthly visa bulletin of the Department of State with respect to—

(I) the availability of visas under subparagraph (A);

(II) the manner in which the visas shall be allocated.

TITLE V—OTHER MATTERS

SEC. 5001. OTHER IMMIGRATION AND NATIONALITY ACT AMENDMENTS.

(a) NOTICE OF ADDRESS CHANGE.—Section 265(a) of the Immigration and Nationality Act (8 U.S.C. 1305(a)) is amended to read as follows:

''(a) Each alien required to be registered under this Act who is physically present in the United States shall notify the Secretary of Homeland Security of each change of address and new address not later than 10 days after the date of such change and shall furnish such notice in the manner prescribed by the Secretary.''.

(b) PHOTOGRAPHS FOR NATURALIZATION CERTIFICATES.—Section 333 of the Immigration and Nationality Act (8 U.S.C. 1444) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

(B) by inserting ''(1)'' after ''(b)''; and

(C) by striking the undesignated matter at the end and inserting the following:

''(2) Of the photographs furnished pursuant to paragraph (1)—

''(A) 1 shall be affixed to each certificate issued by the Attorney General; and

''(B) 1 shall be affixed to the copy of such certificate retained by the Department.''; and

(2) by adding at the end the following:

''(c) The Secretary may modify the technical requirements under this section in the Secretary's discretion and as the Secretary may consider necessary to provide for photographs to be furnished and used in a manner that is efficient, secure, and consistent with the latest developments in technology.''.

SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.

Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act'' (5 U.S.C. 522)), and section 552a of such title (commonly known as the ''Privacy Act'' (5 U.S.C. 552a)), chapter 5 of title 5, United States Code (commonly known as the ''Administrative Procedures Act''), and any other law relating to rulemaking, information collection, or publication in the Federal Register, shall not apply to any action to implement this Act or the amendments made by this Act, to the extent the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that compliance with any such law would impede the expeditious implementation of this Act or the amendments made by this Act.

SEC. 5003. EXEMPTION FROM THE PAPERWORK REDUCTION ACT.

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, shall not apply to any action to implement this Act or the amendments made by this Act to the extent the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that compliance with such law would impede the expeditious implementation of this Act or the amendments made by this Act.

(2) SUNSET.—

(A) IN GENERAL.—The exemption provided under this section shall sunset not later than 3 years after the date of enactment of this Act.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) does not impose any requirement on, or affect the validity of, any rule issued or other action taken by the Secretary under the exemption described in paragraph (1).

SEC. 5004. EXEMPTION FROM GOVERNMENT CONTRACTING AND HIRING RULES.

(1) COMPETITION REQUIREMENTS.—

(A) IN GENERAL.—For purposes of implementing this Act, the competition requirements of section 253(a) of title 41, United States Code, shall not apply.

(B) AGENCY DETERMINATION.—The determination of an agency under section 253(c) of title 41, United States Code, shall not be subject to challenge by protest to—

(i) the Government Accountability Office, under sections 3551 through 3556 of title 31, United States Code; or

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

(C) NOTICE TO CONGRESS.—An agency shall immediately advise the Congress of the exercise of the authority granted under this paragraph.

(2) CONTRACTING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in advance of the receipt of any fees imposed on any beneficiary or petitioner for benefits under this Act, may enter into 1 or more contracts for the purpose of implementing the programs under this Act.

(B) LIMITATION.—With respect to a contract under subparagraph (A), the Secretary shall not enter into an obligation that exceeds the amount necessary to defray the cost of the programs under this Act.

(3) NOTICE TO CONGRESS.—The Secretary shall—

(A) immediately advise Congress of the exercise of authority granted in paragraph (2); and

(B) shall report quarterly on the estimated obligations incurred pursuant to that paragraph.

(4) APPOINTMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall have authority to make term, temporary limited, and part-time appointments without regard to—

(i) the number of such employees;

(ii) the ratio of such employees to permanent full-time employees; or

(iii) the duration of employment of such employees.

(B) RULE OF CONSTRUCTION.—Chapter 71 of title 5, United States Code, shall not affect the authority of any management official of the Department to hire term, temporary limited, or part-time employees under this paragraph.

SEC. 5005. ABILITY TO FILL AND RETAIN DEPARTMENT OF HOMELAND SECURITY POSITIONS IN UNITED STATES TERRITORIES.

(a) IN GENERAL.—Section 530C of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by inserting ''or the Department of Homeland Security'' after ''Department of Justice''; and

(B) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or to the Secretary of Homeland Security'' after ''Attorney General''; and

(ii) in subparagraph (K)—

(I) in clause (i)—

(aa) by inserting ''or within United States territories or commonwealths'' after ''outside United States''; and

(bb) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'';

(II) in clause (ii), by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''for the Drug Enforcement Administration, and for the Immigration and Naturalization Service'' and inserting ''and for the Drug Enforcement Administration''; and

(ii) in subparagraph (B), in the matter preceding clause (i), by striking ''the Immigration and Naturalization Service'' and inserting ''the Department of Homeland Security'';

(C) in paragraph (5), by striking ''IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General'' and replacing with ''DEPARTMENT OF HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security''; and

(D) in paragraph (7)—

(i) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General''; and

(ii) by striking ''the Immigration and Naturalization Service'' and inserting ''U.S. Immigration and Customs Enforcement''; and

(3) in subsection (d), by inserting ''or the Department of Homeland Security'' after ''Department of Justice''.

SEC. 5006. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of

such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act and the application of the provision or amendment to any other person or circumstance shall not be affected.

SEC. 5007. FUNDING.

(a) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify—

(1) the appropriation accounts which have unobligated funds that could be rescinded and used to fund the provisions of this Act; and

(2) the amount of the rescission that shall be applied to each such account.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury a report that describes the accounts and amounts determined and identified for rescission pursuant to subsection (a).

(c) EXCEPTIONS.—This section shall not apply to unobligated funds of—

(1) the Department of Homeland Security;

(2) the Department of Defense; or

(3) the Department of Veterans Affairs.

TITLE VI—TECHNICAL AMENDMENTS

SEC. 6001. 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. 6002. TECHNICAL AMENDMENTS TO TITLE I OF THE IMMIGRATION AND NATIONALITY ACT.

(a) SECTION 101.—

(1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as follows:

''(8) The term 'Department' means the Department of Homeland Security.''.

(2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (F)(i)—

(i) by striking the term ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(ii) by striking ''214(l)'' and inserting ''214(m)'';

(B) in subparagraph (H)(i)—

(i) in subclause (b), by striking ''certifies to the Attorney General that the intending employer has filed with the Secretary'' and inserting ''certifies to the Secretary of Homeland Security that the intending employer has filed with the Secretary of Labor''; and

(ii) in subclause (c), by striking ''certifies to the Attorney General'' and inserting ''certifies to the Secretary of Homeland Security''; and

(C) in subparagraph (M)(i), by striking the term ''Attorney General'' each place that term appears and inserting ''Secretary''.

(3) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by striking ''Service or of the United States designated by the Attorney General,'' and inserting ''Department or of the United States designated by the Secretary,''.

(4) SECRETARY.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as follows:

''(34) The term 'Secretary' means the Secretary of Homeland Security, except as provided in section 219(d)(4).''.

(5) SPECIAL IMMIGRANT.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is amended by adding ''; or'' at the end.

(6) MANAGERIAL CAPACITY; EXECUTIVE CAPACITY.—Section 101(a)(44)(C) (8 U.S.C. 1101(a)(44)(C)) is amended by striking ''Attorney General'' and inserting ''Secretary''.

(7) ORDER OF REMOVAL.—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended to read as follows:

''(A) The term 'order of removal' means the order of the immigration judge, or other such administrative officer to whom the Attorney General or the Secretary has delegated the responsibility for determining whether an alien is removable, concluding that the alien is removable or ordering removal.''.

(8) TITLE I AND II DEFINITIONS.—Section 101(b) (8 U.S.C. 1101(b)) is amended—

(A) in paragraph (1)(F)(i), by striking ''Attorney General'' and inserting ''Secretary''; and

(B) in paragraph (4), by striking ''Immigration and Naturalization Service.'' and inserting ''Department.''.

(b) SECTION 103.—

(1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by striking the section heading and subsection (a)(1) and inserting the following:

''SEC. 103. POWERS AND DUTIES.

''(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of aliens, except insofar as this Act or such laws relate to the powers, functions, and duties conferred upon the President, the Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers. A determination and ruling by the Attorney General with respect to all questions of law shall be controlling.''.

(2) TECHNICAL AND CONFORMING CORRECTIONS.—Section 103 (8 U.S.C. 1103), as amended by paragraph (1), is further amended—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''He'' and inserting ''The Secretary'';

(ii) in paragraph (3)—

(I) by striking ''He'' and inserting ''The Secretary'';

(II) by striking ''he'' and inserting ''the Secretary''; and

(III) by striking ''his authority'' and inserting ''the authority of the Secretary'';

(iii) in paragraph (4)—

(I) by striking ''He'' and inserting ''The Secretary''; and

(II) by striking ''Service or the Department of Justice'' and insert the ''Department'';

(iv) in paragraph (5)—

(I) by striking ''He'' and inserting ''The Secretary'';

(II) by striking ''his discretion,'' and inserting ''the discretion of the Secretary,'' and

(III) by striking ''him'' and inserting ''the Secretary'';

(v) in paragraph (6)—

(I) by striking ''He'' and inserting ''The Secretary'';

(II) by striking ''Department'' and inserting ''agency, department,''; and

(III) by striking ''Service.'' and inserting ''Department or upon consular officers with respect to the granting or refusal of visas'';

(vi) in paragraph (7)—

(I) by striking ''He'' and inserting ''The Secretary'';

(II) by striking ''countries;'' and inserting ''countries'';

(III) by striking ''he'' and inserting ''the Secretary''; and

(IV) by striking ''his judgment'' and inserting ''the judgment of the Secretary'';

(vii) in paragraph (8), by striking ''Attorney General'' and inserting ''Secretary'';

(viii) in paragraph (10), by striking ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(ix) in paragraph (11), by striking ''Attorney General,'' and inserting ''Secretary,'';

(B) by amending subsection (c) to read as follows:

''(c) SECRETARY; APPOINTMENT.—The Secretary shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be charged with any and all responsibilities and authority in the administration of the Department and of this Act. The Secretary may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.'';

(C) in subsection (e)—

(i) in paragraph (1), by striking ''Commissioner'' and inserting ''Secretary''; and

(ii) in paragraph (2), by striking ''Service'' and inserting ''U.S. Citizenship and Immigration Services'';

(D) in subsection (f)—

(i) by striking ''Attorney General'' and inserting ''Secretary'';

(ii) by striking ''Immigration and Naturalization Service'' and inserting ''Department''; and

(iii) by striking ''Service,'' and inserting ''Department,''; and

(E) in subsection (g)(1), by striking ''Immigration Reform, Accountability and Security Enhancement Act of 2002'' and inserting ''Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135)''.

(3) CLERICAL AMENDMENT.—The table of contents in the first section is amended by striking the item relating to section 103 and inserting the following:

''Sec. 103. Powers and duties.''.

(c) SECTION 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking ''Commissioner'' each place that term appears and inserting ''Secretary''.

SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF THE IMMIGRATION AND NATIONALITY ACT.

(a) SECTION 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting ''the Secretary or'' after ''the authority of''.

(b) SECTION 203.—Section 203 (8 U.S.C. 1153) is amended—

(1) in subsection (b)(2)(B)(ii)—

(A) in subclause (II)—

(i) by inserting ''the Secretary or'' before ''the Attorney General''; and

(ii) by moving such subclause 4 ems to the left; and

(B) by moving subclauses (III) and (IV) 4 ems to the left; and

(2) in subsection (f) (as redesignated by section 4003(a)(2))—

(A) by striking ''Secretary's'' and inserting ''Secretary of State's''; and

(B) by inserting ''of State'' after ''but the Secretary''.

(c) SECTION 204.—Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1)(G)(ii), by inserting ''of State'' after ''by the Secretary'';

(2) in subsection (c), by inserting ''the Secretary or'' before ''the Attorney General'' each place that term appears; and

(3) in subsection (e), by inserting ''to'' after ''admitted''.

(d) SECTION 208.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''the Secretary or'' before ''Attorney General'' in subparagraph (A);

(B) by inserting ''the Secretary or'' before ''Attorney General'' in subparagraph (D);

(2) in subsection (b)(2)—

(A) in subparagraph (B)(ii), by inserting ''the Secretary or'' before ''Attorney General'';

(B) in subparagraph (C), by inserting ''the Secretary or'' before ''Attorney General''; and

(C) in subparagraph (D), by inserting ''the Secretary or'' before ''Attorney General''.

(3) in subsection (c)—

(A) in paragraph (1), by striking ''the Attorney General'' and inserting ''the Secretary'';

(B) in paragraphs (2) and (3), by inserting ''the Secretary or'' before ''Attorney General'' each place that term appears; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting ''the Secretary or'' before ''the Attorney General'',

(B) in paragraph (2), by striking ''Attorney General'' and inserting ''Secretary'';

(C) in paragraph (3)—

(i) by striking ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(ii) by striking ''Attorney General's'' and inserting ''Secretary's''; and

(D) in paragraphs (4) through (6), by inserting ''the Secretary or'' before ''the Attorney General''; and

(e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking ''Secretary of Homeland Security or the Attorney General'' each place that term appears and inserting ''Secretary''.

(f) SECTION 212.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)—

(A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting '', the Secretary,'' before ''or the Attorney General'' each place that term appears;

(B) in paragraph (3)—

(i) in subparagraph (B)(ii)(II), by inserting '', the Secretary,'' before ''or the Attorney General'' each place that term appears; and

(ii) in subparagraph (D), by inserting ''the Secretary or'' before ''the Attorney General'' each place that term appears;

(C) in paragraph (4)—

(i) in subparagraph (A), by inserting ''the Secretary or'' before ''the Attorney General''; and

(ii) in subparagraph (B), by inserting '', the Secretary,'' before ''or the Attorney General'' each place that term appears;

(D) in paragraph (5)(C), by striking ''or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General'' and inserting ''or, in the case of an adjustment of status, the Secretary or the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Secretary'';

(E) in paragraph (9)—

(i) in subparagraph (B)(v)—

(I) by inserting ''or the Secretary'' after ''Attorney General'' each place that term appears; and

(II) by striking ''has sole discretion'' and inserting ''have discretion''; and

(ii) in subparagraph (C)(iii), by inserting ''or the Attorney General'' after ''Secretary of Homeland Security''; and

(F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking ''Secretary's'' and inserting ''Secretary of State's'';

(2) in subsection (d), in paragraphs (11) and (12), by inserting ''or the Secretary'' after ''Attorney General'' each place that term appears;

(3) in subsection (e), by striking the first proviso and inserting the following: ''Provided, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency (or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of the Secretary after the Secretary has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his or her nationality or last residence because the alien would be subject to persecution on account of race, religion, or political opinion, the Secretary may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Secretary to be in the public interest except that in the case of a waiver requested by a State Department of Public Health, or its equivalent, or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii), the waiver shall be subject to the requirements under section 214(l):'';

(4) in subsections (g), (h), (i), and (k), by inserting ''or the Secretary'' after ''Attorney General'' each place that term appears;

(5) in subsection (m)(2)(E)(iv), by inserting ''of Labor'' after ''Secretary'' the second and third place that term appears;

(6) in subsection (n), by inserting ''of Labor'' after ''Secretary'' each place that term appears, except that this amendment shall not apply to references to the ''Secretary of Labor''; and

(7) in subsection (s), by inserting '', the Secretary,'' before ''or the Attorney General''.

(g) SECTION 213A.—Section 213A (8 U.S.C. 1183a) is amended—

(1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting '', the Secretary,'' after ''the Attorney General''; and

(2) in subsection (f)(6)(B), by inserting ''the Secretary,'' after ''The Secretary of State,''.

(h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter preceding clause (i), by striking ''before''.

(i) SECTION 217.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (e)(3)(A), by inserting a comma after ''Regulations'';

(2) in subsection (f)(2)(A), by striking ''section (c)(2)(C),'' and inserting ''subsection (c)(2)(C),''; and

(3) in subsection (h)(3)(A), by striking ''the alien'' and inserting ''an alien''.

(j) SECTION 218.—Section 218 (8 U.S.C. 1188) is amended—

(1) by inserting ''of Labor'' after ''Secretary'' each place that term appears, except that this amendment shall not apply to references to the ''Secretary of Labor'' or to the ''Secretary of Agriculture'';

(2) in subsection (c)(3)(B)(iii), by striking ''Secretary's'' and inserting ''Secretary of Labor's''; and

(3) in subsection (g)(4), by striking ''Secretary's'' and inserting ''Secretary of Agriculture's''.

(k) SECTION 219.—Section 219 (8 U.S.C. 1189) is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a close parenthesis after ''section 212(a)(3)(B)''; and

(B) by striking the close parenthesis before the semicolon;

(2) in subsection (c)(3)(D), by striking ''(2),'' and inserting ''(2);''; and

(3) in subsection (d)(4), by striking ''the Secretary of the Treasury'' and inserting ''the Secretary of Homeland Security, the Secretary of the Treasury,''.

(l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

(1) by inserting ''or the Secretary'' after ''Secretary of State'' each place that term appears; and

(2) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting '', the Department,'' after ''Department of State''; and

(B) in paragraph (2), by striking ''Secretary's'' and inserting ''their''.

(m) SECTION 231.—Section 231 (8 U.S.C. 1221) is amended—

(1) in subsection (c)(10), by striking ''Attorney General,'' and inserting ''Secretary,'';

(2) in subsection (f), by striking ''Attorney General'' each place that term appears and inserting ''Secretary'';

(3) in subsection (g)—

(A) by striking ''Attorney General'' each places that term appears and inserting ''Secretary'';

(B) by striking ''Commissioner'' each place that term appears and inserting ''Secretary''; and

(4) in subsection (h), by striking ''Attorney General'' each place that term appears and inserting ''Secretary''.

(n) SECTION 236.—Section 236(e) (8 U.S.C. 1226(e)) is amended—

(1) by striking ''review.'' and inserting ''review, other than administrative review by the Attorney General pursuant to the authority granted under section 103(g).''; and

(2) by inserting ''the Secretary or'' before ''the Attorney General under''.

(o) SECTION 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking ''Deputy Attorney General'' both places that term appears and inserting ''Deputy Secretary of Homeland Security''.

(p) SECTION 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''following the initiation by the Secretary of removal proceedings'' after ''upon the order of the Attorney General''; and

(2) in paragraph (2)(E), in the subparagraph heading, by striking '', CRIMES AGAINST CHILDREN AND'' and inserting ''; CRIMES AGAINST CHILDREN''.

(q) SECTION 238.—Section 238 (8 U.S.C. 1228) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(B) in paragraphs (3) and (4)(A), by inserting ''and the Secretary'' after ''Attorney General'' each place that term appears; and

(2) in subsection (e) (as redesignated by section 1703(a)(4))—

(A) by striking ''Commissioner'' each place that term appears and inserting ''Secretary'';

(B) by striking ''Attorney General'' each place that term appears and inserting ''Secretary''; and

(C) in subparagraph (D)(iv), by striking ''Attorney General'' and inserting ''United States Attorney''.

(r) SECTION 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting ''and the Secretary'' after ''Attorney General'' each place that term appears.

(s) SECTION 240.—Section 240 (8 U.S.C. 1229a) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting '', with the concurrence of the Secretary with respect to employees of the Department'' after ''Attorney General''; and

(B) in paragraph (5)(A), by inserting ''the Secretary or'' before ''the Attorney General''; and

(2) in subsection (c)—

(A) in paragraph (2), by inserting ", the Secretary of State, or the Secretary" before "to be confidential"; and

(B) in paragraph (7)(C)(iv)(I), by striking "240A(b)(2)" and inserting "section 240A(b)(2)".

(t) SECTION 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—

(1) in paragraph (3), by striking "Attorney General shall" and inserting "Secretary shall"; and

(2) in paragraph (4)(A), by striking "Attorney General" and inserting "Secretary".

(u) SECTION 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3), by inserting "or the Secretary" after "Attorney General" each place that term appears.

(v) SECTION 241.—Section 241 (8 U.S.C. 1231) is amended—

(1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after "(L)";

(2) in subsection (g)(2)—

(A) by striking the paragraph heading and inserting "DETENTION FACILITIES OF THE DEPARTMENT OF HOMELAND SECURITY.—"; and

(B) by striking "Service, the Commissioner" and inserting "Department, the Secretary".

(w) SECTION 242.—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting "the Secretary or" before "the Attorney General".

(x) SECTION 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in subsection (b)(1)—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary"; and

(2) by striking "Commissioner" each place that term appears and inserting "Secretary".

(y) SECTION 244.—Section 244 (8 U.S.C. 1254a) is amended—

(1) in subsection (c)(2), by inserting "or the Secretary" after "Attorney General" each place the term appears; and

(2) in subsection (g), by inserting "or the Secretary" after "Attorney General".

(z) SECTION 245.—Section 245 (8 U.S.C. 1255) is amended—

(1) by inserting "or the Secretary" after "Attorney General" each place that term appears except in subsections (j) (other than the first reference), (l), and (m);

(2) in subsection (k)(1), adding an "and" at the end; and

(3) in subsection (l)—

(A) in paragraph (1), by inserting a comma after "appropriate"; and

(B) in paragraph (2)—

(i) in the matter preceding paragraph (1), by striking "Attorney General's" and inserting "Secretary's"; and

(ii) in subparagraph (B), by striking "(10(E))" and inserting "(10)(E))".

(aa) SECTION 245A.—Section 245A (8 U.S.C. 1255a) is amended—

(1) in subsection (c)(7), by striking subparagraph (C); and

(2) in subsection (h)—

(A) in paragraph (4)(C), by striking "The The" and inserting "The"; and

(B) in paragraph (5), by striking "(Public Law 96–122)," and inserting "(8 U.S.C. 1522 note),".

(bb) SECTION 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary"; and

(2) by striking "Commissioner" each place that term appears and inserting "Secretary".

(cc) SECTION 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking "Commissioner" each place that term appears and inserting "Secretary".

(dd) SECTION 255.—Section 255 (8 U.S.C. 1285) is amended by striking "Commissioner" each place that term appears and inserting "Secretary".

(ee) SECTION 256.—Section 256 (8 U.S.C. 1286) is amended—

(1) by striking "Commissioner" each place that term appears and inserting "Secretary";

(2) in the first and second sentences, by striking "Attorney General" each place that term appears and inserting "Secretary".

(ff) SECTION 258.—Section 258 (8 U.S.C. 1288) is amended—

(1) by inserting "of Labor" after "Secretary" each place that term appears (except for in subsection (e)(2)), except that this amendment shall not apply to references to the "Secretary of Labor", "the Secretary of State";

(2) in subsection (d)(2)(A), by striking "at" after "while"; and

(3) in subsection (e)(2), by striking "the Secretary shall" and inserting "the Secretary of State shall".

(gg) SECTION 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking "Attorney General is" and inserting "Attorney General and the Secretary are".

(hh) SECTION 272.—Section 272 (8 U.S.C. 1322) is amended by striking "Commissioner" each place that term appears and inserting "Secretary".

(ii) SECTION 273.—Section 273 (8 U.S.C. 1323) is amended—

(1) by striking "Commissioner" each place that term appears and inserting "Secretary"; and

(2) by striking "Attorney General" each place that term appears (except in subsection (e), in the matter preceding paragraph (1)) and inserting "Secretary".

(jj) SECTION 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking "Secretary of the Treasury" and inserting "Secretary".

(kk) SECTION 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking "subsection" and inserting "section".

(ll) SECTION 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting "or the Secretary" after "subsection (a), the Attorney General".

(mm) SECTION 274D.—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking "Commissioner" and inserting "Secretary".

(nn) SECTION 286.—Section 286 (8 U.S.C. 1356) is amended—

(1) in subsection (q)(1)(B), by striking ", in consultation with the Secretary of the Treasury,";

(2) in subsection (r)(2), by striking "section 245(i)(3)(b)" and inserting "section 245(i)(3)(B)"; and

(3) in subsection (s)(5)—

(A) by striking "5 percent" and inserting "USE OF FEES FOR DUTIES RELATING TO PETITIONS.—Five percent"; and

(B) by striking "paragraph (1) (C) or (D) of section 204" and inserting "subparagraph (C) or (D) of section 204(a)(1)".

(oo) SECTION 294.—Section 294 (8 U.S.C. 1363a) is amended—

(1) in subsection (a), in the undesignated matter following paragraph (4), by striking "Commissioner, in consultation with the Deputy Attorney General," and inserting "Secretary"; and

(2) in subsection (d), by striking "Deputy Attorney General" and inserting "Secretary".

SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF THE IMMIGRATION AND NATIONALITY ACT.

(a) SECTION 316.—Section 316 (8 U.S.C. 1427) is amended—

(1) in subsection (d), by inserting "or by the Secretary" after "Attorney General"; and

(2) in subsection (f)(1), by striking "Intelligence, the Attorney General and the Commissioner of Immigration" and inserting "Intelligence and the Secretary".

(b) SECTION 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

(1) by inserting "is" before "(or,"; and

(2) by striking "is" before "a citizen".

(c) SECTION 342.—

(1) SECTION HEADING.—

(A) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended by striking the section heading and inserting "**CANCELLATION OF CERTIFICATES; ACTION NOT TO AFFECT CITIZENSHIP STATUS**".

(B) CLERICAL AMENDMENT.—The table of contents in the first section is amended by striking the item relating to section 342 and inserting the following:

"Sec. 342. Cancellation of certificates; action not to affect citizenship status.".

(2) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended—

(A) by striking "heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General"; and

(B) by striking "practiced upon, him or the Commissioner or a Deputy Commissioner;".

SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF THE IMMIGRATION AND NATIONALITY ACT.

Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i)) is amended by striking "insure" and inserting "ensure".

SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF THE IMMIGRATION AND NATIONALITY ACT.

(a) SECTION 504.—Section 504 (8 U.S.C. 1534) is amended—

(1) in subsection (a)(1)(A), by striking "a" before "removal proceedings";

(2) in subsection (i), by striking "Attorney General" inserting "Government"; and

(3) in subsection (k)(2), by striking "by".

(b) SECTION 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting "and the Secretary" after "Attorney General".

SEC. 6007. OTHER AMENDMENTS.

(a) CORRECTION OF COMMISSIONER OF IMMIGRATION AND NATURALIZATION.—

(1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as amended by this Act, is further amended by striking "Commissioner" and "Commissioner of Immigration and Naturalization" each place those terms appear and inserting "Secretary".

(2) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by paragraph (1) shall not apply to any reference to the "Commissioner of Social Security".

(b) CORRECTION OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—Section 451(a)(1) of the Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is amended by striking "a bureau to be known as the 'Bureau of Citizenship and Immigration Services'" and inserting "an agency to be known as the 'United States Citizenship and Immigration Services', the headquarters of which shall be in the same State as the office of the Secretary.".

(c) CORRECTION OF IMMIGRATION AND NATURALIZATION SERVICE.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking "Service" and "Immigration and Naturalization Service" each place those terms appear and inserting "Department".

(d) CORRECTION OF DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking "Department of Justice" each place

that term appears and inserting ''Department''.

(2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

(A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

(B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

(C) title V (8 U.S.C. 1531 et seq.).

(e) CORRECTION OF ATTORNEY GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as amended by this Act, is further amended by striking ''Attorney General'' each place that term appears and inserting ''Secretary'', except for in the following:

(1) Any joint references to the ''Attorney General and the Secretary of Homeland Security'' or ''the Secretary of Homeland Security and the Attorney General''.

(2) Section 101(a)(5).

(3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

(4) Section 101(a)(47)(A).

(5) Section 101(b)(4).

(6) Subsections (a)(1) and (g) of section 103.

(7) Subsections (b)(1) and (c) of section 105.

(8) Section 204(c).

(9) Section 208.

(10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

(11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

(12) Section 212(a)(9)(C)(iii).

(13) Paragraphs (11) and (12) of section 212(d).

(14) Subsections (g), (h), (i), (k), and (s) of section 212.

(15) Subsections (a)(1) and (f)(6)(B) of section 213A.

(16) Section 216(d)(2)(c).

(17) Section 219(d)(4).

(18) Section 235(b)(1)(B)(iii)(III).

(19) The second sentence of section 236(e).

(20) Section 237.

(21) Paragraphs (1), (3), and (4)(A) of section 238(a).

(22) Paragraphs (1) and (5) of section 238(b).

(23) Section 238(c)(2)(D)(iv).

(24) Subsections (a) and (b) of section 239.

(25) Section 240.

(26) Section 240A.

(27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.

(28) The first reference in section 241(a)(4)(B)(i).

(29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the amendment shall apply).

(30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).

(31) Section 242(a)(2)(B).

(32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).

(33) Section 242(g).

(34) Subsections (a)(3)(C), (c)(2), (e), and (g) of section 244.

(35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first reference to the Attorney General in subsection 245(j)).

(36) Section 245A(a)(1)(A).

(37) Section 246(a).

(38) Section 249.

(39) Section 264(f).

(40) Section 274(e).

(41) Section 274A.

(42) Section 274B.

(43) Section 274C.

(44) Section 292.

(45) Subsections (d) and (f)(1) of section 316.

(46) Section 342.

(47) Section 412(f)(1)(A).

(48) Title V (except for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to which the amendment shall apply).

SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

(a) REPEALS.—

(1) IMMIGRATION AND NATURALIZATION SERVICE.—

(A) IN GENERAL.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter 552; 8 U.S.C. 1551) is repealed.

(B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8 of the United States Code shall be removed from the compilation of such title 8.

(2) COMMISSIONER OF IMMIGRATION AND NATURALIZATION; OFFICE.—

(A) IN GENERAL.—Section 7 of the Act of March 3, 1891 (26 Stat. 1085, chapter 551; 8 U.S.C. 1552) is repealed.

(B) 8 U.S.C. 1552.—The language of the compilers set out in section 1552 of title 8 of the United States Code shall be removed from the compilation of such title 8.

(3) ASSISTANT COMMISSIONERS AND DISTRICT DIRECTOR; COMPENSATION AND SALARY GRADE.—Title II of the Department of Justice Appropriation Act, 1957 (70 Stat. 307, chapter 414; 8 U.S.C. 1553) is amended, in the matter under the heading ''Immigration and Naturalization Service'' and under the subheading ''SALARIES AND EXPENSES'', by striking ''That the compensation of the five assistant commissioners and one district director shall be at the rate of grade GS–16: Provided further''.

(4) SPECIAL IMMIGRANT INSPECTORS AT WASHINGTON.—The Act of March 2, 1895 (28 Stat. 780, chapter 177; 8 U.S.C. 1554) is amended in the matter following the heading ''Bureau of Immigration:'' by striking ''That hereafter special immigrant inspectors, not to exceed three, may be detailed for duty in the Bureau at Washington: And provided further,''.

(b) RULE OF CONSTRUCTION.—Nothing in this title may be construed to repeal or limit the applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and 552) with respect to any provision of law or matter not specifically addressed by the amendments made by this title.

SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.

Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by striking ''Commissioner of Immigration'' and inserting ''Secretary of Homeland Security''.

SA 1960. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—EMPLOYMENT-BASED VISAS

Subtitle A—Employment-based Nonimmigrant Visas

SEC. __11. SECURING A SUPPLY OF HIGHLY SKILLED WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (5)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following:

''(C) has earned a master's or higher degree from a United States institution of higher education (as defined in section 1001(a) of title 20) and whose employer has certified that the employer has filed or will file an Immigrant Petition on behalf of the alien; or''; and

(C) by amending subparagraph (D), as redesignated, to read as follows:

''(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) and whose employer has not certified that the employer has filed or will file an Immigrant Petition on behalf of the alien, until the number of such aliens who are exempted from such numerical limitations during such year exceeds 20,000.''; and

(2) in paragraph (6)—

(A) by inserting ''(A)'' before ''Any alien''; and

(B) by adding at the end the following:

''(B)(i) The initial period of validity of a nonimmigrant visa issued under section 101(a)(15)(H)(i)(b) to an alien described in paragraph (5)(C) who is exempted from the numerical limitations under paragraph (1)(A) shall be 12 months.

''(ii) The period of validity of a visa described in clause (i) may be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—

''(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and

''(II) such application or petition has not been denied in a final agency action.''.

(b) ANTI-HOARDING.—

(1) IN GENERAL.—Section 214(g)(10) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(10)) is amended—

(A) by inserting ''(A)'' before ''The numerical limitations''; and

(B) by adding at the end the following:

''(B)(i) Subject to clause (ii), if 5 or more petitions for H–1B classification subject to the cap established under paragraph (1)(A) filed by an employer in a fiscal year are approved, the employer shall pay a penalty for each such approved petition subject to such cap for which the H–1B beneficiary works in the United States for less than 25 percent of the first year of the beneficiary's approved work authorization period for the employer that initially secured the cap-subject petition approval.

''(ii)(I) Except as provided in subclause (IV), an employer shall not be subject to the penalties set forth in clause (i) if the employer withdraws the petition for an H–1B visa—

''(aa) as a result of an unexpected change in the need for the alien worker;

''(bb) because the alien worker commences employment in the United States for the employer under another lawful status; or

''(cc) because the alien worker quit or resigned the worker's position with the employer.

''(II) An employer withdrawing a petition under subclause (I) shall file with the Secretary a description of the circumstances—

''(aa) resulting in the unexpected change in the need for the alien worker;

''(bb) surrounding the alien worker's commencement of employment in the United States for the employer withdrawing the H–1B approval under another lawful status; or

''(cc) surrounding the alien worker's decision to quit or resign the worker's position with the employer.

''(III) Any unused visas associated with petitions withdrawn under subclause (I) that were subject to the cap established under paragraph (1)(A) shall be reassigned to another H–1B petition filed by another employer either in the fiscal year in which the withdrawal was received or in the following fiscal year.

''(IV) Subclause (I) shall not apply to an employer in a fiscal year if—

''(aa)(AA) at least 20 and not more than 49 petitions filed by the employer in a fiscal

year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

''(BB) the employer withdraws more than 25 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 10 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment; or

''(bb)(AA) more than 50 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

''(BB) the employer withdraws more than 20 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

''(iii)(I) The penalty for a violation of clause (i) shall be—

''(aa) $10,000 for each petition described in such clause that was filed during the first fiscal year that a penalty is imposed; and

''(bb) $25,000 for each such petition that was filed after the first fiscal year that a penalty is imposed.

''(II) A penalty under clause (iii)(I) may not be reimbursed or indemnified by an H–1B nonimmigrant.

''(III) An employer subject to a penalty under clause (i) in any 3 fiscal years shall be barred from filing any petitions for H–1B visas subject to the numerical limitation under paragraph (1)(A) for the fiscal year immediately following the third year of noncompliance.

''(iv) Each employer that has 5 or more approved petitions for H–1B classification subject to the cap established under paragraph (1)(A) shall submit an annual report to the Secretary of Homeland Security that identifies—

''(I) the date on which each such H–1B nonimmigrant approved during the most recent fiscal year began working for the employer in the United States; and

''(II) the total period of employment in the first year of available work authorization for each such H–1B nonimmigrant during the most recent fiscal year.

''(v) Penalties assessed under this subparagraph shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 286(s).''.

(2) EFFECTIVE DATE.—Section 214(g)(10)(B) of the Immigration and Nationality Act, as added by paragraph (1), shall take effect on the date that is 1 year after the date of the enactment of this Act.

(c) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall identify the number of previously approved visas that—

(1) were the subject of withdrawn petitions under section 214(g)(10)(B)(ii) of the Immigration and Nationality Act, as added by subsection (b); and

(2) are available for reassignment to another employer.

SEC. __12. DEPENDENT H–1B EMPLOYERS; EXEMPT H–1B NONIMMIGRANTS.

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (1)(E)—

(A) in clause (i), by striking ''(as defined in paragraph (4))''; and

(B) by striking clause (ii) and inserting the following:

''(ii) Except as provided in clause (iii), an application described in this clause is an application filed by—

''(I) an H–1B-dependent employer; or

''(II) an employer that has been found under paragraph (2)(C) or (5) to have committed a willful failure or misrepresentation during the 5-year period preceding the filing of the application.

''(iii)(I) Except as provided in subclause (II), an application is not described in clause (ii) if the only H–1B nonimmigrants sought in the application are exempt H–1B nonimmigrants.

''(II) Subclause (I) shall not apply if the employer has more than 50 employees and more than 50 percent of the employer's employees are H–1B nonimmigrants.'';

(2) in paragraph (3)(B)—

(A) by amending clause (i) to read as follows:

''(i) the term 'exempt H–1B nonimmigrant' means an H–1B nonimmigrant who—

''(I) receives wages (including cash bonuses) at an annual rate equal to not less than the higher of—

''(aa) 105 percent of the occupational mean wage, as determined based on Bureau of Labor Statistics data for the geographic area of employment; or

''(bb) $100,000 (or the adjusted amount under clause (iii), if applicable); or

''(II) has attained a doctoral degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States in a specialty related to the intended employment;'';

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) the amount under clause (i)(I)(bb) shall be increased, for the third fiscal year beginning after the date of the enactment of this clause and for every third fiscal year thereafter, by the percentage (if any) by which the Consumer Price Index for the month of June preceding the date on which such increase takes effect exceeds the Consumer Price Index for the same month of the third preceding calendar year.''.

SEC. __13. STRENGTHENING THE PREVAILING WAGE SYSTEM.

Section 212(p)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(p)(4)) is amended by adding at the end the following: ''With regard to the prevailing wage required to be paid under subsections (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) (as added by section 402(b)(2) of Public Law 108–77), the first level of wages shall be not less than the mean of the lowest 50 percent of the wages surveyed.''.

Subtitle B—Employment-based Immigrant Visas

SEC. __21. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

(a) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

''(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.''.

(b) CONFORMING AMENDMENTS.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking ''both subsections (a) and (b) of section 203'' and inserting ''section 203(a)''; and

(B) by striking paragraph (5); and

(2) by amending subsection (e) to read as follows:

''(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that state or area shall be allocated under section 203(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).''.

(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking ''subsection (e))'' and inserting ''subsection (d))''; and

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on October 1, 2017, and shall apply to fiscal years beginning with fiscal year 2018.

SEC. __22. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.

Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT BASED IMMIGRANTS.—

''(1) PETITION.—Any alien, and any eligible dependent of such alien, who has an approved petition for immigrant status, may file an application with the Secretary of Homeland Security for adjustment of status regardless of whether an immigrant visa is immediately available at the time the application is filed.

''(2) SUPPLEMENTAL FEE.—If a visa is not immediately available at the time an application is filed under paragraph (1), the beneficiary of such application shall pay a supplemental fee of $500, which shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 286(s). This fee shall not be collected from any dependent accompanying or following to join such beneficiary.

''(3) AVAILABILITY.—An application filed under this subsection may not be approved until the date on which an immigrant visa becomes available.''.

SA 1961. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SECURING A SUPPLY OF HIGHLY-SKILLED WORKERS.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (5)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following:

''(C) has earned a master's or higher degree from a United States institution of higher education (as defined in section 1001(a) of title 20) and whose employer has certified that the employer has filed or will file an Immigrant Petition on behalf of the alien; or''; and

(C) by amending subparagraph (D), as redesignated, to read as follows:

''(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) and whose employer has not certified that the employer has filed or will file an Immigrant Petition on behalf of the alien, until the number of such aliens who are exempted from such numerical limitations during such year exceeds 20,000.''; and

(2) in paragraph (6)—

(A) by inserting ''(A)'' before ''Any alien''; and

(B) by adding at the end the following:

''(B)(i) The initial period of validity of a nonimmigrant visa issued under section 101(a)(15)(H)(i)(b) to an alien described in paragraph (5)(C) who is exempted from the numerical limitations under paragraph (1)(A) shall be 12 months.

''(ii) The period of validity of a visa described in clause (i) may be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—

''(I) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and

''(II) such application or petition has not been denied in a final agency action.''.

SA 1962. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EMPLOYMENT-BASED NONIMMIGRANT VISAS.

(a) PROHIBITION ON HOARDING H–1B VISAS.—

(1) IN GENERAL.—Section 214(g)(10) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(10)) is amended—

(A) by inserting ''(A)'' before ''The numerical limitations''; and

(B) by adding at the end the following:

''(B)(i) Subject to clause (ii), if 5 or more petitions for H–1B classification subject to the cap established under paragraph (1)(A) filed by an employer in a fiscal year are approved, the employer shall pay a penalty for each such approved petition subject to such cap for which the H–1B beneficiary works in the United States for less than 25 percent of the first year of the beneficiary's approved work authorization period for the employer that initially secured the cap-subject petition approval.

''(ii)(I) Except as provided in subclause (IV), an employer shall not be subject to the penalties set forth in clause (i) if the employer withdraws the petition for an H–1B visa—

''(aa) as a result of an unexpected change in the need for the alien worker;

''(bb) because the alien worker commences employment in the United States for the employer under another lawful status; or

''(cc) because the alien worker quit or resigned the worker's position with the employer.

''(II) An employer withdrawing a petition under subclause (I) shall file with the Secretary a description of the circumstances—

''(aa) resulting in the unexpected change in the need for the alien worker;

''(bb) surrounding the alien worker's commencement of employment in the United States for the employer withdrawing the H–1B approval under another lawful status; or

''(cc) surrounding the alien worker's decision to quit or resign the worker's position with the employer.

''(III) Any unused visas associated with petitions withdrawn under subclause (I) that were subject to the cap established under paragraph (1)(A) shall be reassigned to another H–1B petition filed by another employer either in the fiscal year in which the withdrawal was received or in the following fiscal year.

''(IV) Subclause (I) shall not apply to an employer in a fiscal year if—

''(aa)(AA) at least 20 and not more than 49 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

''(BB) the employer withdraws more than 25 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 10 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment; or

''(bb)(AA) more than 50 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

''(BB) the employer withdraws more than 20 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

''(iii)(I) The penalty for a violation of clause (i) shall be—

''(aa) $10,000 for each petition described in such clause that was filed during the first fiscal year that a penalty is imposed; and

''(bb) $25,000 for each such petition that was filed after the first fiscal year that a penalty is imposed.

''(II) A penalty under clause (iii)(I) may not be reimbursed or indemnified by an H–1B nonimmigrant.

''(III) An employer subject to a penalty under clause (i) in any 3 fiscal years shall be barred from filing any petitions for H–1B visas subject to the numerical limitation under paragraph (1)(A) for the fiscal year immediately following the third year of noncompliance.

''(iv) Each employer that has 5 or more approved petitions for H–1B classification subject to the cap established under paragraph (1)(A) shall submit an annual report to the Secretary of Homeland Security that identifies—

''(I) the date on which each such H–1B nonimmigrant approved during the most recent fiscal year began working for the employer in the United States; and

''(II) the total period of employment in the first year of available work authorization for each such H–1B nonimmigrant during the most recent fiscal year.

''(v) Penalties assessed under this subparagraph shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 286(s).''.

(2) EFFECTIVE DATE.—Section 214(g)(10)(B) of the Immigration and Nationality Act, as added by paragraph (1), shall take effect on the date that is 1 year after the date of the enactment of this Act.

(3) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall identify the number of previously approved visas that—

(A) were the subject of withdrawn petitions under section 214(g)(10)(B)(ii) of the Immigration and Nationality Act, as added by subsection (b); and

(B) are available for reassignment to another employer.

(b) DEPENDENT H–1B EMPLOYERS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (1)(E)—

(A) in clause (i), by striking ''(as defined in paragraph (4))''; and

(B) by striking clause (ii) and inserting the following:

''(ii) Except as provided in clause (iii), an application described in this clause is an application filed by—

''(I) an H–1B-dependent employer; or

''(II) an employer that has been found under paragraph (2)(C) or (5) to have committed a willful failure or misrepresentation during the 5-year period preceding the filing of the application.

''(iii)(I) Except as provided in subclause (II), an application is not described in clause (ii) if the only H–1B nonimmigrants sought in the application are exempt H–1B nonimmigrants.

''(II) Subclause (I) shall not apply if the employer has more than 50 employees and more than 50 percent of the employer's employees are H–1B nonimmigrants.'';

(2) in paragraph (3)(B)—

(A) by amending clause (i) to read as follows:

''(i) the term 'exempt H–1B nonimmigrant' means an H–1B nonimmigrant who—

''(I) receives wages (including cash bonuses) at an annual rate equal to not less than the higher of—

''(aa) 105 percent of the occupational mean wage, as determined based on Bureau of Labor Statistics data for the geographic area of employment; or

''(bb) $100,000 (or the adjusted amount under clause (iii), if applicable); or

''(II) has attained a doctoral degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States in a specialty related to the intended employment;'';

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) the amount under clause (i)(I)(bb) shall be increased, for the third fiscal year beginning after the date of the enactment of this clause and for every third fiscal year thereafter, by the percentage (if any) by which the Consumer Price Index for the month of June preceding the date on which such increase takes effect exceeds the Consumer Price Index for the same month of the third preceding calendar year.''.

(c) STRENGTHENING THE PREVAILING WAGE SYSTEM.—Section 212(p)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(p)(4)) is amended by adding at the end the following: ''With regard to the prevailing wage required to be paid under subsections (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) (as added by section 402(b)(2) of Public Law 108–77), the first level of wages shall be not less than the mean of the lowest 50 percent of the wages surveyed.''.

SA 1963. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PER-COUNTRY NUMERICAL LIMITATIONS AND ADJUSTMENT OF STATUS.

(a) MODIFICATION OF PER-COUNTRY NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

''(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.''.

(2) CONFORMING AMENDMENTS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking ''both subsections (a) and (b) of section 203'' and inserting ''section 203(a)''; and

(ii) by striking paragraph (5); and

(B) by amending subsection (e) to read as follows:

''(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that state or area shall be allocated under section 203(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).''.

(3) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(A) in subsection (a), by striking ''subsection (e))'' and inserting ''subsection (d))''; and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if enacted on October 1, 2017, and shall apply to fiscal years beginning with fiscal year 2018.

(b) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT BASED IMMIGRANTS.—

''(1) PETITION.—Any alien, and any eligible dependent of such alien, who has an approved petition for immigrant status, may file an application with the Secretary of Homeland Security for adjustment of status regardless of whether an immigrant visa is immediately available at the time the application is filed.

''(2) SUPPLEMENTAL FEE.—If a visa is not immediately available at the time an application is filed under paragraph (1), the beneficiary of such application shall pay a supplemental fee of $500, which shall be deposited into the H–1B Nonimmigrant Petitioner Account established under section 286(s). This fee shall not be collected from any dependent accompanying or following to join such beneficiary.

''(3) AVAILABILITY.—An application filed under this subsection may not be approved until the date on which an immigrant visa becomes available.''.

SA 1964. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYMENT AND TRAINING OPPORTUNITIES FOR HIGHLY-SKILLED NONIMMIGRANTS.

(a) EMPLOYMENT AUTHORIZATION FOR DEPENDENTS OF H–1B NONIMMIGRANTS.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (2), by adding at the end the following:

''(G)(i) If the principal alien has a pending or approved Application for Permanent Employment Certification or a pending or approved Immigrant Petition, the Secretary of Homeland Security shall—

''(I) authorize the alien spouse of such principal alien admitted under section 101(a)(15)(H)(i)(b) who is accompanying or following to join the principal alien to engage in employment in the United States; and

''(II) provide the spouse with an 'employment authorized' endorsement or other appropriate work permit.

''(ii) The employer of an alien spouse described in clause (i)(I) shall attest to the Secretary of Homeland Security that the employer is offering and will offer to the alien spouse, during the period of authorized employment, not less than the greater of—

''(I) the actual wage level paid by the employer for the specific employment in question to all other individuals with similar experiences and qualifications; or

''(II) the prevailing wage level for the occupational classification in the area of employment, reflecting the education, experience, and level of supervision required for the job to be performed by the alien spouse, based on the best information available at the time the alien spouse is hired.''.

(b) ELIMINATING IMPEDIMENTS TO WORKER MOBILITY.—

(1) EFFECT OF NEW JOB SITE.—Section 214(c)(10) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(10)) is amended to read as follows:

''(10) An amended H–1B petition shall not be required if—

''(A) the petitioning employer is involved in a corporate restructuring, including a merger, acquisition, or consolidation;

''(B) a new corporate entity succeeds to the interests and obligations of the original petitioning employer and the terms and conditions of employment remain the same except for the identity of the petitioner; or

''(C) the nonimmigrant worker begins working at a new place of employment for which the petitioner has secured a valid, certified Labor Condition Application before the nonimmigrant worker began working at such place of employment.''.

(2) DEFERENCE TO PRIOR APPROVALS.—Section 214(c) of the Immigration and Nationality Act, as amended by paragraph (1) and subsection (a), is further amended by adding at the end the following:

''(15) If the Secretary of Homeland Security or the Secretary of State approves a visa, petition, or application for admission on behalf of an alien described in subparagraph (H)(i)(b) or (L) of section 101(a)(15), the Secretary of Homeland Security or the Secretary of State may not deny a subsequent petition, visa, or application for admission involving the same employer and alien unless the applicant is provided with a written finding that explains the basis for the Government's determination that—

''(A) there was a material error with regard to the approval of the previous petition, visa, or application for admission;

''(B) a substantial change in circumstances has taken place since the prior approval or admission that renders the nonimmigrant ineligible for such status under this Act; or

''(C) new material information has been discovered that adversely impacts the eligibility of the employer or the nonimmigrant.''.

(3) EFFECT OF ENDING EMPLOYMENT RELATIONSHIP.—Section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)) is amended by adding at the end the following:

''(3) A nonimmigrant admitted under section 101(a)(15)(H)(i)(b) whose employment relationship ends (either voluntarily or involuntarily) before the expiration of the nonimmigrant's period of authorized admission shall be deemed to have retained such legal status throughout the 60-day period beginning on such employment ending date if an employer files a petition to extend, change, or adjust the status of the nonimmigrant during such period.''.

(c) PRACTICAL TRAINING FOR F–1 NONIMMIGRANTS.—

(1) DEFINED TERM.—Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) is amended—

(A) by inserting ''including post-completion on-the-job training related to the same course of study,'' after ''for the purpose of pursuing such a course of study''; and

(B) by striking ''consistent with section 214(l)'' and inserting ''consistent with section 214(m)''.

(2) OPTIONAL PRACTICAL TRAINING.—Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184(m)) is amended by adding at the end the following:

''(3)(A) An alien who obtains the status of a nonimmigrant under clause (i) or (iii) of section 101(a)(F) may complete a course of study by engaging in optional post-completion practical training to gain experience directly related to the course of study if the participating employer—

''(i) confirms to the university that the employer is compensating the nonimmigrant as similarly situated United States workers; and

''(ii) documents to the university that the nonimmigrant's assignments will provide experiential learning to further the nonimmigrant's knowledge of the major field in the course of study.

''(B) Optional post-completion practical training under this paragraph is only available once at each degree level, and only if the United States university awarding the degree was accredited at the time such degree was awarded in the United States.

''(C)(i) Except as provided in clause (ii), optional post-completion practical training is available for a period of not more than 12 months, which shall begin not later than 60 days after the alien's graduation from the university.

''(ii) Nonimmigrants described in clause (i) or (iii) of section 101(a)(F) may extend optional practical training under this paragraph for a period of not more than an additional 24 months if—

''(I) such training immediately follows the completion of a degree in a field of science, technology, engineering, or mathematics; and

''(II) such extension is requested before the expiration of the 12-month period described in clause (i).''.

SA 1965. Mr. PAUL submitted an amendment intended to be proposed by

him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIRNESS FOR HIGH-SKILLED IMMIGRANTS.

(a) SHORT TITLE.—This section may be cited as the ''Fairness for High-Skilled Immigrants Act of 2018''.

(b) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

''(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.''.

(c) CONFORMING AMENDMENTS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking ''both subsections (a) and (b) of section 203'' and inserting ''section 203(a)''; and

(B) by striking paragraph (5); and

(2) by amending subsection (e) to read as follows:

''(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, immigrant visas shall be allotted to such natives under section 203(a) (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that, except as provided in subsection (a)(4), the proportion of the visas made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total visas made available under the respective paragraph to the total visas made available under section 203(a).''.

(d) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking ''(as defined in subsection (e))'';

(2) by striking subsection (d); and

(3) by redesignating subsection (e) as subsection (d).

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on September 30, 2018, and shall apply to fiscal year 2019 and to each subsequent fiscal year.

(f) TRANSITION RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2019, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2015 under such paragraphs.

(B) For fiscal year 2020, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2016 under such paragraphs.

(C) For fiscal year 2021, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2017 under such paragraphs.

(2) PER-COUNTRY LEVELS.—

(A) RESERVED VISAS.—The number of visas reserved under each of subparagraphs (A) through (C) of paragraph (1) made available to natives of any single foreign state or dependent area in the appropriate fiscal year may not exceed 25 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas.

(B) UNRESERVED VISAS.—Not more than 85 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) and not reserved under paragraph (1), for each of the fiscal years 2017, 2018, and 2019, may be allotted to immigrants who are natives of any single foreign state.

(3) SPECIAL RULE TO PREVENT UNUSED VISAS.—If, with respect to fiscal year 2017, 2018, or 2019, the application of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).

(4) RULES FOR CHARGEABILITY.—Section 202(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.

SA 1966. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—LEGAL IMMIGRATION REFORM

Subtitle A—Immigrant Visa Allocations and Priorities

Sec. 1101. Family-sponsored immigration priorities.
Sec. 1102. Elimination of diversity visa program.
Sec. 1103. Employment-based immigration priorities.
Sec. 1104. Waiver of rights by B visa nonimmigrants.

Subtitle B—Visa Security

Sec. 1201. Cancellation of additional visas.
Sec. 1202. Visa information sharing.
Sec. 1203. Restricting waiver of visa interviews.
Sec. 1204. Authorizing the Department of State to not interview certain ineligible visa applicants.
Sec. 1205. Visa refusal and revocation.
Sec. 1206. Petition and application processing for visas and immigration benefits.
Sec. 1207. Fraud prevention.
Sec. 1208. Visa ineligibility for spouses and children of drug traffickers.
Sec. 1209. DNA testing.
Sec. 1210. Access to NCIC criminal history database for diplomatic visas.
Sec. 1211. Elimination of signed photograph requirement for visa applications.
Sec. 1212. Additional fraud detection and prevention.

TITLE II—INTERIOR IMMIGRATION ENFORCEMENT

Subtitle A—New Illegal Deduction Eliminations

Sec. 2101. Clarification that wages paid to unauthorized aliens may not be deducted from gross income.
Sec. 2102. Modification of E-Verify Program.

Subtitle B—Sanctuary Cities and State and Local Law Enforcement Cooperation

Sec. 2201. Short title.
Sec. 2202. State noncompliance with enforcement of immigration law.
Sec. 2203. Clarifying the authority of U.S. Immigration and Customs Enforcement detainers.
Sec. 2204. Sarah and Grant's law.
Sec. 2205. Clarification of congressional intent.
Sec. 2206. Penalties for illegal entry or presence.

Subtitle C—Criminal Aliens

Sec. 2301. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.
Sec. 2302. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
Sec. 2303. Grounds of inadmissibility and deportability for alien gang members.
Sec. 2304. Inadmissibility and deportability of drunk drivers.
Sec. 2305. Definition of aggravated felony.
Sec. 2306. Precluding withholding of removal for aggravated felons.
Sec. 2307. Protecting immigrants from convicted sex offenders.
Sec. 2308. Clarification to crimes of violence and crimes involving moral turpitude.
Sec. 2309. Detention of dangerous aliens.
Sec. 2310. Timely repatriation.
Sec. 2311. Illegal reentry.

Subtitle D—Asylum Reform

Sec. 2401. Clarification of intent regarding taxpayer-provided counsel.
Sec. 2402. Credible fear interviews.
Sec. 2403. Recording expedited removal and credible fear interviews.
Sec. 2404. Safe third country.
Sec. 2405. Renunciation of asylum status pursuant to return to home country.
Sec. 2406. Notice concerning frivolous asylum applications.
Sec. 2407. Anti-fraud investigative work product.
Sec. 2408. Penalties for asylum fraud.
Sec. 2409. Statute of limitations for asylum fraud.
Sec. 2410. Technical amendments.

Subtitle E—Unaccompanied and Accompanied Alien Minors Apprehended Along the Border

Sec. 2501. Repatriation of unaccompanied alien children.
Sec. 2502. Special immigrant juvenile status for immigrants unable to reunite with either parent.
Sec. 2503. Jurisdiction of asylum applications.
Sec. 2504. Quarterly report to Congress.
Sec. 2505. Biannual report to Congress.
Sec. 2506. Clarification of standards for family detention.

TITLE III—BORDER ENFORCEMENT

Sec. 3001. Short title.

Subtitle A—Border Security

Sec. 3101. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

Sec. 3111. Strengthening the requirements for barriers along the southern border.
Sec. 3112. Air and Marine Operations flight hours.
Sec. 3113. Capability deployment to specific sectors and transit zone.
Sec. 3114. U.S. Border Patrol activities.
Sec. 3115. Border security technology program management.
Sec. 3116. Reimbursement of States for deployment of the National Guard at the southern border.
Sec. 3117. National Guard support to secure the southern border.
Sec. 3118. Prohibitions on actions that impede border security on certain Federal land.
Sec. 3119. Landowner and rancher security enhancement.
Sec. 3120. Eradication of carrizo cane and salt cedar.
Sec. 3121. Southern border threat analysis.
Sec. 3122. Amendments to U.S. Customs and Border Protection.
Sec. 3123. Agent and officer technology use.
Sec. 3124. Integrated Border Enforcement Teams.
Sec. 3125. Tunnel Task Forces.
Sec. 3126. Pilot program on use of electromagnetic spectrum in support of border security operations.
Sec. 3127. Homeland security foreign assistance.

CHAPTER 2—PERSONNEL

Sec. 3131. Additional U.S. Customs and Border Protection agents and officers.
Sec. 3132. U.S. Customs and Border Protection retention incentives.
Sec. 3133. Anti-Border Corruption Reauthorization Act.
Sec. 3134. Training for officers and agents of U.S. Customs and Border Protection.

CHAPTER 3—GRANTS

Sec. 3141. Operation Stonegarden.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS

Sec. 3151. Authorization of appropriations.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

Sec. 3201. Ports of entry infrastructure.
Sec. 3202. Secure communications.
Sec. 3203. Border security deployment program.
Sec. 3204. Non-intrusive inspection operational demonstration.
Sec. 3205. Biometric exit data system.
Sec. 3206. Sense of Congress on cooperation between agencies.
Sec. 3207. Authorization of appropriations.
Sec. 3208. Definition.

TITLE IV—LAWFUL STATUS FOR CERTAIN CHILDHOOD ARRIVALS

Sec. 4101. Definitions.
Sec. 4102. Contingent nonimmigrant status for certain aliens who entered the United States as minors.
Sec. 4103. Administrative and judicial review.
Sec. 4104. Penalties and signature requirements.
Sec. 4105. Rulemaking.
Sec. 4106. Statutory construction.

TITLE I—LEGAL IMMIGRATION REFORM

Subtitle A—Immigrant Visa Allocations and Priorities

SEC. 1101. FAMILY-SPONSORED IMMIGRATION PRIORITIES.

(a) IMMEDIATE RELATIVE REDEFINED.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (b)(2)(A)—

(A) in clause (i), by striking ''children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.'' and inserting ''children and spouse of a citizen of the United States.''; and

(B) in clause (ii), by striking ''such an immediate relative'' and inserting ''the immediate relative spouse of a United States citizen'';

(2) by amending subsection (c) to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—(1) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to 87,934 minus the number computed under paragraph (2).

''(2) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year who—

''(A) did not depart from the United States (without advance parole) within 365 days; and

''(B)(i) did not acquire the status of an alien lawfully admitted to the United States for permanent residence during the two preceding fiscal years; or

''(ii) acquired such status during such period under a provision of law (other than subsection (b)) that exempts adjustment to such status from the numerical limitation on the worldwide level of immigration under this section.''; and

(3) in subsection (f)—

(A) in paragraph (2), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3); and

(D) in paragraph (3), as redesignated, by striking ''(1) through (3)'' and inserting ''(1) and (2)''.

(b) FAMILY-BASED VISA PREFERENCES.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) SPOUSES AND MINOR CHILDREN OF PERMANENT RESIDENT ALIENS.—Family-sponsored immigrants described in this subsection are qualified immigrants who are the spouse or a child of an alien lawfully admitted for permanent residence and shall be allocated visas in accordance with the number computed under section 201(c).''.

(c) AGING OUT.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended—

(1) by striking ''(a)(2)(A)'' each place such term appears and inserting ''(a)(2)'';

(2) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsections (a)(2) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which a petition is filed with the Secretary of Homeland Security.'';

(3) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(4) by inserting after paragraph (1) the following:

''(2) LIMITATION.—Notwithstanding the age of an alien on the date on which a petition is filed, an alien who marries or attains 25 years of age before being issued a visa pursuant to subsection (a)(2) or (d), no longer satisfies the age requirement described in paragraph (1).''; and

(5) in paragraph (5), as redesignated, by striking ''(3)'' and inserting ''(4)''.

(d) CONFORMING AMENDMENTS.—

(1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking ''section 203(a)(2)(A)'' each place such term appears and inserting ''section 203(a)''.

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B) and inserting the following:

''(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal year, 75 percent shall be issued without regard to the numerical limitation under paragraph (2).

''(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).—

''(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in any fiscal year, 25 percent shall be available, in the case of a foreign state or dependent area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or dependent area is less than the subsection (e) ceiling.

''(ii) SUBSECTION (e) CEILING DEFINED.—In clause (i), the term 'subsection (e) ceiling' means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area, consistent with subsection (e).''; and

(ii) by striking subparagraphs (C) and (D); and

(B) in subsection (e)—

(i) in paragraph (1), by adding ''and'' at the end;

(ii) by striking paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (2); and

(iv) in the undesignated matter after paragraph (2), as redesignated, by striking '', respectively,'' and all that follows and inserting a period.

(3) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(i), by striking ''to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or'';

(ii) in subparagraph (B)—

(I) in clause (i), by redesignating the second subclause (I) as subclause (II); and

(II) by striking ''203(a)(2)(A)'' each place such terms appear and inserting ''203(a)''; and

(iii) in subparagraph (D)(i)(I), by striking ''a petitioner'' and all that follows through ''section 204(a)(1)(B)(iii).'' and inserting ''an individual younger than 21 years of age for purposes of adjudicating such petition and for purposes of admission as an immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant under section 203(a), as appropriate, notwithstanding the actual age of the individual.'';

(B) in subsection (f)(1), by striking '', 203(a)(1), or 203(a)(3), as appropriate''; and

(C) by striking subsection (k).

(4) WAIVERS OF INADMISSIBILITY.—Section 212 of such Act (8 U.S.C. 1182) is amended—

(A) in subsection (a)(6)(E)(ii), by striking ''section 203(a)(2)'' and inserting ''section 203(a)''; and

(B) in subsection (d)(11), by striking ''(other than paragraph (4) thereof)''.

(5) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C. 1184(q)(1)(B)(i)) is amended by striking ''section 203(a)(2)(A)'' each place such term appears and inserting ''section 203(a)''.

(6) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C)) is amended by striking ''section 203(a)(2)'' and inserting ''section 203(a)''.

(7) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking ''section 203(a)(2)'' and inserting ''section 203(a)''.

(e) CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIEN PARENTS OF ADULT UNITED STATES CITIZENS.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a semicolon;

(B) in subparagraph (U)(iii), by striking ''or'' at the end;

(C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States, if the citizen—

''(i) is at least 21 years of age; and

''(ii) has never received contingent nonimmigrant status under title IV of the Securing America's Future Act of 2018.''.

(2) CONDITIONS ON ADMISSION.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s)(1) The initial period of authorized admission for a nonimmigrant described in section 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still residing in the United States.

''(2) A nonimmigrant described in section 101(a)(15)(W)—

''(A) is not authorized to be employed in the United States; and

''(B) is not eligible for any Federal, State, or local public benefit.

''(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the United States citizen son or daughter who sponsored the nonimmigrant parent shall be responsible for the nonimmigrant's support while the nonimmigrant resides in the United States.

''(4) An alien is ineligible to receive a visa or to be admitted into the United States as a nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof that the United States citizen son or daughter has arranged for health insurance coverage for the alien, at no cost to the alien, during the anticipated period of the alien's residence in the United States.''.

(f) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2018.

(2) INVALIDITY OF CERTAIN PETITIONS AND APPLICATIONS.—

(A) IN GENERAL.—No person may file, and the Secretary of Homeland Security and the Secretary of State may not accept, adjudicate, or approve any petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) filed on or after the date of enactment of this Act seeking classification of an alien under section 201(b)(2)(A)(i) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) with respect to a parent of a United States citizen, or under paragraph (1), (2)(B), (3) or (4) of section 203(a) of such Act (8 U.S.C. 1153(a)). Any application for adjustment of status or an immigrant visa based on such a petition shall be invalid.

(B) PENDING PETITIONS.—Neither the Secretary of Homeland Security nor the Secretary of State may adjudicate or approve any petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending as of the date of enactment of this Act seeking classification of an alien under section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) with respect to a parent of a United States citizen, or under paragraph (1), (2)(B), (3) or (4) of section 203(a) of such Act (8 U.S.C. 1153(a)). Any application for adjustment of status or an immigrant visa based on such a petition shall be invalid.

(3) APPLICABILITY TO WAITLISTED APPLICANTS.—

(A) IN GENERAL.—Notwithstanding the amendments made by this section, an alien with regard to whom a petition or application for status under paragraph (1), (2)(B), (3) or (4) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), as in effect on September 30, 2018, was approved prior to the date of the enactment of this Act, may be issued a visa pursuant to that paragraph in accordance with the availability of visas under subparagraph (B).

(B) AVAILABILITY OF VISAS.—Visas may be issued to beneficiaries of approved petitions under each category described in subparagraph (A), but only until such time as the number of visas that would have been allocated to that category in fiscal year 2019, notwithstanding the amendments made by this section, have been issued. When the number of visas described in the previous sentence have been issued for each category described in subparagraph (A), no additional visas may be issued for that category.

SEC. 1102. ELIMINATION OF DIVERSITY VISA PROGRAM.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking subsection (c).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) in section 101(a)(15)(V), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(B) in section 201—

(i) in subsection (a)—

(I) in paragraph (1), by adding ''and'' at the end; and

(II) by striking paragraph (3); and

(ii) by striking subsection (e);

(C) in section 203—

(i) in subsection (b)(2)(B)(ii)(IV), by striking ''section 203(b)(2)(B)'' each place such term appears and inserting ''clause (i)'';

(ii) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), and (g), respectively;

(iii) in subsection (c), as redesignated, by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)'';

(iv) in subsection (d), as redesignated—

(I) by striking paragraph (2); and

(II) by redesignating paragraph (3) as paragraph (2);

(v) in subsection (e), as redesignated, by striking ''subsection (a), (b), or (c) of this section'' and inserting ''subsection (a) or (b)'';

(vi) in subsection (f), as redesignated, by striking ''subsections (a), (b), and (c)'' and inserting ''subsections (a) and (b)''; and

(vii) in subsection (g), as redesignated—

(I) by striking ''(d)'' each place such term appears and inserting ''(c)''; and

(II) in paragraph (2)(B), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)'';

(D) in section 204—

(i) in subsection (a)(1), by striking subparagraph (I);

(ii) in subsection (e), by striking ''subsection (a), (b), or (c) of section 203'' and inserting ''subsection (a) or (b) of section 203''; and

(iii) in subsection (l)(2)—

(I) in subparagraph (B), by striking ''section 203 (a) or (d)'' and inserting ''subsection (a) or (c) of section 203''; and

(II) in subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(E) in section 214(q)(1)(B)(i), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(F) in section 216(h)(1), in the undesignated matter following subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)''; and

(G) in section 245(i)(1)(B), by striking ''section 203(d)'' and inserting ''section 203(c)''.

(2) IMMIGRANT INVESTOR PILOT PROGRAM.—Section 610(d) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Public Law 102–395) is amended by striking ''section 203(e) of such Act (8 U.S.C. 1153(e))'' and inserting ''section 203(d) of such Act (8 U.S.C. 1153(d))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year beginning on or after the date of the enactment of this Act.

SEC. 1103. EMPLOYMENT-BASED IMMIGRATION PRIORITIES.

(a) INCREASE IN VISAS FOR SKILLED WORKERS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 201(d)(1)(A), by striking ''140,000'' and inserting ''195,000''; and

(2) in section 203(b)—

(A) in paragraph (1), by striking ''28.6 percent of such worldwide level'' and inserting ''58,374'';

(B) in paragraphs (2) and (3), by striking ''28.6 percent of such worldwide level'' each place it appears and inserting ''58,373''; and

(C) by striking ''7.1 percent of such worldwide level'' each place it appears and inserting ''9,940''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2019 and shall apply to visas made available in fiscal year 2019 and subsequent fiscal years.

SEC. 1104. WAIVER OF RIGHTS BY B VISA NONIMMIGRANTS.

Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amended by inserting '', and who has waived any right to review or appeal of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or to contest, other than on the basis of an application for asylum, any action for removal of the alien'' before the semicolon at the end.

Subtitle B—Visa Security

SEC. 1201. CANCELLATION OF ADDITIONAL VISAS.

(a) IN GENERAL.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the

country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any visa issued before, on, or after such date.

SEC. 1202. VISA INFORMATION SHARING.

(a) IN GENERAL.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

(1) by striking ''issuance or refusal'' and inserting ''issuance, refusal, or revocation'';

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking ''and on the basis of reciprocity'' and all that follows and inserting the following ''may provide to a foreign government information in a Department of State computerized visa database and, when necessary and appropriate, other records covered by this section related to information in such database—'';

(3) in paragraph (2)(A)—

(A) by inserting at the beginning ''on the basis of reciprocity,'';

(B) by inserting ''(i)'' after ''for the purpose of''; and

(C) by striking ''illicit weapons; or'' and inserting ''illicit weapons, or (ii) determining a person's deportability or eligibility for a visa, admission, or other immigration benefit;'';

(4) in paragraph (2)(B)—

(A) by inserting at the beginning ''on the basis of reciprocity,'';

(B) by striking ''in the database'' and inserting ''such database'';

(C) by striking ''for the purposes'' and inserting ''for one of the purposes''; and

(D) by striking ''or to deny visas to persons who would be inadmissible to the United States.'' and inserting ''; or''; and

(5) in paragraph (2), by adding at the end the following:

''(C) with regard to any or all aliens in the database specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date of the enactment of this Act.

SEC. 1203. RESTRICTING WAIVER OF VISA INTERVIEWS.

Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)(1)(B)) is amended—

(1) in paragraph (1)(C), by inserting '', in consultation with the Secretary of Homeland Security,'' after ''if the Secretary'';

(2) in paragraph (1)(C)(i), by inserting '', where such national interest shall not include facilitation of travel of foreign nationals to the United States, reduction of visa application processing times, or the allocation of consular resources'' before the semicolon at the end; and

(3) in paragraph (2)—

(A) by striking ''or'' at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting ''; or''; and

(C) by adding at the end the following:

''(G) is an individual—

''(i) determined to be in a class of aliens determined by the Secretary of Homeland Security to be threats to national security;

''(ii) identified by the Secretary of Homeland Security as a person of concern; or

''(iii) applying for a visa in a visa category with respect to which the Secretary of Homeland Security has determined that a waiver of the visa interview would create a high risk of degradation of visa program integrity.''.

SEC. 1204. AUTHORIZING THE DEPARTMENT OF STATE TO NOT INTERVIEW CERTAIN INELIGIBLE VISA APPLICANTS.

(a) IN GENERAL.—Section 222(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1202(h)(1)) is amended by inserting ''the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application or'' after ''unless''.

(b) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall issue guidance to consular officers on the standards and processes for implementing the authority to deny visa applications without interview in cases where the alien is determined by the Secretary of State to be ineligible for a visa based upon review of the application.

(c) REPORTS.—Not less frequently than quarterly, the Secretary of State shall submit a report to Congress regarding the denial of visa applications without interview, including—

(1) the number of such denials; and

(2) a post-by-post breakdown of such denials.

SEC. 1205. VISA REFUSAL AND REVOCATION.

(a) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY AND THE SECRETARY OF STATE.—

(1) IN GENERAL.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

''(b) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—

''(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) and except for the authority of the Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

''(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and

''(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or designee, determines that such refusal or revocation is necessary or advisable in the security or foreign policy interests of the United States.

''(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

''(A) shall take effect immediately; and

''(B) shall automatically cancel any other valid visa that is in the alien's possession.

''(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a decision by the Secretary of Homeland Security to refuse or revoke a visa, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a refusal or revocation.

''(c) AUTHORITY OF THE SECRETARY OF STATE.—

''(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa requested by an alien if the Secretary of State determines such refusal to be necessary or advisable in the security or foreign policy interests of the United States.

''(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary of Homeland Security under subsection (b).''.

(2) AUTHORITY OF THE SECRETARY OF STATE.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking ''subsection, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B).'' and inserting ''subsection.''.

(3) CONFORMING AMENDMENT.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''under section 221(i)''.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to visa refusals and revocations occurring before, on, or after such date.

(b) TECHNICAL CORRECTIONS TO THE HOMELAND SECURITY ACT.—Section 428(a) of the Homeland Security Act of 2002 (6 U.S.C. 236(a)) is amended—

(1) by striking ''subsection'' and inserting ''section''; and

(2) by striking ''consular office'' and inserting ''consular officer''.

SEC. 1206. PETITION AND APPLICATION PROCESSING FOR VISAS AND IMMIGRATION BENEFITS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 211 the following:

''SEC. 211A. PETITION AND APPLICATION PROCESSING.

''(a) SIGNATURE REQUIREMENT.—

''(1) IN GENERAL.—No petition or application filed with the Secretary of Homeland Security or with a consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant may be approved unless the petition or application is signed by each party required to sign such petition or application.

''(2) APPLICATIONS FOR IMMIGRANT VISAS.—Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer.

''(b) COMPLETION REQUIREMENT.—No petition or application filed with the Secretary of Homeland Security or with a consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant may be approved unless each applicable portion of the petition or application has been completed.

''(c) TRANSLATION REQUIREMENT.—No document submitted in support of a petition or application for a nonimmigrant or immigrant visa may be accepted by a consular officer if such document contains information in a foreign language, unless such document is accompanied by a full English translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

''(d) REQUESTS FOR ADDITIONAL INFORMATION.—If the Secretary of Homeland Security or a consular officer requests any additional information relating to a petition or application filed with the Secretary or consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant, such petition or application may not be approved unless all of the additional information requested—

''(1) is provided on or before any reasonably established deadline included in the request; or

''(2) is shown to have been previously provided, in complete form.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 211 the following:

''Sec. 211A. Petition and application processing.''.

(c) APPLICATION.—The amendments made by this section shall apply with respect to applications and petitions filed after the date of the enactment of this Act.

SEC. 1207. FRAUD PREVENTION.

(a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

(1) PLAN FOR IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a plan to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives for the use of advanced analytics software to ensure the proactive detection of fraud in immigration benefits applications and petitions and to ensure that any such applicant or petitioner does not pose a threat to national security.

(2) IMPLEMENTATION OF PLAN.—Not later than 1 year after the date of the submission of the plan under paragraph (1), the Secretary of Homeland Security shall begin implementing the plan.

(b) BENEFITS FRAUD ASSESSMENT.—

(1) IN GENERAL.—Not later than September 30, 2021, the Secretary of Homeland Security, acting through the Fraud Detection and Nationality Security Directorate, shall complete a benefit fraud assessment on—

(A) petitions by VAWA self-petitioners (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51));

(B) applications or petitions for visas or status under section 101(a)(15)(K) of such Act or under section 201(b)(2) of such Act (8 U.S.C. 1151(b)(2), in the case of spouses;

(C) applications for visas or status under section 101(a)(27)(J) of such Act;

(D) applications for visas or status under section 101(a)(15)(U) of such Act;

(E) petitions for visas or status under section 101(a)(27)(C) of such Act;

(F) applications for asylum under section 208 of such Act (8 U.S.C. 1158);

(G) applications for adjustment of status under section 209 of such Act (8 U.S.C. 1159); and

(H) petitions for visas or status under section 201(b) of such Act (8 U.S.C. 1151(b)).

(2) REPORTING ON FINDINGS.—Not later than 30 days after the completion of each benefit fraud assessment under paragraph (1), the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes—

(A) the results of such assessment; and

(B) recommendations for reducing instances of fraud identified by the assessment.

SEC. 1208. VISA INELIGIBILITY FOR SPOUSES AND CHILDREN OF DRUG TRAFFICKERS.

Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(1) in subparagraph (C)(ii), by striking ''is the spouse, son, or daughter'' and inserting ''is or has been the spouse, son, or daughter''; and

(2) in subparagraph (H)(ii), by striking ''is the spouse, son, or daughter'' and inserting ''is or has been the spouse, son, or daughter''.

SEC. 1209. DNA TESTING.

Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by inserting ''If the consular officer or immigration official considers that DNA evidence is necessary to establish a family relationship, the immigrant shall provide DNA evidence of such a relationship in accordance with procedures established for submitting such evidence. The Secretary of Homeland Security, in consultation with the Secretary of State, may issue regulations to require DNA evidence from applicants for certain visa classifications to establish family relationships.'' after ''by the consular officer.''.

SEC. 1210. ACCESS TO NCIC CRIMINAL HISTORY DATABASE FOR DIPLOMATIC VISAS.

Subsection (a) of article V of section 217 of the National Criminal History Access and Child Protection Act (34 U.S.C. 40316(V)(a)) is amended by inserting '', except for diplomatic visa applications for which only full biographical information is required'' before the period at the end.

SEC. 1211. ELIMINATION OF SIGNED PHOTOGRAPH REQUIREMENT FOR VISA APPLICATIONS.

Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by striking the first sentence and insert the following: ''Each alien who applies for a visa shall be registered in connection with his or her application and shall furnish copies of his or her photograph for such use as may be required by regulation.''.

SEC. 1212. ADDITIONAL FRAUD DETECTION AND PREVENTION.

Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''at United States embassies and consulates abroad'';

(2) by amending clause (i) to read as follows:

''(i) to increase the number of diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting visa fraud;''; and

(3) in clause (ii), by striking '', including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)''.

TITLE II—INTERIOR IMMIGRATION ENFORCEMENT

Subtitle A—New Illegal Deduction Eliminations

SEC. 2101. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.

(a) IN GENERAL.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

''(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

''(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

''(B) WAGES.—For the purposes of this paragraph, the term 'wages' means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash.

''(C) SAFE HARBOR.—If a person or other entity is participating in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.

''(D) BURDEN OF PROOF.—In the case of any examination of a return in connection with a deduction under this section by reason of this paragraph, the Secretary shall bear the burden of proving that wages were paid to or on behalf of an unauthorized alien.

''(E) LIMITATION ON TAXPAYER AUDIT.—The Secretary may not commence an audit or other investigation of a taxpayer solely on the basis of a deduction taken under this section by reason of this paragraph.''.

(b) SIX-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of the Internal Revenue Code of 1986 (relating to exceptions) is amended by adding at the end the following new paragraph:

''(12) DEDUCTION CLAIMED FOR WAGES PAID TO UNAUTHORIZED ALIENS.—In the case of a return of tax on which a deduction is shown in violation of section 162(c)(4), any tax under chapter 1 may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.''.

(c) USE OF DOCUMENTATION FOR ENFORCEMENT PURPOSES.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subparagraph (b)(5), by inserting '', section 162(c)(4) of the Internal Revenue Code of 1986,'' after ''enforcement of this Act'';

(2) in subparagraph (d)(2)(F), by inserting '', section 162(c)(4) of the Internal Revenue Code of 1986,'' after ''enforcement of this Act''; and

(3) in subparagraph (d)(2)(G), by inserting ''section 162(c)(4) of the Internal Revenue Code of 1986 or'' after ''or enforcement of''.

(d) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—The Commissioner of Social Security, the Secretary of the Department of Homeland Security, and the Secretary of the Treasury, shall jointly establish a program to share information among such agencies that may or could lead to the identification of unauthorized aliens (as defined under section 274A(h)(3) of the Immigration and Nationality Act), including any no-match letter, any information in the earnings suspense file, and any information in the investigation and enforcement of section 162(c)(4) of the Internal Revenue Code of 1986.

(2) DISCLOSURE BY SECRETARY OF THE TREASURY.—

(A) IN GENERAL.—Subsection (i) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) PAYMENT OF WAGES TO UNAUTHORIZED ALIENS.—Upon request from the Commissioner of the Social Security Administration or the Secretary of the Department of Homeland Security, the Secretary shall disclose to officers and employees of such Administration or Department—

''(A) taxpayer identity information of employers who paid wages with respect to which a deduction was not allowed by reason of section 162(c)(4), and

''(B) taxpayer identity information of individuals to whom such wages were paid,

for purposes of carrying out any enforcement activities of such Administration or Department with respect to such employers or individuals.''.

(B) RECORDKEEPING.—Paragraph (4) of section 6103(p) of such Code is amended—

(i) by striking ''(5), or (7)'' in the matter preceding subparagraph (A) and inserting ''(5), (7), or (9)'', and

(ii) by striking ''(5) or (7)'' in subparagraph (F)(ii) and inserting ''(5), (7), or (9)''.

(e) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2017.

SEC. 2102. MODIFICATION OF E-VERIFY PROGRAM.

(a) MAKING PERMANENT.—Subsection (b) of section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking the last sentence.

(b) APPLICATION TO CURRENT EMPLOYEES.—

(1) VOLUNTARY ELECTION.—The first sentence of section 402(a) of such Act is amended to read as follows: ''Any person or other entity that conducts any hiring (or recruitment or referral) in a State or employs any individuals in a State may elect to participate in the E-Verify Program.''.

(2) BENEFIT OF REBUTTABLE PRESUMPTION.—Paragraph (1) of section 402(b) of such Act is amended by adding at the end the following: ''If a person or other entity is participating in the E-Verify Program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to individuals employed by the person or entity, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(2) with respect to such individuals.''.

(3) SCOPE OF ELECTION.—Subparagraph (A) of section 402(c)(2) of such Act is amended to read as follows:

''(A) IN GENERAL.—Any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

''(i) to all its hiring (and all recruitment or referral);

''(ii) to all its hiring (and all recruitment or referral and all individuals employed by the person or entity);

''(iii) to all its hiring (and all recruitment or referral) in one or more States or one or more places of hiring (or recruitment or referral, as the case may be); or

''(iv) to all its hiring (and all recruitment or referral and all individuals employed by the person or entity) in one or more States or one or more place of hiring (or recruitment or referral or employment, as the case may be).''.

(4) PROCEDURES FOR PARTICIPANTS IN E-VERIFY PROGRAM.—Subsection (a) of section 403 of such Act is amended—

(A) in the matter preceding paragraph (1), by inserting ''or continued employment in the United States'' after ''United States''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking all that follows ''(as specified by the Secretary of Homeland Security)'' and inserting ''after the date of the hiring, or recruitment or referral, in the case of inquiries made pursuant to a hiring, recruitment or referral (and not of previously hired individuals).''; and

(ii) in subparagraph (B), by striking ''such 3 working days'' and inserting ''the specified period''.

(c) APPLICATION TO JOB APPLICANTS.—Section 402(c)(2) of such Act is amended by adding at the end the following:

''(C) JOB OFFER MAY BE MADE CONDITIONAL ON FINAL CONFIRMATION BY E-VERIFY.—A person or other entity that elects to participate in the E-Verify Program may offer a prospective employee an employment position conditioned on final verification of the identity and employment eligibility of the employee using the employment eligibility confirmation system established under section 404.''.

Subtitle B—Sanctuary Cities and State and Local Law Enforcement Cooperation

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the ''No Sanctuary for Criminals Act''.

SEC. 2202. STATE NONCOMPLIANCE WITH ENFORCEMENT OF IMMIGRATION LAW.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit or in any way restrict, a Federal, State, or local government entity, official, or other personnel from complying with the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), or from assisting or cooperating with Federal law enforcement entities, officials, or other personnel regarding the enforcement of these laws.

''(b) LAW ENFORCEMENT ACTIVITIES.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit, or in any way restrict, a Federal, State, or local government entity, official, or other personnel from undertaking any of the following law enforcement activities relating to information regarding the citizenship or immigration status, the inadmissibility, the deportability, or the custody status, of any individual:

''(1) Making inquiries to any individual in order to obtain such information regarding such individual or any other individuals.

''(2) Notifying the Federal Government regarding the presence of individuals who are encountered by law enforcement officials or other personnel of a State or political subdivision of a State.

''(3) Complying with requests for such information from Federal law enforcement entities, officials, or other personnel.'';

(2) in subsection (c), by striking ''Immigration and Naturalization Service'' and inserting ''Department of Homeland Security''; and

(3) by adding at the end the following:

''(d) COMPLIANCE.—

''(1) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—A State, or a political subdivision of a State, that is not in compliance with subsection (a) or (b) is not eligible to receive—

''(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the 'Cops on the Beat' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.); or

''(B) any other grant administered by the Department of Justice that is substantially related to law enforcement (including enforcement of the immigration laws), immigration, enforcement of the immigration laws, or naturalization or administered by the Department of Homeland Security that is substantially related to immigration, the enforcement of the immigration laws, or naturalization.

''(2) TRANSFER OF CUSTODY OF ALIENS PENDING REMOVAL PROCEEDINGS.—The Secretary, at the Secretary's discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or political subdivision of a State that is not in compliance with subsection (a) or (b), regardless of whether the State or political subdivision of the State has issued a writ or warrant.

''(3) TRANSFER OF CUSTODY OF CERTAIN ALIENS PROHIBITED.—The Secretary may not transfer an alien with a final order of removal pursuant to paragraph (1)(A) or (5) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) to a State or a political subdivision of a State that is not in compliance with subsection (a) or (b).

''(4) ANNUAL DETERMINATION.—The Secretary shall—

''(A) determine, for each calendar year, which States or political subdivisions of a State are not in compliance with subsection (a) or (b); and

''(B) report such determinations to Congress not later than March 1 of the succeeding calendar year.

''(5) NONCOMPLIANCE REPORTS.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall issue a report concerning the compliance with subsections (a) and (b) of any particular State or political subdivision of a State at the request of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives.

''(B) TERM OF INELIGIBILITY.—Any jurisdiction that is not in compliance with subsection (a) or (b) shall be ineligible to receive the Federal financial assistance described in paragraph (1) for at least 1 year.

''(C) CERTIFICATION.—Any jurisdiction subject to paragraph (1) is not eligible to receive the Federal financial assistance described in such paragraph until after the Secretary of Homeland Security certifies that the jurisdiction has come into compliance with subsections (a) and (b).

''(6) REALLOCATION.—Any funds that are not allocated to a State or to a political subdivision of a State due to the failure of the State or of the political subdivision of the State to comply with subsection (a) or (b) shall be reallocated to States or to political subdivisions of States that comply with both such subsections.

''(e) CONSTRUCTION.—Nothing in this section may be construed to require law enforcement officials from States, or from political subdivisions of States, to report or arrest victims or witnesses of a criminal offense.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that section 642(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as added by subsection (a)(3), shall only apply to prohibited acts committed on or after such date of enactment.

SEC. 2203. CLARIFYING THE AUTHORITY OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINERS.

(a) IN GENERAL.—Section 287(d) of the Immigration and Nationality Act (8 U.S.C. 1357(d)) is amended to read as follows:

''(d) DETAINER OF INADMISSIBLE OR DEPORTABLE ALIENS.—

''(1) IN GENERAL.—If an individual is arrested by any Federal, State, or local law enforcement official or other personnel for the alleged violation of any criminal or motor vehicle law, the Secretary may issue a detainer regarding the individual to any Federal, State, or local law enforcement entity, official, or other personnel if the Secretary has probable cause to believe that the individual is an inadmissible or deportable alien.

''(2) PROBABLE CAUSE.—Probable cause is established under paragraph (1) if—

''(A) the individual who is the subject of the detainer—

''(i) matches, pursuant to biometric confirmation or other Federal database records, the identity of an alien who the Secretary has reasonable grounds to believe to be inadmissible or deportable;

''(ii) is the subject of ongoing removal proceedings, including matters where a charging document has already been served;

''(iii) has previously been ordered removed from the United States and such an order is administratively final; or

''(iv) has made voluntary statements or provided reliable evidence that indicate that they are an inadmissible or deportable alien; or

''(B) the Secretary has reasonable grounds to believe that the individual who is the subject of the detainer is an inadmissible or deportable alien.

''(3) TRANSFER OF CUSTODY.—If the Federal, State, or local law enforcement entity, official, or other personnel to whom a detainer is issued complies with the detainer and detains for purposes of transfer of custody to the Department of Homeland Security the individual who is the subject of the detainer, the Department may take custody of the individual within 48 hours (excluding weekends and holidays), but in no instance more than 96 hours, following the date that the individual is otherwise to be released from the custody of the relevant Federal, State, or local law enforcement entity.''.

(b) IMMUNITY.—

(1) IN GENERAL.—A State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), and a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, acting in compliance with a Department of Homeland Security detainer issued pursuant to this section who temporarily holds an alien in its custody pursuant to the terms of a detainer so that the alien may be taken into the custody of the Department of Homeland Security, shall be considered to be acting under color of Federal authority for purposes of determining their liability and shall be held harmless for their compliance with the detainer in any suit seeking any punitive, compensatory, or other monetary damages.

(2) FEDERAL GOVERNMENT AS DEFENDANT.—In any civil action arising out of the compliance with a Department of Homeland Security detainer by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention, the United States Government shall be the proper party named as the defendant in the suit in regard to the detention resulting from compliance with the detainer.

(3) BAD FAITH EXCEPTION.—Paragraphs (1) and (2) shall not apply to any mistreatment of an individual by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention.

(c) PRIVATE RIGHT OF ACTION.—

(1) CAUSE OF ACTION.—Any individual, or a spouse, parent, or child of that individual (if the individual is deceased), who is the victim of a murder, rape, or any felony, as defined by the State, for which an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) has been convicted and sentenced to a term of imprisonment of at least 1 year, may bring an action against a State, a political subdivision of a State, or a public official, acting in an official capacity, in the appropriate Federal court if the State or political subdivision, except as provided in paragraph (3)—

(A) released the alien from custody prior to the commission of such crime as a consequence of the State or political subdivision's declining to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1));

(B) has in effect a statute, policy, or practice not in compliance with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) as amended, and as a consequence of its statute, policy, or practice, released the alien from custody before the commission of such crime; or

(C) has in effect a statute, policy, or practice requiring a subordinate political subdivision to decline to honor any or all detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)), and, as a consequence of its statute, policy or practice, the subordinate political subdivision declined to honor a detainer issued pursuant to such section, and as a consequence released the alien from custody before the commission of such crime.

(2) LIMITATIONS ON BRINGING ACTION.—An action may not be brought under this subsection later than 10 years after the occurrence of the crime, or the death of a person as a result of such crime, whichever occurs later.

(3) PROPER DEFENDANT.—If a State or a political subdivision of a State has in effect a statute or other legal requirement prohibiting political entities within its jurisdiction from honoring a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) or from fully complying with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and a political entity declines to honor such a detainer against an alien described in paragraph (1) based on such statute or legal requirement and releases such alien before the alien commits a crime referred to in such paragraph—

(A) the State or political subdivision that enacted such statute or legal requirement shall be deemed to be the proper defendant in a cause of action under paragraph (1); and

(B) no such cause of action may be maintained against the political entity that declined to honor the detainer.

(4) ATTORNEY'S FEE AND OTHER COSTS.—In any action or proceeding under this subsection, the court shall allow a prevailing plaintiff a reasonable attorneys' fee as part of the costs, including expert fees.

(d) ELIGIBILITY FOR CERTAIN GRANT PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State or political subdivision of a State that has in effect a statute, policy, or practice that prohibits it from complying with any or all Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)) shall not be eligible to receive—

(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the ''Cops on the Beat'' program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10301 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.); or

(B) any other grant administered by the Department of Justice that is substantially related to law enforcement (including enforcement of the immigration laws), immigration, or naturalization or grant administered by the Department of Homeland Security that is substantially related to immigration, enforcement of the immigration laws, or naturalization.

(2) EXCEPTION.—A political entity described in subsection (c)(3) that declines to honor a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) as a consequence of being required to comply with a statute or other legal requirement of a State or another political subdivision with jurisdiction over that political subdivision, shall remain eligible to receive grant funds described in paragraph (1), but the State or political subdivision that enacted such statute or other legal requirement shall not be eligible to receive such funds.

SEC. 2204. SARAH AND GRANT'S LAW.

(a) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(A) by striking ''Attorney General'' each place it appears (except in the second place that term appears in subsection (a)) and inserting ''Secretary of Homeland Security''; and

(B) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General''; and

(ii) in paragraph (2), by amending subparagraph (B) to read as follows:

''(B) recognizance; and'';

(C) in subsection (b), by striking ''parole'' and inserting ''recognizance''; and

(D) in subsection (e), by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''.

(2) DETENTION OF CRIMINAL ALIENS.—Section 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is amended—

(A) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(B) in subparagraph (B), by striking the comma at the end and inserting a semicolon;

(C) subparagraph (C), by striking ''sentence to a term of imprisonment of at least 1 year, or'' and inserting ''sentenced to a term of imprisonment of at least 1 year;'';

(D) in subparagraph (D), by striking the comma at the end and inserting a semicolon;

(E) by inserting after subparagraph (D) the following:

''(E) is unlawfully present in the United States and has been convicted for driving while intoxicated (including a conviction for driving while under the influence or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law;

''(F)(i)(I) is inadmissible under section 212(a)(6)(i);

''(II) is deportable by reason of a visa revocation under section 221(i); or

''(III) is deportable under section 237(a)(1)(C)(i); and

''(ii) has been arrested or charged with a particularly serious crime or a crime resulting in the death or serious bodily injury (as defined in section 1365(h)(3) of title 18, United States Code) of another person; or''; and

(F) by striking the undesignated matter at the end and inserting the following:

''any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph whether the alien is released on parole, supervised release, or probation, or whether the alien may be arrested or imprisoned again for the same offense, and, if the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, the Secretary shall take such alien into custody when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody.''.

(3) LENGTH OF DETENTION; ADMINISTRATIVE REVIEW.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) LENGTH OF DETENTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, an alien may be detained, and, if the alien is described in subsection (c), shall be detained, under this section without time limitation, except as provided in subsection (h), during the pendency of removal proceedings.

''(2) CONSTRUCTION.—The length of detention under this section shall not affect a detention under section 241.

''(g) ADMINISTRATIVE REVIEW.—The Attorney General's review of the Secretary's custody determinations under subsection (a) shall be limited to whether the alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond if the alien—

''(1) is in exclusion proceedings;

''(2) is described in section 212(a)(3) or 237(a)(4); or

''(3) is described in subsection (c).

''(h) RELEASE ON BOND.—

''(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. Bond may not be granted unless the alien establishes, by clear and convincing evidence, that the alien is not a flight risk or a danger to another person or to the community.

''(2) CERTAIN ALIENS INELIGIBLE.—An alien detained under subsection (c) may not seek release on bond.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any alien in detention under section 236 of the Immigration and Nationality Act, as amended, or otherwise subject to the provisions of such section, on or after such date.

SEC. 2205. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (1) by striking ''may enter'' and all that follows through the period at the end and inserting the following: ''shall enter into a written agreement with a State, or any political subdivision of a State, upon request of the State or political subdivision, pursuant to which officers or employees of the State or subdivision, who are determined by the Secretary to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law. No request from a bona fide State or political subdivision or bona fide law enforcement agency shall be denied absent a compelling reason. No limit on the number of agreements under this subsection may be imposed. The Secretary shall process requests for such agreements with all due haste, and in no case shall take not more than 90 days from the date the request is made until the agreement is consummated.'';

(2) by redesignating paragraph (2) as paragraph (5);

(3) by redesignating paragraphs (3) through (10) as paragraphs (7) through (14), respectively;

(4) by inserting after paragraph (1) the following:

''(2) An agreement under this subsection shall accommodate a requesting State or political subdivision with respect to the enforcement model or combination of models, and shall accommodate a patrol model, task force model, jail model, any combination thereof, or any other reasonable model the State or political subdivision believes is best suited to the immigration enforcement needs of its jurisdiction.

''(3) No Federal program or technology directed broadly at identifying inadmissible or deportable aliens shall substitute for such agreements, including those establishing a jail model, and shall operate in addition to any agreement under this subsection.

''(4)(A) No agreement under this subsection shall be terminated absent a compelling reason.

''(B)(i) The Secretary shall provide a State or political subdivision written notice of intent to terminate at least 180 days prior to date of intended termination, and the notice shall fully explain the grounds for termination, along with providing evidence substantiating the Secretary's allegations.

''(ii) The State or political subdivision shall have the right to a hearing before an administrative law judge and, if the ruling is against the State or political subdivision, to appeal the ruling to the Federal Circuit Court of Appeals and, if the ruling is against the State or political subdivision, to petition the Supreme Court for certiorari.

''(C) The agreement shall remain in full effect during the course of any and all legal proceedings.''; and

(5) by inserting after paragraph (5), as redesignated, the following:

''(6) The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness and the Federal Law Enforcement Training Center, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. Distance learning through a secure, encrypted, distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of the Securing America's Future Act of 2018, shall be made available by the COPS Office of the Department of Justice and the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel. Preference shall be given to private sector-based, web-based immigration enforcement training programs for which the Federal Government has already provided support to develop.''.

SEC. 2206. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY OR PRESENCE.

''(a) IN GENERAL.—

''(1) ILLEGAL ENTRY OR PRESENCE.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien knowingly—

''(A) enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including by failing to stop at the command of such officer);

''(C) enters or crosses the border to the United States and, upon examination or inspection, knowingly makes a false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws);

''(D) violates the terms or conditions of the alien's admission or parole into the United States and has remained in violation for an aggregate period of 90 days or more; or

''(E) is unlawfully present in the United States (as defined in section 212(a)(9)(B)) and has remained in violation for an aggregate period of 90 days or more.

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years (or not more than 6 months in the case of a second or subsequent violation of paragraph (1)(E)), or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer, or until the alien is granted a valid visa or relief from removal.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(1) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(2) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry or presence.''.

(c) EFFECTIVE DATES AND APPLICABILITY.—

(1) CRIMINAL PENALTIES.—Section 275(a) of the Immigration and Nationality Act, as

amended by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to acts, conditions, or violations described in such section 275(a) that occur or exist on or after such effective date.

(2) CIVIL PENALTIES.—Section 275(b) of such Act, as amended by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to acts described in such section 275(b) that occur before, on, or after such date.

Subtitle C—Criminal Aliens

SEC. 2301. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)(i)—

(i) in subclause (I), by striking ''; or'' at the end and inserting a semicolon;

(ii) in subclause (II), by striking the comma at the end and inserting a semicolon; and

(iii) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification documents, authentication features, and information); or''; and

(B) by adding at the end the following:

''(J) PROCUREMENT OF CITIZENSHIP OR NATURALIZATION UNLAWFULLY.—Any alien convicted of, who admits having committed, or who admits committing acts constituting the essential elements of, a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the procurement of citizenship or naturalization unlawfully) is inadmissible.

''(K) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

''(L) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(M) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS, CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits committing acts constituting the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. In this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

''(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. In this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.

''(iii) WAIVER AUTHORIZED.—The waiver authority available under section 237(a)(7) with respect to section 237(a)(2)(E)(i) shall be available on a comparable basis with respect to this subparagraph.

''(iv) CLARIFICATION.—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a crime of violence.''; and

(2) in subsection (h)—

(A) by striking ''The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)'' and inserting ''The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the Secretary, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), (K), and (M) of subsection (a)(2)'';

(B) by striking ''a criminal act involving torture.'' and inserting ''a criminal act involving torture, or has been convicted of an aggravated felony.'';

(C) by striking ''if either since the date of such admission the alien has been convicted of an aggravated felony or the alien'' and inserting ''if since the date of such admission the alien''; and

(D) by inserting ''or Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (i), by striking the comma at the end and inserting a semicolon;

(2) in clause (ii), by striking ''; or'' at the end and inserting a semicolon;

(3) in clause (iii), by striking the comma at the end and inserting ''; or''; and

(4) by inserting after clause (iii) the following:

''(iv) of a violation of, or an attempt or a conspiracy to violate, section 1425(a) or (b) of title 18 (relating to the procurement of citizenship or naturalization unlawfully),''.

(c) DEPORTABILITY; OTHER CRIMINAL OFFENSES.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(G) FRAUD AND RELATED ACTIVITY ASSOCIATED WITH SOCIAL SECURITY ACT BENEFITS AND IDENTIFICATION DOCUMENTS.—Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification) is deportable.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(e) CONSTRUCTION.—The amendments made by subsection (a) may not be construed to create eligibility for relief from removal under section 212(c) of the Immigration and Nationality Act, as in effect on the day before the date of the enactment of this Act, if such eligibility did not exist before the amendments made by subsection (a) became effective.

SEC. 2302. INCREASED PENALTIES BARRING THE ADMISSION OF CONVICTED SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)), as amended by section 2301, is further amended by inserting after subclause (III) the following:

''(IV) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender),''.

(b) DEPORTABILITY.—Section 237(a)(2) of such Act, as amended by section 2201, is further amended—

(1) in subparagraph (A)—

(A) by striking clause (v); and

(B) by redesignating clause (vi) as clause (v); and

(2) by adding at the end the following:

''(H) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender) is deportable.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

SEC. 2303. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

(a) DEFINITION OF GANG MEMBER.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

''(53) The term 'criminal gang' means an ongoing group, club, organization, or association of 5 or more persons that has, as a primary purpose, the commission of 1 or more of the criminal offenses listed in subparagraphs (A) through (G), whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the Attorney General, as meeting such criteria.

''(A) A felony drug offense (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(B) A felony offense involving firearms or explosives or in violation of section 931 of

title 18, United States Code (relating to purchase, ownership, or possession of body armor by violent felons).

''(C) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

''(D) A crime of violence (as defined in section 16 of title 18, United States Code).

''(E) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant.

''(F) Any conduct punishable under sections 1028A and 1029 of title 18, United States Code (relating to aggravated identity theft or fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery, and trafficking in persons), section 1951 of such title (relating to interference with commerce by threats or violence), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

''(G) A conspiracy to commit an offense described in subparagraphs (A) through (F).''.

(b) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act, as amended by sections 2201 and 2302, is further amended by adding at the end the following:

''(N) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

''(i) IN GENERAL.—An alien is inadmissible if a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe that the alien—

''(I) is or has been a member of a criminal gang; or

''(II) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.

''(ii) PROMOTION OR CONSPIRACY.—Any alien for whom a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General has reasonable grounds to believe has participated in, been a member of, promoted, or conspired with a criminal gang, either inside or outside of the United States, is inadmissible.

''(iii) INTENT OF ENTRY.—Any alien for whom a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General has reasonable grounds to believe seeks to enter the United States or has entered the United States in furtherance of the activities of a criminal gang, either inside or outside of the United States, is inadmissible.''.

(c) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act, as amended by section 2301 and 2302, is further amended by adding at the end the following:

''(I) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—An alien is deportable if the alien—

''(i) is or has been a member of a criminal gang; or

''(ii) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.''.

(d) DESIGNATION.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

''SEC. 220. DESIGNATION OF CRIMINAL GANG.

''(a) DESIGNATION.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, may designate a group, club, organization, or association of 5 or more persons as a criminal gang if the Secretary determines that the conduct of such entity is described in section 101(a)(53).

''(2) PROCEDURE.—

''(A) NOTIFICATION.—Not later than 7 days before making a designation under paragraph (1), the Secretary, through classified written communication, shall notify the Speaker and the Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, of the intent to designate a group, club, organization, or association of 5 or more persons as a criminal gang under paragraph (1) and the justification for such designation.

''(B) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under subparagraph (A).

''(3) RECORD.—

''(A) IN GENERAL.—In making a designation under paragraph (1), the Secretary shall create an administrative record.

''(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under paragraph (1). Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

''(4) PERIOD OF DESIGNATION.—

''(A) IN GENERAL.—A designation under paragraph (1) shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside under subsection (c).

''(B) REVIEW OF DESIGNATION UPON PETITION.—

''(i) IN GENERAL.—The Secretary shall review the designation of a criminal gang in accordance with clauses (iii) and (iv) if the designated group, club, organization, or association of 5 or more persons files a petition for revocation within the petition period described in clause (ii).

''(ii) PETITION PERIOD.—

''(I) If a designated group, club, organization, or association of 5 or more persons has not previously filed a petition for revocation under clause (i), the petition period begins 2 years after the date on which the designation was made.

''(II) If the designated group, club, organization, or association of 5 or more persons has previously filed a petition for revocation under clause (i), the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

''(iii) PROCEDURES.—Any group, club, organization, or association of 5 or more persons that submits a petition for revocation under this subparagraph of its designation as a criminal gang shall provide evidence in that petition that it is not described in section 101(a)(53).

''(iv) DETERMINATION.—

''(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation under clause (i), the Secretary shall make a determination regarding the revocation sought by such petition.

''(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

''(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

''(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6).

''(C) OTHER REVIEW OF DESIGNATION.—

''(i) IN GENERAL.—If no review takes place under subparagraph (B) during any 5-year period, the Secretary shall review the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (6).

''(ii) PROCEDURES.—If a review does not take place under subparagraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

''(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made under this subparagraph in the Federal Register.

''(5) REVOCATION BY ACT OF CONGRESS.—Congress may block or revoke a designation made under paragraph (1) by an Act of Congress.

''(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

''(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4) if the Secretary determines that—

''(i) the group, club, organization, or association of 5 or more persons that has been designated as a criminal gang is no longer described in section 101(a)(53); or

''(ii) the national security or the law enforcement interests of the United States warrants a revocation.

''(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

''(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

''(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection becomes effective under paragraph (2), an alien in a removal proceeding may not raise any question concerning the validity of such designation as a defense or an objection.

''(b) AMENDMENTS TO A DESIGNATION.—

''(1) IN GENERAL.—The Secretary may amend a designation under subsection (a) if the Secretary determines that the group, club, organization, or association of 5 or more persons has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another group, club, organization, or association of 5 or more persons.

''(2) PROCEDURE.—Amendments made to a designation under paragraph (1) shall be effective upon the publication of such amendments in the Federal Register. Paragraphs (2), (4), (5), (6), (7), and (8) of subsection (a) shall apply to an amended designation.

''(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments made under paragraph (1)

and any additional relevant information that supports such amendments.

''(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation under this subsection. Classified information may not be subject to disclosure while it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

''(c) JUDICIAL REVIEW OF DESIGNATION.—

''(1) IN GENERAL.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated group, club, organization, or association of 5 or more persons may seek judicial review in the United States Court of Appeals for the District of Columbia Circuit.

''(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

''(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation that the court finds to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

''(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2); or

''(E) not in accord with the procedures required by law.

''(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation, amended designation, or determination in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order setting aside the designation, amended designation, or determination in response to a petition for revocation.

''(d) DEFINITIONS.—In this section:

''(1) CLASSIFIED INFORMATION.—The term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

''(2) NATIONAL SECURITY.—The term 'national security' means the national defense, foreign relations, or economic interests of the United States.

''(3) RELEVANT COMMITTEES.—The term 'relevant committees' means the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Attorney General.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 219 the following:

''Sec. 220. Designation of criminal gang.''.

(e) MANDATORY DETENTION OF CRIMINAL GANG MEMBERS.—

(1) IN GENERAL.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)), as amended by section 2204, is further amended by inserting after subparagraph (F) the following:

''(G) is inadmissible under section 212(a)(2)(J) or deportable under section 217(a)(2)(G),''.

(2) ANNUAL REPORT.—Not later than March 1 of the first fiscal year beginning after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that identifies the number of aliens detained during the reporting period as a result of the amendment made by paragraph (1).

(f) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(A) in clause (v), by striking ''or'' at the end;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following:

''(vi) the alien is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i); or''.

(2) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting ''who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) or who is'' after ''to an alien''.

(g) TEMPORARY PROTECTED STATUS.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (c)(2)(B)—

(A) in clause (i), by striking '', or'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) the alien is, or at any time has been, described in section 212(a)(2)(J) or 237(a)(2)(G).''; and

(3) in subsection (d)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; and

(C) in paragraph (3), as redesignated, by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section 101(a)(27)(J)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

(1) in subclause (I), by striking ''and'' at the end;

(2) in subclause (II), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(III) no alien who is, or at any time has been, described in section 212(a)(2)(J) or 237(a)(2)(G) shall be eligible for any immigration benefit under this subparagraph;''.

(i) PAROLE.—An alien described in section 212(a)(2)(N) of the Immigration and Nationality Act, as added by subsection (b), shall not be eligible for parole under section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) unless—

(1) the alien is assisting or has assisted the United States Government in a law enforcement matter, including a criminal investigation; and

(2) the alien's presence in the United States is required by the Government with respect to such assistance.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

SEC. 2304. INADMISSIBILITY AND DEPORTABILITY OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), is amended—

(1) in subparagraph (T), by striking ''and'';

(2) in subparagraph (U), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (U) the following:

''(V)(i) a single conviction for driving while intoxicated (including a conviction for driving while under the influence of or impairment by alcohol or drugs), when such impaired driving was a cause of the serious bodily injury or death of another person; or

''(ii) a second or subsequent conviction for driving while intoxicated (including a conviction for driving under the influence of or impaired by alcohol or drugs).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply to convictions entered on or after such date.

SEC. 2305. DEFINITION OF AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 2304, is further amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law, the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law, or in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) by amending subparagraph (A) to read as follows:

''(A) an offense relating to murder, manslaughter, homicide, rape (whether the victim was conscious or unconscious), statutory rape, or any offense of a sexual nature involving a victim under 18 years of age;'';

(3) in subparagraph (B)—

(A) by inserting ''an offense relating to'' before ''illicit trafficking''; and

(B) by inserting '', and any offense under State law relating to a controlled substance (as so classified under State law) that is classified as a felony in that State, regardless of whether the substance is classified as a controlled substance under section 102 of the Controlled Substances Act (8 U.S.C. 802)'' before the semicolon at the end;

(4) in subparagraph (C), by inserting ''an offense relating to'' before ''illicit trafficking in firearms'';

(5) in subparagraph (I), by striking ''or 2252'' and inserting ''2252, or 2252A'';

(6) in subparagraph (F), by striking ''for which the term of imprisonment at least one year;'' and inserting '', including offenses of assault and battery under Federal or state law, for which the term of imprisonment is at least 1 year, except that if the conviction records do not conclusively establish whether a crime constitutes a crime of violence, the Attorney General or the Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a crime of violence;'';

(7) by amending subparagraph (G) to read as follows:

''(G) an offense relating to a theft under State or Federal law (including theft by deceit, theft by fraud, and receipt of stolen property) regardless of whether any taking was temporary or permanent, or burglary offense under State or Federal law for which the term of imprisonment is at least 1 year, except that if the conviction records do not conclusively establish whether a crime constitutes a theft or burglary offense, the Attorney General or Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a theft or burglary offense;'';

(8) in subparagraph (N)—

(A) by striking ''paragraph (1)(A) or (2) of''; and

(B) by inserting a semicolon at the end;

(9) by amending subparagraph (O) to read as follows:

''(O) an offense described in section 275 or 276 for which the term of imprisonment is at least 1 year;'';

(10) by amending subparagraph (P) to read as follows:

''(P) an offense which is described in chapter 75 of title 18, United States Code, and for which the term of imprisonment is at least 12 months;'';

(11) by amending subparagraph (U) to read as follows:

''(U) attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense.''; and

(12) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendments made by subsection (a)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any act or conviction that occurred before, on, or after such date.

(2) APPLICATION OF IIRIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 2306. PRECLUDING WITHHOLDING OF REMOVAL FOR AGGRAVATED FELONS.

(a) IN GENERAL.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv), by striking the period at the end and inserting ''; or''; and

(3) by inserting after clause (iv) the following:

''(v) the alien is convicted of an aggravated felony.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act; and

(2) all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened on or after such date of enactment.

SEC. 2307. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A), by amending clause (viii) to read as follows:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(2) in subparagraph (B)(i), by striking the second subclause (I) and inserting the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended by striking ''204(a)(1)(A)(viii)(I))'' each place such term appears and inserting ''204(a)(1)(A)(viii))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

SEC. 2308. CLARIFICATION TO CRIMES OF VIOLENCE AND CRIMES INVOLVING MORAL TURPITUDE.

(a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

''(iii) CLARIFICATION.—For purposes of clause (i)(I), if the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General or the Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.''.

(b) DEPORTABLE ALIENS.—

(1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)), as amended by section 2302(b), is further amended by inserting after clause (v), as redesignated, the following:

''(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Attorney General or the Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a 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:

''(iii) CRIMES OF VIOLENCE.—For purposes of clause (i), if the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General or the Secretary of Homeland Security, as appropriate, may consider other evidence related to the conviction that establishes that the conduct for which the alien was engaged constitutes a crime of violence.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the date of the enactment of this Act.

SEC. 2309. DETENTION OF DANGEROUS ALIENS.

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

(1) by striking ''Attorney General'' each place such term appears (except for the first reference in paragraph (4)(B)(i)) and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1)—

(A) by amending subparagraph (B) to read as follows:

''(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

''(i) The date the order of removal becomes administratively final.

''(ii) If the alien is not in the custody of the Secretary on the date the order of removal becomes administratively final, the date the alien is taken into such custody.

''(iii) If the alien is detained or confined (except under an immigration process) on the date the order of removal becomes administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.''; and

(B) by amending subparagraph (C) to read as follows:

''(C) SUSPENSION OF PERIOD.—

''(i) EXTENSION.—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary's sole discretion, keep the alien in detention during such extended period if—

''(I) the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal that is subject to an order of removal;

''(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal;

''(III) the Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

''(IV) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period when the case is pending a decision on remand (with the removal period beginning anew on the date that the alien is ordered removed on remand).

''(ii) RENEWAL.—If the removal period has been extended under subparagraph (C)(i), a new removal period shall be deemed to have begun on the date—

''(I) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order;

''(II) the stay of removal is no longer in effect; or

''(III) the alien is returned to the custody of the Secretary.

''(iii) MANDATORY DETENTION FOR CERTAIN ALIENS.—In the case of an alien described in subparagraphs (A) through (D) of section 236(c)(1), the Secretary shall keep that alien in detention during the extended period described in clause (i).

''(iv) SOLE FORM OF RELIEF.—An alien may seek relief from detention under this subparagraph only by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this subparagraph shall have the right to seek release on bond.'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by inserting ''or is not detained pursuant to paragraph (6)'' after ''within the removal period''; and

(B) by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.'';

(4) in paragraph (4)(A), by striking ''paragraph (2)'' and inserting ''subparagraph (B)''; and

(5) by amending paragraph (6) to read as follows:

''(6) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.—

''(A) DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, and who has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with subparagraph (B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal official and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

''(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

''(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C)). An alien whose detention is extended under this subparagraph shall have no right to seek release on bond.

''(ii) SPECIFIC CIRCUMSTANCES.—The Secretary of Homeland Security, in the exercise of the Secretary's sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i)—

''(I) until the alien is removed, if the Secretary, in the Secretary's sole discretion, determines that there is a significant likelihood that the alien—

''(aa) will be removed in the reasonably foreseeable future; or

''(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent removal;

''(II) until the alien is removed, if the Secretary of Homeland Security certifies in writing—

''(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

''(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

''(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more aggravated felonies (as defined in section 101(a)(43)(A)) or of one or more crimes identified by the Secretary of Homeland Security by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or (BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

''(III) pending a certification under subclause (II), so long as the Secretary of Homeland Security has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period, as provided in paragraph (1)(C)).

''(iii) NO RIGHT TO BOND HEARING.—An alien whose detention is extended under this subparagraph shall have no right to seek release on bond, including by reason of a certification under clause (ii)(II).

''(C) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under subparagraph (B)(ii)(II).

''(ii) DELEGATION.—Notwithstanding section 103, the Secretary of Homeland Security may not delegate the authority to make or renew a certification described in item (bb), (cc), or (dd) of subparagraph (B)(ii)(II) below the level of the Director of Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or the Attorney General's designee provide for a hearing to make the determination described in item (dd)(BB) of subparagraph (B)(ii)(II).

''(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention by a Federal court, the Board of Immigration Appeals, or if an immigration judge orders a stay of removal, the Secretary of Homeland Security, in the exercise of the Secretary's discretion, may impose conditions on release as provided in paragraph (3).

''(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary's discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody, if removal becomes likely in the reasonably foreseeable future, the alien fails to comply with the conditions of release, or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary, in the Secretary's sole discretion, determines that the alien can be detained under subparagraph (B). This section shall apply to any alien returned to custody pursuant to this subparagraph, as if the removal period terminated on the day of the redetention.

''(F) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under this paragraph shall not be subject to review by any other agency.''.

SEC. 2310. TIMELY REPATRIATION.

(a) LISTING OF COUNTRIES.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Secretary of Homeland Security shall publish a report that includes—

(1) a list of countries that have refused or unreasonably delayed repatriation of an alien who is a national of that country since the date of the enactment of this Act, including the total number of such aliens, disaggregated by nationality;

(2) a list of countries that have an excessive repatriation failure rate; and

(3) a list of each country included in a list described in paragraph (1) or (2) in the report preceding the current report and in the current report.

(b) SANCTIONS.—

(1) IN GENERAL.—Beginning on the date on which a country is included in the list described in subsection (a)(3) and ending on the date on which that country is no longer included in such list, the Secretary of State may not issue visas under section 101(a)(15)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii)) to attendants, servants, personal employees, and members of the immediate families of officials or employees of that country who receive nonimmigrant status under clause (i) or (ii) of section 101(a)(15)(A) of such Act.

(2) VISA REDUCTION.—Every 6 months that a country is included in the list described in subsection (a)(3), the Secretary of State shall reduce the number of visas available under clause (i) or (ii) of section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)) in a fiscal year to nationals of that country by an amount equal to 10 percent of the baseline visa number for that country. Except as provided under section 243(d) of such Act (8 U.S.C. 1253), the Secretary may not reduce the number of such visas to a level below 20 percent of the baseline visa number.

(c) WAIVERS.—

(1) NATIONAL SECURITY WAIVER.—If the Secretary of State submits to Congress a written determination that significant national security interests of the United States require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number. The Secretary of State may not delegate the authority under this subsection.

(2) TEMPORARY EXIGENT CIRCUMSTANCES.—If the Secretary of State submits to Congress a written determination that temporary exigent circumstances require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number during 6-month renewable periods. The Secretary of State may not delegate the authority under this subsection.

(d) EXEMPTION.—The Secretary of Homeland Security, in consultation with the Secretary of State, may exempt a country from inclusion in a list under subsection (a)(2) if the total number of nonrepatriations outstanding is less than 10 for the preceding 3-year period.

(e) UNAUTHORIZED VISA ISSUANCE.—Any visa issued in violation of this section shall be void.

(f) NOTICE.—If an alien who has been convicted of a criminal offense before a Federal or State court whose repatriation was refused or unreasonably delayed is to be released from detention by the Secretary of Homeland Security, the Secretary shall provide notice to the State and local law enforcement agency for the jurisdictions in which the alien is required to report or is to be released. When possible, and particularly in the case of violent crime, the Secretary shall make a reasonable effort to provide notice of such release to any crime victims and their immediate family members.

(g) DEFINITIONS.—For purposes of this section:

(1) BASELINE VISA NUMBER.—The term ''baseline visa number'' means, with respect to a country, the average number of visas issued each fiscal year to nationals of that country under clauses (i) and (ii) of section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3 full fiscal years immediately preceding the first report under subsection (a) in which that country is included in the list under subsection (a)(3).

(2) EXCESSIVE REPATRIATION FAILURE RATE.—The term ''excessive repatriation failure rate'' means, with respect to a report under subsection (a), a failure rate greater than 10 percent during—

(A) the period of the 3 full fiscal years preceding the date of publication of the report; or

(B) the period of 1 year preceding the date of publication of the report.

(3) FAILURE RATE.—The term ''failure rate'' for a period means the percentage determined by dividing the total number of repatriation requests for aliens who are citizens, subjects, nationals, or residents of a country that refused or unreasonably delayed during that period by the total number of such requests during that period.

(4) NUMBER OF NONREPATRIATIONS OUTSTANDING.—The term ''number of nonrepatriations outstanding'' means, for a period, the number of unique aliens whose repatriation a country has refused or unreasonably delayed and whose repatriation has not occurred during that period.

(5) REFUSED OR UNREASONABLY DELAYED.—A country is deemed to have ''refused or unreasonably delayed'' the acceptance of an alien who is a citizen, subject, national, or resident of that country if, not later than 90 days after receiving a request to repatriate such alien from an official of the United States who is authorized to make such a request, the country does not accept the alien or issue valid travel documents.

(h) GAO REPORT.—Not later than 1 day after the date on which the President submits a budget under section 1105(a) of title 31, United States Code, for fiscal year 2019, the Comptroller General of the United States shall submit a report to Congress regarding the progress of the Secretary of Homeland Security and the Secretary of State in implementation of this section and in making requests to repatriate aliens as appropriate.

SEC. 2311. ILLEGAL REENTRY.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—

''(1) IN GENERAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(2) EXCEPTION.—If an alien sought and received the express consent of the Secretary to reapply for admission into the United States, or, with respect to an alien previously denied admission and removed, the alien was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act, the alien shall not be subject to the fine and imprisonment provided for in paragraph (1).

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure—

''(1) for 3 or more misdemeanors or for a felony, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) for a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(4) for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, or for 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not more than 25 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(f) DEFINITIONS.—In this section and section 275:

''(1) CROSSES THE BORDER TO THE UNITED STATES.—The term 'crosses the border' refers to the physical act of crossing the border free from official restraint.

''(2) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) OFFICIAL RESTRAINT.—The term 'official restraint' means any restraint known to the alien that serves to deprive the alien of liberty and prevents the alien from going at large into the United States. Surveillance unbeknownst to the alien shall not constitute official restraint.

''(5) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(6) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

Subtitle D—Asylum Reform

SEC. 2401. CLARIFICATION OF INTENT REGARDING TAXPAYER-PROVIDED COUNSEL.

Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended—

(1) by striking ''In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings'' and inserting ''In any removal proceedings before an immigration judge, or any other immigration proceedings before the Attorney General, the Secretary of Homeland Security, or any appeal of such a proceeding''.

(2) by striking ''(at no expense to the Government)''; and

(3) by adding at the end the following ''Notwithstanding any other provision of law, the Government may not bear any expense for counsel for any person in proceedings described in this section.''.

SEC. 2402. CREDIBLE FEAR INTERVIEWS.

Section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by striking ''claim'' and all that follows and inserting the following: ''claim, as determined pursuant to section 208(b)(1)(B)(iii), and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 1158 of this title, and it is more probable than not that the statements made by, and on behalf of, the alien in support of the alien's claim are true.''.

SEC. 2403. RECORDING EXPEDITED REMOVAL AND CREDIBLE FEAR INTERVIEWS.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish quality assurance procedures and take steps to effectively ensure that questions by employees of the Department of Homeland Security exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) are asked in a uniform manner, to the extent possible, and that both these questions and the answers provided in response to them are recorded in a uniform fashion.

(b) FACTORS RELATING TO SWORN STATEMENTS.—Whenever practicable, any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) INTERPRETERS.—The Secretary shall ensure that a competent interpreter, not affiliated with the government of the country from which the alien may claim asylum, is used when the interviewing officer does not speak a language understood by the alien.

(d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—There shall be an audio or audio

visual recording of interviews of aliens subject to expedited removal. The recording shall be included in the record of proceeding and shall be considered as evidence in any further proceedings involving the alien.

(e) NO PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed to create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable in law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does this section create any right of review in any administrative, judicial, or other proceeding.

SEC. 2404. SAFE THIRD COUNTRY.

Section 208(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) by striking ''removed, pursuant to a bilateral or multilateral agreement, to'' and inserting ''removed to''.

SEC. 2405. RENUNCIATION OF ASYLUM STATUS PURSUANT TO RETURN TO HOME COUNTRY.

(a) IN GENERAL.—Section 208(c) of the Immigration and Nationality Act (8 U.S.C. 1158(c)) is amended by adding at the end the following:

''(4) RENUNCIATION OF STATUS PURSUANT TO RETURN TO HOME COUNTRY.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any alien who is granted asylum status under this section, who, absent changed country conditions, subsequently returns to the country of such alien's nationality or, in the case of an alien having no nationality, returns to any country in which such alien last habitually resided, and who applied for such status because of persecution or a well-founded fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, shall have his or her status terminated.

''(B) WAIVER.—The Secretary of Homeland Security may waive subparagraph (A) if the Secretary determines that the alien had a compelling reason for the return. The waiver may be sought before the alien's departure from the United States or upon the alien's return to the United States.

''(C) EXCEPTION FOR CERTAIN ALIENS FROM CUBA.—Subparagraph (A) shall not apply to an alien who is eligible for adjustment to that of an alien lawfully admitted for permanent residence pursuant to the Cuban Adjustment Act of 1966 (Public Law 89–732).''.

(b) CONFORMING AMENDMENT.—Section 208(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(c)(3)) is amended by inserting ''or (4)'' after ''paragraph (2)''.

SEC. 2406. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLICATIONS.

(a) IN GENERAL.—Section 208(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General'';

(2) in subparagraph (A), by striking ''and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and'' and inserting a semicolon;

(3) in subparagraph (B), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) ensure that a written warning appears on the asylum application advising the alien of the consequences of filing a frivolous application and serving as notice to the alien of the consequence of filing a frivolous application.''.

(b) CONFORMING AMENDMENT.—Section 208(d)(6) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(6)) is amended to read as follows:

''(6) FRIVOLOUS APPLICATIONS.—

''(A) IN GENERAL.—If the Secretary of Homeland Security or the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received notice under paragraph (4)(C), the alien shall be permanently ineligible for any benefits under this chapter, effective as the date of the final determination of such an application.

''(B) DEFINED TERM.—An application is 'frivolous' if the Secretary of Homeland Security or the Attorney General determines, in accordance with subparagraph (C), that—

''(i) it is so insufficient in substance that it is clear that the applicant knowingly filed the application solely or in part—

''(I) to delay removal from the United States;

''(II) to seek employment authorization as an applicant for asylum pursuant to regulations issued pursuant to paragraph (2); or

''(III) to seek issuance of a Notice to Appeal in order to pursue Cancellation of Removal under section 240A(b); or

''(ii) any of its material elements are deliberately fabricated.

''(C) CLARIFICATION.—The Secretary or the Attorney General may not determine that an application is frivolous unless the applicant, during the course of the proceedings, has had sufficient opportunity to clarify any discrepancies or implausible aspects of the claim.

''(D) WITHHOLDING OF REMOVAL.—A finding under this paragraph that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3).) or protection pursuant to the Convention Against Torture.''.

SEC. 2407. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.

(a) ASYLUM CREDIBILITY DETERMINATIONS.—Section 208(b)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting after ''all relevant factors'' the following: '', including statements made to, and investigative reports prepared by, immigration authorities and other government officials''.

(b) RELIEF FOR REMOVAL CREDIBILITY DETERMINATIONS.—Section 240(c)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended by inserting after ''all relevant factors'' the following: '', including statements made to, and investigative reports prepared by, immigration authorities and other government officials''.

SEC. 2408. PENALTIES FOR ASYLUM FRAUD.

Section 1001 of title 18, United States Code, is amended by adding at the end the following:

''(d) Whoever, in any matter before the Secretary of Homeland Security or the Attorney General pertaining to asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or withholding of removal under section 241(b)(3) of such Act (8 U.S.C. 1231(b)(3)), knowingly and willfully—

''(1) makes any materially false, fictitious, or fraudulent statement or representation; or

''(2) makes or uses any false writings or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 10 years, or both.''.

SEC. 2409. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.

Section 3291 of title 18, United States Code, is amended—

(1) by striking ''1544,'' and inserting ''1544 and 1546,'';

(2) by striking ''offense.'' and inserting ''offense or not later than 10 years after the fraud is discovered.''.

SEC. 2410. TECHNICAL AMENDMENTS.

Section 208 of the Immigration and Nationality Act, as amended by this subtitle, is further amended—

(1) in subsection (a)—

(A) in paragraph (2)(D), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General''; and

(B) in paragraph (3), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General'';

(2) in subsection (b)(2), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General'' each place such term appears;

(3) in subsection (c)—

(A) in paragraph (1), by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(B) in paragraph (3), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General''; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General'' each place such term appears;

(B) in paragraph (2), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(C) in paragraph (5)—

(i) in subparagraph (A), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(ii) in subparagraph (B), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General''.

Subtitle E—Unaccompanied and Accompanied Alien Minors Apprehended Along the Border

SEC. 2501. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by amending the heading to read as follows: ''RULES FOR UNACCOMPANIED ALIEN CHILDREN.—'';

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''who is a national or habitual resident of a country that is contiguous with the United States'';

(II) in clause (i), by inserting ''and'' at the end;

(III) in clause (ii), by striking ''; and'' and inserting a period; and

(IV) by striking clause (iii);

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''(8 U.S.C. 1101 et seq.) may—'' and inserting ''(8 U.S.C. 1101 et seq.)—'';

(II) in clause (i), by inserting before ''permit such child to withdraw'' the following: ''may''; and

(III) in clause (ii), by inserting before ''return such child'' the following: ''shall''; and

(iv) in subparagraph (C)—

(I) by amending the heading to read as follows: ''AGREEMENTS WITH FOREIGN COUNTRIES.—''; and

(II) in the matter preceding clause (i), by striking ''The Secretary of State shall negotiate agreements between the United States and countries contiguous to the United States'' and inserting ''The Secretary of State may negotiate agreements between the United States and any foreign country that the Secretary determines appropriate'';

(B) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

''(3) SPECIAL RULES FOR INTERVIEWING UNACCOMPANIED ALIEN CHILDREN.—An unaccompanied alien child shall be interviewed by a dedicated U.S. Citizenship and Immigration Services immigration officer with specialized training in interviewing child trafficking victims. Such officer shall be in plain clothes and shall not carry a weapon. The interview shall occur in a private room.''; and

(C) in paragraph (6)(D) (as so redesignated)—

(i) in the matter preceding clause (i), by striking '', except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2),'' and inserting ''who does not meet the criteria listed in paragraph (2)(A)''; and

(ii) in clause (i), by inserting before the semicolon at the end the following: '', which shall include a hearing before an immigration judge not later than 14 days after being screened under paragraph (4)'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting before the semicolon the following: ''believed not to meet the criteria listed in subsection (a)(2)(A)''; and

(ii) in subparagraph (B), by inserting before the period the following: ''and does not meet the criteria listed in subsection (a)(2)(A)''; and

(B) in paragraph (3), by striking ''an unaccompanied alien child in custody shall'' and all that follows, and inserting the following: ''an unaccompanied alien child in custody—

''(A) in the case of a child who does not meet the criteria listed in subsection (a)(2)(A), shall transfer the custody of such child to the Secretary of Health and Human Services not later than 30 days after determining that such child is an unaccompanied alien child who does not meet such criteria; or

''(B) in the case of child who meets the criteria listed in subsection (a)(2)(A), may transfer the custody of such child to the Secretary of Health and Human Services after determining that such child is an unaccompanied alien child who meets such criteria.''; and

(3) in subsection (c)—

(A) in paragraph (3), by inserting at the end the following:

''(D) INFORMATION ABOUT INDIVIDUALS WITH WHOM CHILDREN ARE PLACED.—

''(i) INFORMATION TO BE PROVIDED TO HOMELAND SECURITY.—Before placing a child with an individual, the Secretary of Health and Human Services shall provide to the Secretary of Homeland Security—

''(I) the name of the individual with whom the child will be place;

''(II) the social security number of such individual;

''(III) the date of birth of such individual;

''(IV) the location of the individual's residence at which the child will be placed;

''(V) the immigration status of such individual, if known; and

''(VI) contact information for such individual.

''(ii) SPECIAL RULE.—If a child who was apprehended on or after June 15, 2012, and before the date of the enactment of this subparagraph was placed by the Secretary of Health and Human Services placed with an individual, the Secretary shall provide the information listed in clause (i) to the Secretary of Homeland Security not later than 90 days after such date of enactment.

''(iii) ACTIVITIES OF THE SECRETARY OF HOMELAND SECURITY.—Not later than 30 days after receiving the information listed in clause (i), the Secretary of Homeland Security—

''(I) shall investigate the immigration status of the individual with whom the child is placed if the immigration status of such individual is unknown; and

''(II) upon determining that an individual with whom a child is placed is unlawfully present in the United States, shall initiate removal proceedings pursuant to chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.).''; and

(B) in paragraph (5)—

(i) by inserting after ''to the greatest extent practicable'' the following: ''(at no expense to the Government)''; and

(ii) by striking ''have counsel to represent them'' and inserting ''have access to counsel to represent them''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any unauthorized alien child apprehended on or after June 15, 2012.

SEC. 2502. SPECIAL IMMIGRANT JUVENILE STATUS FOR IMMIGRANTS UNABLE TO REUNITE WITH EITHER PARENT.

Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking ''1 or both of the immigrant's parents'' and inserting ''either of the immigrant's parents''.

SEC. 2503. JURISDICTION OF ASYLUM APPLICATIONS.

Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by striking subparagraph (C).

SEC. 2504. QUARTERLY REPORT TO CONGRESS.

Not later than January 5, 2019, and every 3 months thereafter—

(1) the Attorney General shall submit a report that identifies—

(A) the total number of asylum cases filed by unaccompanied alien children and completed by an immigration judge during the 3-month period preceding the date of the report, and the percentage of those cases in which asylum was granted; and

(B) the number of unaccompanied alien children who failed to appear for any proceeding before an immigration judge during the 3-month period preceding the date of the report; and

(2) the Secretary of Homeland Security shall submit a report that identifies—

(A) the total number of applications for asylum, filed by unaccompanied alien children, which were adjudicated during the 3-month period preceding the date of the report; and

(B) the percentage of such applications that were granted.

SEC. 2505. BIANNUAL REPORT TO CONGRESS.

Not later than January 5, 2019, and every 6 months thereafter, the Attorney General shall submit a report to Congress on each crime for which an unaccompanied alien child is charged or convicted during the previous 6-month period following their release from the custody of the Secretary of Homeland Security pursuant to section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232).

SEC. 2506. CLARIFICATION OF STANDARDS FOR FAMILY DETENTION.

(a) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended by adding at the end the following:

''(j) RULE OF CONSTRUCTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement, the detention of any alien child who is not an unaccompanied alien child shall be governed by sections 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231). There exists no presumption that an alien child who is not an unaccompanied alien child should not be detained, and all such determinations shall be in the discretion of the Secretary of Homeland Security.

''(2) RELEASE OF MINORS OTHER THAN UNACCOMPANIED ALIENS.—In no circumstances shall an alien minor who is not an unaccompanied alien child be released by the Secretary of Homeland Security other than to a parent or legal guardian.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to all actions that occur before, on, or after the date of the enactment of this Act.

TITLE III—BORDER ENFORCEMENT

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Border Security for America Act of 2018''.

Subtitle A—Border Security

SEC. 3101. DEFINITIONS.

In this subtitle:

(1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term ''advanced unattended surveillance sensors'' means sensors that utilize an onboard computer to analyze detections in an effort to discern between vehicles, humans, and animals, and ultimately filter false positives prior to transmission.

(2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term ''appropriate congressional committee'' has the meaning given the term in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of U.S. Customs and Border Protection.

(4) HIGH TRAFFIC AREAS.—The term ''high traffic areas'' has the meaning given such term in section 102(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 3111 of this division.

(5) OPERATIONAL CONTROL.—The term ''operational control'' has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(7) SITUATIONAL AWARENESS.—The term ''situational awareness'' has the meaning given such term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(7)).

(8) SMALL UNMANNED AERIAL VEHICLE.—The term ''small unmanned aerial vehicle'' has the meaning given the term ''small unmanned aircraft'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(9) TRANSIT ZONE.—The term ''transit zone'' has the meaning given such term in section 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(7)).

(10) UNMANNED AERIAL SYSTEM.—The term ''unmanned aerial system'' has the meaning given the term ''unmanned aircraft system'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

(11) UNMANNED AERIAL VEHICLE.—The term ''unmanned aerial vehicle'' has the meaning given the term ''unmanned aircraft'' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

SEC. 3111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208; 8 U.S.C. 1103 note) is amended—

(1) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—The Secretary of Homeland Security shall take such actions as may be necessary (including the removal of obstacles to detection of illegal entrants) to design, test, construct, install, deploy, and operate physical barriers, tactical infrastructure, and technology in the vicinity of the United States border to achieve situational awareness and operational control of the border and deter, impede, and detect illegal activity in high traffic areas.'';

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''subsection (a)'' and inserting ''this section'';

(II) by striking ''roads, lighting, cameras, and sensors'' and inserting ''tactical infrastructure, and technology''; and

(III) by striking ''gain'' inserting ''achieve situational awareness and''; and

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

''(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this section, shall deploy along the United States border the most practical and effective physical barriers and tactical infrastructure available for achieving situational awareness and operational control of the border.

''(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—The deployment of physical barriers and tactical infrastructure under this subparagraph shall not apply in any area or region along the border where natural terrain features, natural barriers, or the remoteness of such area or region would make any such deployment ineffective, as determined by the Secretary, for the purposes of achieving situational awareness or operational control of such area or region.'';

(iii) in subparagraph (C)—

(I) by amending clause (i) to read as follows:

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall, before constructing physical barriers in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of Federal, State, local, and tribal governments, and appropriate private property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such physical barriers are to be constructed.'';

(II) by redesignating clause (ii) as clause (iii); and

(III) by inserting after clause (i), as amended, the following new clause:

''(ii) NOTIFICATION.—Not later than 60 days after the consultation required under clause (i), the Secretary of Homeland Security shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the type of physical barriers, tactical infrastructure, or technology the Secretary has determined is most practical and effective to achieve situational awareness and operational control in a specific area or region and the other alternatives the Secretary considered before making such a determination.''; and

(iv) by striking subparagraph (D);

(C) in paragraph (2)—

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

(ii) by striking ''this subsection'' and inserting ''this section''; and

(iii) by striking ''construction of fences'' and inserting ''the construction of physical barriers''; and

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

''(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, constructing, and deploying physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into such design, construction, or deployment of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines, in the Secretary's sole discretion, are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.'';

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

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements the Secretary, in the Secretary's sole discretion, determines necessary to ensure the expeditious design, testing, construction, installation, deployment, operation, and maintenance of the physical barriers, tactical infrastructure, and technology under this section. Any such decision by the Secretary shall be effective upon publication in the Federal Register.''; and

(4) by adding after subsection (d) the following new subsections:

''(e) TECHNOLOGY.—Not later than September 30, 2022, the Secretary of Homeland Security, in carrying out this section, shall deploy along the United States border the most practical and effective technology available for achieving situational awareness and operational control of the border.

''(f) LIMITATION ON REQUIREMENTS.—Nothing in this section may be construed as requiring the Secretary of Homeland Security to install tactical infrastructure, technology, and physical barriers in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain situational awareness and operational control over the international border at such location.

''(g) DEFINITIONS.—In this section:

''(1) HIGH TRAFFIC AREAS.—The term 'high traffic areas' means areas in the vicinity of the United States border that—

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

''(B) have significant unlawful cross-border activity, as determined by the Secretary of Homeland Security.

''(2) OPERATIONAL CONTROL.—The term 'operational control' has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367).

''(3) PHYSICAL BARRIERS.—The term 'physical barriers' includes reinforced fencing, border wall system, and levee walls.

''(4) SITUATIONAL AWARENESS.—The term 'situational awareness' has the meaning given such term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328).

''(5) TACTICAL INFRASTRUCTURE.—The term 'tactical infrastructure' includes boat ramps, access gates, checkpoints, lighting, and roads.

''(6) TECHNOLOGY.—The term 'technology' includes border surveillance and detection technology, including the following:

''(A) Tower-based surveillance technology.

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

''(C) Vehicle and Dismount Exploitation Radars (VADER).

''(D) 3-dimensional, seismic acoustic detection and ranging border tunneling detection technology.

''(E) Advanced unattended surveillance sensors.

''(F) Mobile vehicle-mounted and man-portable surveillance capabilities.

''(G) Unmanned aerial vehicles.

''(H) Other border detection, communication, and surveillance technology.

''(7) UNMANNED AERIAL VEHICLES.—The term 'unmanned aerial vehicle' has the meaning given the term 'unmanned aircraft' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).''.

SEC. 3112. AIR AND MARINE OPERATIONS FLIGHT HOURS.

(a) INCREASED FLIGHT HOURS.—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that not fewer than 95,000 annual flight hours are carried out by Air and Marine Operations of U.S. Customs and Border Protection.

(b) UNMANNED AERIAL SYSTEM.—The Secretary shall ensure that Air and Marine Operations operate unmanned aerial systems on the southern border of the United States for not less than 24 hours per day for five days per week.

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

(d) PRIMARY MISSION.—The Commissioner shall ensure that—

(1) the primary missions for Air and Marine Operations are to directly support U.S. Border Patrol activities along the southern border of the United States and Joint Interagency Task Force South operations in the transit zone; and

(2) the Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions established by the Commissioner to carry out the requirements under this Act.

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

(1) identify critical flight hour requirements; and

(2) direct Air and Marine Operations to support requests from Sector Chiefs as their primary mission.

(f) SMALL UNMANNED AERIAL VEHICLES.—

(1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent for U.S. Customs and Border Protection's use of small unmanned aerial vehicles for the purpose of meeting the U.S. Border Patrol's unmet flight hour operational requirements and to achieve situational awareness and operational control.

(2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol shall—

(A) coordinate flight operations with the Administrator of the Federal Aviation Administration to ensure the safe and efficient

operation of the National Airspace System; and

(B) coordinate with the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection to ensure the safety of other U.S. Customs and Border Protection aircraft flying in the vicinity of small unmanned aerial vehicles operated by the U.S. Border Patrol.

(3) CONFORMING AMENDMENT.—Paragraph (3) of section 411(e) of the Homeland Security Act of 2002 (6 U.S.C. 211(e)) is amended—

(A) in subparagraph (B), by striking ''and'' after the semicolon at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) carry out the small unmanned aerial vehicle requirements pursuant to subsection (f) of section 1112 of the Border Security for America Act of 2018; and''.

(g) SAVING CLAUSE.—Nothing in this section shall confer, transfer, or delegate to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration relating to the use of airspace or aviation safety.

SEC. 3113. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS AND TRANSIT ZONE.

(a) IN GENERAL.—Not later than September 30, 2022, the Secretary, in implementing section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 3111 of this division), and acting through the appropriate component of the Department of Homeland Security, shall deploy to each sector or region of the southern border and the northern border, in a prioritized manner to achieve situational awareness and operational control of such borders, the following additional capabilities:

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

(A) Tower-based surveillance technology.

(B) Subterranean surveillance and detection technologies.

(C) To increase coastal maritime domain awareness, the following:

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

(ii) Unmanned aerial vehicles with maritime surveillance capability.

(iii) U.S. Customs and Border Protection maritime patrol aircraft.

(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Man-portable unmanned aerial vehicles.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

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

(F) Mobile vehicle-mounted and man-portable surveillance systems.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(E) Mobile vehicle-mounted and man-portable surveillance systems.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(6) BIG BEND SECTOR.—For the Big Bend sector, the following:

(A) Tower-based surveillance technology.

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

(C) Improved agent communications capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Increased monitoring for cross-river dams, culverts, and footpaths.

(C) Improved agent communications capabilities.

(D) Improved maritime capabilities in the Amistad National Recreation Area.

(E) Advanced unattended surveillance sensors.

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

(G) Mobile vehicle-mounted and man-portable surveillance capabilities.

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Maritime detection resources for the Falcon Lake region.

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Increased monitoring for cross-river dams, culverts, and footpaths.

(E) Ultralight aircraft detection capability.

(F) Advanced unattended surveillance sensors.

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Ultralight aircraft detection capability.

(E) Advanced unattended surveillance sensors.

(F) Increased monitoring for cross-river dams, culverts, footpaths.

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

(H) Increased maritime interdiction capabilities.

(I) Mobile vehicle-mounted and man-portable surveillance capabilities.

(J) Man-portable unmanned aerial vehicles.

(K) Improved agent communications capabilities.

(10) BLAINE SECTOR.—For the Blaine sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

(11) SPOKANE SECTOR.—For the Spokane sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Increased maritime interdiction capabilities.

(C) Mobile vehicle-mounted and man-portable surveillance capabilities.

(D) Advanced unattended surveillance sensors.

(E) Ultralight aircraft detection capabilities.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

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

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(13) GRAND FORKS SECTOR.—For the Grand Forks sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(14) DETROIT SECTOR.—For the Detroit sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(15) BUFFALO SECTOR.—For the Buffalo sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

(D) Mobile vehicle-mounted and man-portable surveillance capabilities.

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(16) SWANTON SECTOR.—For the Swanton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(17) HOULTON SECTOR.—For the Houlton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

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

(A) Not later than two years after the date of the enactment of this Act, an increase in the number of overall cutter, boat, and aircraft hours spent conducting interdiction operations over the average number of such hours during the preceding three fiscal years.

(B) Increased maritime signals intelligence capabilities.

(C) To increase maritime domain awareness, the following:

(i) Unmanned aerial vehicles with maritime surveillance capability.

(ii) Increased maritime aviation patrol hours.

(D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Deployable Specialized Forces of the Coast Guard.

(E) Coastal radar surveillance systems with long range day and night cameras capable of providing full maritime domain awareness of the United States territorial waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island, Culebra Island, Saint Thomas, Saint John, and Saint Croix.

(b) TACTICAL FLEXIBILITY.—

(1) SOUTHERN AND NORTHERN LAND BORDERS.—

(A) IN GENERAL.—Beginning on September 30, 2021, or after the Secretary has deployed at least 25 percent of the capabilities required in each sector specified in subsection (a), whichever comes later, the Secretary may deviate from such capability deployments if the Secretary determines that such deviation is required to achieve situational awareness or operational control.

(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is the subject of such exercise. If the Secretary makes any changes to such deviation, the Secretary shall, not later than 90 days after any such change, notify such committees regarding such change.

(2) TRANSIT ZONE.—

(A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives regarding the capability deployments for the transit zone specified in paragraph (18) of subsection (a), including information relating to—

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

(ii) the impact such deployments have on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

(B) ALTERATION.—The Secretary may alter the capability deployments referred to in this section if the Secretary—

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

(ii) not later than 30 days after making a determination under clause (i), notifies the committees referred to in such subparagraph regarding such alteration, including information relating to—

(I) the number and types of assets and personnel deployed pursuant to such alteration; and

(II) the impact such alteration has on the capability of the Coast Guard to conduct its mission in the transit zone referred to in paragraph (18) of subsection (a).

(c) EXIGENT CIRCUMSTANCES.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the capabilities referred to in subsection (a) in a manner that is inconsistent with the requirements specified in such subsection if, after the Secretary has deployed at least 25 percent of such capabilities, the Secretary determines that exigent circumstances demand such an inconsistent deployment or that such an inconsistent deployment is vital to the national security interests of the United States.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the House of Representative and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days after making a determination under paragraph (1). Such notification shall include a detailed justification regarding such determination.

SEC. 3114. U.S. BORDER PATROL ACTIVITIES.

The Chief of the U.S. Border Patrol shall prioritize the deployment of U.S. Border Patrol agents to as close to the physical land border as possible, consistent with border security enforcement priorities and accessibility to such areas.

SEC. 3115. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

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

"SEC. 435. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

"(a) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term 'major acquisition program' means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2017 constant dollars) over its life cycle cost.

"(b) PLANNING DOCUMENTATION.—For each border security technology acquisition program of the Department that is determined to be a major acquisition program, the Secretary shall—

"(1) ensure that each such program has a written acquisition program baseline approved by the relevant acquisition decision authority;

"(2) document that each such program is meeting cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

"(3) have a plan for meeting program implementation objectives by managing contractor performance.

"(c) ADHERENCE TO STANDARDS.—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible

for carrying out this section adhere to relevant internal control standards identified by the Comptroller General of the United States. The Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

''(d) PLAN.—The Secretary, acting through the Under Secretary for Management, in coordination with the Under Secretary for Science and Technology and the Commissioner of U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a plan for testing, evaluating, and using independent verification and validation resources for border security technology. Under the plan, new border security technologies shall be evaluated through a series of assessments, processes, and audits to ensure—

''(1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

''(2) the effective use of taxpayer dollars.''.

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

''Sec. 435. Border security technology program management.''.

(c) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 435 of the Homeland Security Act of 2002, as added by subsection (a). Such section shall be carried out using amounts otherwise authorized for such purposes.

SEC. 3116. REIMBURSEMENT OF STATES FOR DEPLOYMENT OF THE NATIONAL GUARD AT THE SOUTHERN BORDER.

(a) IN GENERAL.—With the approval of the Secretary and the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform operations and missions under section 502(f) of title 32, United States Code, along the southern border for the purposes of assisting U.S. Customs and Border Protection to achieve situational awareness and operational control of the border.

(b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

(1) IN GENERAL.—National Guard units and personnel deployed under subsection (a) may be assigned such operations and missions specified in subsection (c) as may be necessary to secure the southern border.

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

(c) RANGE OF OPERATIONS AND MISSIONS.—The operations and missions assigned under subsection (b) shall include the temporary authority to—

(1) construct reinforced fencing or other physical barriers;

(2) operate ground-based surveillance systems;

(3) operate unmanned and manned aircraft;

(4) provide radio communications interoperability between U.S. Customs and Border Protection and State, local, and tribal law enforcement agencies;

(5) construct checkpoints along the Southern border to bridge the gap to long-term permanent checkpoints; and

(6) provide intelligence support.

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

(e) REIMBURSEMENT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall reimburse States for the cost of the deployment of any units or personnel of the National Guard to perform operations and missions in full-time State Active Duty in support of a southern border mission. The Secretary of Defense may not seek reimbursement from the Secretary for any reimbursements paid to States for the costs of such deployments.

(2) LIMITATION.—The total amount of reimbursements under this section may not exceed $35,000,000 for any fiscal year.

SEC. 3117. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER.

(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary, shall provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern border.

(b) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include—

(1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern border; and

(2) intelligence analysis support.

(c) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment, and logistics support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Defense $75,000,000 to provide assistance under this section. The Secretary of Defense may not seek reimbursement from the Secretary for any assistance provided under this section.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and annually thereafter, the Secretary of Defense shall submit a report to the appropriate congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) regarding any assistance provided under subsection (a) during the period specified in paragraph (3).

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

(A) the assistance provided;

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

(C) the amounts obligated to provide such assistance.

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

(A) in the case of the first report required under paragraph (1), the 90-day period beginning on the date of the enactment of this Act; and

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

SEC. 3118. PROHIBITIONS ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

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

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

(2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct activities described in subsection (b) on covered Federal land applies without regard to whether a state of emergency exists.

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

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

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(A) the execution of search and rescue operations;

(B) the use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(C) the design, testing, construction, installation, deployment, and operation of physical barriers, tactical infrastructure, and technology pursuant to section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 3111 of this division).

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

(2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this section are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:

(A) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

(C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the ''Clean Water Act'').

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

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

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

(G) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

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

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

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

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

(L) Chapter 3125 of title 54, United States Code (formerly known as the ''Archaeological and Historic Preservation Act'').

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

(N) Chapter 3203 of title 54, United States Code (formerly known as the ''Historic Sites, Buildings, and Antiquities Act'').

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

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

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

(R) The Wilderness Act (16 U.S.C. 1131 et seq.).

(S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

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

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

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

(W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly

known as the ''Administrative Procedure Act'').

(X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

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

(AA) The National Park Service General Authorities Act (Public Law 91–383, 16 U.S.C. 1a–1 et seq.).

(BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).

(CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law 101–628).

(DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).

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

(FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

(GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).

(HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

(II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

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

(3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1, 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1) shall apply to the provision of such title that corresponds to the provision of law specified in paragraph (2) to the same extent the waiver applied to that provision of law.

(4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act''), in any relevant matter.

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

(1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

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

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

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

(f) TRIBAL SOVEREIGNTY.—Nothing in this section may be construed to supersede, replace, negate, or diminish treaties or other agreements between the United States and Indian tribes.

(g) MEMORANDA OF UNDERSTANDING.—The requirements of this section shall not apply to the extent that such requirements are incompatible with any memorandum of understanding or similar agreement entered into between the Commissioner and a National Park Unit before the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) COVERED FEDERAL LAND.—The term ''covered Federal land'' includes all land under the control of the Secretary concerned that is located within 100 miles of the southern border or the northern border.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.

SEC. 3119. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) ESTABLISHMENT OF NATIONAL BORDER SECURITY ADVISORY COMMITTEE.—The Secretary shall establish a National Border Security Advisory Committee, which—

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

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

(c) MEMBERSHIP.—The National Border Security Advisory Committee shall consist of at least one member from each State who—

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

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

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

SEC. 3120. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

(a) IN GENERAL.—Not later than September 30, 2022, the Secretary, after coordinating with the heads of the relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River that impedes border security operations.

(b) EXTENT.—The waiver authority under subsection (c) of section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by section 3111 of this division, shall extend to activities carried out pursuant to this section.

SEC. 3121. SOUTHERN BORDER THREAT ANALYSIS.

(a) THREAT ANALYSIS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a Southern border threat analysis.

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

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

(i) to unlawfully enter the United States through the Southern border; or

(ii) to exploit security vulnerabilities along the Southern border;

(B) improvements needed at and between ports of entry along the Southern border to prevent terrorists and instruments of terror from entering the United States;

(C) gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts;

(D) the current percentage of situational awareness achieved by the Department along the Southern border;

(E) the current percentage of operational control achieved by the Department on the Southern border; and

(F) traveler crossing times and any potential security vulnerability associated with prolonged wait times.

(3) ANALYSIS REQUIREMENTS.—In compiling the Southern border threat analysis required under this subsection, the Secretary shall consider and examine—

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

(B) the personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(C) the infrastructure needs and challenges;

(D) the roles and authorities of State, local, and tribal law enforcement in general border security activities;

(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(F) the terrain, population density, and climate along the Southern border; and

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

(4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the Southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.

(b) U.S. BORDER PATROL STRATEGIC PLAN.—

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

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

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

(B) efforts to analyze and disseminate border security and border threat information between border security components of the Department and other appropriate Federal departments and agencies with missions associated with the Southern border;

(C) efforts to increase situational awareness, including—

(i) surveillance capabilities, including capabilities developed or utilized by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense; and

(ii) the use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets;

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

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

(F) efforts to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States;

(G) efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department;

(H) any technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary determines to be necessary;

(I) operational coordination unity of effort initiatives of the border security components of the Department, including any relevant task forces of the Department;

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

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

(L) border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the Northern border or the Southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the Northern border or the Southern border;

(M) staffing requirements for all departmental border security functions;

(N) a prioritized list of departmental research and development objectives to enhance the security of the Southern border;

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

(i) identifying and detecting fraudulent documents;

(ii) understanding the scope of enforcement authorities and the use of force policies; and

(iii) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and

(P) an assessment of how border security operations affect border crossing times.

SEC. 3122. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION.

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

(1) in paragraph (18), by striking ''and'' after the semicolon at the end;

(2) by redesignating paragraph (19) as paragraph (21); and

(3) by inserting after paragraph (18) the following new paragraphs:

''(19) administer the U.S. Customs and Border Protection public private partnerships under subtitle G;

''(20) administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4431 et seq.; enacted as subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.); and''.

(b) OFFICE OF FIELD OPERATIONS STAFFING.—Subparagraph (A) of section 411(g)(5) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by inserting before the period at the end the following: ''compared to the number indicated by the current fiscal year work flow staffing model''.

(c) IMPLEMENTATION PLAN.—Subparagraph (B) of section 814(e)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 4433(e)(1); enacted as subtitle B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.) is amended to read as follows:

''(B) a port of entry vacancy rate which compares the number of officers identified in subparagraph (A) with the number of officers at the port at which such officer is currently assigned.''.

(d) DEFINITION.—Subsection (r) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended—

(1) by striking ''this section, the terms'' and inserting the following: ''this section:

''(1) the terms'';

(2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(2) the term 'unmanned aerial systems' has the meaning given the term 'unmanned aircraft system' in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).''.

SEC. 3123. AGENT AND OFFICER TECHNOLOGY USE.

In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 3111 of this division) and section 3113 of this division, the Secretary shall, to the greatest extent practicable, ensure that technology deployed to gain situational awareness and operational control of the border be provided to front-line officers and agents of the Department of Homeland Security.

SEC. 3124. INTEGRATED BORDER ENFORCEMENT TEAMS.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 3115 of this division, is further amended by adding at the end the following new section:

''SEC. 436. INTEGRATED BORDER ENFORCEMENT TEAMS.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as 'IBET').

''(b) PURPOSE.—The Secretary shall administer the IBET program in a manner that results in a cooperative approach between the United States and Canada to—

''(1) strengthen security between designated ports of entry;

''(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

''(3) facilitate collaboration among components and offices within the Department and international partners;

''(4) execute coordinated activities in furtherance of border security and homeland security; and

''(5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

''(c) COMPOSITION AND LOCATION OF IBETS.—

''(1) COMPOSITION.—IBETs shall be led by the United States Border Patrol and may be comprised of personnel from the following:

''(A) Other subcomponents of U.S. Customs and Border Protection.

''(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.

''(C) The Coast Guard, for the purpose of securing the maritime borders of the United States.

''(D) Other Department personnel, as appropriate.

''(E) Other Federal departments and agencies, as appropriate.

''(F) Appropriate State law enforcement agencies.

''(G) Foreign law enforcement partners.

''(H) Local law enforcement agencies from affected border cities and communities.

''(I) Appropriate tribal law enforcement agencies.

''(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider the following:

''(A) Whether the region in which the IBET would be established is significantly impacted by cross-border threats.

''(B) The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET.

''(C) Whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

''(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

''(d) OPERATION.—

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

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

''(B) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

''(2) LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(1)(C).

''(e) COORDINATION.—The Secretary shall coordinate the IBET program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

''(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET program.

''(g) REPORT.—Not later than 180 days after the date on which an IBET is established and biannually thereafter for the following six years, the Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, and in the case of Coast Guard personnel used to secure the maritime borders of the United States, additionally to the Committee on Transportation and Infrastructure of the House of Representatives, a report that—

''(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

''(2) assess the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;

''(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

''(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding after the item relating to section 435 the following new item:

''Sec. 436. Integrated Border Enforcement Teams.''.

SEC. 3125. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and remediating tunnels that breach the international border of the United States.

SEC. 3126. PILOT PROGRAM ON USE OF ELECTROMAGNETIC SPECTRUM IN SUPPORT OF BORDER SECURITY OPERATIONS.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall conduct a pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and Border Protection in support of border security operations through—

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

(2) automated spectrum management to enable greater efficiency and speed for U.S. Customs and Border Protection in addressing emerging challenges in overall spectrum use on the United States border; and

(3) coordinated use of spectrum resources to better facilitate interoperability and interagency cooperation and interdiction efforts at or near the United States border.

(b) REPORT TO CONGRESS.—Not later than 180 days after the conclusion of the pilot program conducted under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings and data derived from such program.

SEC. 3127. HOMELAND SECURITY FOREIGN ASSISTANCE.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by sections 3115 and 3124 of this division, is further amended by adding at the end the following new section:

''SEC. 437. SECURITY ASSISTANCE.

''(a) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, may provide to a foreign government, financial assistance and, with or without reimbursement, security assistance, including equipment, training, maintenance, supplies, and sustainment support.

''(b) DETERMINATION.—The Secretary may only provide financial assistance or security assistance pursuant to subsection (a) if the Secretary determines that such assistance would enhance the recipient government's capacity to—

''(1) mitigate the risk or threat of transnational organized crime and terrorism;

''(2) address irregular migration flows that may affect the United States, including any detention or removal operations of the recipient government; or

''(3) protect and expedite legitimate trade and travel.

''(c) LIMITATION ON TRANSFER.—The Secretary may not—

''(1) transfer any equipment or supplies that are designated as a munitions item or controlled on the United States Munitions List, pursuant to section 38 of the Foreign Military Sales Act (22 U.S.C. 2778); or

''(2) transfer any vessel or aircraft pursuant to this section.

''(d) RELATED TRAINING.—In conjunction with a transfer of equipment pursuant to subsection (a), the Secretary may provide such equipment-related training and assistance as the Secretary determines necessary.

''(e) MAINTENANCE OF TRANSFERRED EQUIPMENT.—The Secretary may provide for the maintenance of transferred equipment through service contracts or other means, with or without reimbursement, as the Secretary determines necessary.

''(f) REIMBURSEMENT OF EXPENSES.—

''(1) IN GENERAL.—The Secretary may collect payment from the receiving entity for the provision of security assistance under this section, including equipment, training, maintenance, supplies, sustainment support, and related shipping costs.

''(2) TRANSFER.—Notwithstanding any other provision of law, to the extent the Secretary does not collect payment pursuant to paragraph (1), any amounts appropriated or otherwise made available to the Department of Homeland Security may be transferred to the account that finances the security assistance provided pursuant to subsection (a).

''(g) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any reimbursement collected pursuant to subsection (f) shall—

''(1) be credited as offsetting collections to the account that finances the security assistance under this section for which such reimbursement is received; and

''(2) remain available until expended for the purpose of carrying out this section.

''(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 436 the following new item:

''Sec. 437. Security assistance.''.

CHAPTER 2—PERSONNEL

SEC. 3131. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION AGENTS AND OFFICERS.

(a) BORDER PATROL AGENTS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient agents to maintain an active duty presence of not fewer than 26,370 full-time equivalent agents.

(b) CBP OFFICERS.—In addition to positions authorized before the date of the enactment of this Act and any existing officer vacancies within U.S. Customs and Border Protection as of such date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2022—

(1) sufficient U.S. Customs and Border Protection officers to maintain an active duty presence of not fewer than 27,725 full-time equivalent officers; and

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

(c) AIR AND MARINE OPERATIONS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient agents for Air and Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern border air and maritime operations.

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

(1) K–9 UNITS.—Not later than September 30, 2022, the Commissioner shall deploy not fewer than 300 new K–9 units, with supporting officers of U.S. Customs and Border Protection and other required staff, at land ports of entry and checkpoints, on the southern border and the northern border.

(2) USE OF CANINES.—The Commissioner shall prioritize the use of canines at the primary inspection lanes at land ports of entry and checkpoints.

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

(1) INCREASE.—Not later than September 30, 2022, the Commissioner shall increase the number of horseback units, with supporting officers of U.S. Customs and Border Protection and other required staff, by not fewer than 100 officers and 50 horses for security patrol along the Southern border.

(2) HORSEBACK UNIT SUPPORT.—The Commissioner shall construct new stables, maintain and improve existing stables, and provide other resources needed to maintain the health and well-being of the horses that serve in the horseback units of U.S. Customs and Border Protection.

(f) U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of officers engaged in search and rescue activities along the southern border.

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

(h) AGRICULTURAL SPECIALISTS.—Not later than September 30, 2022, the Secretary shall hire, train, and assign to duty, in addition to the officers and agents authorized under subsections (a) through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry along the southern border and the northern border.

(i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

(j) U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF INTELLIGENCE.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to maintain not fewer than 700 full-time equivalent employees.

(k) GAO REPORT.—If the staffing levels required under this section are not achieved by September 30, 2022, the Comptroller General of the United States shall conduct a review of the reasons why such levels were not achieved.

SEC. 3132. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES.

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

''§ 9702. U.S. Customs and Border Protection temporary employment authorities

''(a) DEFINITIONS.—In this section—

''(1) the term 'CBP employee' means an employee of U.S. Customs and Border Protection described under any of subsections (a) through (h) of section 1131 of the Border Security for America Act of 2018;

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

''(3) the term 'Director' means the Director of the Office of Personnel Management;

''(4) the term 'Secretary' means the Secretary of Homeland Security; and

''(5) the term 'appropriate congressional committees' means the Committee on Oversight and Government Reform, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate.

''(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

''(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and staffing levels required by section 1131 of the Border Security for America Act of 2018. The Secretary shall not use this authority beyond meeting the requirements of such section.

''(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees if the Secretary has given public notice for the positions.

''(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year) in the required service period to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

''(A) the Secretary determines that conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to the regulations referenced in subsection (b)(2)(B(ii)(I) of such section or to any other provision of that section); and

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent of basic pay to an individual CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

''(A) the Secretary determines that—

''(i) a condition consistent with the condition described in subsection (b)(1) of such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

''(ii) in the absence of a retention bonus, the CBP employee would be likely to leave—

''(I) the Federal service; or

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(5) RULES FOR BONUSES.—

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

''(i) paragraph (3) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

''(ii) paragraph (4) may not exceed 50 percent of the annual rate of basic pay of the employee.

''(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph (3) or (4) shall not be considered part of the basic pay of the employee for any purpose, including for retirement or in computing a lump-sum payment to the covered employee for accumulated and accrued annual leave under section 5551 or section 5552.

''(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—

''(i) A bonus paid to an employee under paragraph (4) may not be based on any period of such service which is the basis for a recruitment or relocation bonus under paragraph (3).

''(ii) A bonus paid to an employee under paragraph (3) or (4) may not be based on any period of service which is the basis for a recruitment or relocation bonus under section 5753 or a retention bonus under section 5754.

''(c) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section to assist the Secretary in meeting the requirements of section 1131 of the Border Security for America Act of 2018. The Director shall prioritize the consideration of requests from the Secretary for such special rates of pay and issue a decision as soon as practicable. The Secretary shall provide such information to the Director as the Director deems necessary to evaluate special rates of pay under this subsection.

''(d) OPM OVERSIGHT.—

''(1) Not later than September 30 of each year, the Secretary shall provide a report to the Director on U.S. Customs and Border Protection's use of authorities provided under subsections (b) and (c). In each report, the Secretary shall provide such information as the Director determines is appropriate to ensure appropriate use of authorities under such subsections. Each report shall also include an assessment of—

''(A) the impact of the use of authorities under subsections (b) and (c) on implementation of section 1131 of the Border Security for America Act of 2018;

''(B) solving hiring and retention challenges at the agency, including at specific locations;

''(C) whether hiring and retention challenges still exist at the agency or specific locations; and

''(D) whether the Secretary needs to continue to use authorities provided under this section at the agency or at specific locations.

''(2) CONSIDERATION.—In compiling a report under paragraph (1), the Secretary shall consider—

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

''(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

''(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report required under this subsection to the appropriate congressional committees.

''(e) OPM ACTION.—If the Director determines the Secretary has inappropriately used authorities under subsection (b) or a special rate of pay provided under subsection (c), the Director shall notify the Secretary and the appropriate congressional committees in writing. Upon receipt of the notification, the Secretary may not make any new appointments or issue any new bonuses under subsection (b), nor provide CBP employees with further special rates of pay, until the Director has provided the Secretary and the appropriate congressional committees a written notice stating the Director is satisfied safeguards are in place to prevent further inappropriate use.

''(f) IMPROVING CBP HIRING AND RETENTION.—

''(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment of this section, and in conjunction with the Chief Human Capital Officer of the Department of Homeland Security, the Secretary shall develop and implement a strategy to improve the education regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

''(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

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

''(B) Regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

''(C) The development of pilot programs or other programs, as appropriate, consistent with authorities provided to the Secretary to address identified hiring challenges, including in rural or remote areas.

''(D) Developing and enhancing strategic recruiting efforts through the relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

''(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area.

''(F) Feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families.

''(G) Feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families.

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

''(3) EVALUATION.—

''(A) IN GENERAL.—Each year, the Secretary shall—

''(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

''(ii) make any appropriate updates to the strategy under paragraph (1).

''(B) INFORMATION.—The evaluation conducted under subparagraph (A) shall include—

''(i) any reduction in the time taken by the Secretary to fill mission-critical positions, including in rural or remote areas;

''(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges, including in rural or remote areas; and

''(iii) other information the Secretary determines relevant.

''(g) INSPECTOR GENERAL REVIEW.—Not later than two years after the date of the enactment of this section, the Inspector General of the Department of Homeland Security shall review the use of hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such flexibilities is helping the Secretary meet hiring and retention needs, including in rural and remote areas.

''(h) REPORT ON POLYGRAPH REQUESTS.—The Secretary shall report to the appropriate congressional committees on the number of requests the Secretary receives from any other Federal agency for the file of an applicant for a position in U.S. Customs and Border Protection that includes the results of a polygraph examination.

''(i) EXERCISE OF AUTHORITY.—

''(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining agreement.

''(2) DELEGATION.—The Secretary may delegate any authority under this section to the Commissioner.

''(j) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from applicability of the merit system principles under section 2301.

''(k) SUNSET.—The authorities under subsections (b) and (c) shall terminate on September 30, 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may continue until such bonus has been paid, subject to the conditions specified in this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

''9702. U.S. Customs and Border Protection temporary employment authorities.''.

SEC. 3133. ANTI-BORDER CORRUPTION REAUTHORIZATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Anti-Border Corruption Reauthorization Act of 2018''.

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

''(b) WAIVER AUTHORITY.—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—

''(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

''(A) has continuously served as a law enforcement officer for not fewer than three years;

''(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;

''(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer's current law enforcement agency;

''(2) to a current, full-time Federal law enforcement officer who—

''(A) has continuously served as a law enforcement officer for not fewer than three years;

''(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

''(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; and

''(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

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

''(B) holds, or has held within the past five years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

''(C) holds, or has undergone within the past five years, a current Tier 4 background investigation or current Tier 5 background investigation;

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

''(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

''(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is four years after the date of the enactment of the Border Security for America Act of 2018.''.

(c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

(1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border Corruption Act of 2010 is amended to read as follows:

''SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

''(a) NON-EXEMPTION.—An individual who receives a waiver under section 3(b) is not exempt from other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position, as determined by the Commissioner of U.S. Customs and Border Protection.

''(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) who holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.

''(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver under section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.''.

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

''SEC. 5. REPORTING.

''(a) ANNUAL REPORT.—Not later than one year after the date of the enactment of this section and annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner of U.S. Customs and Border Protection shall submit to Congress a report that includes, with respect to each such reporting period—

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

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

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

''(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

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

''(6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

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

''(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

''(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).''.

(3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs (1) and (2), is further amended by adding at the end the following new section:

''SEC. 6. DEFINITIONS.

''In this Act:

''(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' means a 'law enforcement officer' defined in section 8331(20) or 8401(17) of title 5, United States Code.

''(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term 'serious military or civil offense' means an offense for which—

''(A) a member of the Armed Forces may be discharged or separated from service in the Armed Forces; and

''(B) a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Court-Martial, as pursuant to Army Regulation 635–200 chapter 14–12.

''(3) TIER 4; TIER 5.—The terms 'Tier 4' and 'Tier 5' with respect to background investigations have the meaning given such terms under the 2012 Federal Investigative Standards.

''(4) VETERAN.—The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''.

(d) POLYGRAPH EXAMINERS.—Not later than September 30, 2022, the Secretary shall increase to not fewer than 150 the number of trained full-time equivalent polygraph examiners for administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this chapter.

SEC. 3134. TRAINING FOR OFFICERS AND AGENTS OF U.S. CUSTOMS AND BORDER PROTECTION.

(a) IN GENERAL.—Subsection (l) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended to read as follows:

''(l) TRAINING AND CONTINUING EDUCATION.—

''(1) MANDATORY TRAINING.—The Commissioner shall ensure that every agent and officer of U.S. Customs and Border Protection receives a minimum of 21 weeks of training that are directly related to the mission of the U.S. Border Patrol, Air and Marine, and the Office of Field Operations before the initial assignment of such agents and officers.

''(2) FLETC.—The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

''(3) CONTINUING EDUCATION.—The Commissioner shall annually require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than eight hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.

''(4) LEADERSHIP TRAINING.—Not later than one year after the date of the enactment of this subsection, the Commissioner shall develop and require training courses geared towards the development of leadership skills for mid- and senior-level career employees not later than one year after such employees assume duties in supervisory roles.''.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report identifying the guidelines and curriculum established to carry out subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

(c) ASSESSMENT.—Not later than four years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report that assesses the training and education, including continuing education, required under subsection (l) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

CHAPTER 3—GRANTS

SEC. 3141. OPERATION STONEGARDEN.

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

''SEC. 2009. OPERATION STONEGARDEN.

''(a) ESTABLISHMENT.—There is established in the Department a program to be known as 'Operation Stonegarden', under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

''(b) ELIGIBLE RECIPIENTS.—To be eligible to receive a grant under this section, a law enforcement agency—

''(1) shall be located in—

''(A) a State bordering Canada or Mexico; or

''(B) a State or territory with a maritime border; and

''(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

''(1) equipment, including maintenance and sustainment costs;

''(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

''(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security's Fiscal Year 2017 Homeland Security Grant Program Notice of Funding Opportunity; and

''(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

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

''(e) REPORT.—For each of fiscal years 2018 through 2022, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains information on the expenditure of grants made under this section by each grant recipient.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $22,000,000 for fiscal year 2018 for grants under this section.''.

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

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

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 2008 the following:

''Sec. 2009. Operation Stonegarden.''.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS

SEC. 3151. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated for fiscal year 2018, $4,960,000,000 to implement this subtitle and the amendments made by this subtitle, of which—

(1) $1,860,000,000 shall be used by the Department of Homeland Security to construct physical barriers pursuant to section 102 of the Illegal Immigration and Immigrant Responsibility Act of 1996, as amended by section 3111 of this division;

(2) $200,000,000 shall be used by the Department to improve tactical infrastructure pursuant to such section 102, as amended by such section 3111 of this division;

(3) $1,160,000,000 shall be used by the Department to carry out section 3112 of this division;

(4) $40,000,000 shall be used by the Coast Guard for deployments of personnel and assets under paragraph (18) of section 3113(a) of this division; and

(5) $1,700,000,000 shall be used by the Department to carry out section 3131 of this division.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 3201. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

(1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of title 40, United States Code, construct new ports of entry along the northern border and southern border at locations determined by the Secretary.

(2) CONSULTATION.—

(A) REQUIREMENT TO CONSULT.—The Secretary and the Administrator of General Services shall consult with the Secretary of State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Transportation, and appropriate representatives of State and local governments, and Indian tribes, and property owners in the United States prior to determining a location for any new port of entry constructed pursuant to paragraph (1).

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

(b) EXPANSION AND MODERNIZATION OF HIGH-PRIORITY SOUTHERN BORDER PORTS OF ENTRY.—Not later than September 30, 2021, the Administrator of General Services, subject to section 3307 of title 40, United States Code, and in coordination with the Secretary, shall expand or modernize high-priority ports of entry on the southern border, as determined by the Secretary, for the purposes of reducing wait times and enhancing security.

(c) PORT OF ENTRY PRIORITIZATION.—Prior to constructing any new ports of entry pursuant to subsection (a), the Administrator of General Services shall complete the expansion and modernization of ports of entry pursuant to subsection (b) to the extent practicable.

(d) NOTIFICATIONS.—

(1) RELATING TO NEW PORTS OF ENTRY.—Not later than 15 days after determining the location of any new port of entry for construction pursuant to subsection (a), the Secretary and the Administrator of General Services shall jointly notify the Members of Congress who represent the State or congressional district in which such new port of entry will be located, as well as the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives. Such notification shall include information relating to the location of such new port of entry, a description of the need

for such new port of entry and associated anticipated benefits, a description of the consultations undertaken by the Secretary and the Administrator pursuant to paragraph (2) of such subsection, any actions that will be taken to minimize negative impacts of such new port of entry, and the anticipated timeline for construction and completion of such new port of entry.

(2) RELATING TO EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after enactment of this Act, the Secretary and the Administrator of General Services shall jointly notify the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives of the ports of entry on the southern border that are the subject of expansion or modernization pursuant to subsection (b) and the Secretary's and Administrator's plan for expanding or modernizing each such port of entry.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed as providing the Secretary new authority related to the construction, acquisition, or renovation of real property.

SEC. 3202. SECURE COMMUNICATIONS.

(a) IN GENERAL.—The Secretary shall ensure that each U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a secure radio or other two-way communication device, supported by system interoperability, that allows each such officer to communicate—

(1) between ports of entry and inspection stations; and

(2) with other Federal, State, tribal, and local law enforcement entities.

(b) U.S. BORDER PATROL AGENTS.—The Secretary shall ensure that each U.S. Border Patrol agent or officer assigned or required to patrol on foot, by horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-band encrypted portable radio.

(c) LTE CAPABILITY.—In carrying out subsection (b), the Secretary shall acquire radios or other devices with the option to be LTE-capable for deployment in areas where LTE enhances operations and is cost effective.

SEC. 3203. BORDER SECURITY DEPLOYMENT PROGRAM.

(a) EXPANSION.—Not later than September 30, 2021, the Secretary shall fully implement the Border Security Deployment Program of the U.S. Customs and Border Protection and expand the integrated surveillance and intrusion detection system at land ports of entry along the southern border and the northern border.

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

SEC. 3204. NON-INTRUSIVE INSPECTION OPERATIONAL DEMONSTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Commissioner shall establish a six-month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three land ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

(b) REPORT.—Not later than 90 days after the conclusion of the operational demonstration under subsection (a), the Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report that describes the following:

(1) The effects of such demonstration on legitimate travel and trade.

(2) The effects of such demonstration on wait times, including processing times, for non-pedestrian traffic.

(3) The effectiveness of such demonstration in combating terrorism and smuggling.

SEC. 3205. BIOMETRIC EXIT DATA SYSTEM.

(a) IN GENERAL.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by inserting after section 415 the following new section:

"SEC. 416. BIOMETRIC ENTRY-EXIT.

''(a) ESTABLISHMENT.—The Secretary shall—

''(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives an implementation plan to establish a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

''(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs of such a system, that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(C) a consideration of training programs necessary to establish such a system that takes into account prior reports on such matters issued by the Government Accountability Office and the Department;

''(D) a consideration of how such a system will affect arrival and departure wait times that takes into account prior reports on such matter issued by the Government Accountability Office and the Department;

''(E) information received after consultation with private sector stakeholders, including the—

''(i) trucking industry;

''(ii) airport industry;

''(iii) airline industry;

''(iv) seaport industry;

''(v) travel industry; and

''(vi) biometric technology industry;

''(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this section may be impacted by, or incorporated into, such a system;

''(G) defined metrics of success and milestones;

''(H) identified risks and mitigation strategies to address such risks;

''(I) a consideration of how other countries have implemented a biometric exit data system; and

''(J) a list of statutory, regulatory, or administrative authorities, if any, needed to integrate such a system into the operations of the Transportation Security Administration; and

''(2) not later than two years after the date of the enactment of this section, establish a biometric exit data system at the—

''(A) 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

''(B) 10 United States seaports that support the highest volume of international sea travel, as determined by available Federal travel data; and

''(C) 15 United States land ports of entry that support the highest volume of vehicle, pedestrian, and cargo crossings, as determined by available Federal border crossing data.

''(b) IMPLEMENTATION.—

''(1) PILOT PROGRAM AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—Not later than six months after the date of the enactment of this section, the Secretary, in collaboration with industry stakeholders, shall establish a six-month pilot program to test the biometric exit data system referred to in subsection (a)(2) on non-pedestrian outbound traffic at not fewer than three land ports of entry with significant cross-border traffic, including at not fewer than two land ports of entry on the southern land border and at least one land port of entry on the northern land border. Such pilot program may include a consideration of more than one biometric mode, and shall be implemented to determine the following:

''(A) How a nationwide implementation of such biometric exit data system at land ports of entry shall be carried out.

''(B) The infrastructure required to carry out subparagraph (A).

''(C) The effects of such pilot program on legitimate travel and trade.

''(D) The effects of such pilot program on wait times, including processing times, for such non-pedestrian traffic.

''(E) The effects of such pilot program on combating terrorism.

''(F) The effects of such pilot program on identifying visa holders who violate the terms of their visas.

''(2) AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—

''(A) IN GENERAL.—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of non-pedestrian outbound traffic.

''(B) EXTENSION.—The Secretary may extend for a single two-year period the date specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives that the 15 land ports of entry that support the highest volume of passenger vehicles, as determined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a biometric exit data system.

''(3) AT AIR AND SEA PORTS OF ENTRY.—Not later than five years after the date of the enactment of this section, the Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all air and sea ports of entry.

''(4) AT LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than five years after the date of the enactment of this section, the

Secretary shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of pedestrians.

''(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary, in consultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

''(d) TERMINATION OF PROCEEDING.—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate the proceeding entitled 'Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (''US–VISIT'')', issued on April 24, 2008 (73 Fed. Reg. 22065).

''(e) DATA-MATCHING.—The biometric exit data system established under this section shall—

''(1) match biometric information for an individual, regardless of nationality, citizenship, or immigration status, who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

''(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

''(3) be interoperable with, and allow matching against, other Federal databases that—

''(A) store biometrics of known or suspected terrorists; and

''(B) identify visa holders who violate the terms of their visas.

''(f) SCOPE.—

''(1) IN GENERAL.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

''(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the case of an individual who exits and then enters the United States on a passenger vessel (as such term is defined in section 2101 of title 46, United States Code) the itinerary of which originates and terminates in the United States.

''(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a United States or Canadian citizen who exits the United States through a land port of entry.

''(g) COLLECTION OF DATA.—The Secretary may not require any non-Federal person to collect biometric data, or contribute to the costs of collecting or administering the biometric exit data system established under this section, except through a mutual agreement.

''(h) MULTI-MODAL COLLECTION.—In carrying out subsections (a)(1) and (b), the Secretary shall make every effort to collect biometric data using multiple modes of biometrics.

''(i) FACILITIES.—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity. For non-federally owned facilities, such space shall be provided and maintained at no cost to the Government. For all facilities at land ports of entry, such space requirements shall be coordinated with the Administrator of General Services.

''(j) NORTHERN LAND BORDER.—In the case of the northern land border, the requirements under subsections (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through the sharing of biometric data provided to U.S. Customs and Border Protection by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement.

''(k) FAIR AND OPEN COMPETITION.—The Secretary shall procure goods and services to implement this section via fair and open competition in accordance with the Federal Acquisition Regulations.

''(l) OTHER BIOMETRIC INITIATIVES.—Nothing in this section may be construed as limiting the authority of the Secretary to collect biometric information in circumstances other than as specified in this section.

''(m) CONGRESSIONAL REVIEW.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and Committee on the Judiciary of the House of Representatives reports and recommendations regarding the Science and Technology Directorate's Air Entry and Exit Re-Engineering Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

''(n) SAVINGS CLAUSE.—Nothing in this section shall prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 415 the following new item:

''Sec. 416. Biometric entry-exit.''.

SEC. 3206. SENSE OF CONGRESS ON COOPERATION BETWEEN AGENCIES.

(a) FINDING.—Congress finds that personnel constraints exist at land ports of entry with regard to sanitary and phytosanitary inspections for exported goods.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in the best interest of cross-border trade and the agricultural community—

(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate and expedite the flow of legitimate trade and commerce of perishable goods in a manner consistent with rules of the Department of Agriculture; and

(2) cross designation should be available for personnel who will assist more than one agency or department of the United States at land ports of entry to facilitate and expedite the flow of increased legitimate trade and commerce.

SEC. 3207. AUTHORIZATION OF APPROPRIATIONS.

In addition to any amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $250,000,000 for fiscal year 2018 to carry out this subtitle, of which—

(1) $400,000 shall be used by the Secretary for hiring additional Uniform Management Center support personnel, purchasing uniforms for CBP officers and agents, acquiring additional motor vehicles to support vehicle mounted surveillance systems, hiring additional motor vehicle program support personnel, and for contract support for customer service, vendor management, and operations management; and

(2) $50,000,000 shall be used to implement the biometric exit data system described in section 416 of the Homeland Security Act of 2002, as added by section 3205 of this division.

SEC. 3208. DEFINITION.

In this subtitle, the term ''Secretary'' means the Secretary of Homeland Security.

TITLE IV—LAWFUL STATUS FOR CERTAIN CHILDHOOD ARRIVALS

SEC. 4101. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise specifically provided, the terms used in this title have the meanings given such terms in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) CONTINGENT NONIMMIGRANT.—The term ''contingent nonimmigrant'' means an alien who is granted contingent nonimmigrant status under this title.

(3) EDUCATIONAL INSTITUTION.—The term ''educational institution'' means—

(A) an institution that is described in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or is a proprietary institution of higher education (as defined in section 102(b) of such Act (20 U.S.C. 1002(b)));

(B) an elementary, primary, or secondary school within the United States; or

(C) an educational program assisting students either in obtaining a high school equivalency diploma, certificate, or its recognized equivalent under State law, or in passing a General Educational Development exam or other equivalent State-authorized exam or other applicable State requirements for high school equivalency.

(4) SECRETARY.—Except as otherwise specifically provided, the term ''Secretary'' means the Secretary of Homeland Security.

(5) SEXUAL ASSAULT OR HARASSMENT.—The term ''sexual assault or harassment'' means—

(A) conduct engaged in by an alien 18 years of age or older, which consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, and—

(i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(iii) such conduct has the purpose or effect of creating an intimidating, hostile, or offensive environment;

(B) conduct constituting a criminal offense of rape, as described in section 101(a)(43)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(A));

(C) conduct constituting a criminal offense of statutory rape, or any offense of a sexual nature involving a victim under the age of 18 years, as described in section 101(a)(43)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(A));

(D) sexual conduct with a minor who is under 14 years of age, or with a minor under 16 years of age where the alien was at least 4 years older than the minor;

(E) conduct punishable under section 2251 or 2251A (relating to the sexual exploitation of children and the selling or buying of children), or section 2252 or 2252A (relating to certain activities relating to material involving the sexual exploitation of minors or

relating to material constituting or containing child pornography) of title 18, United States Code; or

(F) conduct constituting the elements of any other Federal or State sexual offense requiring a defendant, if convicted, to register on a sexual offender registry (except that this provision shall not apply to convictions solely for urinating or defecating in public).

(6) VICTIM.—The term ''victim'' has the meaning given the term in section 503(e) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)).

SEC. 4102. CONTINGENT NONIMMIGRANT STATUS FOR CERTAIN ALIENS WHO ENTERED THE UNITED STATES AS MINORS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may grant contingent nonimmigrant status to an alien who—

(1) meets the eligibility requirements set forth in subsection (b);

(2) submits a completed application before the end of the period set forth in subsection (c)(2); and

(3) has paid the fees required under subsection (c)(5).

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—An alien is eligible for contingent nonimmigrant status if the alien establishes by clear and convincing evidence that the alien meets the requirements set forth in this subsection.

(2) GENERAL REQUIREMENTS.—The requirements under this paragraph are that the alien—

(A) is physically present in the United States on the date on which the alien submits an application for contingent nonimmigrant status;

(B) was physically present in the United States on June 15, 2007;

(C) was younger than 16 years of age on the date the alien initially entered the United States;

(D) is a person of good moral character;

(E) was under 31 years of age on June 15, 2012, and at the time of filing an application under subsection (c);

(F) has maintained continuous physical presence in the United States from June 15, 2012, until the date on which the alien is granted contingent nonimmigrant status under this section;

(G) had no lawful immigration status on June 15, 2012;

(H) has requested the release to the Department of Homeland Security of all records regarding their being adjudicated delinquent in State or local juvenile court proceedings, and the Department has obtained all such records; and

(I) possesses a valid Employment Authorization Document which authorizes the alien to work as of the date of the enactment of this Act, which was issued pursuant to the June 15, 2012, U.S. Department of Homeland Security Memorandum entitled, ''Exercising Prosecutorial Discretion With Respect to Individuals Who Came to the United States as Children''.

(3) EDUCATION REQUIREMENT.—

(A) IN GENERAL.—An alien may not be granted contingent nonimmigrant status under this section unless the alien establishes by clear and convincing evidence that the alien—

(i) is enrolled in, and is in regular full-time attendance at, an educational institution within the United States; or

(ii) has acquired a diploma from a high school in the United States, has earned a General Educational Development certificate recognized under State law, or has earned a recognized high school equivalency certificate under applicable State law.

(B) EVIDENCE.—An alien shall demonstrate compliance with clause (i) or (ii) of subparagraph (A) by providing a valid certified transcript or diploma from the educational institution the alien is enrolled in or from which the alien has acquired a diploma or certificate.

(4) GROUNDS FOR INELIGIBILITY.—An alien is ineligible for contingent nonimmigrant status if the Secretary determines that the alien—

(A) has a conviction for—

(i) an offense classified as a felony in the convicting jurisdiction;

(ii) an aggravated felony;

(iii) an offense classified as a misdemeanor in the convicting jurisdiction which involved—

(I) domestic violence (as defined in section 40002(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)));

(II) child abuse or neglect (as defined in section 40002(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)));

(III) assault resulting in bodily injury (as such term is defined in section 2266 of title 18, United States Code);

(IV) the violation of a protection order (as such term is defined in section 2266 of title 18, United States Code); or

(V) driving while intoxicated or driving under the influence (as such terms are defined in section 164(a)(2) of title 23, United States Code);

(iv) two or more misdemeanor convictions (excluding minor traffic offenses that did not involve driving while intoxicated or driving under the influence, or that did not subject any individual other than the alien to bodily injury); or

(v) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) or deportable under section 237(a) of such Act (8 U.S.C. 1227(a));

(B) has been adjudicated delinquent in a State or local juvenile court proceeding for an offense equivalent to—

(i) an offense relating to murder, manslaughter, homicide, rape (whether the victim was conscious or unconscious), statutory rape, or any offense of a sexual nature involving a victim under the age of 18 years, as described in section 101(a)(43)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(A));

(ii) a crime of violence, as such term is defined in section 16 of title 18, United States Code; or

(iii) an offense punishable under section 401 of the Controlled Substances Act (21 U.S.C. 841);

(C) has a conviction for any other criminal offense, which regard to which the alien has not satisfied any civil legal judgements awarded to any victims (or family members of victims) of the crime;

(D) is described in section 212(a)(2)(J) of the Immigration and Nationality Act (8 U.S.C. 1882(a)(2)(J)) (relating to aliens associated with criminal gangs);

(E) has been charged with a felony or misdemeanor offense (excluding minor traffic offenses that did not involve driving while intoxicated or driving under the influence, or that did not subject any individual other than the alien to bodily injury), and the charge or charges are still pending;

(F) is inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), except that in determining an alien's inadmissibility—

(i) paragraphs (5), (7), and (9)(B) of such section shall not apply; and

(ii) subparagraphs (A), (D), and (G) of paragraph (6), and paragraphs (9)(C)(i)(I) and (10)(B), of such section shall not apply, except in the case of the alien unlawfully entering the United States after June 15, 2007;

(G) is deportable under section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), except that in determining an alien's deportability—

(i) subparagraph (A) of section 237(a)(1) of such Act shall not apply with respect to grounds of inadmissibility that do not apply pursuant to subparagraph (C) of such section; and

(ii) subparagraphs (B) through (D) of section 237(a)(1) and section 237(a)(3)(A) of such Act shall not apply;

(H) was, on the date of the enactment of this Act—

(i) an alien lawfully admitted for permanent residence;

(ii) an alien admitted as a refugee under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or granted asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158); or

(iii) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(4)) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110–229)), notwithstanding any unauthorized employment or other violation of nonimmigrant status;

(I) has failed to comply with the requirements of any removal order or voluntary departure agreement;

(J) has been ordered removed in absentia pursuant to section 240(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)(A));

(K) has failed or refused to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability;

(L) if over the age of 18, has failed to demonstrate that he or she is able to maintain himself or herself at an annual income that is not less than 125 percent of the Federal poverty level throughout the period of admission as a contingent nonimmigrant, unless the alien has demonstrated that the alien is enrolled in, and is in regular full-time attendance at, an educational institution within the United States;

(M) is delinquent with respect to any Federal, State, or local income or property tax liability;

(N) has failed to pay to the Treasury, in addition to any amounts owed, an amount equal to the aggregate value of any disbursements received by such alien for refunds described in section 1324(b)(2);

(O) has income that would result in tax liability under section 1 of the Internal Revenue Code of 1986 and that was not reported to the Internal Revenue Service; or

(P) has at any time engaged in sexual assault or harassment.

(c) APPLICATION PROCEDURES.—

(1) IN GENERAL.—An alien may apply for contingent nonimmigrant status by submitting a completed application form via electronic filing to the Secretary during the application period set forth in paragraph (2), in accordance with the interim final rule made by the Secretary under section 1105.

(2) APPLICATION PERIOD.—The Secretary may only accept applications for contingent nonimmigrant status from aliens in the United States during the 1-year period beginning on the date on which the interim final rule is published in the Federal Register pursuant to section 1105.

(3) APPLICATION FORM.—

(A) REQUIRED INFORMATION.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines to be necessary and appropriate in order to determine whether an alien meets the eligibility requirements set forth in subsection (b).

(B) INTERVIEW.—The Secretary shall conduct an in-person interview of each applicant for contingent nonimmigrant status under this section as part of the determination as to whether the alien meets the eligibility requirements set forth in subsection (b).

(4) DOCUMENTARY REQUIREMENTS.—An application filed by an alien under this section shall include the following:

(A) One or more of the following documents demonstrating the alien's identity:

(i) A passport (or national identity document) from the alien's country of origin.

(ii) A certified birth certificate along with photo identification.

(iii) A State-issued identification card bearing the alien's name and photograph.

(iv) An Armed Forces identification card issued by the Department of Defense.

(v) A Coast Guard identification card issued by the Department of Homeland Security.

(B) A certified copy of the alien's birth certificate or certified school transcript demonstrating that the alien satisfies the requirement of subsection (b)(2)(A)(iii) and (v).

(C) A certified school transcript demonstrating that the alien satisfies the requirements of subsection (b)(2)(A)(ii) and (vi).

(D) Immigration records from the Department of Homeland Security (demonstrating that the alien satisfies the requirements under subsection (b)(2)(A)(i), (ii), and (vi)).

(5) FEES.—

(A) STANDARD PROCESSING FEE.—

(i) IN GENERAL.—Aliens applying for contingent nonimmigrant status under this section shall pay a processing fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) RECOVERY OF COSTS.—The processing fee authorized under clause (i) shall be set at a level that is, at a minimum, sufficient to recover the full costs of processing the application, including any costs incurred—

(I) to adjudicate the application;

(II) to take and process biometrics;

(III) to perform national security and criminal checks;

(IV) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(iii) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected under clause (i) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(B) BORDER SECURITY FEE.—

(i) IN GENERAL.—Aliens applying for contingent nonimmigrant status under this section shall pay a border security fee to the Department of Homeland Security in an amount of $1,000.

(ii) USE OF BORDER SECURITY FEES.—Fees collected under clause (i) shall be available, to the extent provided in advance in appropriation Acts, to the Secretary of Homeland Security for the purposes of carrying out title III, and the amendments made by that title.

(6) ALIENS APPREHENDED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in paragraph (2) appears prima facie eligible for contingent nonimmigrant status, to the satisfaction of the Secretary, the Secretary—

(A) shall provide the alien with a reasonable opportunity to file an application under this section during such application period; and

(B) may not remove the individual until the Secretary has denied the application, unless the Secretary, in the Secretary's sole and unreviewable discretion, determines that expeditious removal of the alien is in the national security, public safety, or foreign policy interests of the United States, or the Secretary will be required for constitutional reasons or court order to release the alien from detention.

(7) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—

(A) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of this title, if the Secretary determines that an alien, during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in subsection (c)(2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review and is prima facie eligible for contingent nonimmigrant status under this section—

(i) the Secretary shall provide the alien with the opportunity to file an application for such status; and

(ii) upon motion by the alien and with the consent of the Secretary, the Executive Office for Immigration Review shall—

(I) provide the alien a reasonable opportunity to apply for such status; and

(II) if the alien applies within the time frame provided, suspend such proceedings until the Secretary has made a determination on the application.

(B) ALIENS ORDERED REMOVED.—If an alien who meets the eligibility requirements set forth in subsection (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States pursuant to section 212(a)(6)(A)(i) or 237(a)(1)(B) or (C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)(i), 1227(a)(1)(B) or (C)), the Secretary shall provide the alien with the opportunity to file an application for contingent nonimmigrant status provided that the alien has not failed to comply with any order issued pursuant to section 239 or 240B of the Immigration and Nationality Act (8 U.S.C. 1229, 1229c).

(C) PERIOD PENDING ADJUDICATION OF APPLICATION.—During the period beginning on the date on which an alien applies for contingent nonimmigrant status under subsection (c) and ending on the date on which the Secretary makes a determination regarding such application, an otherwise removable alien may not be removed from the United States unless—

(i) the Secretary makes a prima facie determination that such alien is, or has become, ineligible for contingent nonimmigrant status under subsection (b); or

(ii) the Secretary, in the Secretary's sole and unreviewable discretion, determines that removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(8) SECURITY AND LAW ENFORCEMENT CLEARANCES.—

(A) BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant contingent nonimmigrant status to an alien under this section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

(B) ALTERNATIVE PROCEDURES.—The Secretary may provide an alternative procedure for applicants who cannot provide the biometric data required under subparagraph (A) due to a physical impairment.

(C) CLEARANCES.—

(i) DATA COLLECTION.—The Secretary shall collect, from each alien applying for status under this section, biometric, biographic, and other data that the Secretary determines to be appropriate—

(I) to conduct national security and law enforcement checks; and

(II) to determine whether there are any factors that would render an alien ineligible for such status.

(ii) ADDITIONAL SECURITY SCREENING.—The Secretary, in consultation with the Secretary of State and the heads of other agencies as appropriate, shall conduct an additional security screening upon determining, in the Secretary's opinion based upon information related to national security, that an alien is or was a citizen or resident of a region or country known to pose a threat, or that contains groups or organizations that pose a threat, to the national security of the United States.

(iii) PREREQUISITE.—The required clearances and screenings described in clauses (i)(I) and (ii) shall be completed before the alien may be granted contingent nonimmigrant status.

(9) DURATION OF STATUS AND EXTENSION.—The initial period of contingent nonimmigrant status—

(A) shall be 3 years unless revoked pursuant to subsection (e); and

(B) may be extended for additional 3-year terms if—

(i) the alien remains eligible for contingent nonimmigrant status under subsection (b);

(ii) the alien again passes background checks equivalent to the background checks described in subsection (c)(9); and

(iii) such status was not revoked by the Secretary for any reason.

(d) TERMS AND CONDITIONS OF CONTINGENT NONIMMIGRANT STATUS.—

(1) WORK AUTHORIZATION.—The Secretary shall grant employment authorization to an alien granted contingent nonimmigrant status who requests such authorization.

(2) TRAVEL OUTSIDE THE UNITED STATES.—

(A) IN GENERAL.—The status of a contingent nonimmigrant who is absent from the United States without authorization shall be subject to revocation under subsection (e).

(B) AUTHORIZATION.—The Secretary may authorize a contingent nonimmigrant to travel outside the United States and may grant the contingent nonimmigrant reentry provided that the contingent nonimmigrant—

(i) was not absent from the United States for a period of more than 15 consecutive days, or 90 days in the aggregate during each 3-year period that the alien is in contingent nonimmigrant status, unless the contingent nonimmigrant's failure to return was due to extenuating circumstances beyond the individual's control; and

(ii) is otherwise admissible to the United States, except as provided in subsection (b)(4)(F).

(C) CLARIFICATION ON ADMISSION.—The admission to the United States of a contingent nonimmigrant after such trips as described in subparagraph (B) shall not be considered an admission for the purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)).

(3) INELIGIBILITY FOR HEALTH CARE SUBSIDIES AND REFUNDABLE TAX CREDITS.—

(A) HEALTH CARE SUBSIDIES.—A contingent nonimmigrant—

(i) is not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 and shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (e) of such section; and

(ii) shall be subject to the rules applicable to individuals who are not lawfully present set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071(e)).

(B) REFUNDABLE TAX CREDITS.—A contingent nonimmigrant shall not be allowed any credit under sections 24 and 32 of the Internal Revenue Code of 1986.

(4) FEDERAL, STATE, AND LOCAL PUBLIC BENEFITS.—For purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601 et seq.), a contingent nonimmigrant shall not be considered a qualified alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(5) CLARIFICATION.—An alien granted contingent nonimmigrant status under this title shall not be considered to have been admitted to the United States for the purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)).

(e) REVOCATION.—

(1) IN GENERAL.—The Secretary shall revoke the status of a contingent nonimmigrant at any time if the alien—

(A) no longer meets the eligibility requirements set forth in subsection (b);

(B) knowingly uses documentation issued under this section for an unlawful or fraudulent purpose; or

(C) was absent from the United States at any time without authorization after being granted contingent nonimmigrant status.

(2) ADDITIONAL EVIDENCE.—In determining whether to revoke an alien's status under paragraph (1), the Secretary may require the alien—

(A) to submit additional evidence; or

(B) to appear for an in-person interview.

(3) INVALIDATION OF DOCUMENTATION.—If an alien's contingent nonimmigrant status is revoked under paragraph (1), any documentation issued by the Secretary to such alien under this section shall automatically be rendered invalid for any purpose except for departure from the United States.

SEC. 4103. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) EXCLUSIVE ADMINISTRATIVE REVIEW.—Administrative review of a determination of an application for status, extension of status, or revocation of status under this title shall be conducted solely in accordance with this section.

(b) ADMINISTRATIVE APPELLATE REVIEW.—

(1) ESTABLISHMENT OF ADMINISTRATIVE APPELLATE AUTHORITY.—The Secretary shall establish or designate an appellate authority to provide for a single level of administrative appellate review of a determination with respect to applications for status, extension of status, or revocation of status under this title.

(2) SINGLE APPEAL FOR EACH ADMINISTRATIVE DECISION.—

(A) IN GENERAL.—An alien in the United States whose application for status under this title has been denied or revoked may file with the Secretary not more than 1 appeal, pursuant to this subsection, of each decision to deny or revoke such status.

(B) NOTICE OF APPEAL.—A notice of appeal filed under this subparagraph shall be filed not later than 30 calendar days after the date of service of the decision of denial or revocation.

(3) RECORD FOR REVIEW.—Administrative appellate review under this subsection shall be de novo and based only on—

(A) the administrative record established at the time of the determination on the application; and

(B) any additional newly discovered or previously unavailable evidence.

(c) JUDICIAL REVIEW.—

(1) APPLICABLE PROVISIONS.—Judicial review of an administratively final denial or revocation of, or failure to extend, an application for status under this title shall be governed only by chapter 158 of title 28, except as provided in paragraphs (2) and (3) of this subsection, and except that a court may not order the taking of additional evidence under section 2347(c) of such chapter.

(2) SINGLE APPEAL FOR EACH ADMINISTRATIVE DECISION.—An alien in the United States whose application for status under this title has been denied, revoked, or failed to be extended, may file not more than 1 appeal, pursuant to this subsection, of each decision to deny or revoke such status.

(3) LIMITATION ON CIVIL ACTIONS.—

(A) CLASS ACTIONS.—No court may certify a class under Rule 23 of the Federal Rules of Civil Procedure in any civil action filed after the date of the enactment of this Act pertaining to the administration or enforcement of the application for status under this title.

(B) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the application for status under this title, the court shall—

(i) limit the relief to the minimum necessary to correct the violation of law;

(ii) adopt the least intrusive means to correct the violation of law;

(iii) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety;

(iv) provide for the expiration of the relief on a specific date, which allows for the minimum practical time needed to remedy the violation; and

(v) limit the relief to the case at issue and shall not extend any prospective relief to include any other application for status under this title pending before the Secretary or in a Federal court (whether in the same or another jurisdiction).

SEC. 4104. PENALTIES AND SIGNATURE REQUIREMENTS.

(a) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an initial or renewal application for contingent nonimmigrant status under this title and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

(b) SIGNATURE REQUIREMENTS.—An applicant under this title shall sign their application, and the signature shall be an original signature. A parent or legal guardian may sign for a child or for an applicant whose physical or developmental disability or mental impairment prevents the applicant from being competent to sign. In such a case, the filing shall include evidence of parentage or legal guardianship.

SEC. 4105. RULEMAKING.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue interim final regulations to implement this title, which shall take effect immediately upon publication in the Federal Register.

SEC. 4106. STATUTORY CONSTRUCTION.

Except as specifically provided, nothing in this title may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SA 1967. Mr. GARDNER (for himself and Mr. BENNET) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE I—BORDER SECURITY

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

SEC. 101. BORDER SECURITY.

(a) APPROPRIATIONS FOR U.S. CUSTOMS AND BORDER PROTECTION.—There is appropriated to the Department of Homeland Security, U.S. Customs and Border Protection, $25,000,000,000 for the fiscal years 2018 through 2027 for the construction of physical barriers; border security technologies, facilities, and equipment; the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems; the hiring of additional U.S. Customs and Border Protection Officers; port of entry improvement; and border access roads along the Southern land border, of which—

(1) $2,500,000,000 shall be available for fiscal year 2018, and shall remain available until September 30, 2022, and of the amount available under this paragraph—

(A) $784,000,000 shall be available for 32 miles of border bollard fencing in the Rio Grande Valley Sector, Texas;

(B) $498,000,000 shall be available for 28 miles of a bollard levee in the Rio Grande Valley Sector, Texas;

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(D) $38,239,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(2) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph $1,600,000,000 shall be available for the construction of physical barriers;

(3) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2019, to remain available until September 30, 2024, and of the amount available under this paragraph $1,842,000,000 shall be available for the construction of physical barriers;

(4) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2020, to remain available until September 30, 2025, and of the amount available under this paragraph $2,019,000,000 shall be available for the construction of physical barriers;

(5) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2021, to remain available until September 30, 2026, and of the amount available under this paragraph $1,237,000,000 shall be available for the construction of physical barriers;

(6) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2022, to remain available until September 30, 2027, and of the amount available under this paragraph $1,745,000,000 shall be available for the construction of physical barriers;

(7) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2023, to remain available until September 30, 2028, and of the amount available under this paragraph $1,746,000,000 shall be available for the construction of physical barriers;

(8) $2,500,000,000 shall not be available for obligation or commitment until October 1,

2024, to remain available until September 30, 2029, and of the amount available under this paragraph $1,776,000,000 shall be available for the construction of physical barriers;

(9) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2025, to remain available until September 30, 2030, and of the amount available under this paragraph $1,746,000,000 shall be available for the construction of physical barriers; and

(10) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2026, to remain available until September 30, 2031, and of the amount available under this paragraph $1,717,000,000 shall be available for the construction of physical barriers.

(b) LIMITATION.—Amounts appropriated under subsection (a) for fiscal years 2018 and 2019, the construction of physical barriers shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report, for which a full evaluation has been completed by the Government Accountability Office to determine its strengths and weaknesses, to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations of the House of Representatives, that—

(1) defines goals, objectives, activities, and milestones;

(2) includes a detailed implementation schedule with estimates for the planned obligation of funds for fiscal year 2019 through fiscal year 2023 that are linked to the milestone based delivery of specific—

(A) capabilities and services;

(B) mission benefits and outcomes;

(C) program management capabilities; and

(D) lifecycle cost estimates;

(3) describes how specific projects under the plan will enhance border security goals and objectives and address the highest priority border security needs;

(4) identifies the planned locations, quantities, and types of resources, such as fencing, other physical barriers, or other tactical infrastructure and technology and a comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to such physical barriers;

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

(6) includes a description of the methodology and analyses used to select specific resources for deployment to particular locations that includes—

(A) a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(i) underground sensors;

(ii) infrared or other day or night cameras;

(iii) tethered or mobile aerostats;

(iv) drones or other airborne assets;

(v) integrated fixed towers; and

(vi) the deployment of additional border personnel;

(B) effects on communities and property owners near areas of infrastructure deployment, including all necessary land acquisitions, the total number of necessary condemnation actions, and the precise number of landowners that will be impacted by the construction of such physical barriers; and

(C) other factors critical to the decision-making process;

(7) identifies staffing requirements, including full-time equivalents, contractors, and detailed personnel, by activity;

(8) identifies performance metrics for assessing and reporting on the contributions of border security capabilities realized from current and future investments;

(9) reports on the status of the Department of Homeland Security's actions to address open recommendations by the Office of Inspector General and the Government Accountability Office related to border security, including plans, schedules, and associated milestones for fully addressing such recommendations; and

(10) includes certifications by the Under Secretary for Management, including all documents, memoranda, and a description of the investment review and information technology management oversight and processes supporting such certifications, that—

(A) the program has been reviewed and approved in accordance with an acquisition review management process that complies with capital planning and investment control and review requirements established by the Office of Management and Budget, including as provided in Circular A–11, part 7; and

(B) all planned activities comply with Federal acquisition rules, requirements, guidelines, and practices.

(d) GOVERNMENT ACCOUNTABILITY OFFICE EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits the report described in subsection (c), the Comptroller General of the United States shall complete the evaluation required under such subsection.

(e) TRANSFER AUTHORITY.—The Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide for the transfer of amounts made available in subsection (a) for each fiscal year to eligible activities under this section.

(f) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under subsection (a) that remain available after the completion of the construction projects described in the reports required under subsection (c) shall be rescinded and returned to the general fund of the Treasury.

(g) PROHIBITION.—Notwithstanding any other provision of law, and except for the activities described under subsection (a), none of the amounts appropriated under this section may be reprogrammed or transferred for any other component or activity within the Department of Homeland Security.

(h) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to this section—

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

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

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability of funds made available in any other Act for carrying out the purposes described in subsection (a).

(j) BUDGETARY EFFECTS.—

(1) IN GENERAL.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(2) SENATE PAYGO SCORECARDS.—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H.Con.Res. 71 (115th Congress).

Subtitle B—Improving Border Safety and Security

SEC. 111. BORDER ACCESS ROADS.

(a) CONSTRUCTION.—

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

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

(A) access roads;

(B) border roads;

(C) patrol roads; and

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

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

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

(1) develop such policies and guidance for documenting agreements with landowners relating to the construction of roads under subsection (a) as the Secretary determines to be necessary;

(2) share the policies and guidance developed under paragraph (1) with each Border Patrol Sector of U.S. Customs and Border Protection;

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

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

SEC. 112. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.

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

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

''(a) DEFINITIONS.—In this section—

''(1) the term 'CBP employee' means an employee of U.S. Customs and Border Protection;

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

''(3) the term 'Director' means the Director of the Office of Personnel Management;

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

''(5) the term 'Secretary' means the Secretary of Homeland Security.

''(b) DEMONSTRATION OF RECRUITMENT AND RETENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

''(1) IN GENERAL.—For purposes of subsections (c) and (d), the Secretary shall determine, for a rural or remote area, whether there is—

''(A) a critical hiring need in the area; and

''(B) a direct relationship between—

''(i) the rural or remote nature of the area; and

''(ii) difficulty in the recruitment and retention of CBP employees in the area.

''(2) FACTORS.—To inform the determination of a direct relationship under paragraph (1)(B), the Secretary may consider evidence—

''(A) that the Secretary—

''(i) is unable to efficiently and effectively recruit individuals for positions as CBP employees, which may be demonstrated with various types of evidence, including—

''(I) evidence that multiple positions have been continuously vacant for significantly longer than the national average period for which similar positions in U.S. Customs and Border Protection are vacant; or

''(II) recruitment studies that demonstrate the inability of the Secretary to efficiently and effectively recruit CBP employees for positions in the area; or

''(ii) experiences a consistent inability to retain CBP employees that negatively impacts agency operations at a local or regional level; or

''(B) of any other inability, directly related to recruitment or retention difficulties, that the Secretary determines sufficient.

''(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

''(1) DIRECT HIRE AUTHORITY.—

''(A) IN GENERAL.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees, in a rural or remote area, if the Secretary—

''(i) determines that—

''(I) there is a critical hiring need; and

''(II) there exists a severe shortage of qualified candidates because of the direct relationship identified by the Secretary under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(ii) has given public notice for the positions.

''(B) PRIORITIZATION OF HIRING VETERANS.—If the Secretary uses the direct hiring authority under subparagraph (A), the Secretary shall apply the principles of preference for the hiring of veterans established under subchapter I of chapter 33.

''(2) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a bonus to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

''(A) the Secretary determines that—

''(i) conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to any other provision of that section); and

''(ii) the position to which the individual is appointed or to which the individual moves or must relocate—

''(I) is a position as a CBP employee; and

''(II) is in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

''(A) the Secretary determines that—

''(i) a condition consistent with the condition described in subsection (b)(1) of such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

''(ii) the CBP employee is employed in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

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

''(iii) in the absence of a retention bonus, the CBP employee would be likely to leave—

''(I) the Federal service; or

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(4) RULES FOR BONUSES.—

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

''(i) paragraph (2) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

''(ii) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period.

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

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

''(A) set aside a determination of the Secretary under this subsection if the Director finds substantial evidence that the Secretary abused the discretion of the Secretary in making the determination; and

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

''(d) SPECIAL PAY AUTHORITY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section if the Director finds that the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in 1 or more areas or locations are, or are likely to become, significantly handicapped because the positions are located in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(1) the rural or remote nature of the area; and

''(2) difficulty in the recruitment and retention of CBP employees in the area.

''(e) REGULAR CBP REVIEW.—

''(1) ENSURING FLEXIBILITIES MEET CBP NEEDS.—Each year, the Secretary shall review the use of hiring flexibilities under subsections (c) and (d) to fill positions at a location in a rural or remote area to determine—

''(A) the impact of the use of those flexibilities on solving hiring and retention challenges at the location;

''(B) whether hiring and retention challenges still exist at the location; and

''(C) whether the Secretary needs to continue to use those flexibilities at the location.

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

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

''(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

''(3) DISTRIBUTION.—The Secretary shall submit to Congress a report on each review required under paragraph (1).

''(f) IMPROVING CBP HIRING AND RETENTION.—

''(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the enactment of the this section, and in conjunction with the Chief Human Capital Officer of the Department of Homeland Security, the Secretary shall develop and implement a strategy to improve education regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

''(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

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

''(B) Regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

''(C) The development of pilot programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

''(D) Developing and enhancing strategic recruiting efforts through relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

''(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area.

''(F) Feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families.

''(G) Feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including

feedback on the quality of life in rural or remote areas for those CBP employees and their families.

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

''(3) EVALUATION.—

''(A) IN GENERAL.—Each year, the Secretary shall —

''(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

''(ii) make any appropriate updates to the strategy under paragraph (1).

''(B) INFORMATION.—The evaluation conducted under subparagraph (A) shall include—

''(i) any reduction in the time taken by the Secretary to fill mission-critical positions in rural or remote areas;

''(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges in rural or remote areas; and

''(iii) other information the Secretary determines relevant.

''(g) INSPECTOR GENERAL REVIEW.—Not later than 2 years after the date of the enactment of the this section, the Inspector General of the Department of Homeland Security shall review the use of hiring flexibilities by the Secretary under subsections (c) and (d) to determine whether the use of those flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

''(h) EXERCISE OF AUTHORITY.—

''(1) SOLE DISCRETION.—The exercise of authority under subsection (c) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71.

''(2) DELEGATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may delegate any authority under this section to the Commissioner.

''(B) OVERSIGHT.—The Commissioner may not make a determination under subsection (b)(1) unless the Secretary approves the determination.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

''(j) SUNSET.—The authorities under subsections (c) and (d) shall terminate on the date that is 5 years after the date of the enactment of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

''9702. U.S. Customs and Border Protection employment authorities.''.

SEC. 113. DISTRESS BEACONS.

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, working through U.S. Border Patrol, shall—

(A) identify areas near the international border between the United States and Canada or the international border between the United States and Mexico where migrant deaths are occurring due to climatic and environmental conditions; and

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

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

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

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

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

(i) to mitigate migrant deaths;

(ii) to facilitate access to emergency personnel; and

(iii) to address any use of the beacons for diversion by criminals.

SEC. 114. SOUTHERN BORDER REGION EMERGENCY COMMUNICATIONS GRANTS.

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

(b) ELIGIBILITY FOR GRANTS.—An individual is eligible for a grant under this section if the individual demonstrates that he or she—

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

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

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

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

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

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

SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY.

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

Subtitle C—Additional Matters

SEC. 121. ELIMINATE IMMIGRATION COURT BACKLOGS.

(a) ANNUAL INCREASES IN IMMIGRATION JUDGES.—The Attorney General of the United States shall increase the total number of immigration judges to adjudicate pending cases and efficiently process future cases by at least—

(1) 55 judges during fiscal year 2018;

(2) an additional 55 judges during fiscal year 2019; and

(3) an additional 55 judges during fiscal year 2020.

(b) QUALIFICATIONS OF IMMIGRATION JUDGES.—The Attorney General shall ensure that all newly hired immigration judges are highly qualified and trained to conduct fair, impartial hearings consistent with due process and that all newly hired immigration judges represent a diverse pool of individuals that includes a balance of individuals with nongovernmental, private bar, or academic experience in addition to government experience.

(c) NECESSARY SUPPORT STAFF FOR IMMIGRATION JUDGES.—To address the shortage of support staff for immigration judges, the Attorney General shall ensure that each immigration judge has sufficient support staff, adequate technological and security resources, and appropriate courtroom facilities.

(d) ANNUAL INCREASES IN BOARD OF IMMIGRATION APPEALS PERSONNEL.—The Attorney General shall increase the number of Board of Immigration Appeals staff attorneys (including necessary additional support staff) to efficiently process cases by at least—

(1) 23 attorneys during fiscal year 2018;

(2) an additional 23 attorneys during fiscal year 2019; and

(3) an additional 23 attorneys during fiscal year 2020.

(e) GAO REPORT.—The Comptroller General of the United States shall—

(1) conduct a study of the hurdles to efficient hiring of immigration court judges within the Department of Justice; and

(2) propose solutions to Congress for improving the efficiency of the hiring process.

(f) IMMIGRATION JUDGE DEFINITION.—Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended to read as follows:

''(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. The position shall be deemed to be judicial in nature and not an attorney position. An Immigration Judge shall not be subject to any code of attorney behavior conduct or actions taken while performing duties as an Immigration Judge. Actions taken by an Immigration Judge shall be reviewed only under rules and standards pertaining to judicial conduct. An Immigration Judge shall not be disciplined for actions or decisions made in good faith while in the course of performing the duties of an Immigration Judge.''.

SEC. 122. IMPROVED TRAINING FOR IMMIGRATION JUDGES AND MEMBERS OF THE BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—To ensure efficient and fair proceedings, the Director of the Executive Office for Immigration Review shall facilitate robust training programs for immigration judges and members of the Board of Immigration Appeals.

(b) MANDATORY TRAINING.—Training facilitated under subsection (a) shall include—

(1) an expansion of the training program for new immigration judges and Board members;

(2) continuing education regarding current developments in immigration law through regularly available training resources and an annual conference;

(3) methods to ensure that immigration judges are trained on properly crafting and dictating decisions and standards of review, including improved on-bench reference materials and decision templates;

(4) specialized training to handle cases involving other vulnerable populations including survivors of domestic violence, sexual assault, trafficking, and individuals with mental disabilities in partnership with the National Council of Juvenile and Family Court Judges; and

(5) specialized training in child interviewing, child psychology, and child trauma in partnership with the National Council of Juvenile and Family Court Judges for Immigration Judges.

SEC. 123. NEW TECHNOLOGY TO IMPROVE COURT EFFICIENCY.

The Director of the Executive Office for Immigration Review shall modernize its case management and related electronic systems, including allowing for electronic filing, to improve efficiency in the processing of immigration proceedings.

SEC. 124. PERMANENT REAUTHORIZATION OF E-VERIFY.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of

1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''Unless the Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program on September 30, 2015.''.

TITLE II—EARNED CITIZENSHIP FOR CHILDHOOD ARRIVALS

SEC. 201. DEFINITIONS.

In this subtitle:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this subtitle that is used in the immigration laws shall have the meaning given the term in the immigration laws.

(2) APPLICABLE FEDERAL TAX LIABILITY.—The term ''applicable Federal tax liability'' means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on taxes imposed under the Internal Revenue Code of 1986.

(3) DACA.—The term ''DACA'' means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals program announced by President Obama on June 15, 2012.

(4) DISABILITY.—The term ''disability'' has the meaning given the term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(5) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ''early childhood education program'' has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(6) ELEMENTARY SCHOOL; HIGH SCHOOL; SECONDARY SCHOOL.—The terms ''elementary school'', ''high school'', and ''secondary school'' have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

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

(8) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

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

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

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

(10) MISDEMEANOR.—

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

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

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

(11) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term ''permanent resident status on a conditional basis'' means status as an alien lawfully admitted for permanent residence on a conditional basis under this subtitle.

(12) POVERTY LINE.—The term ''poverty line'' has the meaning given the term in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902).

(13) SECRETARY.—Except as otherwise specifically provided, the term ''Secretary'' means the Secretary of Homeland Security.

(14) SIGNIFICANT MISDEMEANOR.—The term ''significant misdemeanor'' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) for which the maximum term of imprisonment is greater than 5 days and not greater than 1 year that—

(A) regardless of the sentence imposed, is a crime of domestic violence (as defined in section 237(a)(2)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(E)(i)) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence if the State law requires, as an element of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher; or

(B) resulted in a sentence of time in custody of more than 90 days, excluding an offense for which the sentence was suspended.

(15) UNIFORMED SERVICES.—The term ''Uniformed Services'' has the meaning given the term ''uniformed services'' in section 101(a) of title 10, United States Code.

SEC. 202. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, an alien who obtains the status of an alien lawfully admitted for permanent residence under this section shall be considered to have obtained that status on a conditional basis as of the date on which the alien obtained the status, subject to this subtitle.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), if—

(A) the alien has been continuously physically present in the United States since June 15, 2012;

(B) the alien was younger than 18 years of age on the date on which the alien initially entered the United States;

(C) subject to paragraphs (2) and (3), the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) has not been convicted of—

(I) a felony;

(II) a significant misdemeanor; or

(III) 3 or more misdemeanors—

(aa) not occurring on the same date; and

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

(D) the alien—

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

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

(iii) is enrolled in secondary school or in an education program assisting students in—

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

(II) passing a general educational development exam, a high school equivalence diploma examination, or other similar State-authorized exam; or

(iv)(I) has served, is serving, or has enlisted in the Armed Forces; and

(II) in the case of an alien who has been discharged from the Armed Forces, has received an honorable discharge; and

(E)(i) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was a DACA recipient; or

(ii) the alien has entered into an agreement to pay any applicable Federal tax liability incurred by the alien during the entire period for which the alien was a DACA recipient through a payment installment plan approved by the Commissioner of Internal Revenue.

(2) WAIVER.—

(A) IN GENERAL.—With respect to any benefit under this subtitle, the Secretary may, on a case-by-case basis, waive the grounds of inadmissibility under paragraph (2), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a))—

(i) for humanitarian purposes; or

(ii) if the waiver is otherwise in the public interest.

(B) QUARTERLY REPORTS.—Not later than 180 days after the date of enactment of this Act, and quarterly thereafter, the Secretary shall submit to Congress a report that includes, for the preceding quarter—

(i) the number of requests submitted by aliens for a waiver under subparagraph (A);

(ii) the number of waivers granted under that subparagraph; and

(iii) the number of requests for a waiver under that subparagraph denied by the Secretary.

(3) TREATMENT OF EXPUNGED CONVICTIONS.—

(A) IN GENERAL.—An expunged conviction shall not automatically be treated as a conviction referred to in paragraph (1)(C)(iii).

(B) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged conviction on a case-by-case basis according to the nature and severity of the offense underlying the expunged conviction, based on the record of conviction, to determine whether, under the particular circumstances, the alien is eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

(4) DACA RECIPIENTS.—With respect to an alien granted DACA, the Secretary shall cancel the removal of the alien and adjust the status of the alien to the status of an alien lawfully admitted for permanent residence on a conditional basis unless, since the date on which the alien was granted DACA, the alien has engaged in conduct that would render an alien ineligible for DACA.

(5) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may require an alien applying for permanent resident status on a conditional basis to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) only if the alien—

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

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

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

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

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

(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under

this section, that is less than 150 percent of the poverty line; or

(iv)(I) during the 1-year period immediately preceding the date on which the alien files an application under this section, accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

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

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any alien who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to a physical impairment.

(7) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for permanent resident status on a conditional basis.

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

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

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

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

(8) MEDICAL EXAMINATION.—

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

(B) POLICIES AND PROCEDURES.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination under subparagraph (A).

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

(c) DETERMINATION OF CONTINUOUS PRESENCE.—

(1) TERMINATION OF CONTINUOUS PERIOD.—Any period of continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis shall not terminate on the date on which the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period greater than 90 days or for any periods, in the aggregate, greater than 180 days.

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

(C) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

(d) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

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

(2) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

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

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

(i) meets all the requirements under subparagraphs (A), (B), and (C) of subsection (b)(1), subject to paragraphs (2) and (3) of that subsection;

(ii) is at least 5 years of age; and

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

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

(C) EMPLOYMENT.—An alien whose removal is stayed pursuant to subparagraph (A) or who may not be placed in removal proceedings pursuant to subparagraph (B) shall, upon application to the Secretary, be granted an employment authorization document.

(D) LIFT OF STAY.—The Secretary or Attorney General may not lift the stay granted to an alien under subparagraph (A) unless the alien ceases to meet the requirements under such subparagraph.

(e) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status on a conditional basis.

SEC. 203. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.

(a) PERIOD OF STATUS.—Permanent resident status on a conditional basis is—

(1) valid for a period of 8 years, unless that period is extended by the Secretary; and

(2) subject to termination under subsection (c).

(b) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this subtitle and the requirements to have the conditional basis of such status removed.

(c) TERMINATION OF STATUS.—The Secretary may terminate the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section; and

(2) prior to the termination, provides the alien—

(A) notice of the proposed termination; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise contest the termination.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the immigration status of an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied shall return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for such status, as appropriate.

(2) SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for permanent resident status on a conditional basis is denied and who had temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) immediately before receiving or applying for permanent resident status on a conditional basis, as appropriate, may not return to temporary protected status if—

(A) the relevant designation under section 244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) has been terminated; or

(B) the Secretary determines that the reason for terminating the permanent resident status on a conditional basis renders the alien ineligible for temporary protected status.

(e) INELIGIBILITY FOR PUBLIC BENEFITS.—An alien who has been granted permanent resident status on a conditional basis shall not be eligible for any Federal means-tested public benefit (within the meaning of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) until the date on which the conditional permanent resident status of the alien is removed.

SEC. 204. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional basis of the permanent resident status of an alien granted under this subtitle and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in paragraph (1)(C) of section 203(b), subject to paragraphs (2) and (3) of that section;

(B) has not abandoned the residence of the alien in the United States;

(C)(i) has acquired a degree from an institution of higher education or has completed

at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

(ii)(I) has served in the Uniformed Services for at least 2 years; or

(II) in the case of an alien who has been discharged from the Uniformed Services, has received an honorable discharge; or

(iii) has been employed for periods totaling at least 3 years and at least 75 percent of the time that the alien has had a valid employment authorization, except that any period during which the alien is not employed while having a valid employment authorization and is enrolled in an institution of higher education, a secondary school, or an education program described in section 203(b)(1)(D)(iii), shall not count toward the time requirements under this clause; and

(D)(i) has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was in permanent resident status on a conditional basis; or

(ii) has entered into an agreement to pay the applicable Federal tax liability incurred by the alien during the entire period for which the alien was in permanent resident status on a conditional basis through a payment installment plan approved by the Commissioner of Internal Revenue.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary shall remove the conditional basis of the permanent resident status of an alien and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(i) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(iii) demonstrates that—

(I) the alien has a disability;

(II) the alien is a full-time caregiver of a minor child; or

(III) the removal of the alien from the United States would result in extreme hardship to the alien or the alien's spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) CITIZENSHIP REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of the permanent resident status granted to an alien under this subtitle may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) due to disability.

(4) APPLICATION FEE.—

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

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) only if the alien—

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

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

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

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

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

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

(iv)(I) during the 1-year period immediately preceding the date on which the alien files an application under this section, the alien accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(5) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

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

(B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any applicant who is unable to provide the biometric or biographic data referred to in subparagraph (A) due to physical impairment.

(6) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the permanent resident status of the alien; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of the conditional basis if the permanent resident status of the alien.

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

(b) NATURALIZATION.—

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

(2) LIMITATIONS ON APPLICATION FOR NATURALIZATION.—

(A) IN GENERAL.—An alien may not be naturalized—

(i) on any date on which the alien is in permanent resident status on a conditional basis; or

(ii) before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

(B) REDUCTION IN PERIOD.—

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

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

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

SEC. 205. DOCUMENTATION REQUIREMENTS.

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

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

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

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

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

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

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

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under section 203(b)(1)(A), or to establish that an alien has not abandoned residence in the United States, as required under section 205(a)(1)(B), the alien may submit documents to the Secretary, including—

(1) employment records that include the employer's name and contact information;

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

(3) records of service from the Uniformed Services;

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

(5) passport entries;

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

(7) automobile license receipts or registration;

(8) deeds, mortgages, or rental agreement contracts;

(9) tax receipts;

(10) insurance policies;

(11) remittance records;

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

(13) copies of money order receipts for money sent in or out of the United States;

(14) dated bank transactions; or

(15) 2 or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(c) DOCUMENTS ESTABLISHING INITIAL ENTRY INTO THE UNITED STATES.—To establish under section 203(b)(1)(B) that an alien was younger than 18 years of age on the date on which the alien initially entered the United States, an alien may submit documents to the Secretary, including—

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

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

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

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

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

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

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

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

(9) automobile license receipts or registration;

(10) deeds, mortgages, or rental agreement contracts;

(11) tax receipts;

(12) travel records;

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

(14) dated bank transactions;

(15) remittance records; or

(16) insurance policies.

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

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

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

(f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate recognized under State law or a high school equivalency diploma in the United States, the alien shall submit to the Secretary—

(1) a high school diploma, certificate of completion, or other alternate award;

(2) a high school equivalency diploma or certificate recognized under State law; or

(3) evidence that the alien passed a State-authorized exam, including the general educational development exam, in the United States.

(g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in section 203(b)(1)(D)(iii), 203(d)(3)(A)(iii), or 205(a)(1)(C)(i), the alien shall submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien's name, periods of attendance, and current grade or educational level.

(h) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under section 203(b)(5)(B) or 205(a)(4)(B), the alien shall submit to the Secretary the following relevant documents:

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien shall provide proof of identity, as described in subsection (a), that establishes that the alien is younger than 18 years of age.

(2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien shall provide—

(A) employment records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(B) bank records; or

(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien.

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

(A) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, is homeless, or has a serious, chronic disability, as appropriate;

(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(4) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

(A) bear the provider's name and address;

(B) bear the name of the individual receiving treatment; and

(C) document that the alien has accumulated $10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien.

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

(1) the name, address, and telephone number of the affiant; and

(2) the nature and duration of the relationship between the affiant and the alien.

(j) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien shall submit to the Secretary—

(1) a Department of Defense form DD-214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or

(4) health records from the appropriate Uniformed Service.

(k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

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

(A) establish compliance with such employment requirement; and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

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

(A) bank records;

(B) business records;

(C) employer records;

(D) records of a labor union, day labor center, or organization that assists workers in employment;

(E) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work, that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien; and

(F) remittance records.

(l) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status on a conditional basis is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 206. RULEMAKING.

(a) INITIAL PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register regulations implementing this subtitle.

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

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

(c) FINAL REGULATIONS.—Not later than 180 days after the date on which interim regulations are published under this section, the Secretary shall publish final regulations implementing this subtitle.

(d) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the ''Paperwork Reduction Act'') shall not apply to any action to implement this subtitle.

SEC. 207. CONFIDENTIALITY OF INFORMATION.

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

(1) an application filed under this subtitle; or

(2) a request for DACA.

(b) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection any individual who—

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

(2) was granted DACA.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for permanent resident status on a conditional basis or a request for

DACA may be shared with a Federal security or law enforcement agency—

(1) for assistance in the consideration of an application for permanent resident status on a conditional basis;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

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

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SA 1968. Mr. CARDIN (for himself, Mr. VAN HOLLEN, Ms. CORTEZ MASTO, Mr. REED, Mr. KAINE, Mr. MARKEY, Ms. SMITH, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PERMANENT RESIDENT STATUS FOR CERTAIN ALIENS FROM COUNTRIES FACING REPRESSION AND EMERGENCIES.

(a) ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NATIONALS.—

(1) ADJUSTMENT OF STATUS.—

(A) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the status of any alien described in paragraph (2) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence if the alien—

(i) is not inadmissible under paragraph (2) or (3) of section 212(a) of such Act (8 U.S.C. 1182(a));

(ii) is not deportable under paragraph (2), (3), or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)); and

(iii) is not described in section 208(b)(2)(A)(i) of such Act (8 U.S.C. 1158(b)(2)(A)(i)).

(B) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(i) IN GENERAL.—An alien who is present in the United States and has been ordered removed, or permitted voluntarily to depart, from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under subparagraph (A).

(ii) MOTION NOT REQUIRED.—An alien described in clause (i) may not be required, as a condition of submitting or approving an application under such subparagraph, to file a motion to reopen, reconsider, or vacate an order described in such subparagraph.

(iii) APPROVAL.—If the Secretary of Homeland Security approves an application submitted by an alien under clause (i), the Secretary shall cancel the order related to the alien that is referred to in such subparagraph.

(iv) DENIAL.—If the Secretary of Homeland Security renders a final administrative decision to deny an application submitted by an alien under clause (i), the order related to such alien shall be effective and enforceable to the same extent as if such application had not been made.

(2) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(A) IN GENERAL.—An alien is described in this paragraph if the alien—

(i) is a national of a foreign state that was at any time designated under section 244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b));

(ii)(I) is in temporary protected status under section 244 of the Immigration and Nationality Act 8 (8 U.S.C. 1254a);

(II) held temporary protected status as a national of a designated country listed in clause (i); or

(III) qualified for temporary protected status at the time the last designation was made by the Secretary of Homeland Security;

(iii) has been continuously present in the United States for at least 3 years and is physically present in the United States on the date on which the alien files an application for adjustment of status under this section; and

(iv) passes all applicable criminal and national security background checks.

(B) SHORT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under subparagraph (A)(iii) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(C) WAIVER AUTHORIZED.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), an alien who fails to meet the continuous physical presence requirement under subparagraph (A)(iii) shall be considered eligible to receive an adjustment of status under this section if the Attorney General or the Secretary of Homeland Security determines that the removal of the alien from the United States would result in extreme hardship to the alien or the alien's spouse, children, parents, or domestic partner.

(3) STAY OF REMOVAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an alien who is subject to a final order of removal may not be removed if the alien—

(i) has a pending application under paragraph (1); or

(ii)(I) is prima facie eligible to file an application under paragraph (1); and

(II) indicates that he or she intends to file such an application.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any alien whose application under paragraph (1) has been denied by the Secretary of Homeland Security in a final administrative determination.

(C) DURING CERTAIN PROCEEDINGS.—

(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security may not order any alien to be removed from the United States if the alien raises, as a defense to such an order, the eligibility of the alien to apply for adjustment of status under paragraph (1).

(ii) EXCEPTION.—Clause (i) shall not apply to any alien whose application under paragraph (1) has been denied by the Secretary of Homeland Security in a final administrative determination.

(D) WORK AUTHORIZATION.—The Secretary of Homeland Security—

(i) shall authorize any alien who has applied for adjustment of status under paragraph (1) to engage in employment in the United States while such application is pending; and

(ii) may provide such alien with an ''employment authorized'' endorsement or other appropriate document signifying such employment authorization.

(4) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(A) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) and except as provided in subparagraphs (B) and (C), the Secretary of Homeland Security shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

(i) is the spouse, domestic partner, child, or unmarried son or daughter of an alien whose status has been adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1);

(ii) is physically present in the United States on the date on which the alien files an application for such adjustment of status; and

(iii) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(B) CONTINUOUS PRESENCE REQUIREMENT.—

(i) IN GENERAL.—The status of an unmarried son or daughter referred to in subparagraph (A)(i) may not be adjusted under subparagraph (A) until such son or daughter establishes that he or she has been physically present in the United States for at least 1 year.

(ii) SHORT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under clause (i) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(C) WAIVER.—In determining eligibility and admissibility under subparagraph (A)(iii), the grounds for inadmissibility under paragraphs (4), (5), (6), (7)(A), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(5) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide applicants for adjustment of status under paragraph (1) the same right to, and procedures for, administrative review as are provided to—

(A) applicants for adjustment of status under section 245 of the Immigration and Nationality Act 19 (8 U.S.C. 1255); or

(B) aliens who are subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(6) EXCEPTIONS TO NUMERICAL LIMITATIONS.—The numerical limitations set forth in sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to aliens whose status is adjusted pursuant to paragraph (1).

(b) ADDITIONAL REPORTING REQUIREMENTS REGARDING FUTURE DISCONTINUED ELIGIBILITY OF ALIENS FROM COUNTRIES CURRENTLY LISTED UNDER TEMPORARY PROTECTED STATUS.—Section 244(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''the Attorney General'' and inserting '', the Secretary of Homeland Security'';

(B) by inserting ''(including a recommendation from the Secretary of State that is received by the Secretary of Homeland Security not later than 90 days before the end of such period of designation)'' after ''Government''; and

(C) by striking ''The Attorney General'' and inserting ''The Secretary''; and

(2) in subparagraph (B)—

(A) by striking ''If the Attorney General'' and inserting the following:

''(i) IN GENERAL.—If the Secretary of Homeland Security'';

(B) in clause (i), as redesignated, by striking ''Attorney General'' and inserting ''Secretary''; and

(C) by adding at the end the following:

''(ii) REPORT.—Not later than 3 days after the publication of the Secretary's determination in the Federal Register that a country's designation under paragraph (1) is being terminated, the Secretary shall submit a report to the Committee on the Judiciary

of the Senate and the Committee on the Judiciary of the House of Representatives that shall include—

''(I) an explanation of the event or events that initially prompted such country's designation under paragraph (1);

''(II) the progress the country has made in remedying the designation under paragraph (1), including any significant challenges or shortcomings that have not been addressed since the initial designation;

''(III) a statement indicating whether the country has requested a designation under paragraph (1), a redesignation under such paragraph, or an extension of such designation; and

''(IV) an analysis, with applicable and relevant metrics, as determined by the Secretary, of the country's ability to repatriate its nationals, including—

''(aa) the country's financial ability to provide for its repatriated citizens;

''(bb) the country's financial ability to address the initial designation under paragraph (1) without foreign assistance;

''(cc) the country's gross domestic product and per capita gross domestic product per capita;

''(dd) an analysis of the country's political stability and its ability to be economically self-sufficient without foreign assistance;

''(ee) the economic and social impact repatriation of nationals in possession of temporary protected status would have on the recipient country; and

''(ff) any additional metrics the Secretary considers necessary.''.

(c) OTHER MATTERS.—

(1) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section may be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Secretary of Homeland Security in the administration and enforcement of the immigration laws.

(3) ELIGIBILITY FOR OTHER IMMIGRATION BENEFITS.—An alien who is eligible to be granted the status of an alien lawfully admitted for permanent residence under subsection (a) may not be precluded from seeking such status under any other provision of law for which the alien may otherwise be eligible.

SA 1969. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. STUDY ON ENFORCEMENT OF PROVISION MAKING SPOUSES AND CHILDREN OF TERRORISTS INADMISSIBLE OR DEPORTABLE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study assessing the effectiveness of the enforcement of section 212(a)(3)(B)(i)(IX) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IX)) (relating to the inadmissibility and deportability of spouses and children of terrorists).

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study required by subsection (a).

SA 1970. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLES.

This Act may be cited as the ''Bar Removal of Individuals who Dream and Grow our Economy Act'' or the ''BRIDGE Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short titles.
Sec. 2. Table of contents.
TITLE I—BAR REMOVAL OF INDIVIDUALS WHO DREAM AND GROW OUR ECONOMY ACT
Sec. 101. Provisional protected presence for young individuals.
TITLE II—BORDER SECURITY APPROPRIATIONS.
Sec. 201. Operations and support.
Sec. 202. Procurement, construction, and improvements.
Sec. 203. Administrative provisions.

TITLE I—BAR REMOVAL OF INDIVIDUALS WHO DREAM AND GROW OUR ECONOMY ACT

SEC. 101. PROVISIONAL PROTECTED PRESENCE FOR YOUNG INDIVIDUALS.

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

''SEC. 244A. PROVISIONAL PROTECTED PRESENCE.

''(a) DEFINITIONS.—In this section:

''(1) DACA RECIPIENT.—The term 'DACA recipient' means an alien who was in deferred action status on September 5, 2017, pursuant to the Deferred Action for Childhood Arrivals ('DACA') Program announced on June 15, 2012.

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

''(3) MISDEMEANOR.—The term 'misdemeanor' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status, a significant misdemeanor, and a minor traffic offense) for which—

''(A) the maximum term of imprisonment is greater than five days and not greater than one year; and

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

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

''(5) SIGNIFICANT MISDEMEANOR.—The term 'significant misdemeanor' means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element was the alien's immigration status) for which the maximum term of imprisonment is greater than five days and not greater than one year that—

''(A) regardless of the sentence imposed, is a crime of domestic violence (as defined in section 237(a)(2)(E)(i)) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, or driving under the influence if the State law requires, as an element of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher; or

''(B) resulted in a sentence of time in custody of more than 90 days, excluding an offense for which the sentence was suspended.

''(6) THREAT TO NATIONAL SECURITY.—An alien is a 'threat to national security' if the alien is—

''(A) inadmissible under section 212(a)(3); or

''(B) deportable under section 237(a)(4).

''(7) THREAT TO PUBLIC SAFETY.—An alien is a 'threat to public safety' if the alien—

''(A) has been convicted of an offense for which an element was participation in a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(B) has engaged in a continuing criminal enterprise (as defined in section 408(c) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848(c))).

''(b) AUTHORIZATION.—The Secretary—

''(1) shall grant provisional protected presence to an alien who files an application demonstrating that he or she meets the eligibility criteria under subsection (c) and pays the appropriate application fee;

''(2) may not remove such alien from the United States during the period in which such provisional protected presence is in effect unless such status is rescinded pursuant to subsection (g); and

''(3) shall provide such alien with employment authorization.

''(c) ELIGIBILITY CRITERIA.—An alien is eligible for provisional protected presence under this section and employment authorization if the alien—

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

''(2) entered the United States before attaining 16 years of age;

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

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

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

''(6) on the date on which the alien files an application for provisional protected presence—

''(A) is enrolled in school or in an education program assisting students in obtaining a regular high school diploma or its recognized equivalent under State law, or in passing a general educational development exam or other State-authorized exam;

''(B) has graduated or obtained a certificate of completion from high school;

''(C) has obtained a general educational development certificate; or

''(D) is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;

''(7) has not been convicted of—

''(A) a felony;

''(B) a significant misdemeanor; or

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

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

''(d) DURATION OF PROVISIONAL PROTECTED PRESENCE AND EMPLOYMENT AUTHORIZATION.—Provisional protected presence and the employment authorization provided under this section shall be effective through September 30, 2019.

''(e) STATUS DURING PERIOD OF PROVISIONAL PROTECTED PRESENCE.—

''(1) IN GENERAL.—An alien granted provisional protected presence is not considered to be unlawfully present in the United States during the period beginning on the date such

status is granted and ending on the date described in subsection (d).

''(2) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section does not excuse previous or subsequent periods of unlawful presence.

''(f) APPLICATION.—

''(1) AGE REQUIREMENT.—

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

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

''(2) APPLICATION FEE.—

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

''(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—

''(i)(I) is younger than 18 years of age;

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

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

''(ii) is younger than 18 years of age and is homeless;

''(iii)(I) cannot care for himself or herself because of a serious, chronic disability; and

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

''(iv)(I) as of the date on which the alien files an application under this section, has accumulated $10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

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

''(3) REMOVAL STAYED WHILE APPLICATION PENDING.—The Secretary may not remove an alien from the United States who appears prima facie eligible for provisional protected presence while the alien's application for provisional protected presence is pending.

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

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

''(6) CONFIDENTIALITY.—

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

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

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

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

''(ii) to identify or prevent fraudulent claims;

''(iii) for national security purposes; and

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

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

''(g) RESCISSION OF PROVISIONAL PROTECTED PRESENCE.—The Secretary may not rescind an alien's provisional protected presence or employment authorization granted under this section unless the Secretary determines that the alien—

''(1) has been convicted of—

''(A) a felony;

''(B) a significant misdemeanor; or

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

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

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

''(4) has ceased to continuously reside in the United States.

''(h) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—For purposes of subsections (c)(3) and (g)(4), an alien shall not be considered to have failed to continuously reside in the United States due to—

''(1) brief, casual, and innocent absences from the United States during the period beginning on June 15, 2007, and ending on August 14, 2012; or

''(2) travel outside of the United States on or after August 15, 2012, if such travel was authorized by the Secretary.

''(i) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of subsections (c)(7) and (g)(1), an expunged conviction shall not automatically be treated as a disqualifying felony, significant misdemeanor, or misdemeanor, but shall be evaluated on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, the alien should be eligible for provisional protected presence under this section.

''(j) EFFECT OF DEFERRED ACTION UNDER DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

''(1) PROVISIONAL PROTECTED PRESENCE.—A DACA recipient is deemed to have provisional protected presence under this section through date that is the earlier of—

''(A) the date that is 1 year after the expiration date of the alien's deferred action status, as specified by the Secretary in conjunction with the approval of the alien's DACA application; or

''(B) September 30, 2019.

''(2) EMPLOYMENT AUTHORIZATION.—If a DACA recipient has been granted employment authorization by the Secretary in addition to deferred action, the employment authorization shall continue through the earlier of—

''(A) the date that is 1 year after the expiration date of the alien's deferred action status, as specified by the Secretary in conjunction with the approval of the alien's DACA application; or

''(B) September 30, 2019.

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

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

''Sec. 244A. Provisional protected presence.''.

TITLE II—BORDER SECURITY APPROPRIATIONS.

SEC. 201. OPERATIONS AND SUPPORT.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $675,000,000 to U.S. Customs and Border Protection for ''Operations and Support'', which shall remain available until September 30, 2019, of which—

(1) $531,000,000 shall be available for—

(A) border security technologies;

(B) facilities;

(C) equipment; and

(D) the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems;

(2) $48,000,000 shall be available for retention, recruitment, and relocation of Border Patrol Agents, Customs Officers, and Air and Marine personnel;

(3) $75,000,000 shall be available to hire 615 additional U.S. Customs and Border Protection Officers for deployment to ports of entry; and

(4) $21,000,000 shall be available for data circuits and network bandwidth surveillance and associated personnel.

SEC. 202. PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $2,030,239,000 for ''Procurement, Construction, and Improvements'', which shall remain available until September 30, 2022, of which—

(1) $784,000,000 shall be available for 32 miles of border bollard fencing in the Rio Grande Valley Sector, Texas;

(2) $498,000,000 shall be available for 28 miles of a bollard levee fencing in the Rio Grande Valley Sector, Texas;

(3) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California;

(4) $444,000,000 shall be available for border security technologies, marine vessels, aircraft unmanned aerial systems, facilities, and equipment;

(5) $38,239,000 shall be available to prepare the reports required under subsections (b) and (c) of section 203; and

(6) $15,000,000 shall be available for chemical screening devices (as defined in section 2 of the INTERDICT Act (Public Law 115–112)).

SEC. 203. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.—Amounts appropriated under paragraphs (1) through (3) of section 202 shall only be available for operationally effective designs deployed as of the date of the enactment of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

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

(1) identifies, with respect to the physical barriers described in paragraphs (1) through (3) of section 202—

(A) all necessary land acquisitions;

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

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

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

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

(4) includes, for each barrier segment described in paragraphs (1) through (3) of section 202, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(A) underground sensors;

(B) infrared or other day/night cameras;

(C) tethered or mobile aerostats;

(D) drones or other airborne assets;

(E) integrated fixed towers; and

(F) the deployment of additional border personnel.

(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report containing all of the information required under paragraphs (1) through (4) of subsection (b) to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Comptroller General of the United States.

(d) GAO EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits each report described in subsections (b) and (c), the Comptroller General of the United States shall submit an evaluation of the strengths and weaknesses of the report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Homeland Security of the House of Representatives.

(e) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under paragraphs (1) through (3) of section 202 that remain available after the completion of the construction projects described in such paragraphs shall be rescinded and returned to the general fund of the Treasury.

(f) PROHIBITION.—Notwithstanding any other provision of law, none of the amounts appropriated under this title may be reprogrammed or transferred for any other activity within the Department of Homeland Security.

SA 1971. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON PARENTS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

An alien shall not be eligible to adjust status to that of an alien lawfully admitted for permanent residence based on a petition filed by a child or a son or daughter of the alien if—

(1) the child or son or daughter was granted permanent resident status on a conditional basis under this Act; and

(2) the alien knowingly assisted the child or son or daughter to enter the United States unlawfully.

SA 1972. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ILLEGAL REENTRY.

(a) SHORT TITLE.—This section may be cited as ''Kate's Law''.

(b) REENTRY OF REMOVED ALIEN.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure—

''(1) for 3 or more misdemeanors or for a felony, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) for a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(4) for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, or for 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not more than 25 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) DEFINITIONS.—For purposes of this section and section 275, the following definitions shall apply:

''(1) CROSSES THE BORDER TO THE UNITED STATES.—The term 'crosses the border' refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

''(2) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SA 1973. Mr. GRAHAM (for himself and Mr. ROUNDS) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. H–2B NONIMMIGRANT RETURNING WORKERS.

Section 214(g)(9) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking ''(B) and (C)'' and inserting ''(B), (C), and (D),'';

(B) by striking ''fiscal year 2013, 2014, or 2015'' and inserting ''any of the three previous fiscal years''; and

(C) by striking ''fiscal year 2016'' and inserting ''the current fiscal year''; and

(2) by inserting at the end the following new subparagraph:

''(D) The number of aliens considered to be returning workers under subparagraph (A) in any fiscal year may not exceed the highest number of nonimmigrants who participated in the returning worker program in any fiscal year in which returning workers were exempt from the numerical limitation under paragraph (1)(B).''.

SA 1974. Ms. SMITH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION ___. HELPING SEPARATED CHILDREN.

(a) SHORT TITLES.—This section may be cited as the ''Humane Enforcement and Legal Protections for Separated Children Act'' or the ''HELP Separated Children Act''.

(b) DEFINITIONS.—In this section:

(1) APPREHENSION.—The term ''apprehension'' means the detention or arrest by officials of the Department or cooperating entities.

(2) CHILD.—The term ''child'' means an individual who is younger than 18 years of age.

(3) CHILD WELFARE AGENCY.—The term ''child welfare agency'' means a State or local agency responsible for child welfare services under subtitles B and E of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(4) COOPERATING ENTITY.—The term ''cooperating entity'' means a State or local entity acting under agreement with the Secretary.

(5) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(6) DETENTION FACILITY.—The term ''detention facility'' means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Director.

(7) IMMIGRATION ENFORCEMENT ACTION.—The term ''immigration enforcement action'' means the apprehension of one or more individuals whom the Department has reason to believe are removable from the United States by the Secretary or a cooperating entity.

(8) PARENT.—The term ''parent'' means a biological or adoptive parent of a child, whose parental rights have not been relinquished or terminated under State law or the law of a foreign country, or a legal guardian under State law or the law of a foreign country.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(c) APPREHENSION PROCEDURES FOR IMMIGRATION ENFORCEMENT-RELATED ACTIVITIES.—

(1) APPREHENSION PROCEDURES.—In any immigration enforcement action, the Secretary and cooperating entities shall—

(A) as soon as possible, but generally not later than 2 hours after an immigration enforcement action, inquire whether an individual is a parent or primary caregiver of a child in the United States and provide any such individuals with—

(i) the opportunity to make a minimum of 2 telephone calls to arrange for the care of such child in the individual's absence; and

(ii) contact information for—

(I) child welfare agencies and family courts in the same jurisdiction as the child; and

(II) consulates, attorneys, and legal service providers capable of providing free legal advice or representation regarding child welfare, child custody determinations, and immigration matters;

(B) notify the child welfare agency with jurisdiction over the child if the child's parent or primary caregiver is unable to make care arrangements for the child or if the child is in imminent risk of serious harm;

(C) ensure that personnel of the Department and cooperating entities do not, absent medical necessity or extraordinary circumstances, compel or request children to interpret or translate for interviews of their parents or of other individuals who are encountered as part of an immigration enforcement action; and

(D) ensure that any parent or primary caregiver of a child in the United States—

(i) absent medical necessity or extraordinary circumstances, is not transferred from his or her area of apprehension until the individual—

(I) has made arrangements for the care of such child; or

(II) if such arrangements are unavailable or the individual is unable to make such arrangements, is informed of the care arrangements made for the child and of a means to maintain communication with the child;

(ii) absent medical necessity or extraordinary circumstances, and to the extent practicable, is placed in a detention facility that is—

(I) proximate to the location of apprehension; and

(II) proximate to the child's habitual place of residence; and

(iii) receives due consideration of the best interests of such child in any decision or action relating to his or her detention, release, or transfer between detention facilities.

(2) REQUESTS TO STATE AND LOCAL ENTITIES.—If the Secretary requests a State or local entity to hold in custody an individual whom the Department has reason to believe is removable pending transfer of that individual to the custody of the Secretary or to a detention facility, the Secretary shall also request that the State or local entity provide the individual the protections specified in subparagraphs (A) and (B) of paragraph (1) if that individual is found to be the parent or primary caregiver of a child in the United States.

(3) PROTECTIONS AGAINST TRAFFICKING PRESERVED.—Nothing in this subsection may be construed to impede, delay, or limit the obligations of the Secretary, the Attorney General, or the Secretary of Health and Human Services under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232), section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), or the Stipulated Settlement Agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85-4544-RJK) (commonly known as the ''Flores Settlement Agreement'').

(d) ACCESS TO CHILDREN, STATE AND LOCAL COURTS, CHILD WELFARE AGENCIES, AND CONSULAR OFFICIALS.—At all detention facilities, the Secretary shall—

(1) prominently post in a manner accessible to detainees and visitors and include in detainee handbooks information on the protections of this subtitle as well as information on potential eligibility for parole or release;

(2) absent extraordinary circumstances, ensure that individuals who are detained by the Department and are parents of children in the United States are—

(A) permitted regular phone calls and contact visits with their children;

(B) provided with contact information for child welfare agencies and family courts in the relevant jurisdictions;

(C) able to participate fully and, to the extent possible, in person in all family court proceedings and any other proceedings that may impact their right to custody of their children;

(D) granted free and confidential telephone calls to relevant child welfare agencies and family courts as often as is necessary to ensure that the best interest of their children, including a preference for family unity whenever appropriate, can be considered in child welfare agency or family court proceedings;

(E) able to fully comply with all family court or child welfare agency orders impacting custody of their children;

(F) provided access to United States passport applications or other relevant travel document applications for the purpose of obtaining travel documents for their children;

(G) afforded timely access to a notary public for the purpose of applying for a passport for their children or executing guardianship or other agreements to ensure the safety of their children; and

(H) granted adequate time before removal to obtain passports, apostilled birth certificates, travel documents, and other necessary records on behalf of their children if such children will accompany them on their return to their country of origin or join them in their country of origin; and

(3) if doing so would not impact public safety or national security, facilitate the ability of detained alien parents and primary caregivers to share information regarding travel arrangements with their consulate, children, child welfare agencies, or other caregivers in advance of the detained alien individual's departure from the United States.

(e) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services and independent child welfare and family law experts, shall develop and provide training on the protections required under subsections (c) and (d) to all personnel of the Department, cooperating entities, and detention facilities operated by or under agreement with the Department who regularly engage in immigration enforcement actions, including detention, and

in the course of such actions come into contact with individuals who are parents or primary caregivers of children in the United States.

(f) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement subsections (c) and (d).

(g) SEVERABILITY.—If any provision of this section, any amendment made by this section, or the application of any such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of this section, the remaining amendments made by this section, and the application of such provisions and amendments to any person or circumstance shall not be affected by such holding.

SA 1975. Mrs. MCCASKILL (for herself, Mr. TESTER, and Ms. HEITKAMP) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER AND PORT SECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Border and Port Security Act''.

(b) ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.—

(1) OFFICERS.—The Commissioner of U.S. Customs and Border Protection shall hire, train, and assign not fewer than 500 new Office of Field Operations officers above the current authorized level every fiscal year until the total number of Office of Field Operations officers equals the requirements identified each year in the Workload Staffing Model.

(2) SUPPORT STAFF.—The Commissioner is authorized to hire, train, and assign support staff, including technicians, to perform non-law enforcement administrative functions to support the new Office of Field Operations officers hired pursuant to paragraph (1).

(3) TRAFFIC FORECASTS.—In calculating the number of Office of Field Operations officers needed at each port of entry through the Workload Staffing Model, the Office of Field Operations shall—

(A) rely on data collected regarding the inspections and other activities conducted at each such port of entry; and

(B) consider volume from seasonal surges, other projected changes in commercial and passenger volumes, the most current commercial forecasts, and other relevant information.

(4) REPORT ON WORKLOAD STAFFING MODEL UPDATES.—As part of the Annual Report on Staffing required under section 411(g)(5)(A) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)(A)), the Commissioner shall include information concerning the progress made toward meeting Office of Field Operations officer and support staff hiring targets, while accounting for attrition.

(5) GAO REPORT.—If the Commissioner does not hire the 500 additional Office of Field Operations officers authorized under paragraph (1) in fiscal year 2020, or in any subsequent fiscal year in which the hiring requirements set forth in the Workload Staffing Model have not been achieved, the Comptroller General of the United States shall—

(A) conduct a review of U.S. Customs and Border Protection hiring practices to determine the reasons that such requirements were not achieved and other issues related to hiring by U.S. Customs and Border Protection; and

(B) submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that describes the results of the review conducted under subparagraph (A).

(c) PORTS OF ENTRY INFRASTRUCTURE ENHANCEMENT REPORT.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that identifies—

(1) infrastructure improvements at ports of entry that would enhance the ability of Office of Field Operations officers to interdict opioids and other drugs that are being illegally transported into the United States, including a description of circumstances at specific ports of entry that prevent the implementation of technology used at other ports of entry;

(2) detection equipment that would improve the ability of such Office of Field Operations officers to identify opioids, including precursors and derivatives, that are being illegally transported into the United States; and

(3) safety equipment that would protect such Office of Field Operations officers from accidental exposure to such drugs or other dangers associated with the inspection of potential drug traffickers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $69,520,000 for each of the fiscal years 2018 through 2024.

SA 1976. Ms. DUCKWORTH (for herself and Mr. WYDEN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle ____—Visas for Veterans

SEC. _____1. SHORT TITLE.

This subtitle may be cited as the ''Veterans Visa and Protection Act of 2018''.

SEC. _____2. DEFINITIONS.

In this subtitle:

(1) CRIME OF VIOLENCE.—The term ''crime of violence'' means an offense defined in section 16 of title 18, United States Code—

(A) that is not a purely political offense; and

(B) for which the noncitizen has served a term of imprisonment of at least 5 years.

(2) DEPORTED VETERAN.—The term ''deported veteran'' means a veteran who—

(A) is a noncitizen; and

(B)(i) was removed from the United States; or

(ii) is abroad and is inadmissible under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(3) NONCITIZEN.—The term ''noncitizen'' means an individual who is not a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

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

(5) SERVICE MEMBER.—The term ''service member'' means an individual who is serving as—

(A) a member of a regular or reserve component of the Armed Forces of the United States on active duty; or

(B) a member of a reserve component of the Armed Forces in an active status.

(6) VETERAN.—The term ''veteran'' has the meaning given such term under section 101(2) of title 38, United States Code.

SEC. _____3. RETURN OF NONCITIZEN VETERANS REMOVED FROM THE UNITED STATES; STATUS FOR NONCITIZEN VETERANS IN THE UNITED STATES.

(a) IN GENERAL.—

(1) DUTIES OF SECRETARY.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(A) establish a program and application procedure to permit—

(i) a deported veteran who meets each requirement under subsection (b) to enter the United States as an alien lawfully admitted for permanent residence; and

(ii) a noncitizen veteran in the United States who meets each requirement under subsection (b) to adjust status to that of an alien lawfully admitted for permanent residence; and

(B) cancel the removal of any noncitizen veteran ordered removed who meets each requirement under subsection (b) and allow the noncitizen veteran to adjust status to that of an alien lawfully admitted for permanent residence.

(2) NO NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of veterans who may be eligible to receive a benefit under paragraph (1).

(b) ELIGIBILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, including sections 212 and 237 of the Immigration and Nationality Act (8 U.S.C. 1182 and 1227), a veteran shall be eligible to participate in the program established under subsection (a)(1)(A), or for cancellation of removal under subsection (a)(1)(B), if the Secretary determines that the veteran—

(A) was not ordered removed, or removed, from the United States due to a criminal conviction for—

(i) a crime of violence; or

(ii) a crime that endangers the national security of the United States for which the noncitizen has served a term of imprisonment of at least 5 years; and

(B) is not inadmissible to, or deportable from, the United States due to a criminal conviction described in subparagraph (A).

(2) WAIVER.—The Secretary may waive the application of paragraph (1)—

(A) for humanitarian purposes;

(B) to ensure family unity;

(C) due to exceptional service in the United States Armed Forces; or

(D) if such waiver otherwise is in the public interest.

SEC. _____4. PROTECTING VETERANS AND SERVICE MEMBERS FROM REMOVAL.

Notwithstanding any other provision of law, including section 237 of the Immigration and Nationality Act (8 U.S.C. 1227), a noncitizen who is a veteran or service member may not be removed from the United States unless the noncitizen has a criminal conviction for a crime of violence.

SEC. _____5. NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

An alien who has obtained the status of an alien lawfully admitted for permanent residence pursuant to section _____3(a) shall be eligible for naturalization through service in the Armed Forces of the United States under sections 328 and 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440), except that—

(1) when determining whether the noncitizen is a person of good moral character, disregard the ground on which the noncitizen was—

(A) ordered removed, or was removed, from the United States; or

(B) rendered inadmissible to, or deportable from, the United States; and

(2) any period of absence from the United States due to the noncitizen having been removed, or being inadmissible, shall be disregarded when determining if the noncitizen satisfies any requirement relating to continuous residence or physical presence.

SEC. _____6. ACCESS TO MILITARY BENEFITS.

An alien who has obtained the status of an alien lawfully admitted for permanent residence pursuant to section _____3(a) shall be eligible for all military and veterans benefits for which the noncitizen would have been eligible if, from the United States, the noncitizen had never—

(a) been ordered removed;

(b) been removed; or

(c) voluntarily departed.

SEC. _____7. IMPLEMENTATION.

(a) IDENTIFICATION.—The Secretary shall identify cases involving any service member or veteran at risk of removal from the United States by—

(1) inquiring of every noncitizen processed prior to initiating a removal proceeding whether the noncitizen is serving, or has served—

(A) as a member of a regular or reserve component of the Armed Forces of the United States on active duty; or

(B) as a member of a reserve component of the Armed Forces in an active status;

(2) requiring U.S. Immigration and Customs Enforcement personnel to seek supervisory approval prior to initiating a removal proceeding against a service member or veteran; and

(3) keeping records of any service member or veteran who has—

(A) had removal proceedings initiated against them;

(B) been detained; or

(C) been removed.

(b) RECORD ANNOTATION.—

(1) IN GENERAL.—When the Secretary has identified a case under subsection (a), the Secretary shall annotate all immigration and naturalization records of the Department of Homeland Security relating to the noncitizen involved to—

(A) reflect that identification; and

(B) afford an opportunity to track the outcomes for the noncitizen.

(2) ANNOTATIONS.—Each annotation under paragraph (1) shall include—

(A) the branch of military service in which each noncitizen served;

(B) whether or not the noncitizen is serving, or has served, during a period of military hostilities described in section 329 of the Immigration and Nationality Act (8 U.S.C. 1440);

(C) the immigration status of each noncitizen at the time of enlistment;

(D) whether the noncitizen is serving honorably or was separated under honorable conditions;

(E) the basis for which removal was sought; and

(F) the crime for which conviction was obtained if the basis for removal was a criminal conviction.

SEC. _____8. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement this subtitle.

SA 1977. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. IDENTIFYING ALIENS CONNECTED TO THE ARMED FORCES.

Upon an alien's application for an immigration benefit or the placement of such alien in an immigration enforcement proceeding, the Secretary of Homeland Security shall—

(1) determine if the alien is serving, or has served, as a member of—

(A) a regular or reserve component of the Armed Forces of the United States on active duty; or

(B) a reserve component of the Armed Forces in an active status; and

(2) annotate every immigration and naturalization record of the Department of Homeland Security relating to an alien described in paragraph (1) to—

(A) reflect that membership; and

(B) afford an opportunity to track the outcomes for each alien.

SA 1978. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PAROLE FOR CERTAIN VETERANS.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended—

(1) in subparagraph (A), by inserting ''or (C)'' after ''(B)'';

(2) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(3) by adding the following:

''(C)(i) The Secretary of Homeland Security may parole any alien qualified under clause (ii) into the United States—

''(I) at the discretion of the Secretary;

''(II) on a case-by-case basis; and

''(III) temporarily under such conditions as the Secretary may prescribe.

''(ii) To qualify for parole under clause (i) an alien applying for admission to the United States shall—

''(I) be a veteran (as defined in section 101(2) of title 38, United States Code);

''(II) seek parole to receive health care furnished by the Secretary of Veterans Affairs under chapter 17 of title 38, United States Code; and

''(III) be outside of the United States pursuant to having been ordered removed or voluntarily departed from the United States under section 240B.

''(iii) Parole of an alien under clause (i) shall not be regarded as an admission of the alien.

''(iv) If the Secretary of Homeland Security determines that the purposes of such parole have been served, the alien shall forthwith return or be returned to the custody from which the alien was paroled.

''(v) Parole shall not be available under clause (i) for an alien who is inadmissible due to a criminal conviction—

''(I)(aa) for a crime of violence (as defined in section 16 of title 18, United States Code), excluding a purely political offense; or

''(bb) for a crime that endangers the national security of the United States; and

''(II) for which the alien has served a term of imprisonment of at least 5 years.''.

SA 1979. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PERMANENT RESIDENT STATUS FOR MIGUEL ANGEL PEREZ-MONTES, JR.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), on filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident, Miguel Angel Perez-Montes, Jr., shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.

(b) ADJUSTMENT OF STATUS.—If Miguel Angel Perez-Montes, Jr., enters the United States before the date of the filing deadline described in subsection (c), the alien shall be—

(1) considered to have entered and remained lawfully in the United States; and

(2) eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act, if the alien is otherwise eligible for adjustment of status under that section.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed, together with the applicable fees, not later than 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—On the granting of an immigrant visa or permanent residence to Miguel Angel Perez-Montes, Jr., the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year—

(1) the total number of immigrant visas that are made available to natives of the country of birth of the alien under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)); or

(2) if applicable, the total number of immigrant visas that are made available to natives of the country of birth of the alien under section 202(e) of that Act (8 U.S.C. 1152(e)).

SA 1980. Ms. DUCKWORTH submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ESTABLISHMENT AND USE OF NATURALIZATION OFFICES AT INITIAL MILITARY TRAINING SITES.

(a) DEFINITION.—In this section, the term ''Secretary concerned'' has the meaning given that term in section 101(a) of title 10, United States Code.

(b) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, shall establish a naturalization office at each initial military training site of the Armed Forces under the jurisdiction of the respective Secretary.

(c) OUTREACH.—In coordination with the Under Secretary of Defense for Personnel

and Readiness and the Director of U.S. Citizenship and Immigration Services, each Secretary concerned shall, to the maximum extent practicable—

(1) identify each member of the Armed Forces overseen by such Secretary who is not a citizen of the United States;

(2) inform each noncitizen member of the Armed Forces overseen by such Secretary about—

(A) the existence of a naturalization office at each initial military training site;

(B) the continuous availability of each naturalization office throughout the career of a member of the Armed Forces to—

(i) evaluate the extent to which a noncitizen member of the Armed Forces is eligible to become a naturalized citizen; and

(ii) assess the suitability for citizenship of a noncitizen member of the Armed Forces;

(C) each potential pathway to citizenship;

(D) each service a naturalization office provides;

(E) the required length of service to obtain citizenship during—

(i) peacetime; and

(ii) a period of hostility; and

(F) the application process for citizenship, including—

(i) details of the application process;

(ii) required application materials;

(iii) requirements for a naturalization interview; and

(iv) any other information required to become a citizen under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(d) TIMING.—Each Secretary concerned shall complete the notifications required under subsection (c)—

(1) during every stage of basic training;

(2) during training for any military occupational specialty;

(3) at each school of professional military education;

(4) upon each transfer of a duty station; and

(5) at any other time determined appropriate by the Secretary concerned.

(e) TRAINED PERSONNEL.—

(1) AVAILABILITY.—Each Secretary concerned shall retain trained personnel at a naturalization office at every initial military training site to provide appropriate services to every member of the Armed Forces who is not a citizen of the United States.

(2) TRAINING.—All personnel retained under paragraph (1) shall be familiar with—

(A) the special provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) authorizing the expedited application and naturalization process for current members of the Armed Forces and veterans;

(B) the application process for naturalization and associated application materials; and

(C) the naturalization process administered by U.S. Citizenship and Immigration Services.

(f) ASSIGNMENT PREFERENCE.—The Secretary concerned, to the extent practicable, shall assign each new member of the Armed Forces who is not a citizen of the United States to an initial military training site that has a naturalization office.

(g) REPORTING REQUIREMENT.—The Director of the U.S. Citizenship and Immigration Services shall annually publish, on a publicly accessible website—

(1) the number of members of the Armed Forces who became naturalized United States citizens during the most recent year for which data is available, categorized by country in which the naturalization ceremony took place;

(2) the number of Armed Forces member's children who became naturalized United States citizens during the most recent year for which data is available, categorized by country in which the naturalization ceremony took place; and

(3) the number of Armed Forces member's spouses who became naturalized United States citizens during the most recent year for which data is available, categorized by country in which the naturalization ceremony took place.

(h) REGULATIONS.—Each Secretary concerned shall prescribe in regulation a definition of the term ''initial military training site'' for purposes of this section.

SA 1981. Ms. DUCKWORTH (for herself and Mr. MARKEY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON DEPORTATION OR REMOVAL OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM PARTICIPANTS WHO ARE CURRENT OR FORMER MEMBERS OF THE ARMED FORCES.

(a) PROHIBITION.—The Secretary of Homeland Security may not deport or remove any alien who was granted DACA if the alien is a current or former member of the Armed Forces.

(b) DEFINITIONS.—In this section:

(1) The term ''DACA'' means deferred action pursuant to the Deferred Action for Childhood Arrivals program announced by President Obama on June 15, 2012.

(2) The term ''Armed Forces'' has the meaning given the term ''armed forces'' in section 101(a)(4) of title 10, United States Code, and includes the reserve components of the Armed Forces.

SA 1982. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1959 proposed by Mr. GRASSLEY (for himself, Mrs. ERNST, Mr. TILLIS, Mr. LANKFORD, Mr. COTTON, Mr. PERDUE, Mr. CORNYN, Mr. ALEXANDER, and Mr. ISAKSON) to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike title II and insert the following:

TITLE II—INTERIOR ENFORCEMENT

SEC. 2001. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED ALIENS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, recruit, or refer for a fee an alien for employment in the United States knowing that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, recruit, or refer for a fee for employment in the United States an individual without complying with the requirements under subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—

''(A) PROHIBITION ON CONTINUED EMPLOYMENT OF UNAUTHORIZED ALIENS.—It is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(B) PROHIBITION ON CONSIDERATION OF PREVIOUS UNAUTHORIZED STATUS.—Nothing in this section may be construed to prohibit the employment of an individual who is authorized for employment in the United States if such individual was previously an unauthorized alien.

''(3) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, any employer that uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States while knowing that the alien is an unauthorized alien with respect to performing such labor shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B), (5), and (6), an employer shall be deemed to have complied with the requirements under subsection (c) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Secretary) if the employer has and retains (for the period and in the manner described in subsection (c)(3)) appropriate documentation of such referral by such agency, certifying that such agency has complied with the procedures described in subsection (c) with respect to the individual's referral. An employer that relies on a State agency's certification of compliance with subsection (c) under this paragraph may utilize and retain the State agency's certification of compliance with the procedures described in subsection (d), if any, in the manner provided under this paragraph.

''(5) GOOD FAITH DEFENSE.—

''(A) DEFENSE.—An employer, person, or entity that hires, employs, recruits, or refers individuals for employment in the United States, or is otherwise obligated to comply with the requirements under this section and establishes good faith compliance with the requirements under paragraphs (1) through (4) of subsection (c) and subsection (d)—

''(i) has established an affirmative defense that the employer, person, or entity has not violated paragraph (1)(A) with respect to hiring and employing; and

''(ii) has established compliance with its obligations under subparagraph (A) and (B) of paragraph (1) and subsection (c) unless the Secretary demonstrates by clear and convincing evidence that the employer had knowledge that an individuals hired, employed, recruited, or referred by the employer, person, or entity is an unauthorized alien.

''(B) EXCEPTION FOR CERTAIN EMPLOYERS.—An employer who is not required to participate in the System or who is participating in the System on a voluntary basis pursuant to subsection (d)(2)(J) has established an affirmative defense under subparagraph (A) and need not demonstrate compliance with the requirements under subsection (d).

''(6) GOOD FAITH COMPLIANCE.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, an employer, person, or entity is considered to have complied with a requirement under this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

''(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

''(i) the failure is not de minimis;

''(ii) the Secretary of Homeland Security has explained to the employer, person, or entity the basis for the failure and why it is not de minimis;

''(iii) the employer, person, or entity has been provided a period of not less than 30 days (beginning after the date of the explanation) to correct the failure; and

''(iv) the employer, person, or entity has not corrected the failure voluntarily within such period.

''(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to an employer, person, or entity that has engaged or is engaging in a pattern or practice of violations of paragraph (1)(A) or (2).

''(7) PRESUMPTION.—After the date on which an employer is required to participate in the System under subsection (d), the employer is presumed to have acted with knowledge for purposes of paragraph (1)(A) if the employer hires, employs, recruits, or refers an employee for a fee and fails to make an inquiry to verify the employment authorization status of the employee through the System.

''(8) CONTINUED APPLICATION OF WORKFORCE AND LABOR PROTECTION REMEDIES DESPITE UNAUTHORIZED EMPLOYMENT.—

''(A) IN GENERAL.—Subject only to subparagraph (B), all rights and remedies provided under any Federal, State, or local law relating to workplace rights, including but not limited to back pay, are available to an employee despite—

''(i) the employee's status as an unauthorized alien during or after the period of employment; or

''(ii) the employer's or employee's failure to comply with the requirements of this section.

''(B) REINSTATEMENT.—Reinstatement shall be available to individuals who—

''(i) are authorized to work in the United States at the time such relief is ordered or effectuated; or

''(ii) lost employment-authorized status due to the unlawful acts of the employer under this section.

''(b) DEFINITIONS.—In this section:

''(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

''(2) DEPARTMENT.—Except as otherwise provided, the term 'Department' means the Department of Homeland Security.

''(3) EMPLOYER.—The term 'employer' means any person or entity, including an agency or department of a Federal, State, or local government, an agent, or a System service provider acting on behalf of an employer, that hires, employs, recruits, or refers for a fee an individual for employment in the United States that is not casual, sporadic, irregular, or intermittent (as defined by the Secretary).

''(4) EMPLOYMENT AUTHORIZED STATUS.—The term 'employment authorized status' means, with respect to an individual, that the individual is authorized to be employed in the United States under the immigration laws of the United States.

''(5) SECRETARY.—Except as otherwise specifically provided, the term 'Secretary' means the Secretary of Homeland Security.

''(6) SYSTEM.—The term 'System' means the Employment Verification System established under subsection (d).

''(7) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means an alien who, with respect to employment in the United States at a particular time—

''(A) is not lawfully admitted for permanent residence; or

''(B) is not authorized to be employed under this Act or by the Secretary.

''(8) WORKPLACE RIGHTS.—The term 'workplace rights' means rights guaranteed under Federal, State, or local labor or employment laws, including laws concerning wages and hours, benefits and employment standards, labor relations, workplace health and safety, work-related injuries, nondiscrimination, and retaliation for exercising rights under such laws.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

''(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(A) IN GENERAL.—

''(i) EXAMINATION BY EMPLOYER.—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

''(I) by examining—

''(aa) a document specified in subparagraph (C); or

''(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

''(II) by using an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

''(ii) PUBLICATION OF DOCUMENTS.—The Secretary shall publish a picture of each document specified in subparagraphs (C) and (E) on the U.S. Citizenship and Immigration Services website.

''(B) REQUIREMENTS.—

''(i) FORM.—The form referred to in subparagraph (A)(i)—

''(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the SECURE and SUCCEED Act;

''(II) shall be available as—

''(aa) a paper form;

''(bb) a form that may be completed by an employer via telephone or video conference;

''(cc) an electronic form; or

''(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

''(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

''(iii) COMPLIANCE.—An employer has complied with the requirements under this paragraph with respect to examination of the documents included in subclauses (I) and (II) of subparagraph (A)(i) if—

''(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

''(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

''(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a).

''(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

''(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

''(II) is evidence of employment authorized status; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(iii) An enhanced driver's license or identification card issued to a national of the United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

''(I) meets the requirements under section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note); and

''(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

''(iv) A passport issued by the appropriate authority of a foreign country accompanied by a Form I–94 or Form I–94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

''(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of nonimmigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

''(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

''(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

''(ii) A voter registration card.

''(iii) A document that complies with the requirements under section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note).

''(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

''(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card

is not valid to evidence employment authorized status or has other similar words of limitation.

''(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

''(F) IDENTITY AUTHENTICATION MECHANISM.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED IDENTITY DOCUMENT.—The term 'covered identity document' means a valid—

''(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

''(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

''(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

''(II) PARTICIPATING STATE.—The term 'participating State' means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

''(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify the identity of each new hire using the identity authentication mechanism described in clause (iii), or for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

''(iii) PHOTO TOOL.—

''(I) USE REQUIREMENT.—An employer that hires an individual who has presented a covered identity document to establish his or her identity and employment authorization under this subsection shall verify the identity of such individual using the photo tool described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photograph on a covered identity document provided to the employer to a photograph maintained by a U.S. Citizenship and Immigration Services database or other appropriate database.

''(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from State motor vehicle databases through the photo tool developed under this clause—

''(aa) may only be used for matching photographs to a covered identity document for the purposes of employment verification;

''(bb) shall not be collected or stored by the Federal Government; and

''(cc) may only be disseminated in response to an individual photo tool query.

''(iv) ADDITIONAL SECURITY MEASURES.—

''(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii) because the employee did not present a covered document for employment eligibility verification purposes shall verify the identity of such individual using the additional security measures described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

''(aa) shall be kept up-to-date with technological advances;

''(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

''(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

''(v) AUTOMATED VERIFICATION.—The Secretary—

''(I) may establish a program, in addition to the identity authentication mechanism described in paragraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

''(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

''(III) may not use or disclose such information, except as authorized under this section.

''(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

''(i) may prohibit or restrict the use of such document or class of documents for purposes of this subsection; and

''(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

''(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

''(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

''(ii) shall publish a description of any such document or class of documents on the U.S. Citizenship and Immigration Services website; and

''(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

''(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted for permanent residence;

''(iii) an alien who has employment authorized status; or

''(iv) otherwise authorized by the Secretary to be hired for such employment;

''(B) provide such attestation by a handwritten, electronic, or digital signature; and

''(C) provide the individual's social security account number to the Secretary, unless the individual has not yet been issued such a number, on such form as the Secretary may require.

''(3) RETENTION OF VERIFICATION RECORD.—

''(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

''(i) the date that is 3 years after such hiring date; or

''(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

''(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

''(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

''(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

''(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

''(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

''(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

''(5) PENALTIES.—An employer that fails to comply with any requirement under this subsection may be penalized under subsection (e)(4)(B).

''(6) PROTECTION OF CIVIL RIGHTS.—

''(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

''(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

''(7) RECEIPTS.—The Secretary may authorize the use of receipts for replacement documents, and temporary evidence of employment authorization by an individual to meet a documentation requirement under this subsection on a temporary basis not to exceed 1 year, after which time the individual

shall provide documentation sufficient to satisfy the documentation requirements under this subsection.

''(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

''(d) EMPLOYMENT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

''(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

''(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, and the speed and accuracy of responses;

''(ii) the misuse of the System, including the prevention of fraud or identity theft;

''(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

''(iv) the security, integrity, and privacy of the System.

''(C) PROCEDURES.—The Secretary—

''(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

''(I) the identities of all persons or entities that have queried the individual through the System;

''(II) the date of each such query; and

''(III) the System response for each such query; and

''(ii) in consultation with the Commissioner, shall develop—

''(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

''(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

''(2) PARTICIPATION REQUIREMENTS.—

''(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

''(i) the date of the enactment of the SECURE and SUCCEED Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

''(ii) the date that is 90 days after the date of the enactment of the SECURE and SUCCEED Act.

''(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

''(C) CRITICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

''(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

''(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

''(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(I) TRIBAL GOVERNMENT EMPLOYERS.—

''(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

''(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

''(II) consult with the governments of federally recognized Indian tribes.

''(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(J) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

''(K) VOLUNTARY PARTICIPATION.—The Secretary may permit any employer that is not required to participate in the System under this section to do so on a voluntary basis.

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the failure, other than a de minimis or inadvertent failure, of an employer that is required to participate in the System to comply with the requirements of the System with respect to an individual—

''(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

''(ii) creates a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply in a criminal prosecution.

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

''(II) if the individual does not attest to United States citizenship or status as a national of the United States under subsection (c)(2), such identification or authorization number established by the Department as the Secretary shall specify; and

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall use, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a 'further action notice').

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the SECURE and SUCCEED Act.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The employer shall give the further action notice to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The employer shall give the nonconfirmation notice to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services

shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary, or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

''(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

''(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; and

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the SECURE and SUCCEED Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) FUNDING.—From amounts in the Border Security Enforcement Fund under section 1301 of the SECURE and SUCCEED Act, there shall be available in each of fiscal years 2019 through 2012 such sums as may be necessary to carry out this paragraph.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintains existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who does not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

''(D) PREPONDERANCE OF EVIDENCE.—Administrative appeal under this paragraph shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

''(E) DAMAGES, FEES, AND COSTS.—No money damages, fees, or costs may be awarded in the administrative appeal process under this paragraph.

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a

complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

''(i) to maximize its reliability and ease of use by employers consistent with protecting the privacy and security of the underlying information, and ensuring full notice of such use to employees;

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system; and

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using such additional security measures set forth in subsection (c)(1)(F)(iv);

''(ix) to employ specific and effective additional security measures set forth in subsection (c)(1)(F)(iv) to adequately verify the identity of an individual that are designed and operated—

''(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

''(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

''(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

''(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

''(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

''(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through the internet, mobile phone, and landline telephone connections to facilitate identity proofing;

''(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

''(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals

whose identities are being verified, as appropriate;

''(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

''(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

''(XI) to include, if feasible, a capability for permitting document or other inputs that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

''(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

''(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the compliance of the Department with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term 'error rate' means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

''(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standard as for employment authorization; and

''(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV)

''(IV) REDUCTION OF PENALTIES FOR RECORDKEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term 'authorized personnel' means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to use the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall use the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the SECURE and SUCCEED Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

''(viii) MONITORING AND COMPLIANCE UNIT.—The Secretary shall establish or designate a monitoring and compliance unit to detect and reduce identity fraud and other misuse of the System.

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other

private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) FUNDING.—Of amounts in the Border Security Enforcement Fund in section 1301 of the SECURE and SUCCEED Act, $500,000,000 shall be available to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity may use, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate, and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in using the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General shall, for each year, undertake a study to evaluate the accuracy, efficiency, integrity, and impact of the System.

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

''(vi) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

''(ix) An assessment of the effect of the identity authentication mechanism and any other security measures set forth in subsection (c)(1)(F)(iv) to verify identity incorporated into the System or otherwise used by employers on employees.

''(12) OUTREACH AND PARTNERSHIP.—

''(A) OUTREACH.—The Secretary may conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

''(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints respecting potential violations of subsections (a) or (f)(1);

''(B) for the investigation of those complaints which the Secretary deems appropriate to investigate; and

''(C) for providing notification to the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice of potential violations of section 274B.

''(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and proceedings under this subsection—

''(A) immigration officers shall have reasonable access to examine evidence of the employer being investigated;

''(B) immigration officers designated by the Secretary, and administrative law judges and other persons authorized to conduct proceedings under this section, may compel by subpoena the attendance of relevant witnesses and the production of relevant evidence at any designated place in an investigation or case under this subsection. In case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt. Failure to cooperate with the subpoena shall be subject to further penalties, including further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E); and

''(C) the Secretary, in cooperation with the Commissioner and Attorney General, and in consultation with other relevant agencies, shall establish a Joint Employment Fraud Task Force consisting of, at a minimum—

''(i) the System's compliance personnel;

''(ii) immigration law enforcement officers;

''(iii) personnel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice;

''(iv) personnel of the Office for Civil Rights and Civil Liberties of the Department; and

''(v) personnel of Office of Inspector General of the Social Security Administration.

''(3) COMPLIANCE PROCEDURES.—

''(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a civil violation of this section in the previous 3 years, the Secretary shall issue to the employer concerned a written notice of the Department's intention to issue a claim for a monetary or other penalty. Such pre-penalty notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation;

''(iv) describe the penalty sought to be imposed; and

''(v) inform such employer that such employer shall have a reasonable opportunity to make representations as to why a monetary or other penalty should not be imposed.

''(B) EMPLOYER'S RESPONSE.—Whenever any employer receives written pre-penalty notice of a fine or other penalty in accordance with subparagraph (A), the employer may, within 60 days from receipt of such notice, file with the Secretary its written response to the notice. The response may include any relevant evidence or proffer of evidence that the employer wishes to present with respect to whether the employer violated this section and whether, if so, the penalty should be mitigated, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(C) RIGHT TO A HEARING.—Before issuance of an order imposing a penalty on any employer, person, or entity, the employer, person, or entity shall be entitled to a hearing before an administrative law judge, if requested within 60 days of the notice of penalty. The hearing shall be held at the nearest location practicable to the place where the employer, person, or entity resides or of the place where the alleged violation occurred.

''(D) ISSUANCE OF ORDERS.—If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order. If a hearing is requested and the administrative law judge determines, upon clear and convincing evidence received, that there was a violation, the administrative law judge shall issue the final determination with a written penalty claim. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of subparagraph (A) and any mitigation of the penalty that the administrative law judge deems appropriate under paragraph (4)(E).

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of subsection (a)(1)(A) or (a)(2) shall—

''(i) pay a civil penalty of not less than $3,500 and not more than $7,500 for each unauthorized alien with respect to which each violation of either subsection (a)(1)(A) or (a)(2) occurred;

''(ii) if the employer has previously been fined as a result of a previous enforcement action or previous violation under this paragraph, pay a civil penalty of not less than $5,000 and not more than $15,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred; and

''(iii) if the employer has previously been fined more than once under this paragraph, pay a civil penalty of not less than $10,000 and not more than $25,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred.

''(B) ENHANCED PENALTIES.—After the Secretary certifies to Congress that the System has been established, implemented, and made mandatory for use by all employers in the United States, the Secretary may establish an enhanced civil penalty for an employer who—

''(i) fails to query the System to verify the identify and work authorized status of an individual; and

''(ii) violates a Federal, State, or local law related to—

''(I) the payment of wages;

''(II) hours worked by employees; or

''(III) workplace health and safety.

''(C) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with any requirement under subsection (a)(1)(B), other than a minor or inadvertent failure, as determined by the Secretary, shall pay a civil penalty of—

''(i) not less than $500 and not more than $2,000 for each violation;

''(ii) if an employer has previously been fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation; and

''(iii) if an employer has previously been fined more than once under this paragraph, not less than $2,000 and not more than $8,000 for each violation.

''(D) OTHER PENALTIES.—The Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the remedy provided by subsection (f)(2).

''(E) MITIGATION.—The Secretary or, if an employer requests a hearing, the administrative law judge, is authorized, upon such terms and conditions as the Secretary or administrative law judge deems reasonable and just and in accordance with such procedures as the Secretary may establish or any procedures established governing the administrative law judge's assessment of penalties, to reduce or mitigate penalties imposed upon employers, based upon factors including, the employer's hiring volume, compliance history, good-faith implementation of a compliance program, the size and level of sophistication of the employer, and voluntary disclosure of violations of this subsection to the Secretary. The Secretary or administrative law judge shall not mitigate a penalty below the minimum penalty provided by this section, except that the Secretary may, in the case of an employer subject to penalty for recordkeeping or verification violations only who has not previously been penalized under this section, in the Secretary's or administrative law judge's discretion, mitigate the penalty below the statutory minimum or remit it entirely. In any case where a civil money penalty has been imposed on an employer under section 274B for an action or omission that is also a violation of this section, the Secretary or administrative law judge shall mitigate any civil money penalty under this section by the amount of the penalty imposed under section 274B.

''(F) EFFECTIVE DATE.—The civil money penalty amounts and the enhanced penalties provided by subparagraphs (A), (B), and (C) of this paragraph and by subsection (f)(2) shall apply to violations of this section committed on or after the date that is 1 year after the date of the enactment of the SECURE and SUCCEED Act. For violations committed prior to such date of enactment, the civil money penalty amounts provided by regulations implementing this section as in effect the minute before such date of enactment with respect to knowing hiring or continuing employment, verification, or indemnity bond violations, as appropriate, shall apply.

''(5) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(A) EMPLOYER COMPLIANCE.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that it is in compliance with this section, or has instituted a program to come into compliance.

''(B) EMPLOYER CERTIFICATION.—

''(i) REQUIREMENT.—Except as provided in subparagraph (C), not later than 60 days after receiving a notice from the Secretary requiring a certification under subparagraph (A), an official with responsibility for, and authority to bind the company on, all hiring and immigration compliance notices shall certify under penalty of perjury that the employer is in conformance with the requirements of paragraphs (1) through (4) of subsection (c), pertaining to document verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to that employer according to the requirements under subsection (d)(2)), and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsection (c) or (d) or that the employer has instituted a program to come into compliance with these requirements.

''(ii) APPLICATION.—Clause (i) shall not apply until the date that the Secretary certifies to Congress that the System has been established, implemented, and made mandatory for use by all employers in the United States.

''(C) EXTENSION OF DEADLINE.—At the request of the employer, the Secretary may extend the 60-day deadline for good cause.

''(D) STANDARDS OR METHODS.—The Secretary is authorized to publish in the Federal Register standards or methods for such certification, require specific recordkeeping practices with respect to such certifications, and audit the records thereof at any time. This authority shall not be construed to diminish or qualify any other penalty provided by this section.

''(6) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to judicial review of a final determination or penalty order issued under paragraph (3)(D), the following requirements apply:

''(A) DEADLINE.—The petition for review must be filed no later than 30 days after the date of the final determination or penalty order issued under paragraph (3)(D).

''(B) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit where the employer's principal place of business was located when the final determination or penalty order was made. The record and briefs do not have to be printed. The court shall review the proceeding on a typewritten or electronically filed record and briefs.

''(C) SERVICE.—The respondent is the Secretary. In addition to serving the respondent, the petitioner shall serve the Attorney General.

''(D) PETITIONER'S BRIEF.—The petitioner shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time

provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(E) SCOPE AND STANDARD FOR REVIEW.—The court of appeals shall conduct a de novo review of the administrative record on which the final determination was based and any additional evidence that the Court finds was previously unavailable at the time of the administrative hearing.

''(F) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final determination under paragraph (3)(C) only if—

''(i) the petitioner has exhausted all administrative remedies available to the petitioner as of right, including any administrative remedies established by regulation; and

''(ii) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

''(G) ENFORCEMENT OF ORDERS.—If the final determination issued against the employer under this subsection is not subjected to review as provided in this paragraph, the Attorney General, upon request by the Secretary, may bring a civil action to enforce compliance with the final determination in any appropriate district court of the United States. The court, on a proper showing, shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the employer comply with the final determination issued against that employer under this subsection. In any such civil action, the validity and appropriateness of the final determination shall not be subject to review.

''(7) CREATION OF LIEN.—If any employer liable for a fee or penalty under this section neglects or refuses to pay such liability after demand and fails to file a petition for review (if applicable) as provided in paragraph (6), the amount of the fee or penalty shall be a lien in favor of the United States on all property and rights to property, whether real or personal, belonging to such employer. If a petition for review is filed as provided in paragraph (6), the lien shall arise upon the entry of a final judgment by the court. The lien continues for 20 years or until the liability is satisfied, remitted, set aside, or terminated.

''(8) FILING NOTICE OF LIEN.—

''(A) PLACE FOR FILING.—The notice of a lien referred to in paragraph (7) shall be filed as described in 1 of the following:

''(i) UNDER STATE LAWS.—

''(I) REAL PROPERTY.—In the case of real property, in 1 office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated.

''(II) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, in 1 office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

''(ii) WITH CLERK OF DISTRICT COURT.—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated 1 office which meets the requirements of clause (i).

''(iii) WITH RECORDER OF DEEDS OF THE DISTRICT OF COLUMBIA.—In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

''(B) SITUS OF PROPERTY SUBJECT TO LIEN.—For purposes of subparagraph (A), property shall be deemed to be situated as follows:

''(i) REAL PROPERTY.—In the case of real property, at its physical location.

''(ii) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

''(C) DETERMINATION OF RESIDENCE.—For purposes of subparagraph (B)(ii), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is outside the United States shall be deemed to be in the District of Columbia.

''(D) EFFECT OF FILING NOTICE OF LIEN.—

''(i) IN GENERAL.—Upon filing of a notice of lien in the manner described in this paragraph, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid.

''(ii) NOTICE OF LIEN.—The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section.

''(iii) OTHER PROVISIONS.—The provisions of section 3201(e) of title 28, United States Code, shall apply to liens filed as prescribed by this paragraph.

''(E) ENFORCEMENT OF A LIEN.—A lien obtained through this paragraph shall be considered a debt as defined by section 3002 of title 28, United States Code and enforceable pursuant to chapter 176 of such title.

''(9) ATTORNEY GENERAL ADJUDICATION.—The Attorney General shall have jurisdiction to adjudicate administrative proceedings under this subsection. Such proceedings shall be conducted in accordance with requirements of section 554 of title 5, United States Code.

''(f) CRIMINAL AND CIVIL PENALTIES AND INJUNCTIONS.—

''(1) PROHIBITION OF INDEMNITY BONDS.—It is unlawful for an employer, in the hiring of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring of the individual.

''(2) CIVIL PENALTY.—Any employer who is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

''(g) GOVERNMENT CONTRACTS.—

''(1) CONTRACTORS AND RECIPIENTS.—Whenever an employer who is a Federal contractor (meaning an employer who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to submit an offer for or be awarded a government contract) is determined by the Secretary to have violated this section on more than 3 occasions or is convicted of a crime under this section, the employer shall be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the procedures and standards and for the periods prescribed by the Federal Acquisition Regulation. However, any administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

''(2) INADVERTENT VIOLATIONS.—Inadvertent violations of recordkeeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

''(3) OTHER REMEDIES AVAILABLE.—Nothing in this subsection shall be construed to modify or limit any remedy available to any agency or official of the Federal Government for violation of any contractual requirement to participate in the System, as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation.

''(h) PREEMPTION.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, relating to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens. A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the System.

''(i) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the SECURE and SUCCEED Act.

''(j) CHALLENGES TO VALIDITY OF THE SYSTEM.—

''(1) IN GENERAL.—Any right, benefit, or claim not otherwise waived or limited pursuant to this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(A) whether this section, or any regulation issued to implement this section, violates the Constitution of the United States; or

''(B) whether such a regulation issued by or under the authority of the Secretary to implement this section, is contrary to applicable provisions of this section or was issued in violation of chapter 5 of title 5, United States Code.

''(2) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this subsection must be filed no later than 180 days after the date the challenged section or regulation described in subparagraph (A) or (B) of paragraph (1) becomes effective. No court shall have jurisdiction to review any challenge described in subparagraph (B) after the time period specified in this subsection expires.

''(k) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) PATTERN AND PRACTICE.—Any employer who engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined under title 18, United States Code, no more than $10,000 for each unauthorized alien with respect to whom such violation occurs, imprisoned for not more than 2 years for the entire pattern or practice, or both.

''(2) TERM OF IMPRISONMENT.—The maximum term of imprisonment of a person convicted of any criminal offense under the United States Code shall be increased by 5 years if the offense is committed as part of

a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).

''(3) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment in violation of subsection (a)(1)(A) or (a)(2), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary or Attorney General deems necessary.

''(l) CRIMINAL PENALTIES FOR UNLAWFUL AND ABUSIVE EMPLOYMENT.—

''(1) IN GENERAL.—Any person who, during any 12-month period, knowingly employs or hires, employs, recruits, or refers for a fee for employment 10 or more individuals within the United States who are under the control and supervision of such person—

''(A) knowing that the individuals are unauthorized aliens; and

''(B) under conditions that violate section 5(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(a) (relating to occupational safety and health), section 6 or 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207) (relating to minimum wages and maximum hours of employment), section 3142 of title 40, United States Code, (relating to required wages on construction contracts), or sections 6703 or 6704 of title 41, United States Code, (relating to required wages on service contracts),

shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

''(2) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

''(m) LIMITATION ON ADJUSTMENT OF STATUS.—The Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status as described in section 245D(b), unless the Secretary, after consultation with the Comptroller General of the United States, certifies in writing to the President and Congress that the Secretary has implemented the System, including the full incorporation of the photo tool and additional security measures, required by this section, and has required the use of the System by all employers to prevent unauthorized workers from obtaining employment in the United States.''.

(b) REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL INDUSTRY.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit a report to Congress that assesses implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), in the agricultural industry, including the use of such System technology in agriculture industry hiring processes, user, contractor, and third-party employer agent employment practices, timing and logistics regarding employment verification and reverification processes to meet agriculture industry practices, and identification of potential challenges and modifications to meet the unique needs of the agriculture industry. Such report shall review—

(1) the modality of access, training and outreach, customer support, processes for further action notices and secondary verifications for short-term workers, monitoring, and compliance procedures for such System;

(2) the interaction of such System with the process to admit nonimmigrant workers pursuant to section 218 or 218A of the Immigration and Nationality Act (8 U.S.C. 1188 et seq.) and with enforcement of the immigration laws; and

(3) the collaborative use of processes of other Federal and State agencies that intersect with the agriculture industry.

(c) REPORT ON IMPACT OF THE SYSTEM ON EMPLOYERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report that assesses—

(1) the implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), by employers;

(2) any adverse impact on the revenues, business processes, or profitability of employers required to use such System; and

(3) the economic impact of such System on small businesses.

(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EMPLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—

(1) STUDY.—The Comptroller General of the United States shall carry out a study of—

(A) the effects of the documentary requirements of section 274A of the Immigration and Nationality Act, as amended by subsection (a), on employers, naturalized United States citizens, nationals of the United States, and individuals with employment authorized status; and

(B) the challenges such employers, citizens, nationals, or individuals may face in obtaining the documentation required under that section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under paragraph (1). Such report shall include, at a minimum, the following:

(A) An assessment of available information regarding the number of working age nationals of the United States and individuals who have employment authorized status who lack documents required for employment by such section 274A.

(B) A description of the additional steps required for individuals who have employment authorized status and do not possess the documents required by such section 274A to obtain such documents.

(C) A general assessment of the average financial costs for individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(D) A general assessment of the average financial costs and challenges for employers who have been required to participate in the Employment Verification System established by subsection (d) of such section 274A.

(E) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A, including barriers imposed by the executive branch of the Government.

(F) Any particular challenges facing individuals who have employment authorized status who are members of a federally recognized Indian tribe in complying with the provisions of such section 274A.

(e) REPEAL OF PILOT PROGRAMS AND E-VERIFY AND TRANSITION PROCEDURES.—

(1) REPEAL.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(2) TRANSITION PROCEDURES.—

(A) CONTINUATION OF E-VERIFY PROGRAM.—Notwithstanding the repeals made by paragraph (1), the Secretary shall continue to operate the E-Verify Program as described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, until the transition to the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), is determined by the Secretary to be complete.

(B) TRANSITION TO THE SYSTEM.—Any employer who was participating in the E-Verify Program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note), as in effect the minute before the date of the enactment of this Act, shall participate in the System described in section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), to the same extent and in the same manner that the employer participated in such E-Verify Program.

(3) CONSTRUCTION.—The repeal made by paragraph (1) may not be construed to limit the authority of the Secretary to allow or continue to allow the participation in such System of employers who have participated in such E-Verify Program, as in effect on the minute before the date of the enactment of this Act.

(f) CONFORMING AMENDMENT.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(g) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.''.

(h) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) to the extent resources are available, information in the Commissioner's records indicating that a query was submitted to the employment verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual's name or social security number; and

''(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act (8 U.S.C. 1324a(d)(4)(I)).''.

(i) GOOD FAITH COMPLIANCE.—Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4) and (6), a person, other entity, or employment agency

shall not be liable for civil penalties described in subsection (g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

''(A) was, for similar conduct, subject to—

''(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

''(ii) a finding by an administrative law judge that a violation of this section has occurred.

''(8) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

''(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

''(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

''(i) is used in a uniform manner for all newly hired employees;

''(ii) is not used for the purpose or with the intent of discriminating against any individual;

''(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

''(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

''(j) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Amounts available in the Border Security Enforcement Fund under section 1301 of the SECURE and SUCCEED Act shall be available to maintain reasonable levels of service and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.''.

SEC. 2002. INCREASING SECURITY AND INTEGRITY OF SOCIAL SECURITY CARDS.

(a) FRAUD-RESISTANT, TAMPER-RESISTANT, WEAR-RESISTANT, AND IDENTITY THEFT-RESISTANT SOCIAL SECURITY CARDS.—

(1) ISSUANCE.—

(A) PRELIMINARY WORK.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Social Security shall begin work to administer and issue fraud-resistant, tamper-resistant, wear-resistant, and identity theft-resistant social security cards.

(B) COMPLETION.—Not later than 5 years after the date of the enactment of this Act, the Commissioner of Social Security shall issue only social security cards determined to be fraud-resistant, tamper-resistant, wear-resistant, and identity theft-resistant.

(2) AMENDMENT.—

(A) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by striking the second sentence and inserting the following: ''The social security card shall be fraud-resistant, tamper-resistant, wear-resistant, and identity theft-resistant.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on the date that is 5 years after the date of the enactment of this Act.

(3) FUNDING.—From amounts in the Border Security Enforcement Funds under section 1301, there shall be available such sums as may be necessary to carry out this section and the amendments made by this section.

(b) MULTIPLE CARDS.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)), as amended by subsection (a)(2), is amended—

(1) by inserting ''(i)'' after ''(G)''; and

(2) by adding at the end the following:

''(ii) The Commissioner of Social Security shall restrict the issuance of multiple replacement social security cards to any individual to 3 per year and 10 for the life of the individual, except that the Commissioner may allow for reasonable exceptions from the limits under this clause on a case-by-case basis in compelling circumstances.''.

(c) CRIMINAL PENALTIES.—

(1) SOCIAL SECURITY FRAUD.—

(A) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting at the end the following:

''§ 1041. Social Security fraud

''Any person who—

''(1) knowingly possesses or uses a social security account number or social security card knowing that the number or card was obtained from the Commissioner of Social Security by means of fraud or false statement;

''(2) knowingly and falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to him or her or to another person, when such number is known not to be the social security account number assigned by the Commissioner of Social Security to him or her or to such other person;

''(3) knowingly, and without lawful authority, buys, sells, or possesses with intent to buy or sell a social security account number or a social security card that is or purports to be a number or card issued by the Commissioner of Social Security;

''(4) knowingly alters, counterfeits, forges, or falsely makes a social security account number or a social security card;

''(5) knowingly uses, distributes, or transfers a social security account number or a social security card knowing the number or card to be intentionally altered, counterfeited, forged, falsely made, or stolen; or

''(6) without lawful authority, knowingly produces or acquires for any person a social security account number, a social security card, or a number or card that purports to be a social security account number or social security card,

shall be fined under this title, imprisoned not more than 5 years, or both.''.

(B) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1040 the following:

''1041. Social Security fraud.''.

(2) INFORMATION DISCLOSURE.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Commissioner of Social Security shall disclose for the purpose of investigating a violation of section 1041 of title 18, United States Code, or section 274A, 274B, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324a, 1324b, and 1324c), after receiving a written request from an officer in a supervisory position or higher official of any Federal law enforcement agency, the following records of the Social Security Administration:

(i) Records concerning the identity, address, location, or financial institution accounts of the holder of a social security account number or social security card.

(ii) Records concerning the application for and issuance of a social security account number or social security card.

(iii) Records concerning the existence or nonexistence of a social security account number or social security card.

(B) LIMITATION.—The Commissioner of Social Security shall not disclose any tax return or tax return information pursuant to subparagraph (A) except as authorized by section 6103 of the Internal Revenue Code of 1986.

SEC. 2003. INCREASING SECURITY AND INTEGRITY OF IMMIGRATION DOCUMENTS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the feasibility, advantages, and disadvantages of including, in addition to a photograph, other biometric information on each employment authorization document issued by the Department.

SEC. 2004. RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

''PART E—EMPLOYMENT VERIFICATION

''SEC. 1186. RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

''(a) CONFIRMATION OF EMPLOYMENT VERIFICATION DATA.—As part of the employment verification system established by the Secretary of Homeland Security under the provisions of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) (in this section referred to as the 'System'), the Commissioner of Social Security shall, subject to the provisions of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), establish a reliable, secure method that, operating through the System and within the time periods specified in section 274A(d) of such Act—

''(1) compares the name, date of birth, social security account number, and available citizenship information provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed;

''(2) determines the correspondence of the name, date of birth, and number;

''(3) determines whether the name and number belong to an individual who is deceased according to the records maintained by the Commissioner;

''(4) determines whether an individual is a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(5) determines whether the individual has presented a social security account number that is not valid for employment.

''(b) PROHIBITION.—The System shall not disclose or release social security information to employers through the confirmation system (other than such confirmation or nonconfirmation, information provided by the employer to the System, or the reason for the issuance of a further action notice).''.

SEC. 2005. IMPROVED PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.

(a) IN GENERAL.—Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended to read as follows:

''(a) PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

''(1) PROHIBITION ON DISCRIMINATION GENERALLY.—It is an unfair immigration-related employment practice for a person, other entity, or employment agency, to discriminate

against any individual (other than an unauthorized alien defined in section 274A(b)) because of such individual's national origin or citizenship status, with respect to the following:

''(A) The hiring of the individual for employment.

''(B) The verification of the individual's eligibility to work in the United States.

''(C) The discharging of the individual from employment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following:

''(A) A person, other entity, or employer that employs 3 or fewer employees, except for an employment agency.

''(B) A person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that employer, person, or entity and that individual is covered under section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2), unless the discrimination is related to an individual's verification of employment authorization.

''(C) Discrimination because of citizenship status which—

''(i) is otherwise required in order to comply with a provision of Federal, State, or local law related to law enforcement;

''(ii) is required by Federal Government contract; or

''(iii) the Secretary or Attorney General determines to be essential for an employer to do business with an agency or department of the Federal Government or a State, local, or tribal government.

''(3) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for an employer (as defined in section 274A(b)) to prefer to hire, recruit, or refer for a fee an individual who is a citizen or national of the United States over another individual who is an alien if the 2 individuals are equally qualified.

''(4) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES RELATING TO THE SYSTEM.—It is also an unfair immigration-related employment practice for a person, other entity, or employment agency—

''(A) to discharge or constructively discharge an individual solely due to a further action notice issued by the Employment Verification System created by section 274A until the administrative appeal described in section 274A(d)(6) is completed;

''(B) to use the System with regard to any person for any purpose except as authorized by section 274A(d);

''(C) to use the System to reverify the employment authorization of a current employee, including an employee continuing in employment, other than reverification upon expiration of employment authorization, or as otherwise authorized under section 274A(d) or by regulation;

''(D) to use the System selectively for employees, except where authorized by law;

''(E) to fail to provide to an individual any notice required in section 274A(d) within the relevant time period;

''(F) to use the System to deny workers' employment or post-employment benefits;

''(G) to misuse the System to discriminate based on national origin or citizenship status;

''(H) to require an employee or prospective employee to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification results;

''(I) to use an immigration status verification system, service, or method other than those described in section 274A for purposes of verifying employment eligibility; or

''(J) to grant access to document verification or System data, to any individual or entity other than personnel authorized to have such access, or to fail to take reasonable safeguards to protect against unauthorized loss, use, alteration, or destruction of System data.

''(5) PROHIBITION OF INTIMIDATION OR RETALIATION.—It is also an unfair immigration-related employment practice for a person, other entity, or employment agency to intimidate, threaten, coerce, or retaliate against any individual—

''(A) for the purpose of interfering with any right or privilege secured under this section; or

''(B) because the individual intends to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

''(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—A person's, other entity's, or employment agency's request, for purposes of verifying employment eligibility, for more or different documents than are required under section 274A, or for specific documents, or refusing to honor documents tendered that reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice.

''(7) PROHIBITION OF WITHHOLDING EMPLOYMENT RECORDS.—It is an unfair immigration-related employment practice for an employer that is required under Federal, State, or local law to maintain records documenting employment, including dates or hours of work and wages received, to fail to provide such records to any employee upon request.

''(8) PROFESSIONAL, COMMERCIAL, AND BUSINESS LICENSES.—An individual who is authorized to be employed in the United States may not be denied a professional, commercial, or business license on the basis of his or her immigration status.

''(9) EMPLOYMENT AGENCY DEFINED.—In this section, the term 'employment agency' means any employer, person, or entity regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such employer, person, or entity.''.

(b) REFERRAL BY EEOC.—Section 274B(b)of the Immigration and Nationality Act (8 U.S.C. 1324b(b)) is amended by adding at the end the following:

''(3) REFERRAL BY EEOC.—The Equal Employment Opportunity Commission shall refer all matters alleging immigration-related unfair employment practices filed with the Commission, including those alleging violations of paragraphs (1), (4), (5), and (6) of subsection (a) to the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 274B(l)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(l)(3)) is amended by striking the period at the end and inserting ''and an additional $40,000,000 for each of fiscal years 2019 through 2021.''.

(d) FINES.—

(1) IN GENERAL.—Section 274B(g)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(B)) is amended by striking clause (iv) and inserting the following:

''(iv) to pay any applicable civil penalties prescribed below, the amounts of which may be adjusted periodically to account for inflation as provided by law—

''(I) except as provided in subclauses (II) through (IV), to pay a civil penalty of not less than $2,000 and not more than $5,000 for each individual subjected to an unfair immigration-related employment practice;

''(II) except as provided in subclauses (III) and (IV), in the case of an employer, person, or entity previously subject to a single order under this paragraph, to pay a civil penalty of not less than $4,000 and not more than $10,000 for each individual subjected to an unfair immigration-related employment practice;

''(III) except as provided in subclause (IV), in the case of an employer, person, or entity previously subject to more than 1 order under this paragraph, to pay a civil penalty of not less than $8,000 and not more than $25,000 for each individual subjected to an unfair immigration-related employment practice; and

''(IV) in the case of an unfair immigration-related employment practice described in paragraphs (4) through (7) of subsection (a), to pay a civil penalty of not less than $500 and not more than $2,000 for each individual subjected to an unfair immigration-related employment practice.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 1 year after the date of the enactment of this Act and apply to violations occurring on or after such date of enactment.

SEC. 2006. RULEMAKING.

(a) INTERIM FINAL REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act—

(A) the Secretary, shall issue regulations implementing sections 2001, 2002, and 2005 and the amendments made by such sections (except for section 274A(d)(7) of the Immigration and Nationality Act); and

(B) the Attorney General shall issue regulations implementing section 274A(d)(7) of the Immigration and Nationality Act, as added by section 2001 the amendments made by such section.

(2) EFFECTIVE DATE.—Regulations issued pursuant to paragraph (1) shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(b) FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations under subsection (a), the Secretary, in consultation with the Commissioner of Social Security and the Attorney General, shall publish final regulations implementing this title.

SEC. 2007. OFFICE OF THE SMALL BUSINESS AND EMPLOYEE ADVOCATE.

(a) ESTABLISHMENT OF SMALL BUSINESS AND EMPLOYEE ADVOCATE.—The Secretary shall establish and maintain within U.S. Citizenship and Immigration Services the Office of the Small Business and Employee Advocate (in this section referred to as the ''Office''). The purpose of the Office shall be to assist small businesses and individuals in complying with the requirements of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by this Act, including the resolution of conflicts arising in the course of attempted compliance with such requirements.

(b) FUNCTIONS.—The functions of the Office shall include, but not be limited to, the following:

(1) Informing small businesses and individuals about the verification practices required by section 274A of the Immigration and Nationality Act, including, but not limited to, the document verification requirements and the employment verification system requirements under subsections (c) and (d) of that section.

(2) Assisting small businesses and individuals in addressing allegedly erroneous further action notices and nonconfirmations issued under subsection (d) of section 274A of the Immigration and Nationality Act.

(3) Informing small businesses and individuals of the financial liabilities and criminal penalties that apply to violations and failures to comply with the requirements of section 274A of the Immigration and Nationality Act, including, but not limited to, by issuing best practices for compliance with that section.

(4) To the extent practicable, proposing changes to the Secretary in the administrative practices of the employment verification system required under subsection (d) of section 274A of the Immigration and Nationality Act to mitigate the problems identified under paragraph (2).

(5) Making recommendations through the Secretary to Congress for legislative action to mitigate such problems.

(c) AUTHORITY TO ISSUE ASSISTANCE ORDER.—

(1) IN GENERAL.—Upon application filed by a small business or individual with the Office (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Office may issue an assistance order if—

(A) the Office determines the small business or individual is suffering or about to suffer a significant hardship as a result of the manner in which the employment verification laws under subsections (c) and (d) of section 274A of the Immigration and Nationality Act are being administered by the Secretary; or

(B) the small business or individual meets such other requirements as are set forth in regulations prescribed by the Secretary.

(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

(A) an immediate threat of adverse action;

(B) a delay of more than 60 days in resolving employment verification system problems;

(C) the incurring by the small business or individual of significant costs if relief is not granted; or

(D) irreparable injury to, or a long-term adverse impact on, the small business or individual if relief is not granted.

(3) STANDARDS WHEN ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where a U.S. Citizenship and Immigration Services employee is not following applicable published administrative guidance, the Office shall construe the factors taken into account in determining whether to issue an assistance order under this subsection in the manner most favorable to the small business or individual.

(4) TERMS OF ASSISTANCE ORDER.—The terms of an assistance order under this subsection may require the Secretary within a specified time period—

(A) to determine whether any employee is or is not authorized to work in the United States; or

(B) to abate any penalty under section 274A of the Immigration and Nationality Act that the Office determines is arbitrary, capricious, or disproportionate to the underlying offense.

(5) AUTHORITY TO MODIFY OR RESCIND.—Any assistance order issued by the Office under this subsection may be modified or rescinded—

(A) only by the Office, the Director or Deputy Director of U.S. Citizenship and Immigration Services, or the Secretary or the Secretary's designee; and

(B) if rescinded by the Director or Deputy Director of U.S. Citizenship and Immigration Services, only if a written explanation of the reasons of such official for the modification or rescission is provided to the Office.

(6) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to an action described in paragraph (4)(A) shall be suspended for—

(A) the period beginning on the date of the small business or individual's application under paragraph (1) and ending on the date of the Office's decision with respect to such application; and

(B) any period specified by the Office in an assistance order issued under this subsection pursuant to such application.

(7) INDEPENDENT ACTION OF OFFICE.—Nothing in this subsection shall prevent the Office from taking any action in the absence of an application under paragraph (1).

(d) ACCESSIBILITY TO THE PUBLIC.—

(1) IN PERSON, ONLINE, AND TELEPHONE ASSISTANCE.—The Office shall provide information and assistance specified in subsection (b) in person at locations designated by the Secretary, online through an Internet website of the Department available to the public, and by telephone.

(2) AVAILABILITY TO ALL EMPLOYERS.—In making information and assistance available, the Office shall prioritize the needs of small businesses and individuals. However, the information and assistance available through the Office shall be available to any employer.

(e) AVOIDING DUPLICATION THROUGH COORDINATION.—In the discharge of the functions of the Office, the Secretary shall consult with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration in order to avoid duplication of efforts across the Federal Government.

(f) DEFINITIONS.—In this section:

(1) EMPLOYER.—The term ''employer'' has the meaning given that term in section 274A(b) of the Immigration and Nationality Act.

(2) SMALL BUSINESS.—The term ''small business'' means an employer with 49 or fewer employees.

(g) FUNDING.—Of amounts in the Border Security Enforcement Fund under section 1301, there shall be available such sums as may be necessary to carry out the functions of the Office.

SA 1983. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON INADMISSIBILITY OR DEPORTATION OF ALIENS WHO COMPLY WITH STATE LAW.

(a) PROHIBITION ON INADMISSIBILITY.—Section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(II)) is amended by inserting ''other than an act involving marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the act occurs'' after ''802)),''.

(b) PROHIBITION ON DEPORTATION.—Section 237(a)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(B)(i)) is amended by striking ''marijuana,'' and inserting ''marijuana or an offense involving marijuana that is permitted under the laws of a State or the law of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), that has jurisdiction over the Indian country, as defined in section 1151 of title 18, United States Code, in which the offense occurs''.

SA 1984. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FEDERAL PELL GRANT ELIGIBILITY FOR DREAMER STUDENTS.

Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (a)(5), by inserting '', or be a Dreamer student, as defined in subsection (u)'' after ''becoming a citizen or permanent resident''; and

(2) by adding at the end the following:

''(u) DREAMER STUDENTS.—

''(1) IN GENERAL.—In this section, the term 'Dreamer student' means an individual who—

''(A) was younger than 16 years of age on the date on which the individual initially entered the United States;

''(B) has provided a list of each secondary school that the student attended in the United States; and

''(C)(i) has earned a high school diploma, the recognized equivalent of such diploma from a secondary school, or a high school equivalency diploma in the United States or is scheduled to complete the requirements for such a diploma or equivalent before the next academic year begins;

''(ii) has acquired a degree from an institution of higher education or has completed not less than 2 years in a program for a baccalaureate degree or higher degree at an institution of higher education in the United States and has made satisfactory academic progress, as defined in subsection (c), during such time period;

''(iii) at any time was eligible for a grant of deferred action under—

''(I) the June 15, 2012, memorandum from the Secretary of Homeland Security entitled 'Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children'; or

''(II) the November 20, 2014, memorandum from the Secretary of Homeland Security entitled 'Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents'; or

''(iv) has served in the uniformed services, as defined in section 101 of title 10, United States Code, for not less than 4 years and, if discharged, received an honorable discharge.

''(2) HARDSHIP EXCEPTION.—The Secretary shall issue regulations that direct when the Department shall waive the requirement of subparagraph (A) or (B), or both, of paragraph (1) for an individual to qualify as a Dreamer student under such paragraph, if the individual—

''(A) demonstrates compelling circumstances for the inability to satisfy the requirement of such subparagraph (A) or (B), or both; and

''(B) satisfies the requirement of paragraph (1)(C).''.

SA 1985. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to

unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROTECTING CHILD TRAFFICKING VICTIMS.

(a) SHORT TITLE.—This section may be cited as the ''Child Trafficking Victims Protection Act''.

(b) UNACCOMPANIED ALIEN CHILDREN DEFINED.—In this section, the term ''unaccompanied alien children'' has the meaning given such term in section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services and independent child welfare experts, shall mandate live training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, practices, and procedures pertaining to this vulnerable population.

(d) CARE AND TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary shall ensure that all unaccompanied children who will undergo any immigration proceedings before the Department or the Executive Office for Immigration Review are duly transported and placed in the care and legal and physical custody of the Office of Refugee Resettlement not later than 72 hours after their apprehension absent narrowly defined exceptional circumstances, including a natural disaster or comparable emergency beyond the control of the Secretary or the Office of Refugee Resettlement. The Secretary shall ensure that female officers are continuously present during the transfer and transport of female detainees who are in the custody of the Department.

(e) QUALIFIED RESOURCES.—The Secretary shall provide adequately trained and qualified staff resources at each major port of entry (as defined by the U.S. Customs and Border Protection station assigned to that port having in its custody during the past 2 fiscal years an yearly average of 50 or more unaccompanied alien children), including the accommodation of child welfare professionals in accordance with subsection (f).

(f) CHILD WELFARE PROFESSIONALS.—

(1) IN GENERAL.—The Senior Advisor on Trafficking in Persons in the Office of the Assistant Secretary for the Administration for Children and Families shall ensure that qualified child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills are available at each major port of entry described in subsection (e).

(2) DUTIES.—Child welfare professionals described in paragraph (1) shall—

(A) in consultation with the Secretary and the Assistant Secretary for the Administration for Children and Families, develop guidelines for treatment of unaccompanied alien children in the custody of the Department;

(B) conduct screening on behalf of the Department of all unaccompanied alien children in accordance with section 235(a)(4) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(4));

(C) notify the Department and the Office of Refugee Resettlement of children that meet the notification and transfer requirements set forth in subsections (a) and (b) of section 235 of such Act (8 U.S.C. 1232); and

(D) interview adult relatives accompanying unaccompanied alien children; and

(E) provide an initial family relationship and trafficking assessment and recommendations regarding unaccompanied alien children's initial placements to the Office of Refugee Resettlement, which shall be conducted in accordance with the time frame set forth in subsections (a)(4) and (b)(3) of section 235 of such Act (8 U.S.C. 1232); and

(F) ensure that each unaccompanied alien child in the custody of U.S. Customs and Border Protection—

(i) receives emergency medical care when necessary;

(ii) receives emergency medical and mental health care that complies with the standards adopted pursuant to section 8(c) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15607(c)) whenever necessary, including in cases in which a child is at risk to harm himself, herself, or others;

(iii) is provided with climate appropriate clothing, shoes, basic personal hygiene and sanitary products, a pillow, linens, and sufficient blankets to rest at a comfortable temperature;

(iv) receives adequate nutrition;

(v) enjoys a safe and sanitary living environment;

(vi) has access to daily recreational programs and activities if held for a period longer than 12 hours;

(vii) has access to legal services and consular officials; and

(viii) is permitted to make supervised phone calls to family members.

(3) FINAL DETERMINATIONS.—The Office of Refugee Resettlement, in consultation with the Senior Advisor on Trafficking in Persons, in accordance with applicable policies and procedures for sponsors, shall submit final determinations on family relationships to the Secretary, who shall consider such adult relatives for community-based support alternatives to detention.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Senior Advisor on Trafficking in Persons shall submit a report to Congress that—

(A) describes the screening procedures used by the child welfare professionals to screen unaccompanied alien children;

(B) assesses the effectiveness of such screenings; and

(C) includes data on all unaccompanied alien children who were screened by child welfare professionals;

(g) IMMEDIATE NOTIFICATION.—The Secretary shall immediately notify the Office of Refugee Resettlement of an unaccompanied alien child in the custody of the Department to effectively and efficiently coordinate the child's transfer to and placement with the Office of Refugee Resettlement.

(h) NOTICE OF RIGHTS AND RIGHT TO ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Secretary shall ensure that all unaccompanied alien children, upon apprehension, are provided—

(A) an interview and screening with a child welfare professional described in subsection (f)(1); and

(B) a video orientation and oral and written notice of their rights under the Immigration and Nationality Act, including—

(i) their right to relief from removal;

(ii) their right to confer with counsel (as guaranteed under section 292 of such Act (8 U.S.C. 1362)), family, or friends while in the temporary custody of the Department; and

(iii) relevant complaint mechanisms to report any abuse or misconduct they may have experienced.

(2) LANGUAGES.—The Secretary shall ensure that—

(A) the video orientation and written notice of rights described in paragraph (1) is available in English and in the 5 most common native languages spoken by the unaccompanied children held in custody at that location during the preceding fiscal year; and

(B) the oral notice of rights is available in English and in the most common native language spoken by the unaccompanied children held in custody at that location during the preceding fiscal year.

(i) CONFIDENTIALITY.—The Secretary of Health and Human Services shall maintain the privacy and confidentiality of all information gathered in the course of providing care, custody, placement and follow-up services to unaccompanied alien children, consistent with the best interest of the unaccompanied alien child, by not disclosing such information to other government agencies or nonparental third parties unless such disclosure is—

(1) recorded in writing and placed in the child's file;

(2) in the child's best interest; and

(3)(A) authorized by the child or by an approved sponsor in accordance with section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) and the Health Insurance Portability and Accountability Act (Public Law 104–191); or

(B) provided to a duly recognized law enforcement entity to prevent imminent and serious harm to another individual.

(j) OTHER POLICIES AND PROCEDURES.—The Secretary shall adopt fundamental child protection policies and procedures—

(1) for reliable age determinations of children, developed in consultation with medical and child welfare experts, which exclude the use of fallible forensic testing of children's bone and teeth;

(2) to ensure the safe and secure repatriation and reintegration of unaccompanied alien children to their home countries through specialized programs developed in close consultation with the Secretary of State, the Office of the Refugee Resettlement, and reputable independent child welfare experts, including placement of children with their families or nongovernmental agencies to provide food, shelter, and vocational training and microfinance opportunities;

(3) to utilize all legal authorities to defer the child's removal if the child faces a risk of life-threatening harm upon return including due to the child's mental health or medical condition; and

(4) to ensure, in accordance with the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.), that unaccompanied alien children, while in detention, are—

(A) physically separated from any adult who is not an immediate family member; and

(B) separated by sight and sound from—

(i) immigration detainees and inmates with criminal convictions;

(ii) pretrial inmates facing criminal prosecution; and

(iii) inmates exhibiting violent behavior.

(k) TRANSFER OF FUNDS.—

(1) AUTHORIZATION.—The Secretary, in accordance with a written agreement between the Secretary and the Secretary of Health and Human Services, shall transfer such amounts as may be necessary to carry out the duties described in subsection (f)(2) from amounts appropriated for U.S. Customs and Border Protection to the Department of Health and Human Services.

(2) REPORT.—Not later than 15 days before any proposed transfer under paragraph (1), the Secretary of Health and Human Services, in consultation with the Secretary, shall submit a detailed expenditure plan that describes the actions proposed to be taken with amounts transferred under such paragraph to—

(A) the Committee on Appropriations of the Senate; and

(B) the Committee on Appropriations of the House of Representatives.

(l) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preempt or alter any other rights or remedies, including any causes of action, available under any Federal or State law.

SA 1986. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. KEEPING TRACK OF UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED ALIEN CHILDREN DEFINED.—In this section, the term ''unaccompanied alien children'' has the meaning given such term in section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(b) ANNUAL REPORT.—Not less frequently than once each year, the Secretary of Homeland Security shall submit to Congress a report that sets forth, for the previous year, the following:

(1) The total number of unaccompanied alien children who were screened by U. S. Customs and Border Protection.

(2) The total number of unaccompanied alien Children who demonstrated trafficking indicators.

(3) The total number of unaccompanied alien children who, after demonstrating trafficking indicators, were removed to their home countries, and to which countries they were removed.

(4) The total number of unaccompanied alien children who were removed to their home countries, and to which countries they were removed.

(5) The total number of unaccompanied alien children who were referred to the Office of Refugee Resettlement of the Department of Health and Human Services.

(6) The total number of unaccompanied alien children who secured immigration relief.

SA 1987. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RELIEF FOR ORPHANS, WIDOWS, AND WIDOWERS.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR ORPHANS, SPOUSES, AND PERMANENT PARTNERS.—In applying clauses (iii) and (iv) of section 201(b)(2)(A) of the Immigration and Nationality Act, [as added by section 102(a) of this Act], to an alien whose citizen or lawful permanent resident relative died before the date of the enactment of this Act, the alien relative may file the classification petition under section 204(a)(1)(A)(ii) of such Act, [as amended by section 102(c)(4)(A)(i)(II) of this Act], not later than 2 years after the date of the enactment of this Act.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act based solely upon the alien's lack of classification as an immediate relative (as defined in section 201(b)(2)(A)(iv) of the Immigration and Nationality Act,[as amended by section 102(a) of this Act]) due to the death of such citizen or resident—

(A) such alien shall be eligible for parole into the United States pursuant to the Secretary of Homeland Security's discretionary authority under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(3) ELIGIBILITY FOR PAROLE.—If an alien described in section 204(l) of the Immigration and Nationality Act (8 U.S.C. 1154(l)), was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act—

(A) such alien shall be eligible for parole into the United States pursuant to the Secretary of Homeland Security's discretionary authority under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(b) PROCESSING OF IMMIGRANT VISAS AND DERIVATIVE PETITIONS.—

(1) IN GENERAL.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended—

(A) by striking ''After an investigation'' and inserting the following:

''(1) IN GENERAL.—After an investigation''; and

(B) by adding at the end the following:

''(2) DEATH OF QUALIFYING RELATIVE.—

''(A) IN GENERAL.—Any alien described in subparagraph (B) whose qualifying relative died before the completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred. An immigrant visa issued before the death of the qualifying relative shall remain valid after such death.

''(B) ALIEN DESCRIBED.—An alien described in this subparagraph is an alien who—

''(i) is an immediate relative (as described in section 201(b)(2)(A));

''(ii) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

''(iv) is the spouse, permanent partner, or child of a refugee (as described in section 207(c)(2)) or an asylee (as described in section 208(b)(3)).''.

(2) TRANSITION PERIOD.—

(A) IN GENERAL.—Notwithstanding a denial or revocation of an application for an immigrant visa for an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee.

(B) INAPPLICABILITY OF BARS TO ENTRY.—Notwithstanding section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)), an alien's application for an immigrant visa shall be considered if the alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act.

(c) NATURALIZATION.—Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended—

(1) by inserting ''or permanent partner'' after ''spouse'' each place such term appears;

(2) by inserting ''(or, if the spouse is deceased, the spouse was a citizen of the United States)'' after ''citizen of the United States''; and

(3) by inserting ''or permanent partnership'' after ''marital union''.

(d) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesignating the second subsection (t) as subsection (u); and

(2) by adding at the end the following:

''(v) CONTINUED WAIVER ELIGIBILITY FOR WIDOWS, WIDOWERS, AND ORPHANS.—In the case of an alien who would have been statutorily eligible for any waiver of inadmissibility under this Act but for the death of a qualifying relative, the eligibility of such alien shall be preserved as if the death had not occurred and the death of the qualifying relative shall be the functional equivalent of hardship for purposes of any waiver of inadmissibility which requires a showing of hardship.''.

(e) SURVIVING RELATIVE CONSIDERATION FOR CERTAIN PETITIONS AND APPLICATIONS.—Section 204(l)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(l)(1)) is amended—

(1) by striking ''who resided in the United States at the time of the death of the qualifying relative and who continues to reside in the United States''; and

(2) by striking ''any related applications,'' and inserting ''any related applications (including affidavits of support),''.

(f) IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking ''within 2 years after such date''.

(g) FAMILY-SPONSORED IMMIGRANTS.—Section 212(a)(4)(C)(i) is amended—

(1) in subclause (I), by striking '', or'' and inserting a semicolon;

(2) in subclause (II), by striking ''or'' at the end; and

(3) by adding at the end the following:

''(IV) the status as a surviving relative under section 204(l); or''.

SA 1988. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. V NONIMMIGRANT VISAS.

(a) NONIMMIGRANT ELIGIBILITY.—Subparagraph (V) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended to read as follows:

''(V)(i) subject to section 214(q)(1) and section 212(a)(4), an alien who is the beneficiary of an approved petition under section 203(a) as—

''(I) the unmarried son or unmarried daughter of a citizen of the United States;

''(II) the unmarried son or unmarried daughter of an alien lawfully admitted for permanent residence; or

''(III) the married son or married daughter of a citizen of the United States and who is 31 years of age or younger; or

''(ii) subject to section 214(q)(2), an alien who is—

''(I) the sibling of a citizen of the United States; or

''(II) the married son or married daughter of a citizen of the United States and who is older than 31 years of age;''.

(b) EMPLOYMENT AND PERIOD OF ADMISSION OF NONIMMIGRANTS DESCRIBED IN SECTION 101(A)(15)(V).—Section 214(q) of such Act (8 U.S.C. 1184(q)) is amended to read as follows:

''(q) NONIMMIGRANTS DESCRIBED IN SECTION 101(A)(15)(V).—

''(1) CERTAIN SONS AND DAUGHTERS.—

''(A) EMPLOYMENT AUTHORIZATION.—The Secretary shall—

''(i) authorize a nonimmigrant admitted pursuant to section 101(a)(15)(V)(i) to engage in employment in the United States during the period of such nonimmigrant's authorized admission; and

''(ii) provide such a nonimmigrant with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment.

''(B) TERMINATION OF ADMISSION.—The period of authorized admission for such a nonimmigrant shall terminate 30 days after the date on which—

''(i) such nonimmigrant's application for an immigrant visa pursuant to the approval of a petition under subsection (a) or (c) of section 203 is denied; or

''(ii) such nonimmigrant's application for adjustment of status under section 245 pursuant to the approval of such a petition is denied.

''(2) SIBLINGS AND SONS AND DAUGHTERS OF CITIZENS.—

''(A) EMPLOYMENT AUTHORIZATION.—The Secretary may not authorize a nonimmigrant admitted pursuant to section 101(a)(15)(V)(ii) to engage in employment in the United States.

''(B) PERIOD OF ADMISSION.—The period of authorized admission as such a nonimmigrant may not exceed 60 days per fiscal year.

''(C) TREATMENT OF PERIOD OF ADMISSION.—An alien admitted under section 101(a)(15)(V) may not receive an allocation of points pursuant to section 203(c) for residence in the United States while admitted as such a nonimmigrant.''.

(c) PUBLIC BENEFITS.—A noncitizen who is lawfully present in the United States pursuant to section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is not eligible for any means-tested public benefits (as such term is defined and implemented in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)). A noncitizen admitted under this section—

(1) is not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 for his or her coverage;

(2) shall be subject to the rules applicable to individuals not lawfully present that are set forth in subsection (e) of such section;

(3) shall be subject to the rules applicable to individuals not lawfully present that are set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071(e)); and

(4) shall be subject to the rules applicable to individuals not lawfully present set forth in section 5000A(d)(3) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SA 1989. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMIGRATION JUDGES.

(a) SHORT TITLE.—The section may be cited as the ''Immigration Court Improvement Act of 2018''.

(b) FINDING; SENSE OF CONGRESS.—

(1) FINDING.—Congress finds that the United States tradition as a nation of laws and a nation of immigrants is best served by effective, fair, and impartial immigration judges, who have decisional independence and are free from political influence.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) immigration judges should be fair and impartial and have decisional independence that is free from political pressure or influence; and

(B) in order to promote even-handed, nonbiased, decision making that is representative of the public at large, immigration judges should be selected from a broad pool of candidates with a variety of legal experience, such as law professors, private practitioners, representatives of pro bono service and other nongovernmental organizations, military officers, and government employees.

(c) PROFESSIONAL TREATMENT OF IMMIGRATION JUDGES.—

(1) DEFINED TERM.—Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended to read as follows:

''(4)(A) The term 'immigration judge' means an attorney who—

''(i) has been appointed by the Attorney General to serve as a United States immigration judge;

''(ii) is qualified to conduct proceedings under this Act, including removal proceedings under section 240.

''(B) An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe as long as such supervision does not interfere with the immigration judge's exercise of independent decision making authority over cases in which he or she presides.

''(C) An immigration judge shall be an attorney at the time of his or her appointment by the Attorney General and shall maintain good standing or appropriate judicial status (as defined solely by the licensing jurisdiction) with the bar of the highest court of any State.

''(D) The service of an immigration judge is deemed to be judicial in nature. Actions taken by an immigration judge while serving in a judicial capacity shall be reviewed under the applicable Code of Judicial Conduct. Immigration judges shall not be subject to any code of attorney behavior for conduct or actions taken while performing duties as an immigration judge.

''(E) An immigration judge may not be disciplined for any good faith legal decisions made in the course of hearing and deciding cases. Criticism of an immigration judge, in a decision of any appellate court may not be considered or construed as a finding of misconduct.''.

(2) PERFORMANCE APPRAISALS.—Any system of completion goals or other efficiency standards imposed on immigration judges (as defined in section 101(b)(4) of the Immigration and Nationality Act)—

(A) may be used solely as management tools for obtaining or allocating resources; and

(B) may not be used—

(i) to limit the independent authority of immigration judges to fulfill their duties; or

(ii) as a reflection of individual judicial performance.

(3) JUDICIAL COMPLAINT PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a transparent judicial complaint process that is consistent with the Guidelines for the Evaluation of Judicial Performance developed by the American Bar Association and the judicial performance evaluation principles developed by the Institute for the Advancement of the American Legal System.

(4) ANNUAL LEAVE.—Every immigration judge shall be presumed to have 15 years of Federal civilian service for the purpose of the accrual of annual leave.

(5) CONTINUING LEGAL EDUCATION.—

(A) IN GENERAL.—In addition to the training required under section 603(c) of the International Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), the Attorney General shall provide immigration judges with—

(i) meaningful, ongoing training, including annual, in-person training, to maintain current knowledge of immigration cases, changes in the law and effective docketing practices; and

(ii) time away from the bench to assimilate the knowledge gained through such training.

(B) SERVICE TO THE LEGAL PROFESSION.—Immigration judges have an ethical duty to participate in continuing legal education, including teaching of law at institutions of higher learning and other activities to educate the public and to improve the legal profession. The Attorney General may not prevent or interfere with the participation of an immigration judge in any such bona fide activities if—

(i) undertaken in conjunction with an established university, law school, bar association, or legal organization; and

(ii) the immigration judge clearly indicates that such participation is in his or her personal capacity and does not reflect any official positions or policies.

(6) CONTEMPT AUTHORITY.—

(A) RULEMAKING.—

(i) INTERIM REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall promulgate interim regulations governing the exercise of the authority given to immigration judges under section 240(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(1)) to sanction contempt of an immigration judge's exercise of authority under such Act.

(ii) FINAL REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall promulgate final regulations governing the authority described in clause (i).

(B) EFFECT OF FAILURE TO PROMULGATE REGULATIONS.—If the Attorney General fails to comply with subparagraph (A)(ii), immigration judges shall—

(i) make appropriate findings of contempt; and

(ii) submit such findings to the United States District Court for the judicial district in which the immigration judge is physically located.

SA 1990. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—FAIR DAY IN COURT FOR KIDS

SEC. _____. SHORT TITLE.

This title may be cited as the ''Fair Day in Court for Kids Act of 2018''.

SEC. _____. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.

(a) APPOINTMENT OF COUNSEL IN REMOVAL PROCEEDINGS; RIGHT TO REVIEW CERTAIN

DOCUMENTS IN REMOVAL PROCEEDINGS.—Section 240(b) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking '', at no expense to the Government,''; and

(ii) by striking the comma at the end and inserting a semicolon;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E), respectively;

(C) by inserting after subparagraph (A) the following:

''(B) the Attorney General may appoint or provide counsel, at Government expense, to aliens in immigration proceedings;

''(C) the alien, or the alien's counsel, not later than 7 days after receiving a notice to appear under section 239(a), shall receive a complete copy of the alien's immigration file (commonly known as an 'A-file') in the possession of the Department of Homeland Security (other than documents protected from disclosure under section 552(b) of title 5, United States Code);''; and

(D) in subparagraph (D), as redesignated, by striking '', and'' and inserting ''; and''; and

(2) by adding at the end the following:

''(8) FAILURE TO PROVIDE ALIEN REQUIRED DOCUMENTS.—A removal proceeding may not proceed until the alien, or the alien's counsel, if the alien is represented—

''(A) has received the documents required under paragraph (4)(C); and

''(B) has been provided at least 10 days to review and assess such documents.''.

(b) CLARIFICATION REGARDING THE AUTHORITY OF THE ATTORNEY GENERAL TO APPOINT COUNSEL TO ALIENS IN IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended to read as follows:

''SEC. 292. RIGHT TO COUNSEL.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), in any removal proceeding and in any appeal proceeding before the Attorney General from any such removal proceeding, the subject of the proceeding shall have the privilege of being represented by such counsel as may be authorized to practice in such proceeding as he or she may choose. This subsection shall not apply to screening proceedings described in section 235(b)(1)(A).

''(b) ACCESS TO COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN.—

''(1) IN GENERAL.—In any removal proceeding and in any appeal proceeding before the Attorney General from any such removal proceeding, an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act on 2002 (6 U.S.C. 279(g))) shall be represented by Government-appointed counsel, at Government expense.

''(2) LENGTH OF REPRESENTATION.—Once a child is designated as an unaccompanied alien child under paragraph (1), the child shall be represented by counsel at every stage of the proceedings from the child's initial appearance through the termination of immigration proceedings, and any ancillary matters appropriate to such proceedings even if the child attains 18 years of age or is reunified with a parent or legal guardian while the proceedings are pending.

''(3) NOTICE.—Not later than 72 hours after an unaccompanied alien child is taken into Federal custody, the alien shall be notified that he or she will be provided with legal counsel in accordance with this subsection.

''(4) WITHIN DETENTION FACILITIES.—The Secretary of Homeland Security shall ensure that unaccompanied alien children have access to counsel inside all detention, holding, and border facilities.

''(c) PRO BONO REPRESENTATION.—

''(1) IN GENERAL.—To the maximum extent practicable, the Attorney General should make every effort to utilize the services of competent counsel who agree to provide representation to such children under subsection (b) without charge.

''(2) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—The Attorney General shall develop the necessary mechanisms to identify counsel available to provide pro bono legal assistance and representation to children under subsection (b) and to recruit such counsel.

''(d) CONTRACTS; GRANTS.—The Attorney General may enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children to carry out the responsibilities under this section, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys. Nonprofit agencies may enter into subcontracts with, or award grants to, private voluntary agencies with relevant expertise in the delivery of immigration related legal services to children in order to carry out this section.

''(e) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

''(1) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings, which shall be based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

''(2) PURPOSE OF GUIDELINES.—The guidelines developed under paragraph (1) shall be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

''(f) DUTIES OF COUNSEL.—Counsel provided under this section shall—

''(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Department of Homeland Security;

''(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Department of Homeland Security;

''(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due to an adult client; and

''(4) carry out other such duties as may be proscribed by the Attorney General or the Executive Office for Immigration Review.

''(g) SAVINGS PROVISION.—Nothing in this section may be construed to supersede—

''(1) any duties, responsibilities, disciplinary, or ethical responsibilities an attorney may have to his or her client under State law;

''(2) the admission requirements under State law; or

''(3) any other State law pertaining to the admission to the practice of law in a particular jurisdiction.''.

(2) RULEMAKING.—The Attorney General shall promulgate regulations to implement section 292 of the Immigration and Nationality Act, as added by paragraph (1), in accordance with the requirements set forth in section 3006A of title 18, United States Code.

SEC. _____. ACCESS BY COUNSEL AND LEGAL ORIENTATION AT DETENTION FACILITIES.

The Secretary of Homeland Security shall provide access to counsel for all aliens detained in a facility under the supervision of U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or the Department of Health and Human Services, or in any private facility that contracts with the Federal Government to house, detain, or hold aliens.

SEC. _____. REPORT ON ACCESS TO COUNSEL.

(a) REPORT.—Not later than December 31 of each year, the Secretary of Homeland Security, in consultation with the Attorney General, shall prepare and submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the extent to which aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, have been provided access to counsel.

(b) CONTENTS.—Each report submitted under paragraph (a) shall include, for the immediately preceding 1-year period—

(1) the number and percentage of aliens described in section 292(b) of the Immigration and Nationality Act, as added by this title, who were represented by counsel, including information specifying—

(A) the stage of the legal process at which each such alien was represented;

(B) whether the alien was in government custody; and

(C) the nationality and ages of such aliens; and

(2) the number and percentage of aliens who received legal orientation presentations, including the nationality and ages of such aliens.

SEC. _____. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Executive Office of Immigration Review of the Department of Justice such sums as may be necessary to carry out this title.

SA 1991. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENSE OF CONGRESS THAT FAMILY UNITY SHOULD CONTINUE TO BE A GUIDING PRINCIPLE OF UNITED STATES IMMIGRATION SYSTEM.

(a) FINDINGS.—Congress makes the following findings:

(1) The family is the bedrock of society in the United States.

(2) From time immemorial, families have served as a source of emotional support and economic security.

(3) Courageous people living in difficult circumstances often immigrate to the United States in order to make a better life for themselves and their families.

(4) Once such immigrants succeed and establish themselves as part of their communities in the United States, they want to help the families they left behind, and want their families to join them and provide succor and support.

(5) Families have proven to be a key factor in the successful integration of immigrant families into life in the United States.

(6) The Immigration and Nationality Act of 1965 recognized that families should not be kept apart based on the places close relatives were born.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) family unity should continue to be a guiding principle of the legal immigration system of the United States; and

(2) elimination or reduction of the number of family-based visas or family-based Green Cards would have a negative effect on the United States as a whole.

SA 1992. Ms. HIRONO submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION OF PHYSICAL BARRIERS ON CERTAIN FEDERAL LAND TO PROTECT WILDLIFE.

Notwithstanding any other provision of law, no wall or other physical barrier may be constructed on the international border between the United States and Mexico in or on—

(1) a unit of the National Park System;

(2) a national monument;

(3) a unit of the National Wildlife Refuge System; or

(4) National Forest System land.

SA 1993. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—PROTECTING DATA AT THE BORDER

SEC. __01. SHORT TITLE.

This title may be cited as the ''Protecting Data at the Border Act''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) United States persons have a reasonable expectation of privacy in the digital contents of their electronic equipment, the digital contents of their online accounts, and the nature of their online presence.

(2) The Supreme Court of the United States recognized in Riley v. California, 134 S. Ct. 2473 (2014) the extraordinary privacy interests in electronic equipment like cell phones.

(3) The privacy interest of United States persons in the digital contents of their electronic equipment, the digital contents of their online accounts, and the nature of their online presence differs in both degree and kind from their privacy interest in closed containers.

(4) Accessing the digital contents of electronic equipment, accessing the digital contents of an online account, or obtaining information regarding the nature of the online presence of a United States person entering or exiting the United States, without a lawful warrant based on probable cause, is unreasonable under the Fourth Amendment to the Constitution of the United States.

SEC. __03. SCOPE.

Nothing in this title shall be construed to—

(1) prohibit a Governmental entity from conducting an inspection of the external physical components of the electronic equipment to determine the presence or absence of weapons or contraband without a warrant, including activating or attempting to activate an object that appears to be electronic equipment to verify that the object is electronic equipment; or

(2) limit the authority of a Governmental entity under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. __04. DEFINITIONS.

As used in this title—

(1) the term ''access credential'' includes a username, password, PIN number, fingerprint, or biometric indicator;

(2) the term ''border'' means the international border of the United States and the functional equivalent of such border;

(3) the term ''digital contents'' means any signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by electronic equipment, or stored in electronic equipment or an online account;

(4) the term ''electronic communication service'' has the meaning given that term in section 2510 of title 18, United States Code;

(5) the term ''electronic equipment'' has the meaning given the term ''computer'' in section 1030(e) of title 18, United States Code;

(6) the term ''Governmental entity'' means a department or agency of the United States (including any officer, employee, or contractor or other agent thereof);

(7) the term ''online account'' means an online account with an electronic communication service or remote computing service;

(8) the term ''online account information'' means the screen name or other identifier or information that would allow a Governmental entity to identify the online presence of an individual;

(9) the term ''remote computing service'' has the meaning given that term in section 2711 of title 18, United States Code; and

(10) the term ''United States person'' means an individual who is a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. __05. PROCEDURES FOR LAWFUL ACCESS TO DIGITAL DATA AT THE BORDER.

(a) STANDARD.—Subject to subsection (b), a Governmental entity may not—

(1) access the digital contents of any electronic equipment belonging to or in the possession of a United States person at the border without a valid warrant supported by probable cause issued using the procedures described in the Federal Rules of Criminal Procedure by a court of competent jurisdiction;

(2) deny entry into or exit from the United States by a United States person based on a refusal by the United States person to—

(A) disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account;

(B) provide access to the digital contents of electronic equipment or the digital contents of an online account; or

(C) provide online account information; or

(3) delay entry into or exit from the United States by a United States person for longer than the period of time, which may not exceed 4 hours, necessary to determine whether the United States person will, in a manner in accordance with subsection (c), consensually provide an access credential, access, or online account information, as described in subparagraphs (A), (B), and (C) of paragraph (2).

(b) EMERGENCY EXCEPTIONS.—

(1) EMERGENCY SITUATIONS GENERALLY.—

(A) IN GENERAL.—An investigative or law enforcement officer of a Governmental entity who is designated by the Secretary of Homeland Security for purposes of this paragraph may access the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant described in subsection (a)(1) if the investigative or law enforcement officer—

(i) reasonably determines that—

(I) an emergency situation exists that involves—

(aa) immediate danger of death or serious physical injury to any person;

(bb) conspiratorial activities threatening the national security interest of the United States; or

(cc) conspiratorial activities characteristic of organized crime;

(II) the emergency situation described in subclause (I) requires access to the digital contents of the electronic equipment before a warrant described in subsection (a)(1) authorizing such access can, with due diligence, be obtained; and

(III) there are grounds upon which a warrant described in subsection (a)(1) could be issued authorizing such access; and

(ii) makes an application in accordance with this section for a warrant described in subsection (a)(1) as soon as practicable, but not later than 7 days after the investigative or law enforcement officer accesses the digital contents under the authority under this subparagraph.

(B) WARRANT NOT OBTAINED.—If an application for a warrant described in subparagraph (A)(ii) is denied, or in any other case in which an investigative or law enforcement officer accesses the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant under the emergency authority under subparagraph (A) and a warrant authorizing the access is not obtained—

(i) any copy of the digital contents in the custody or control of a Governmental entity shall immediately be destroyed;

(ii) the digital contents, and any information derived from the digital contents, may not be disclosed to any Governmental entity or a State or local government; and

(iii) the Governmental entity employing the investigative or law enforcement officer that accessed the digital contents shall notify the United States person that any copy of the digital contents has been destroyed.

(2) PROTECTION OF PUBLIC SAFETY AND HEALTH.—A Governmental entity may access the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant described in subsection (a)(1) if the access is—

(A) necessary for the provision of fire, medical, public safety, or other emergency services; and

(B) unrelated to the investigation of a possible crime or other violation of the law.

(c) INFORMED CONSENT IN WRITING.—

(1) NOTICE.—

(A) IN GENERAL.—A Governmental entity shall provide the notice described in subparagraph (B) before requesting that a United States person at the border—

(i) provide consent to access the digital contents of any electronic equipment belonging to or in the possession of or the digital contents of an online account of the United States person;

(ii) disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account of the United States person;

(iii) provide access to the digital contents of electronic equipment or the digital contents of an online account of the United States person; or

(iv) provide online account information of the United States person.

(B) CONTENTS.—The notice described in this subparagraph is written notice in a language understood by the United States person that the Governmental entity—

(i) may not—

(I) compel access to the digital contents of electronic equipment belonging to or in the possession of, the digital contents of an online account of, or the online account information of a United States person without a valid warrant;

(II) deny entry into or exit from the United States by the United States person based on a refusal by the United States person to—

(aa) disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account;

(bb) provide access to the digital contents of electronic equipment or the digital contents of an online account; or

(cc) provide online account information; or

(III) delay entry into or exit from the United States by the United States person for longer than the period of time, which may not exceed 4 hours, necessary to determine whether the United States person will consensually provide an access credential, access, or online account information, as described in items (aa), (bb), and (cc) of subclause (II); and

(ii) if the Governmental entity has probable cause that the electronic equipment contains information that is relevant to an allegation that the United States person has committed a felony, may seize electronic equipment belonging to or in the possession of the United States person for a period of time if the United States person refuses to consensually provide access to the digital contents of the electronic equipment.

(2) CONSENT.—

(A) IN GENERAL.—A Governmental entity shall obtain written consent described in subparagraph (B) before—

(i) accessing, pursuant to the consent of a United States person at the border the digital contents of electronic equipment belonging to or in the possession of or the digital contents of an online account of the United States person;

(ii) obtaining, pursuant to the consent of a United States person at the border, an access credential of the United States person that would enable access to the digital contents of electronic equipment or the digital contents of an online account; or

(iii) obtaining, pursuant to the consent of a United States person at the border, online account information for an online account of the United States person.

(B) CONTENTS OF WRITTEN CONSENT.—Written consent described in this subparagraph is written consent that—

(i) indicates the United States person understands the protections and limitations described in paragraph (1)(B);

(ii) states the United States person is—

(I) providing consent to the Governmental entity to access certain digital contents or consensually disclosing an access credential; or

(II) consensually providing online account information; and

(iii) specifies the digital contents, access credential, or online account information with respect to which the United States person is providing consent.

(d) RETENTION OF DIGITAL CONTENTS.—

(1) LAWFUL ACCESS.—A Governmental entity that obtains access to the digital contents of electronic equipment, the digital contents of an online account, or online account information in accordance with this section may not make or retain a copy of the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, unless there is probable cause to believe the digital contents or online account information contains evidence of, or constitutes the fruits of, a crime.

(2) UNLAWFUL ACCESS.—If a Governmental entity obtains access to the digital contents of electronic equipment, digital contents of an online account, or online account information in a manner that is not in accordance with this section, the Governmental entity—

(A) shall immediately destroy any copy of the digital contents or online account information, and any information directly or indirectly derived from the digital contents or online account information, in the custody or control of the Governmental entity;

(B) may not disclose the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, to any other Governmental entity or a State or local government; and

(C) shall notify the United States person that any copy of the digital contents or online account information, and any information directly or indirectly derived from the digital contents or online account information, has been destroyed.

(e) RECORDKEEPING.—A Governmental entity shall keep a record of each instance in which the Governmental entity obtains access to the digital contents of electronic equipment belonging to or in the possession of an individual at the border, the digital contents of an online account of an individual who is at the border, or online account information of an individual who is at the border, which shall include—

(1) the reason for the access;

(2) the nationality, immigration status, and admission category of the individual;

(3) the nature and extent of the access;

(4) if the access was consensual, how and to what the individual consented, and what the individual provided by consent;

(5) whether electronic equipment of the individual was seized;

(6) whether the Governmental entity made a copy of all or a portion of the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information; and

(7) whether the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, was shared with another Governmental entity or a State or local government.

SEC. __06. LIMITS ON USE OF DIGITAL CONTENTS AS EVIDENCE.

(a) IN GENERAL.—Whenever any digital contents or online account information have been obtained in violation of this title, no part of the digital contents or online account information and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding (including any proceeding relating to the immigration laws, as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))) in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof.

(b) APPLICATION.—To the maximum extent practicable, the limitations under subsection (a) shall be applied in the same manner as the limitations under section 2515 of title 18, United States Code.

SEC. __07. LIMITS ON SEIZURE OF ELECTRONIC EQUIPMENT.

A Governmental entity may not seize any electronic equipment belonging to or in the possession of a United States person at the border unless there is probable cause to believe that the electronic equipment contains information that is relevant to an allegation that the United States person has committed a felony.

SEC. __08. AUDIT AND REPORTING REQUIREMENTS.

In March of each year, the Secretary of Homeland Security shall submit to Congress and make publicly available on the Web site of the Department of Homeland Security a report that includes the following:

(1) The number of times during the previous year that an officer or employee of the Department of Homeland Security did each of the following:

(A) Accessed the digital contents of any electronic equipment belonging to or in the possession of or the digital contents of an online account of a United States person at the border pursuant to a warrant supported by probable cause issued using the procedures described in the Federal Rules of Criminal Procedure by a court of competent jurisdiction.

(B) Accessed the digital contents of any electronic equipment belonging to or in the possession of a United States person at the border pursuant to the emergency authority under section __05(b).

(C) Requested consent to access the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of a United States person at the border.

(D) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of a United States person at the border pursuant to written consent provided in accordance with section __05(c).

(E) Requested a United States person at the border consensually disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account of the United States person.

(F) Accessed the digital contents of electronic equipment or the digital contents of an online account of a United States person at the border using an access credential pursuant to written consent provided in accordance with section __05(c).

(G) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of a United States person at the border in a manner that was not in accordance with section __05.

(H) Accessed the digital contents of any electronic equipment belonging to or in the possession of, the digital contents of an online account of, or online account information of an individual who is not a United States person at the border.

(I) Accessed the digital contents of any electronic equipment belonging to or in the possession of an individual at the border, the digital contents of an online account of an individual at the border, or online account information of an individual at the border (regardless of whether the individual is a United States person) at the request of a Governmental entity (including another component of the Department of Homeland Security) that is not the Governmental entity employing the individual accessing the digital contents or online account information.

(2) Aggregate data on—

(A) the number of United States persons for which a Governmental entity obtains access to—

(i) the digital contents of electronic equipment belonging to or in the possession of the United States person at the border;

(ii) the digital contents of an online account of the United States person while at the border; or

(iii) online account information of the United States person while at the border;

(B) the country from which United States persons departed most recently before arriving in the United States for the United States persons for which a Governmental entity obtains access to—

(i) the digital contents of electronic equipment belonging to or in the possession of the United States person at the border;

(ii) the digital contents of an online account of the United States person while at the border; or

(iii) online account information of the United States person while at the border;

(C) the number and nationality of individuals who are not United States persons for which a Governmental entity obtains access to—

(i) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border;

(ii) the digital contents of an online account of the individuals while at the border; or

(iii) online account information of the individuals while at the border; and

(D) the country from which individuals who are not United States persons departed most recently before arriving in the United States for the individuals for which a Governmental entity obtains access to—

(i) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border;

(ii) the digital contents of an online account of the individuals while at the border; or

(iii) online account information of the individuals while at the border.

(3) Aggregate data regarding the perceived race and ethnicity of individuals for whom a Governmental entity obtains access to—

(A) the digital contents of electronic equipment belonging to or in the possession of the individuals at the border;

(B) the digital contents of an online account of the individuals while at the border; or

(C) online account information of the individuals while at the border.

SA 1994. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON THE USE OF CELL SITE SIMULATORS.

Notwithstanding section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) or any other provision of law, an officer or employee of U.S. Immigration and Customs Enforcement may not use a cell site simulator—

(1) to locate an individual whose only suspected criminal offense is an offense under section 275 or 276 of the Immigration and Nationality Act (8 U.S.C. 1325, 1326); or

(2) to locate an individual in order to remove or deport the individual from the United States.

SA 1995. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. U.S. CUSTOMS AND BORDER PROTECTION HIRING AND RETENTION.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Customs and Border Protection Hiring and Retention Act of 2018'' or the ''CBP HiRe Act''.

(b) FLEXIBILITY IN EMPLOYMENT AUTHORITIES.—

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

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

''(a) DEFINITIONS.—In this section—

''(1) the term 'CBP employee' means an employee of U.S. Customs and Border Protection;

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

''(3) the term 'Director' means the Director of the Office of Personnel Management;

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

''(5) the term 'Secretary' means the Secretary of Homeland Security.

''(b) DEMONSTRATION OF RECRUITMENT AND RETENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

''(1) IN GENERAL.—For purposes of subsections (c) and (d), the Secretary shall determine, for a rural or remote area, whether there is—

''(A) a critical hiring need in the area; and

''(B) a direct relationship between—

''(i) the rural or remote nature of the area; and

''(ii) difficulty in the recruitment and retention of CBP employees in the area.

''(2) FACTORS.—To inform the determination of a direct relationship under paragraph (1)(B), the Secretary may consider evidence—

''(A) that the Secretary—

''(i) is unable to efficiently and effectively recruit individuals for positions as CBP employees, which may be demonstrated with various types of evidence, including—

''(I) evidence that multiple positions have been continuously vacant for significantly longer than the national average period for which similar positions in U.S. Customs and Border Protection are vacant; or

''(II) recruitment studies that demonstrate the inability of the Secretary to efficiently and effectively recruit CBP employees for positions in the area; or

''(ii) experiences a consistent inability to retain CBP employees that negatively impacts agency operations at a local or regional level; or

''(B) of any other inability, directly related to recruitment or retention difficulties, that the Secretary determines sufficient.

''(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

''(1) DIRECT HIRE AUTHORITY.—

''(A) IN GENERAL.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees, in a rural or remote area, if the Secretary—

''(i) determines that—

''(I) there is a critical hiring need; and

''(II) there exists a severe shortage of qualified candidates because of the direct relationship identified by the Secretary under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(ii) has given public notice for the positions.

''(B) PRIORITIZATION OF HIRING VETERANS.—If the Secretary uses the direct hiring authority under subparagraph (A), the Secretary shall apply the principles of preference for the hiring of veterans established under subchapter I of chapter 33.

''(2) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a bonus to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

''(A) the Secretary determines that—

''(i) conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to any other provision of that section); and

''(ii) the position to which the individual is appointed or to which the individual moves or must relocate—

''(I) is a position as a CBP employee; and

''(II) is in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(aa) the rural or remote nature of the area; and

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

''(A) the Secretary determines that—

''(i) a condition consistent with the condition described in subsection (b)(1) of such section 5754 is satisfied with respect to the CBP employee (without regard to any other provision of that section);

''(ii) the CBP employee is employed in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

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

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

''(iii) in the absence of a retention bonus, the CBP employee would be likely to leave—

''(I) the Federal service; or

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

''(B) the individual enters into a written service agreement with the Secretary—

''(i) under which the individual is required to complete a period of employment as a CBP employee of not less than 2 years; and

''(ii) that includes—

''(I) the commencement and termination dates of the required service period (or provisions for the determination thereof);

''(II) the amount of the bonus; and

''(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—

''(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

''(4) RULES FOR BONUSES.—

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

''(i) paragraph (2) may not exceed 100 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period; and

''(ii) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of the employee as of the commencement date of the applicable service period.

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

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

''(A) set aside a determination of the Secretary under this subsection if the Director finds substantial evidence that the Secretary abused the discretion of the Secretary in making the determination; and

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

''(d) SPECIAL PAY AUTHORITY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section if the Director finds that the recruitment or retention efforts of the Secretary with respect to positions for CBP employees in 1 or more areas or locations are, or are likely to become, significantly handicapped because the positions are located in a rural or remote area for which the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section between—

''(1) the rural or remote nature of the area; and

''(2) difficulty in the recruitment and retention of CBP employees in the area.

''(e) REGULAR CBP REVIEW.—

''(1) ENSURING FLEXIBILITIES MEET CBP NEEDS.—Each year, the Secretary shall review the use of hiring flexibilities under subsections (c) and (d) to fill positions at a location in a rural or remote area to determine—

''(A) the impact of the use of those flexibilities on solving hiring and retention challenges at the location;

''(B) whether hiring and retention challenges still exist at the location; and

''(C) whether the Secretary needs to continue to use those flexibilities at the location.

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

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

''(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

''(3) DISTRIBUTION.—The Secretary shall submit to Congress a report on each review required under paragraph (1).

''(f) IMPROVING CBP HIRING AND RETENTION.—

''(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of enactment of the U.S. Customs and Border Protection Hiring and Retention Act of 2018, and in conjunction with the Chief Human Capital Officer of the Department of Homeland Security, the Secretary shall develop and implement a strategy to improve education regarding hiring and human resources flexibilities (including hiring and human resources flexibilities for locations in rural or remote areas) for all employees, serving in agency headquarters or field offices, who are involved in the recruitment, hiring, assessment, or selection of candidates for locations in a rural or remote area, as well as the retention of current employees.

''(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:

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

''(B) Regular training sessions for personnel who are critical to filling open positions in rural or remote areas.

''(C) The development of pilot programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

''(D) Developing and enhancing strategic recruiting efforts through relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

''(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area.

''(F) Feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families.

''(G) Feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families.

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

''(3) EVALUATION.—

''(A) IN GENERAL.—Each year, the Secretary shall —

''(i) evaluate the extent to which the strategy developed and implemented under paragraph (1) has improved the hiring and retention ability of the Secretary; and

''(ii) make any appropriate updates to the strategy under paragraph (1).

''(B) INFORMATION.—The evaluation conducted under subparagraph (A) shall include—

''(i) any reduction in the time taken by the Secretary to fill mission-critical positions in rural or remote areas;

''(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges in rural or remote areas; and

''(iii) other information the Secretary determines relevant.

''(g) INSPECTOR GENERAL REVIEW.—Not later than 2 years after the date of enactment of the U.S. Customs and Border Protection Hiring and Retention Act of 2018, the Inspector General of the Department of Homeland Security shall review the use of hiring flexibilities by the Secretary under subsections (c) and (d) to determine whether the use of those flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

''(h) REPORT ON POLYGRAPH REQUESTS.—The Secretary shall report to Congress on the number of requests the Secretary receives from any other Federal agency for the file of an applicant for a position in U.S. Customs and Border Patrol that includes the results of a polygraph examination.

''(i) EXERCISE OF AUTHORITY.—

''(1) SOLE DISCRETION.—The exercise of authority under subsection (c) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71.

''(2) DELEGATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may delegate any authority under this section to the Commissioner.

''(B) OVERSIGHT.—The Commissioner may not make a determination under subsection (b)(1) unless the Secretary approves the determination.

''(j) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

''(k) SUNSET.—The authorities under subsections (c) and (d) shall terminate on the date that is 5 years after the date of enactment of the U.S. Customs and Border Protection Hiring and Retention Act of 2018.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

''9702. U.S. Customs and Border Protection employment authorities.''.

SA 1996. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. OPERATION STONEGARDEN.

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

''SEC. 2009. OPERATION STONEGARDEN.

''(a) ESTABLISHMENT.—There is established in the Department a program, which shall be known as 'Operation Stonegarden', under which the Secretary, acting through the Administrator, shall award grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

''(b) ELIGIBLE RECIPIENTS.—To be eligible to receive a grant under this section, a law enforcement agency shall be located in—

''(1) a State bordering Canada or Mexico;

''(2) a State or territory with a maritime border; or

''(3) Indian country (as defined in section 1151 of title 18, United States Code) that is located all or in part of a State bordering Canada or Mexico.

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

''(1) equipment, including maintenance and sustainment costs;

''(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

''(3) any activity permitted for Operation Stonegarden under the Department of Homeland Security's most recent Homeland Security Grant Program Notice of Funding Opportunity; and

''(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

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

''(e) REPORT.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives containing information on the expenditure of grants made under this section by each grant recipient.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $110,000,000, for each of the fiscal years 2019 through 2023, for grants under this section. There is hereby appropriated $110,000,000 for fiscal year 2019 for grants under this section.''.

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

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

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 2008 the following:

''Sec. 2009. Operation Stonegarden.''.

SA 1997. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NORTHERN BORDER THREAT ANALYSIS AND STRATEGY.

The Northern Border Security Review Act (Public Law 114–267) is amended—

(1) in section 3(a)—

(A) in the matter preceding paragraph (1), by inserting ''and not later than 3 years thereafter,'' after ''this Act,'';

(B) in paragraph (3), by striking ''and'' at the end;

(C) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(5) any additional factors that the Secretary determines to be relevant to the development of the Northern Border threat analysis; and

''(6) a determination of whether a new Northern Border strategy is needed to meet the threats identified by the Northern Border threat analysis.''; and

(2) by adding at the end the following:

''SEC. 4. NORTHERN BORDER STRATEGY.

''(a) IN GENERAL.—If the Secretary of Homeland Security determines under section 3(a)(6) that a new Northern Border strategy is needed to meet the threats identified by the threat analysis required under section 3(a), the new Northern Border strategy shall be submitted to the appropriate congressional committees not later than 180 days after the completion of the threat analysis.

''(b) STRATEGY REQUIREMENTS.—In developing a new strategy under this section, the Secretary shall consider—

''(1) the technology needs of the Department of Homeland Security;

''(2) the personnel needs of the Department of Homeland Security;

''(3) the role of State, tribal, and local law enforcement in general border security activities;

''(4) the best methods for improving partnerships between Federal, State, tribal, and local law enforcement to improve border security;

''(5) the need for cooperation among Federal, State, tribal, local, and Canadian law enforcement entities relating to border security, and how to improve such cooperation;

''(6) the infrastructure needs of the Department of Homeland Security, including the physical approaches to Department facilities; and

''(7) the terrain, population density, and climate along the Northern Border.

''SEC. 5. NORTHERN BORDER STRATEGY IMPLEMENTATION PLAN.

''(a) IN GENERAL.—If the Secretary develops a new Northern Border strategy under section 4, the Secretary shall submit a implementation plan for the strategy to the appropriate congressional committees not later than 180 days after the strategy is submitted to the appropriate congressional committees.

''(b) IMPLEMENTATION PLAN REQUIREMENTS.—In developing a new implementation plan under this section, the Secretary shall include—

''(1) the specific technology, personnel, and infrastructure needs of the Department of Homeland Security to successfully implement the strategy; and

''(2) any changes in Department policy required to successfully implement the strategy.''.

SA 1998. Ms. HEITKAMP submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON RESOURCE TRANSFERS FROM THE NORTHERN BORDER.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

(B) the Committee on Appropriations of the Senate;

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

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

(E) the Committee on Appropriations of the House of Representatives; and

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

(2) NORTHERN BORDER.—The term ''Northern Border'' means the land and maritime borders between the United States and Canada.

(b) LIMITATION.—The Secretary of Homeland Security may not reduce the levels of Department of Homeland Security personnel, resources, technological assets or funding for operations on the Northern Border below such levels in effect on the day before the date of the enactment of this Act.

(c) EMERGENCY AUTHORITY.—The Secretary may temporarily transfer personnel, resources, technological assets, or funding for operations on the Northern Border if the Secretary notifies and provides justification to the appropriate congressional committees that such a transfer is required to meet a critical emergency.

(d) DURATION OF AUTHORITY.—Any authority exercised under subsection (c) shall last for 90 days but may be extended for additional 90-day periods provided that the Secretary continues to notify the appropriate congressional committees for each additional 90-day extension and provide justification that the critical emergency continues to exist.

SA 1999. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. STATUS FOR CERTAIN BATTERED SPOUSES AND CHILDREN.

(a) NONIMMIGRANT STATUS FOR CERTAIN BATTERED SPOUSES AND CHILDREN.—

(1) IN GENERAL.—Section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), as amended by section 2305(d)(6)(B)(i)(III), is further amended—

(A) in subparagraph (E), by striking ''or'' at the end the following;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and ''or''; and

(C) by adding at the end the following:

''(G) section 106 as an abused derivative alien.''.

(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—

(1) IN GENERAL.—Section 106 of such Act (8 U.S.C. 1105a) is amended to read as follows:

''SEC. 106. RELIEF FOR ABUSED DERIVATIVE ALIENS.

''(a) ABUSED DERIVATIVE ALIEN DEFINED.—In this section, the term 'abused derivative alien' means an alien who—

''(1) is the spouse or child admitted under section 101(a)(15);

''(2) is accompanying or following to join a principal alien admitted under such a section; and

''(3) has been subjected to battery or extreme cruelty by such principal alien.

''(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—The Secretary—

''(1) shall grant or extend the status of admission of an abused derivative alien under the such section 101(a)(15) under which the principal alien was admitted for the longer of—

''(A) the same period of time for which the principal was initially admitted; or

''(B) a period of 3 years;

''(2) may renew a grant or extension of status made under paragraph (1);

''(3) shall grant employment authorization to an abused derivative alien; and

''(4) may adjust the status of the abused derivative alien to that of an alien lawfully admitted for permanent residence if—

''(A) the alien is admissible under section 212(a) or the Secretary of Homeland Security finds the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest; and

''(B) the status under which the principal alien was admitted to the United States would have potentially allowed for eventual adjustment of status.

''(c) EFFECT OF TERMINATION OF RELATIONSHIP.—Termination of the relationship with principal alien shall not affect the status of an abused derivative alien under this section if battery or extreme cruelty by the principal alien was 1 central reason for termination of the relationship.

''(d) PROCEDURES.—Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(C).''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section is amended by striking the item relating to section 106 and inserting the following:

''Sec. 106. Relief for abused derivative aliens.''.

SA 2000. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ADDITION OF ELDER ABUSE TO LIST OF PREDICATE CRIMES FOR U VISAS.

Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii)) is amended by inserting ''elder abuse;'' after ''stalking;''.

SA 2001. Ms. KLOBUCHAR (for herself and Ms. HEITKAMP) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION __—CONRAD STATE 30 AND PHYSICIAN ACCESS REAUTHORIZATION

SEC. 1. SHORT TITLE.

This division may be cited as the ''Conrad State 30 and Physician Access Reauthorization Act''.

SEC. 2. CONRAD STATE 30 PROGRAM.

(a) EXTENSION.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 8 U.S.C. 1182 note) is amended by striking ''September 30, 2015'' and inserting ''September 30, 2021''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on April 28, 2017.

SEC. 3. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.

(a) IN GENERAL.—Section 214(l)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1) is amended—

(1) in the matter preceding subparagraph (A), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (A), by striking ''Director of United States Information Agency'' and inserting ''Secretary of State'';

(3) in subparagraph (B), by inserting '', except as provided in paragraphs (7) and (8)'' before the semicolon at the end; and

(4) in subparagraph (C), by striking clauses (i) and (ii) and inserting the following:

''(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Secretary of Homeland Security to be in the public interest; and

''(ii) the alien—

''(I) has accepted employment with the health facility or health care organization in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals;

''(II) begins employment by the later of the date that is—

''(aa) 90 days after receiving such waiver;

''(bb) 90 days after completing graduate medical education or training under a program approved pursuant to section 212(j)(1); or

''(cc) 90 days after receiving nonimmigrant status or employment authorization, if the alien or the alien's employer petitions for such nonimmigrant status or employment authorization not later than 90 days after the date on which the alien completes his or her graduate medical education or training under a program approved pursuant to section 212(j)(1); and

''(III) agrees to continue to work for a total of not less than 3 years in the status authorized for such employment under this subsection unless—

''(aa) the Secretary of Homeland Security determines that extenuating circumstances, including violations by the employer of the employment agreement with the alien or of labor and employment laws, exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate, not later than 90 days after the employment termination date (unless the Secretary determines that extenuating circumstances would justify an extension), another bona fide offer of employment at a health facility or health care organization in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, for the remainder of such 3-year period;

''(bb) the interested State agency that requested the waiver attests that extenuating circumstances including violations by the employer of the employment agreement with the alien or of labor and employment laws, exist that justify a lesser period of employment at such facility or organization in which case the alien shall demonstrate, not later than 90 days after the employment termination date (unless the Secretary determines that extenuating circumstances would justify an extension), another bona fide offer of employment at a health facility or health care organization in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, for the remainder of such 3-year period; or

''(cc) if the alien elects not to pursue a determination of extenuating circumstances pursuant to item (aa) or (bb), the alien terminates the alien's employment relationship with such facility or organization, in which case the alien shall demonstrate, not later than 45 days after the employment termination date, another bona fide offer of employment at a health facility or health care organization in a geographic area or areas, in the State that requested the alien's waiver, which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, and agree to be employed for the remainder of such 3-year period, and 1 additional year for each termination under this subclause; and''.

(b) ALLOWABLE VISA STATUS FOR PHYSICIANS FULFILLING WAIVER REQUIREMENTS IN MEDICALLY UNDERSERVED AREAS.—Section 214(l)(2) of such Act (8 U.S.C. 1184(l)(2)) is amended by amending subparagraph (A) to read as follows:

''(A) Upon the request of an interested Federal agency or an interested State agency for recommendation of a waiver under this section by a physician who is maintaining valid nonimmigrant status under section 101(a)(15)(J) and a favorable recommendation by the Secretary of State, the Secretary of Homeland Security may change the status of such physician to that of an alien described in section 101(a)(15)(H)(i)(B). The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under this subparagraph.''.

(c) VIOLATION OF AGREEMENTS.—Section 214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is amended by inserting ''substantial requirement of an'' before ''agreement entered into''.

(d) PHYSICIAN EMPLOYMENT IN UNDERSERVED AREAS.—Section 214(l) of such Act (8 U.S.C. 1184(l)) is amended by adding at the end the following:

''(4)(A) If an interested State agency denies the application for a waiver under paragraph (1)(B) from a physician pursuing graduate medical education or training pursuant to section 101(a)(15)(J) because the State has requested the maximum number of waivers permitted for that fiscal year, the physician's nonimmigrant status shall be extended for up to 6 months if the physician agrees to seek a waiver under this subsection (except for paragraph (1)(D)(ii)) to work for an employer described in paragraph (1)(C) in a State that has not yet requested the maximum number of waivers.

''(B) Such physician shall be authorized to work only for the employer referred to in subparagraph (A) from the date on which a new waiver application is filed with such State until the earlier of—

''(i) the date on which the Secretary of Homeland Security denies such waiver; or

''(ii) the date on which the Secretary approves an application for change of status under paragraph (2)(A) pursuant to the approval of such waiver.''.

(e) CONTRACT REQUIREMENTS.—Section 214(l) of such Act, as amended by subsection (d), is further amended by adding at the end the following:

''(5) An alien granted a waiver under paragraph (1)(C) shall enter into an employment agreement with the contracting health facility or health care organization that—

''(A) specifies the maximum number of on-call hours per week (which may be a monthly average) that the alien will be expected to be available and the compensation the alien will receive for on-call time;

''(B) specifies—

''(i) whether the contracting facility or organization will pay the alien's malpractice insurance premiums;

''(ii) whether the employer will provide malpractice insurance; and

''(iii) the amount of such insurance that will be provided;

''(C) describes all of the work locations that the alien will work and includes a statement that the contracting facility or organization will not add additional work locations without the approval of the Federal agency or State agency that requested the waiver; and

''(D) does not include a non-compete provision.

''(6) An alien granted a waiver under this subsection whose employment relationship with a health facility or health care organization terminates under paragraph (1)(C)(ii) during the 3-year service period required under paragraph (1) shall be considered to be maintaining lawful status in an authorized period of stay during the 90-day period referred to in items (aa) and (bb) of subclause

(III) of paragraph (1)(C)(ii) or the 45-day period referred to in subclause (III)(cc) of such paragraph.''.

(f) RECAPTURING WAIVER SLOTS LOST TO OTHER STATES.—Section 214(l) of such Act, as amended by subsections (d) and (e), is further amended by adding at the end the following:

''(7) If a recipient of a waiver under this subsection terminates the recipient's employment with a health facility or health care organization pursuant to paragraph (1)(C)(ii), including termination of employment because of circumstances described in paragraph (1)(C)(ii)(III), and accepts new employment with such a facility or organization in a different State, the State from which the alien is departing may be accorded an additional waiver by the Secretary of State for use in the fiscal year in which the alien's employment was terminated.''.

SEC. 4. ALLOTMENT OF CONRAD 30 WAIVERS.

(a) IN GENERAL.—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)), as amended by section 3, is further amended by adding at the end the following:

''(8)(A)(i) All States shall be allotted a total of 35 waivers under paragraph (1)(B) for a fiscal year if 90 percent of the waivers available to the States receiving at least 5 waivers were used in the previous fiscal year.

''(ii) When an allotment occurs under clause (i), all States shall be allotted an additional 5 waivers under paragraph (1)(B) for each subsequent fiscal year if 90 percent of the waivers available to the States receiving at least 5 waivers were used in the previous fiscal year. If the States are allotted 45 or more waivers for a fiscal year, the States will only receive an additional increase of 5 waivers the following fiscal year if 95 percent of the waivers available to the States receiving at least 1 waiver were used in the previous fiscal year.

''(B) Any increase in allotments under subparagraph (A) shall be maintained indefinitely, unless in a fiscal year, the total number of such waivers granted is 5 percent lower than in the last year in which there was an increase in the number of waivers allotted pursuant to this paragraph, in which case—

''(i) the number of waivers allotted shall be decreased by 5 for all States beginning in the next fiscal year; and

''(ii) each additional 5 percent decrease in such waivers granted from the last year in which there was an increase in the allotment, shall result in an additional decrease of 5 waivers allotted for all States, provided that the number of waivers allotted for all States shall not drop below 30.''.

(b) ACADEMIC MEDICAL CENTERS.—Section 214(l)(1)(D) of such Act is amended—

(1) in clause (ii), by striking ''and'' at the end;

(2) in clause (iii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iv) in the case of a request by an interested State agency—

''(I) the head of such agency determines that the alien is to practice medicine in, or be on the faculty of a residency program at, an academic medical center (as that term is defined in section 411.355(e)(2) of title 42, Code of Federal Regulations, or similar successor regulation), without regard to whether such facility is located within an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

''(II) the head of such agency determines that—

''(aa) the alien physician's work is in the public interest; and

''(bb) the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B) and subject to paragraph (6)) in accordance with the conditions of this clause to exceed 3.''.

SEC. 5. AMENDMENTS TO THE PROCEDURES, DEFINITIONS, AND OTHER PROVISIONS RELATED TO PHYSICIAN IMMIGRATION.

(a) VISA ELIGIBILITY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall amend guidance in the Foreign Affairs Manual to clarify that the expression of a future intention to seek a waiver under section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) by an alien coming to the United States to receive graduate medical education or training, as described in section 212(j) of such Act (8 U.S.C. 1182(j)), or to take examinations required to receive such graduate medical education or training, shall not, by itself, constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant or otherwise obtaining or maintaining the status of a nonimmigrant.

(b) APPLICABILITY OF SECTION 212(e) TO SPOUSES AND CHILDREN OF J–1 EXCHANGE VISITORS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following

''(2) A spouse or child of an exchange visitor described in section 101(a)(15)(J) shall not be subject to the requirements under this subsection solely on account of such spouse or child's derivative nonimmigrant status to an exchange visitor who is subject to the requirements under this subsection.''.

SA 2002. Mr. MARKEY submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION OF BORDER BARRIERS ON NATIONAL PARK SYSTEM LAND.

Notwithstanding any other provision of law, no wall or other physical barrier may be constructed on the international border between the United States and Mexico in a unit of the National Park System.

SA 2003. Mr. MARKEY submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. APPROPRIATION FOR INTERDICT ACT.

There are appropriated to the Commissioner of U.S. Customs and Border Protection for fiscal year 2019 $15,000,000 to carry out the INTERDICT Act (Public Law 115–112).

SA 2004. Mrs. SHAHEEN (for herself and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PERMANENT RESIDENT STATUS FOR INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), if—

(1) the alien has been continuously physically present in the United States since the date that is 10 years before the date of the enactment of this Act;

(2) the alien is a citizen of Indonesia;

(3) the alien is a member of a religious minority in Indonesia; and

(4) the alien—

(A) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(B) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(C) has not been convicted of—

(i) any offense under Federal or State law, other than a State offense for which an essential element is the alien's immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

(ii) 3 or more offenses under Federal or State law, other than State offenses for which an essential element is the alien's immigration status, for which the alien was convicted on different dates for each of the 3 offenses and imprisoned for an aggregate of 90 days or more.

SA 2005. Mrs. SHAHEEN (for herself, Mr. LEAHY, and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ELIMINATION OF ONE-YEAR FILING DEADLINE FOR ASYLUM APPLICATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(1) in subparagraph (A), by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'' both places the term appears;

(2) by striking subparagraphs (B) and (D);

(3) by redesignating subparagraph (C) as subparagraph (B);

(4) in subparagraph (B), as redesignated, by striking ''subparagraph (D)'' and inserting ''subparagraphs (C) and (D)''; and

(5) by inserting after subparagraph (B), as redesignated, the following new subparagraphs:

''(C) CHANGED CIRCUMSTANCES.—Notwithstanding subparagraph (B), an application for asylum of an alien may be considered if the alien demonstrates, to the satisfaction of the Attorney General or the Secretary of Homeland Security, the existence of changed circumstances that materially affect the applicant's eligibility for asylum.

''(D) MOTION TO REOPEN CERTAIN MERITORIOUS CLAIMS.—Notwithstanding subparagraph (B) or section 240(c)(7), an alien may file a motion to reopen an asylum claim if the alien—

''(i) was denied asylum based solely upon a failure to meet the 1-year application filing deadline in effect on the date on which the application was filed;

''(ii) was granted withholding of removal pursuant to section 241(b)(3) and has not obtained lawful permanent residence in the United States pursuant to any other provision of law;

''(iii) is not subject to the safe third country exception under subparagraph (A) or a bar to asylum under subsection (b)(2) and should not be denied asylum as a matter of discretion; and

''(iv) is physically present in the United States when the motion is filed.''.

SA 2006. Mrs. SHAHEEN (for herself and Ms. HASSAN) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROVISIONAL PROTECTED PRESENCE FOR QUALIFIED INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

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

''SEC. 244A. PROVISIONAL PROTECTED PRESENCE FOR QUALIFIED INDONESIANS LIVING IN THE UNITED STATES FOR MORE THAN 10 YEARS.

''(a) AUTHORIZATION.—The Secretary—

''(1) shall grant provisional protected presence to an alien who files an application demonstrating that he or she meets the eligibility criteria under subsection (b) and pays the appropriate application fee; and

''(2) shall provide such alien with employment authorization.

''(b) ELIGIBILITY CRITERIA.—An alien is eligible for provisional protected presence under this section and employment authorization if—

''(1) the alien has been continuously physically present in the United States since the date that is 10 years before the date of the enactment of this section;

''(2) the alien is a citizen of Indonesia;

''(3) the alien is a member of a religious minority in Indonesia; and

''(4) the alien—

''(A) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of this Act;

''(B) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

''(C) has not been convicted of—

''(i) any offense under Federal or State law, other than a State offense for which an essential element is the alien's immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

''(ii) 3 or more offenses under Federal or State law, other than State offenses for which an essential element is the alien's immigration status, for which the alien was convicted on different dates for each of the 3 offenses and imprisoned for an aggregate of 90 days or more.

''(c) DURATION OF PROVISIONAL PROTECTED PRESENCE AND EMPLOYMENT AUTHORIZATION.—Provisional protected presence and the employment authorization provided under this section shall be effective until the date that is three years after the date of the enactment of this section.

''(d) STATUS DURING PERIOD OF PROVISIONAL PROTECTED PRESENCE.—

''(1) IN GENERAL.—An alien granted provisional protected presence is not considered to be unlawfully present in the United States during the period beginning on the date such status is granted and ending on the date described in subsection (c).

''(2) STATUS OUTSIDE PERIOD.—The granting of provisional protected presence under this section does not excuse previous or subsequent periods of unlawful presence.''.

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

''Sec. 244A. Provisional protected presence for Indonesians living in the United States for more than 10 years.''.

SA 2007. Mrs. MURRAY (for herself, Ms. CORTEZ MASTO, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ELIMINATION OF NUMERICAL LIMITATION ON U VISAS.

Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by striking paragraph (2).

SA 2008. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON SHACKLING, CHAINING, AND RESTRAINING PREGNANT WOMEN IN DETENTION.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary, the Committee on Appropriations, and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(B) Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(2) DETAINEE.—The term ''detainee'' includes any adult or juvenile person detained by any Federal, State, or local law enforcement agency (including under contract or agreement with such agency) under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(3) DETENTION FACILITY.—The term ''detention facility'' means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement or the Commissioner of U.S. Customs and Border Protection, including facilities that hold such individuals under a contract or agreement with the Director or Commissioner, or that is used, in whole or in part, to hold individuals pursuant to an immigration detainer.

(4) FACILITY ADMINISTRATOR.—The term ''facility administrator'' means the official that is responsible for oversight of a detention facility or the designee of such official.

(5) POSTPARTUM RECOVERY.—The term ''postpartum recovery'' means the 6-week period, or longer as determined by her health care provider, following delivery, including the entire period a woman is in the hospital or infirmary after birth.

(6) RESTRAINT.—The term ''restraint'' means any physical restraint or mechanical device used to control the movement of a detainee's body or limbs, including flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a security (tether) chain, or a convex shield.

(b) PROHIBITION ON RESTRAINT OF PREGNANT DETAINEES.—

(1) PROHIBITION.—A detention facility shall not use restraints on a detainee known to be pregnant, including during labor, transport to a medical facility or birthing center, delivery, and postpartum recovery, unless the facility administrator makes an individualized determination that the detainee presents an extraordinary circumstance as described in paragraph (2).

(2) EXTRAORDINARY CIRCUMSTANCE.—Restraints for an extraordinary circumstance are only permitted if a lead medical staff who is a licensed health care provider has directed the use of restraints for medical reasons or if the facility administrator makes an individualized determination that—

(A) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or

(B) reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

(3) REQUIREMENT FOR LEAST RESTRICTIVE RESTRAINTS.—In the rare event that one of the extraordinary circumstances in paragraph (2) applies, only the least restrictive restraints necessary shall be used, except that—

(A) if a doctor, nurse, or other health professional treating the detainee requests that restraints not be used, the detention officer accompanying the detainee shall immediately remove all restraints;

(B) under no circumstance shall leg, waist, or four point restraints be used;

(C) under no circumstance shall wrist restraints be used to bind the detainee's hands behind her back or to another person; and

(D) under no circumstances shall any restraints be used on any detainee in labor or delivery.

(4) RECORD OF EXTRAORDINARY CIRCUMSTANCES.—

(A) REQUIREMENT.—If restraints are used on a detainee pursuant to paragraph (2), the facility administrator shall make a written finding within 10 days as to the extraordinary circumstance that dictated the use of the restraints.

(B) RETENTION.—A written finding made under subparagraph (A) shall be kept on file by the detention facility for at least 5 years and be made available for public inspection, except that no individually identifying information of any detainee shall be made public without the detainee's prior written consent.

(c) PROHIBITION ON PRESENCE OF DETENTION OFFICERS.—Upon a detainee's admission to a

medical facility or birthing center, no detention officer shall be present in the room during a pelvic exam, labor, delivery, or treatment of other symptoms related to pregnancy, unless specifically requested by medical personnel. If a detention officer's presence is requested by medical personnel, the detention officer shall be female, if practicable, and remain near the detainee's head to protect her privacy. If restraints are used on a detainee pursuant to subsection (b)(2), a detention officer shall remain immediately outside the room at all times so that the officer may promptly remove the restraints if requested by medical personnel, as required by subsection (b)(3)(A).

(d) TREATMENT OF PREGNANT WOMEN.—With regard to pregnant detainees:

(1) PRESUMPTION OF RELEASE.—Absent extraordinary circumstances of the pregnant woman being a threat to herself or others or subject to mandatory detention, the United States Government shall not detain pregnant women.

(2) MANDATED REVIEW.—For any pregnant detainee held in detention who satisfies the requirements of paragraph (1), the United States Government shall conduct a review, not less than weekly, to determine if the pregnant detainee continues to be a threat to herself or others or subject to mandatory detention, and release any such pregnant detainee that does not satisfy these conditions.

(3) ACCESS TO SERVICES.—A pregnant detainee in custody shall have access to health care services, including services related to reproductive health care and pregnancy such as routine or specialized prenatal care, pregnancy testing, comprehensive counseling and assistance, postpartum follow-up, and lactation services.

(e) ANNUAL REPORTS.—

(1) REPORTS BY FACILITY ADMINISTRATORS.—Not later than 30 days after the end of each fiscal year, the facility administrator of each detention facility that detained a pregnant detainee shall submit to the Secretary a written report that includes, with respect to the previous fiscal year, the following:

(A) An account of every instance of the use of restraints on pregnant detainees, including the justification for such restraint and the name of the facility administrator who made the individualized determination under subsection (b)(1).

(B) The number of pregnant detainees.

(C) The average length of detention of pregnant detainee.

(D) The number of pregnant detainees detained longer than 15 days.

(E) The number of pregnant detainees detained longer than 30 days.

(2) AUDIT AND REPORTS BY SECRETARY.—Not later than 90 days after the end of each fiscal year, the Secretary shall—

(A) complete an audit of the information submitted under subparagraphs (B) through (F) of paragraph (1); and

(B) submit to the appropriate committees of Congress a report that includes all of the information submitted to the Secretary under paragraph (1), disaggregated by facility.

(3) PRIVACY.—No report submitted under this subsection may contain any individually identifying information of any detainee. No report submitted under this subsection that is made available for public inspection may contain the name of the facility administrator otherwise included under paragraph (1)(A).

(4) PUBLIC INSPECTION.—Except as provided in paragraph (3), each report submitted under this subsection shall be made available for public inspection.

(f) RULEMAKING.—The Secretary shall adopt regulations or policies to carry out this section at every detention facility.

SA 2009. Ms. CORTEZ MASTO (for herself, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON REMOVAL OF CERTAIN VICTIMS WITH PENDING PETITIONS AND APPLICATIONS.

(a) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following:

''(e) PROHIBITION ON REMOVAL OF CERTAIN VICTIMS WITH PENDING PETITIONS AND APPLICATIONS.—

''(1) IN GENERAL.—An alien described in paragraph (2) shall not be ordered removed under this section until there is a final administrative denial of the application for admission after the exhaustion of administrative appeals.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has a pending application under section 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or 244(a)(3) (as in effect on March 31, 1997); or

''(B) is a VAWA self-petitioner, as defined in section 101(a)(51), with a pending application for relief under a provision referred to in any of subparagraphs (A) through (G) of such section.

''(3) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Director of U.S. Citizenship and Immigration Services determines that the alien is prima facie ineligible for admission for any of the reasons described in clauses (i) through (iv) of section 241(b)(3)(B).''.

(b) ADMINISTRATIVE STAYS OF REMOVAL FOR APPLICANTS FOR CERTAIN NONIMMIGRANT STATUS.—Section 237(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1227(d)(1)) is amended to read as follows:

''(d)(1) The Director of U.S. Citizenship and Immigration Services shall make a determination whether an application for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) filed for an alien in the United States sets forth a prima facie case for approval, and, if so, the Secretary shall grant the alien an administrative stay of a final order of removal under section 241(c)(2) until—

''(A) the application for nonimmigrant status under such subparagraph (T) or (U) is approved; or

''(B) there is a final administrative denial of the application for such nonimmigrant status after the exhaustion of administrative appeals.''.

(c) EXPEDITED REMOVAL OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended by adding at the end the following:

''(d) PROHIBITION ON REMOVAL OF CERTAIN VICTIMS WITH PENDING PETITIONS AND APPLICATIONS.—

''(1) IN GENERAL.—An alien described in paragraph (2) shall not be ordered removed under this section until there is a final administrative order of removal after the exhaustion of administrative appeals.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has a pending application under section 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or 244(a)(3) (as in effect on March 31, 1997); or

''(B) is a VAWA self-petitioner, as defined in section 101(a)(51),with a pending application for relief under a provision referred to in any of subparagraphs (A) through (G) of such section.

''(3) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Director of U.S. Citizenship and Immigration Services determines that the alien is prima facie ineligible for admission for any of the reasons described in clauses (i) through (iv) of section 241(b)(3)(B).''.

(d) DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

''(8) PROHIBITION ON REMOVAL OF CERTAIN VICTIMS WITH PENDING PETITIONS AND APPLICATIONS.—

''(A) IN GENERAL.—An alien described in subparagraph (B) shall not be removed under this section until there is a final administrative order of removal after the exhaustion of administrative appeals.

''(B) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(i) has a pending application under section 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or 244(a)(3) (as in effect on March 31, 1997); or

''(ii) is a VAWA self-petitioner, as defined in section 101(a)(51),with a pending application for relief under a provision referred to in one of subparagraphs (A) through (G) of such section.

''(C) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Director of U.S. Citizenship and Immigration Services determines that the alien is prima facie ineligible for admission for any of the reasons described in clauses (i) through (iv) of section 241(b)(3)(B).''.

SA 2010. Mr. ROUNDS (for himself, Mr. KING, Ms. COLLINS, Mr. MANCHIN, Mr. GRAHAM, Mr. KAINE, Mr. FLAKE, Mr. COONS, Mr. GARDNER, Ms. HEITKAMP, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. ALEXANDER, Ms. KLOBUCHAR, Mr. ISAKSON, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Immigration Security and Opportunity Act''.

SEC. 2. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

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

''SEC. 244A. CANCELLATION OF REMOVAL FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

''(a) DEFINITIONS.—In this section:

''(1) APPLICABLE FEDERAL TAX LIABILITY.—The term 'applicable Federal tax liability' means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on Federal taxes imposed under that Code.

''(2) ARMED FORCES.—The term 'Armed Forces' has the meaning given the term 'armed forces' in section 101 of title 10, United States Code.

''(3) DACA.—The term 'DACA' means the deferred action for childhood arrivals policy described in the memorandum issued by the

Secretary dated June 15, 2012 (rescinded on September 5, 2017).

''(4) DACA RECIPIENT.—The term 'DACA recipient' means an alien who was granted and remained in deferred action status under DACA.

''(5) DISABILITY.—The term 'disability' has the meaning given the term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

''(6) EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'early childhood education program' has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

''(7) ELEMENTARY SCHOOL.—The term 'elementary school' has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(8) FELONY.—

''(A) IN GENERAL.—The term 'felony' means a Federal, State, or local criminal offense punishable by imprisonment for a term that exceeds 1 year.

''(B) EXCLUSION.—The term 'felony' does not include a State or local criminal offense for which an essential element is the immigration status of an alien.

''(9) HIGH SCHOOL.—The term 'high school' has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(10) INSTITUTION OF HIGHER EDUCATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'institution of higher education' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

''(B) EXCLUSION.—The term 'institution of higher education' does not include an institution of higher education outside the United States.

''(11) MISDEMEANOR.—

''(A) IN GENERAL.—The term 'misdemeanor' means a Federal, State, or local criminal offense for which—

''(i) the maximum term of imprisonment is—

''(I) greater than 5 days; and

''(II) not greater than 1 year; and

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

''(B) EXCLUSION.—The term 'misdemeanor' does not include a State or local offense for which an essential element is—

''(i) the immigration status of the alien;

''(ii) a significant misdemeanor; or

''(iii) a minor traffic offense.

''(12) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term 'permanent resident status on a conditional basis' means status as an alien lawfully admitted for permanent residence on a conditional basis under this section.

''(13) POVERTY LINE.—The term 'poverty line' has the meaning given the term in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902).

''(14) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(15) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(16) SIGNIFICANT MISDEMEANOR.—

''(A) IN GENERAL.—The term 'significant misdemeanor' means a Federal, State, or local criminal offense—

''(i) for which the maximum term of imprisonment is—

''(I) more than 5 days; and

''(II) not more than 1 year; and

''(ii)(I) that, regardless of the sentence imposed, is—

''(aa) a crime of domestic violence (as defined in section 237(a)(2)(E)(i)); or

''(bb) an offense of—

''(AA) sexual abuse or exploitation;

''(BB) burglary;

''(CC) unlawful possession or use of a firearm;

''(DD) drug distribution or trafficking; or

''(EE) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than .08; or

''(II) that resulted in a sentence of time in custody of more than 90 days.

''(B) EXCLUSION.—The term 'significant misdemeanor' does not include a State or local offense for which an essential element is the immigration status of an alien.

''(17) UNIFORMED SERVICES.—The term 'Uniformed Services' has the meaning given the term 'uniformed services' in section 101(a) of title 10, United States Code.

''(b) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible to, or deportable from, the United States if—

''(1) the alien is a DACA recipient; or

''(2)(A) the alien has been continuously physically present in the United States since June 15, 2012;

''(B) the alien was younger than 18 years of age on the date on which the alien initially entered the United States;

''(C) subject to subsections (c) and (d), the alien—

''(i) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a);

''(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

''(iii) has not been convicted of—

''(I) a felony;

''(II) a significant misdemeanor; or

''(III) 3 or more misdemeanors—

''(aa) not occurring on the same date; and

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

''(D) the alien—

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

''(ii)(I) has earned a high school diploma or a commensurate alternative award from a public or private high school; or

''(II) has obtained—

''(aa) a general education development certificate recognized under State law; or

''(bb) a high school equivalency diploma in the United States;

''(iii) is enrolled in—

''(I) secondary school; or

''(II) an education program assisting student in—

''(aa) obtaining—

''(AA) a regular high school diploma; or

''(BB) the recognized equivalent of a regular high school diploma; or

''(bb) passing—

''(AA) a general educational development exam;

''(BB) a high school equivalence diploma examination; or

''(CC) any other similar State-authorized exam; or

''(iv)(I) has served, is serving, or has enlisted in the Armed Forces; or

''(II) in the case of an alien who has been discharged from the Armed Forces, has received an honorable discharge;

''(E)(i) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was authorized to work in the United States; or

''(ii) the alien has entered into an agreement to pay, through a payment installment plan approved by the Commissioner of Internal Revenue, any applicable Federal tax liability incurred by the alien during the entire period for which the alien was authorized to work in the United States; and

''(F) the alien was under the age of 38 years on June 15, 2012.

''(c) WAIVER.—

''(1) IN GENERAL.—With respect to any benefit under this section, the Secretary may, on a case-by-case basis, waive a ground of inadmissibility under paragraph (2), (6)(E), (6)(G), or (10)(D) of section 212(a)—

''(A) for humanitarian purposes; or

''(B) if the waiver is otherwise in the public interest.

''(2) QUARTERLY REPORT.—Not later than 180 days after the date of enactment of this section, and quarterly thereafter, the Secretary shall submit to Congress a report that identifies, for the preceding quarter—

''(A) the number of waivers requested by aliens under paragraph (1);

''(B) the number of waiver requests granted by the Secretary under that paragraph; and

''(C) the number of waiver requests denied by the Secretary under that paragraph.

''(d) TREATMENT OF EXPUNGED CONVICTIONS.—

''(1) IN GENERAL.—An expunged conviction shall not automatically be treated as a conviction referred to in subsection (b)(2)(C)(iii), (o)(3)(A)(iii), or (p)(1)(A)(i)(III).

''(2) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged conviction on a case-by-case basis according to the nature and severity of the offense underlying the expunged conviction, based on the record of conviction, to determine whether, under the particular circumstances, the alien is eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

''(e) DACA RECIPIENTS.—With respect to a DACA recipient, the Secretary shall cancel the removal of the DACA recipient and adjust the status of the DACA recipient to the status of an alien lawfully admitted for permanent residence on a conditional basis unless, since the date on which the DACA recipient was granted deferred action status under DACA, the DACA recipient has engaged in conduct that would render an alien ineligible for deferred action status under DACA.

''(f) APPLICATION FEE.—

''(1) IN GENERAL.—The Secretary may require an alien applying for permanent resident status on a conditional basis to pay a reasonable fee that is commensurate with the cost of processing the application.

''(2) EXEMPTION.—An applicant may be exempted from paying the fee required under paragraph (1) only if the alien—

''(A)(i) is younger than 18 years of age;

''(ii) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; and

''(iii) is in foster care or otherwise lacking any parental or other familial support;

''(B) is younger than 18 years of age and is homeless;

''(C)(i) cannot care for himself or herself because of a serious, chronic disability; and

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

''(D)(i) during the 1-year period immediately preceding the date on which the alien files an application under this section, accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by

the alien or an immediate family member of the alien; and

''(ii) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

''(g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

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

''(2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any alien who is unable to provide the biometric or biographic data referred to in paragraph (1) due to of a physical impairment.

''(h) BACKGROUND CHECKS.—

''(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate—

''(A) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis; and

''(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for permanent resident status on a conditional basis.

''(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks of an alien required under paragraph (1) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary grants the alien permanent resident status on a conditional basis.

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

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

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

''(i) MEDICAL EXAMINATION.—

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

''(2) POLICIES AND PROCEDURES.—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination required under paragraph (1).

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

''(k) DETERMINATION OF CONTINUOUS PRESENCE.—

''(1) TERMINATION OF CONTINUOUS PERIOD.—Any period of continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis under this section shall not terminate on the date on which the alien is served a notice to appear under section 239(a).

''(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States if the alien has departed from the United States for any period greater than 90 days or for any periods, in the aggregate, greater than 180 days.

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

''(C) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

''(l) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

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

''(2) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal proceedings, the subject of a final removal order, or the subject of a voluntary departure order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

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

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

''(A) meets all the requirements described in subparagraphs (A) through (C) of subsection (b)(2), subject to subsections (c) and (d);

''(B) is at least 5 years of age; and

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

''(2) COMMENCEMENT OF REMOVAL PROCEEDINGS.—The Secretary may not commence removal proceedings for an alien described in paragraph (1).

''(3) EMPLOYMENT.—An alien whose removal is stayed pursuant to paragraph (1) or who may not be placed in removal proceedings pursuant to paragraph (2) shall, on application to the Secretary, be granted an employment authorization document.

''(4) LIFT OF STAY.—The Secretary or Attorney General may not lift the stay granted to an alien under paragraph (1) unless the alien ceases to meet the requirements under that paragraph.

''(n) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law applies a numerical limitation on the number of aliens who may be granted permanent resident status on a conditional basis.

''(o) TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—

''(1) PERIOD OF STATUS.—

''(A) IN GENERAL.—Permanent resident status on a conditional basis is—

''(i) subject to subparagraph (B), valid for a period of 7 years; and

''(ii) subject to termination under paragraph (3).

''(B) EXTENSION AUTHORIZED.—The Secretary may extend the period described in subparagraph (A)(i).

''(2) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this section and the requirements to have the conditional basis of that status removed.

''(3) TERMINATION OF STATUS.—The Secretary may terminate the permanent resident status on a conditional basis of an alien only if the Secretary—

''(A) subject to subsections (c) and (d), determines that the alien—

''(i) is inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a);

''(ii) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; or

''(iii) has been convicted of—

''(I) a felony;

''(II) a significant misdemeanor; or

''(III) 3 or more misdemeanors—

''(aa) not occurring on the same date; and

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

''(B) prior to the termination, provides the alien—

''(i) notice of the proposed termination; and

''(ii) the opportunity for a hearing to provide evidence that the alien meets the requirements or otherwise contest the termination.

''(4) RETURN TO PREVIOUS IMMIGRATION STATUS.—The immigration status of an alien whose permanent resident status on a conditional basis expires under paragraph (1)(A)(i) or is terminated under paragraph (3) or whose application for permanent resident status on a conditional basis is denied shall return to the immigration status of the alien on the day before the date on which the alien received permanent resident status on a conditional basis or applied for permanent resident status on a conditional basis, as appropriate.

''(p) REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.—

''(1) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall remove the conditional basis of the permanent resident status of an alien granted under this section and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

''(i) subject to subsections (c) and (d)—

''(I) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a);

''(II) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

''(III) has not been convicted of—

''(aa) a felony;

''(bb) a significant misdemeanor; or

''(cc) 3 or more misdemeanors—

''(AA) not occurring on the same date; and

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

''(ii) has not abandoned the residence of the alien in the United States;

''(iii)(I) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

''(II)(aa) has served in the Uniformed Services for at least 2 years; or

''(bb) in the case of an alien who has been discharged from the Uniformed Services, has received an honorable discharge; or

''(III) has been employed for periods totaling at least 3 years and at least 75 percent of

the time that the alien has had a valid employment authorization, except that any period during which the alien is not employed while having a valid employment authorization and is enrolled in an institution of higher education, a secondary school, or an education program described in subsection (b)(2)(D)(iii), shall not count toward the time requirements under this clause;

''(iv)(I) has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien has been in permanent resident status on a conditional basis; or

''(II) has entered into an agreement to pay the applicable Federal tax liability through a payment installment plan approved by the Commissioner of Internal Revenue; and

''(v) has demonstrated good moral character during the entire period for which the alien has been in permanent resident status on a conditional basis.

''(B) CITIZENSHIP REQUIREMENT.—The conditional basis of the permanent resident status granted to an alien under this section may not be removed unless the alien demonstrates that the alien satisfies the requirements of section 312(a).

''(C) APPLICATION FEE.—

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

''(ii) EXEMPTION.—An applicant may be exempted from paying the fee required under clause (i) only if the alien—

''(I)(aa) is younger than 18 years of age;

''(bb) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; and

''(cc) is in foster care or otherwise lacking any parental or other familial support;

''(II) is younger than 18 years of age and is homeless;

''(III)(aa) cannot care for himself or herself because of a serious, chronic disability; and

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

''(IV)(aa) during the 1-year period immediately preceding the date on which the alien files an application under this section, the alien accumulated $10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

''(bb) received total income, during the 1-year period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

''(D) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

''(i) IN GENERAL.—The Secretary may not remove the conditional basis of the permanent resident status of an alien unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary.

''(ii) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for any applicant who is unable to provide the biometric or biographic data referred to in clause (i) due to physical impairment.

''(E) BACKGROUND CHECKS.—

''(i) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines to be appropriate—

''(I) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the permanent resident status of the alien; and

''(II) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of the conditional basis of the permanent resident status of the alien.

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

''(2) NATURALIZATION.—

''(A) IN GENERAL.—For purposes of title III, an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and to be present in the United States, as an alien lawfully admitted for permanent residence.

''(B) LIMITATIONS ON APPLICATION FOR NATURALIZATION.—

''(i) IN GENERAL.—An alien shall not be naturalized—

''(I) on any date on which the alien is in permanent resident status on a conditional basis; or

''(II) subject to clause (iii), before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

''(ii) ADVANCED FILING DATE.—Subject to clause (iii), with respect to an alien granted permanent resident status on a conditional basis, the alien may file an application for naturalization not more than 90 days before the date that is 12 years after the date on which the alien was granted permanent resident status on a conditional basis.

''(iii) REDUCTION IN PERIOD.—

''(I) IN GENERAL.—Subject to subclause (II), the 12-year period referred to in clause (i)(II) and clause (ii) may be reduced by the number of days on which the alien was a DACA recipient, if applicable.

''(II) LIMITATION.—Notwithstanding subclause (I), the reduction in the 12-year period referred to in clause (i)(II) and clause (ii) shall be not more than 2 years.

''(3) LIMITATION ON CERTAIN PARENTS.—An alien shall not be eligible to adjust status to that of an alien lawfully admitted for permanent residence based on a petition filed by a child or a son or daughter of the alien if—

''(A) the child or son or daughter was granted permanent resident status on a conditional basis; and

''(B) the alien knowingly assisted the child or son or daughter to enter the United States unlawfully.

''(q) DOCUMENTATION REQUIREMENTS.—

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

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

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

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

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

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

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

''(2) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under subsection (b)(2)(A), or to establish that an alien has not abandoned residence in the United States, as required under subsection (p)(1)(A)(ii), the alien may submit documents to the Secretary, including—

''(A) employment records that include the employer's name and contact information;

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

''(C) records of service from the Uniformed Services;

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

''(E) passport entries;

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

''(G) automobile license receipts or registration;

''(H) deeds, mortgages, or rental agreement contracts;

''(I) tax receipts;

''(J) insurance policies;

''(K) remittance records;

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

''(M) copies of money order receipts for money sent in or out of the United States;

''(N) dated bank transactions; or

''(O) 2 or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

''(i) the name, address, and telephone number of the affiant; and

''(ii) the nature and duration of the relationship between the affiant and the alien.

''(3) DOCUMENTS ESTABLISHING INITIAL ENTRY INTO THE UNITED STATES.—To establish under subsection (b)(2)(B) that an alien was younger than 18 years of age on the date on which the alien initially entered the United States, an alien may submit documents to the Secretary, including—

''(A) an admission stamp on the alien's passport;

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

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

''(D) hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization;

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

''(F) employment records that include the employer's name and contact information;

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

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

''(I) automobile license receipts or registration;

''(J) deeds, mortgages, or rental agreement contracts;

''(K) tax receipts;

''(L) travel records;

''(M) copies of money order receipts sent in or out of the country;

''(N) dated bank transactions;

''(O) remittance records; or

''(P) insurance policies.

''(4) DOCUMENTS ESTABLISHING ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has been admitted to an institution of higher education, the alien shall submit to the Secretary a document from the institution of higher education certifying that the alien—

''(A) has been admitted to the institution; or

''(B) is currently enrolled in the institution as a student.

''(5) DOCUMENTS ESTABLISHING RECEIPT OF A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien shall submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

''(6) DOCUMENTS ESTABLISHING RECEIPT OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate recognized under State law or a high school equivalency diploma in the United States, the alien shall submit to the Secretary—

''(A) a high school diploma, certificate of completion, or other alternate award;

''(B) a high school equivalency diploma or certificate recognized under State law; or

''(C) evidence that the alien passed a State-authorized exam, including the general educational development exam, in the United States.

''(7) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in subsection (b)(2)(D)(iii), (m)(1)(C), or (p)(1)(A)(iii)(III), the alien shall submit school records from the United States school that the alien is currently attending that include—

''(A) the name of the school; and

''(B) the alien's name, periods of attendance, and current grade or educational level.

''(8) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under subsection (f)(2) or (p)(1)(C)(ii), the alien shall submit to the Secretary the following relevant documents:

''(A) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien shall provide proof of identity, as described in paragraph (1), that establishes that the alien is younger than 18 years of age.

''(B) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien shall provide—

''(i) employment records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

''(ii) bank records; or

''(iii) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

''(I) the name, address, and telephone number of the affiant; and

''(II) the nature and duration of the relationship between the affiant and the alien.

''(C) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, lacks parental or familial support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that contain—

''(i) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, is homeless, or has a serious, chronic disability, as appropriate;

''(ii) the name, address, and telephone number of the affiant; and

''(iii) the nature and duration of the relationship between the affiant and the alien.

''(D) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

''(i) bear the provider's name and address;

''(ii) bear the name of the individual receiving treatment; and

''(iii) document that the alien has accumulated $10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien.

''(9) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien shall submit to the Secretary—

''(A) a Department of Defense form DD-214;

''(B) a National Guard Report of Separation and Record of Service form 22;

''(C) personnel records for such service from the appropriate Uniformed Service; or

''(D) health records from the appropriate Uniformed Service.

''(10) DOCUMENTS ESTABLISHING EMPLOYMENT.—

''(A) IN GENERAL.—An alien may satisfy the employment requirement under section (p)(1)(A)(iii)(III) by submitting records that—

''(i) establish compliance with such employment requirement; and

''(ii) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

''(B) OTHER DOCUMENTS.—An alien who is unable to submit the records described in subparagraph (A) may satisfy the employment requirement by submitting at least 2 types of reliable documents that provide evidence of employment, including—

''(i) bank records;

''(ii) business records;

''(iii) employer records;

''(iv) records of a labor union, day labor center, or organization that assists workers in employment;

''(v) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work, that contain—

''(I) the name, address, and telephone number of the affiant; and

''(II) the nature and duration of the relationship between the affiant and the alien; and

''(vi) remittance records.

''(11) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status on a conditional basis is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

''(r) RULEMAKING.—

''(1) INITIAL PUBLICATION.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register regulations implementing this section.

''(B) AFFIRMATIVE APPLICATION.—The regulations published under subparagraph (A) shall allow any eligible individual to immediately apply affirmatively for the relief available under subsection (b) without being placed in removal proceedings.

''(2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to paragraph (1)(A) shall be effective, on an interim basis, immediately on publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a period of public comment.

''(3) FINAL REGULATIONS.—Not later than 180 days after the date on which interim regulations are published under this subsection, the Secretary shall publish final regulations implementing this section.

''(4) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the 'Paperwork Reduction Act') shall not apply to any action to implement this subsection.

''(s) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—The Secretary may not disclose or use for the purpose of immigration enforcement any information provided in—

''(A) an application filed under this section; or

''(B) a request for deferred action status under DACA.

''(2) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection any individual who—

''(A) has been granted permanent resident status on a conditional basis; or

''(B) was granted deferred action status under DACA.

''(3) LIMITED EXCEPTION.—Notwithstanding paragraphs (1) and (2), information provided in an application for permanent resident status on a conditional basis or a request for deferred action status under DACA may be shared with a Federal security or law enforcement agency—

''(A) for assistance in the consideration of an application for permanent resident status on a conditional basis;

''(B) to identify or prevent fraudulent claims;

''(C) for national security purposes; or

''(D) for the investigation or prosecution of any felony not related to immigration status.

''(4) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

''Sec. 244A. Cancellation of removal for certain long-term residents who entered the United States as children.''.

SEC. 3. REDUCTION OF FAMILY-SPONSORED IMMIGRANT VISAS.

(a) PROHIBITION AGAINST THE SPONSOR OF UNMARRIED CHILDREN OLDER THAN 21 YEARS OF AGE BY LAWFUL PERMANENT RESIDENTS.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended by striking paragraph (2) and inserting the following:

''(2) SPOUSES AND CHILDREN OF ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—

''(A) IN GENERAL.—Qualified immigrants who are the spouse or child of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the sum of—

''(i) 114,200;

''(ii) the number (if any) by which such worldwide level exceeds 226,000; and

''(iii) the number of visas not required for the class described in paragraph (1).

''(B) TRANSITION PERIOD.—

''(i) IN GENERAL.—The Secretary of State shall not allocate a visa based on a petition filed by an alien lawfully admitted for permanent residence on behalf of an unmarried son or daughter under subparagraph (B) (as in effect on the day before the date of enactment of this Act) after December 31, 2018.

''(ii) SAVINGS CLAUSE.—The Secretary of State shall allocate a visa to a principal or derivative beneficiary of an approved petition filed by an alien lawfully admitted for permanent residence on behalf of a spouse or an unmarried son or daughter under subparagraph (B) (as in effect on the day before the date of enactment of this Act) before January 1, 2019, in accordance with that subparagraph (as in effect on the day before the date of enactment of this Act), if the principal or derivative beneficiary is otherwise eligible for the visa.

''(C) RETENTION OF PRIORITY DATE.—In the case of an alien child who is the principal or derivative beneficiary of a petition filed under subparagraph (A) who turns 21 years old before the date on which a visa becomes available, the alien may retain the priority date assigned to the alien under that subparagraph for a petition filed under this subsection.''.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking ''section 203(a)(2)(A)'' each place such term appears and inserting ''section 203(a)(2)'';

(2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)'';

(3) in section 202—

(A) in subsection (a)(8 U.S.C. 1152(a))—

(i) in paragraph (2), by striking ''(3), (4), and (5)'' and inserting ''(3) and (4)''

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4); and

(B) in subsection (e), by striking '', or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)'';

(4) in section 203(h)—

(A) in paragraph (3), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)''; and

(B) by striking ''(a)(2)(A)'' each place such term appears and inserting ''(a)(2)'';

(5) in section 204—

(A) in subsection (a)(1)(B)—

(i) in clause (ii)—

(I) in subclause (I), by striking ''if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and''; and

(II) in subclause (II)(cc), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)''; and

(ii) in clause (iii), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)''; and

(B) in subsection (k)(1)—

(i) by striking ''alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B)'' and inserting ''alien child's classification as a family-sponsored immigrant under section 203(a)(2)'';

(ii) by striking ''son or daughter'' and inserting ''child''; and

(iii) by striking ''unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1)'' and inserting ''child as an immediate relative under section 201(b)(2)''; and

(6) in section 214(q)(1)(B)(i), by striking ''(a)(2)(A)'' each place such term appears and inserting ''(a)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date on which—

(1) the Secretary of Homeland Security has adjudicated each petition that is filed under section 203(a)(2)(B) (as in effect on the day before the date of enactment of this Act) before January 1, 2019; and

(2) the Secretary of State has allocated to each eligible alien a visa based on a petition described in paragraph (1).

SEC. 4. BORDER SECURITY.

(a) DEFINITION OF SECRETARY.—In this section, the term ''Secretary'' means the Secretary of Homeland Security.

(b) APPROPRIATIONS FOR BORDER SECURITY.—The following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for U.S. Customs and Border Protection, namely $25,000,000,000 for—

(1) the construction of physical barriers;

(2) border security technologies;

(3) tactical infrastructure;

(4) marine vessels;

(5) aircraft;

(6) unmanned aerial systems;

(7) facilities; and

(8) equipment.

(c) AVAILABILITY FOR FISCAL YEAR 2018.—Of the amount appropriated by subsection (b), amounts shall be available for fiscal year 2018 as follows:

(1) For impedance and denial, $1,571,000,000.

(2) For domain awareness, $658,000,000.

(3) For access and mobility, $143,000,000.

(4) For the retention, recruitment, and relocation of officers of Border Patrol Agents, Customs Officers, and Air and Marine personnel, $148,000,000, including for not fewer than 615 officers of U.S. Customs and Border Protection.

(5) To hire 615 U.S. Customs and Border Protection Officers for deployment to ports of entry, $75,000,000.

(d) AVAILABILITY FOR FISCAL YEARS 2019 THROUGH 2027.—

(1) IN GENERAL.—Subject to subsection (f), of the amount appropriated by subsection (b), the amount available for each of fiscal years 2019 through 2027 shall be $2,500,000,000.

(2) LIMITATION.—Amounts appropriated under subsection (b) for fiscal years 2018 and 2019 shall only be available for operationally effective designs deployed as of the date of the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed steel bollard designs, that prioritize agent safety.

(e) REPORT ON PLAN FOR IMPROVEMENT OF BORDER SECURITY.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives and the Committees of jurisdiction of the Senate and the House of Representatives a risk-based plan for improving security along the borders of the United States, including the use of personnel, fencing, other forms of tactical infrastructure, and technology.

(2) ELEMENTS.—The report required by this subsection shall include the following:

(A) A statement of goals, objectives, activities, and milestones for the plan.

(B) A detailed implementation schedule for the plan with estimates for the planned obligation of funds for fiscal years 2019 through 2027 that are linked to the milestone-based delivery of specific—

(i) capabilities and services;

(ii) mission benefits and outcomes;

(iii) program management capabilities; and

(iv) lifecycle cost estimates.

(C) A description of the manner in which specific projects under the plan will enhance border security goals and objectives and address the highest priority border security needs.

(D) An identification of the planned locations, quantities, and types of resources, such as fencing, other physical barriers, or other tactical infrastructure and technology, under the plan.

(E) A description of the methodology and analyses used to select specific resources for deployment to particular locations under the plan that includes—

(i) analyses of alternatives, including comparative costs and benefits;

(ii) an assessment of effects on communities and property owners near areas of infrastructure deployment; and

(iii) a description of other factors critical to the decision-making process.

(F) An identification of staffing requirements under the plan, including full-time equivalents, contractors, and detailed personnel, by activity.

(G) A description of performance metrics for the plan for assessing and reporting on the contributions of border security capabilities realized from current and future investments.

(H) A description of the status of the actions of the Department of Homeland Security to address open recommendations by the Office of Inspector General and the Government Accountability Office relating to border security, including plans, schedules, and associated milestones for fully addressing such recommendations.

(I) A comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to physical barriers;

(J) A comprehensive analysis, following consultation with the Secretary of Interior and the Administrator of the Environmental Protection Agency, of the environmental impacts of the construction and placement of physical barriers planned along the Southwest border, including barriers in the Santa Ana National Wildlife Refuge;

(K) Certifications by the Under Secretary of Homeland Security for Management, including all documents, memoranda, and a description of the investment review and information technology management oversight and processes supporting such certifications, that—

(i) the plan has been reviewed and approved in accordance with an acquisition review management process that complies with capital planning and investment control and review requirements established by the Office of Management and Budget, including as provided in Circular A–11, part 7; and

(ii) all activities under the plan comply with Federal acquisition rules, requirements, guidelines, and practices.

(f) LIMITATION ON AVAILABILITY FOR FISCAL YEARS 2019 THROUGH 2027.—

(1) LIMITATION.—The amount specified in subsection (d) for each of fiscal years 2019 through 2027 shall not be available for such fiscal year unless—

(A) the Secretary submits to Congress, not later than 60 days before the beginning of such fiscal year, a report setting forth—

(i) a description of every planned expenditure in such fiscal year under the plan required by subsection (e) in an amount in excess of $50,000,000;

(ii) a description of the total number of miles of security fencing or barriers that will be constructed in such fiscal year under the plan;

(iii) a statement of the number of new U.S. Customs and Border Protection Officers to be hired in such fiscal year under the plan and the intended location of deployment;

(iv) a description of the new roads to be installed in such fiscal year under the plan;

(v) a description of the land to be acquired in such fiscal year under the plan, including—

(I) all necessary land acquisitions;

(II) the total number of necessary condemnation actions; and

(III) the precise number of landowners that will be affected by the construction of such physical barriers;

(vi) a description of the amount and types of technology to be acquired for each of the northern border and the southern border in such fiscal year under the plan; and

(vii) a statement of the percentage of each of the northern border and the southern border for which the Department of Homeland Security will obtain full situational awareness in such fiscal year under the plan; and

(B) not later than October 1 of such fiscal year, the Secretary certifies to Congress that the Department of Homeland achieved not less than 75 percent of the goals of the Department under the plan (other than for land acquisition) for the prior fiscal year.

(2) AVAILABILITY WITHOUT CERTIFICATION.—If the Secretary is unable to make the certification described in paragraph (1)(B) with respect to a fiscal year as of October 1 of the succeeding fiscal year, the amount specified in subsection (d) for such succeeding fiscal year shall not be available except pursuant to an Act of Congress specifically making such amount available for such succeeding fiscal year that is enacted into law in such succeeding fiscal year.

(g) AVAILABILITY.—If amounts described in subsection (d) are available for a fiscal year, such amounts shall remain available for 5 years.

(h) LIMITATION.—Notwithstanding any other provision of law, none of the amounts appropriated under this section may be reprogrammed for or transferred to any other component of the Department of Homeland Security.

(i) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to subsection (b)—

(1) shall be included in each budget for a fiscal year submitted by the President under section 1105 of title 31, United States Code; and

(2) shall describe planned obligations by program, project, and activity in the receiving account at the same level of detail provided for in the request for other appropriations in that account.

(j) BUDGETARY EFFECTS.—

(1) IN GENERAL.—The budgetary effects of this section shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(2) SENATE PAYGO SCORECARDS.—The budgetary effects of this section shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H.Con.Res. 71 (115th Congress).

(k) POINT OF ORDER.—

(1) DEFINITION.—In this subsection, the term ''covered appropriation amount'' means the amount appropriated for border security for a fiscal year under subsection (b).

(2) POINT OF ORDER IN THE SENATE.—

(A) POINT OF ORDER.—

(i) IN GENERAL.—In the Senate, it shall not be in order to consider a provision in a bill, joint resolution, motion, amendment, amendment between the Houses, or conference report that would reduce the covered appropriation amount for a fiscal year.

(ii) POINT OF ORDER SUSTAINED.—If a point of order is made by a Senator against a provision described in clause (i), and the point of order is sustained by the Chair, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974 (2 U.S.C. 644(e)).

(C) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill or joint resolution, upon a point of order being made by any Senator pursuant to subparagraph (A), and such point of order being sustained, such material contained in such conference report or House amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(D) SUPERMAJORITY WAIVER AND APPEAL.—In the Senate, this paragraph may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of Members of the Senate, duly chosen and sworn shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(l) ENFORCEMENT PRIORITIES.—

(1) DEFINITIONS.—In this subsection:

(A) FELONY.—

(i) IN GENERAL.—The term ''felony'' means a Federal, State, or local criminal offense punishable by imprisonment for a term that exceeds 1 year.

(ii) EXCLUSION.—The term ''felony'' does not include a State or local criminal offense for which an essential element is the immigration status of an alien.

(B) MISDEMEANOR.—

(i) IN GENERAL.—The term ''misdemeanor'' means a Federal, State, or local criminal offense for which—

(I) the maximum term of imprisonment is—

(aa) greater than 5 days; and

(bb) not greater than 1 year; and

(II) the individual was sentenced to time in custody of 90 days or less.

(ii) EXCLUSION.—The term ''misdemeanor'' does not include a State or local offense for which an essential element is—

(I) the immigration status of the alien;

(II) a significant misdemeanor; or

(III) a minor traffic offense.

(C) SIGNIFICANT MISDEMEANOR.—

(i) IN GENERAL.—The term ''significant misdemeanor'' means a Federal, State, or local criminal offense—

(I) for which the maximum term of imprisonment is—

(aa) more than 5 days; and

(bb) not more than 1 year; and

(II)(aa) that, regardless of the sentence imposed, is—

(AA) a crime of domestic violence (as defined in section 237(a)(2)(E)(i)) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(E)(i)); or

(BB) an offense of—

(CC) sexual abuse or exploitation;

(DD) burglary;

(EE) unlawful possession or use of a firearm;

(FF) drug distribution or trafficking; or

(GG) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than .08; or

(bb) that resulted in a sentence of time in custody of more than 90 days.

(ii) EXCLUSION.—The term ''significant misdemeanor'' does not include a State or local offense for which an essential element is the immigration status of an alien.

(2) PRIORITIES.—In carrying out immigration enforcement activities, the Secretary shall prioritize available immigration enforcement resources to aliens who—

(A) have been convicted of—

(i) a felony;

(ii) a significant misdemeanor; or

(iii) 3 or more misdemeanor offenses;

(B) pose a threat to national security or public safety; or

(C)(i) are unlawfully present in the United States; and

(ii) arrived in the United States after June 30, 2018; or

SEC. 5. OFFICE OF PROFESSIONAL RESPONSIBILITY.

Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection shall hire, train, and assign sufficient special agents at the Office of Professional Responsibility.

SA 2011. Mr. HEINRICH (for himself and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. BORDER SECURITY ENHANCEMENTS IN MOUNTAINOUS, HIGH DESERT, AND BACKCOUNTRY TERRAIN.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall—

(1) acquire and deploy such additional horses and off-road vehicles, including all-terrain vehicles, as may be necessary to provide for enhanced security in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico;

(2) increase the use of advanced detection and surveillance technology in the areas described in paragraph (1);

(3) acquire fixed and mobile technology assets, including night vision goggles;

(4) increase and improve interoperable communications that are LTE-capable;

(5) increase mountain patrols to gain and enhance domain awareness;

(6) increase and upgrade facilities to the extent necessary to accommodate personnel and asset needs;

(7) perform any maintenance and care that may be necessary to preserve the operational capability of all mountainous, high desert, and backcountry assets; and

(8) hire and deploy additional personnel, as necessary—

(A) to enhance border security in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and

(B) to successfully carry out the related duties of U.S. Customs and Border Protection set forth in section 211 of the Homeland Security Act of 2002 (5 U.S.C. 411).

(b) REQUIREMENTS.—In carrying out subsection (a), the Commissioner shall—

(1) consult with agents in the field;

(2) prioritize the deployment of such technology based on the needs of remote stations in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall submit a report to the appropriate congressional committees that describes the implementation of subsection (a), including—

(1) the assets deployed in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and

(2) the expenditures incurred to acquire and deploy such assets.

(d) AGENT MOBILITY DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall establish a 5-year pilot program in the El Paso Sector, to be known as the ''Agent Mobility Program'', under which agents assigned within the El Paso Sector may laterally transfer to a designated, hard-to-fill station within the El Paso sector for a period of at least 3 years.

(2) COMPLETION OF SERVICE.—Any agent who completes 3 years of service at a hard-to-fill station to which he or she transferred under the program established under paragraph (1)—

(A) shall be presented to the selecting officer as a preferred agent; and

(B) shall be eligible to transfer to 1 of 3 border patrol stations in the El Paso Sector of their choice that has an opening at the time of such transfer.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated, to U.S. Customs and Border Protection, such sums as may be necessary to carry out this section.

SA 2012. Mr. HEINRICH (for himself, Mr. UDALL, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CONFIDENTIALITY OF INFORMATION SUBMITTED FOR THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM AND SIMILAR PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) DACA PROGRAM.—The term ''DACA Program'' means the Deferred Action for Childhood Arrivals Program announced on June 15, 2012.

(2) INDIVIDUAL APPLICATION INFORMATION.—The term ''individual application information'' means any information, including personally identifiable information, submitted to the Secretary after June 15, 2012, as part of a request for consideration or reconsideration for the DACA program.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) CONFIDENTIALITY OF INFORMATION.—The Secretary shall protect individual application information from disclosure to U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection for any purpose other than implementing the following:

(1) The DACA Program.

(2) Any program similar to the DACA program to provide deferred action for aliens that is established by this Act or an amendment made by this Act.

(3) The Development, Relief and Education for Alien Minors Act or any similar program to provide a path to citizenship that is established by this Act or an amendment made by this Act.

(c) REFERRALS PROHIBITED.—The Secretary may not refer any individual whose case has been deferred pursuant to ta program specified in subsection (b) to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, the Department of Justice, or any other law enforcement agency.

(d) LIMITED EXCEPTION.—Individual application information may be shared with national security and law enforcement agencies—

(1) to identify or prevent fraudulent claims;

(2) for particularized national security purposes relating to an individual application; or

(3) for the investigation or prosecution of any felony not related to immigration status.

SA 2013. Mr. HEINRICH (for himself and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. STANDARDS FOR SHORT-TERM CUSTODY BY U.S. CUSTOMS AND BORDER PROTECTION.

(a) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the status of the Transport, Escort, Detention and Search (TEDS) policy for short-term custody of individuals by U.S. Customs and Border Protection.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following elements.

(A) An assessment of whether Border Patrol and the Office of Field Operations have adopted and are implementing more detailed, component-specific standards to supplement the TEDS policy in accordance with subsection (b) and the status of implementation of the TEDS policy among the various components of U.S. Customs and Border Protection.

(B) A description of the frequency and findings of U.S. Customs and Border Protection audits and investigations into compliance with the TEDS policy and supplemental policies.

(b) STANDARDS OF CARE.—

(1) IN GENERAL.—The TEDS policy and additional standards created by Border Patrol and the Office of Field Operations must ensure basic minimum levels of care at all facilities of U.S. Customs and Border Protection that hold individuals in custody, including Border Patrol stations, ports of entry, checkpoints, forward operating bases, secondary inspection areas, and short-term custody facilities. Such care shall include standards with respect to—

(A) limits on detention space capacity by facility and also by holding room or individual cell;

(B) the availability of potable water and nutritionally and culturally appropriate food;

(C) access to bathroom facilities and hygiene items, including soap, feminine hygiene products, toothpaste, toothbrushes and towels, and showers for those held for 24 hours or longer;

(D) adequate climate control and provision of adequate clothing;

(E) reasonable sleeping arrangements for all detainees held for longer than 12 hours, including access to beds and adequate bedding;

(F) access to telephones;

(G) access to lawyers, consular officials, family members, and nongovernmental organizations;

(H) language-appropriate forms and materials that include information regarding legal rights, including contact information for the United Nations Refugee Agency and the National Trafficking Hotline, as well as the consequences of signing such forms, in a language the detainee is known to understand;

(I) protocols for communicating the information on those forms and materials orally to detainees in a language they are known to understand;

(J) appropriate care for pregnant women and individuals with medical needs, including a prohibition on shackling or restraint of pregnant women absent truly extraordinary circumstances (and never during active labor or delivery);

(K) appropriate medical screening and care for all detainees, overseen by a trained medical professional, including access to emergency medical care and prescribed medications whenever medically appropriate;

(L) reasonable accommodations in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(M) reasonable access to facilities and visitation policies for nongovernmental organizations;

(N) a transparent, independent, and responsive grievance system widely publicized within facilities in multiple languages, including access to the Office for Civil Rights and Civil Liberties' toll-free number and the complaints number described in the above section;

(O) protocols for identifying asylum-seekers who require credible fear screenings and for video recording of those screenings;

(P) safely transferring detainees to facilities of U.S. Immigration and Customs Enforcement with attention paid to ensuring regular meals, medication doses, and rest for detainees;

(Q) returning all money and nonperishable personal property (other than prohibited contraband) to former detainees prior to transfer, repatriation, or release, in coordination with other State and Federal agencies as necessary;

(R) compliance with the Prison Rape Elimination Act of 2003 (34 U.S.C. 30301 et seq.), including by requiring regular independent PREA audits, ensuring that all detainees are able to make prompt, confidential sexual abuse complaints to a staffed telephone hotline in multiple languages, and requiring formal, comprehensive PREA compliance training of all U.S. Customs and Border Protection staff with detention-related responsibilities; and

(S) compliance with the Victims of Child Abuse Act (42 U.S.C. 1303) and implementing regulations, to ensure that officials are aware of their obligations to report all allegations of child abuse and of the criminal penalties for failure to do so in accordance with section 2258 of title 18, United States Code.

(c) MONITORING AND OVERSIGHT.—

(1) INTERIM OVERSIGHT.—Until the TEDS policy and supplemental policies have been implemented and are being adhered to in accordance with subsection (b), the Secretary of Homeland Security shall direct oversight

of the U.S. Customs and Border Protection facilities that provide short-term custody to ensure that humane standards of care addressing all of the requirements set forth in such subsection are made publicly available and are being implemented throughout the agency.

(2) ACCESS FOR LOP PROVIDERS AND COUNSEL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall direct U.S. Customs and Border Protection to allow Legal Orientation Program (LOP) providers and counsel access to migrants held in U.S. Customs and Border Protection short-term custody facilities.

(3) SITE VISITS.—The Department of Homeland Security Office of the Inspector General shall conduct site visits to all short-term detention facilities at least every six months and issue annual inspection reports assessing each facility's compliance with the requirements set forth in subsection (b), along with recommendations for improvement as needed, and promptly make those reports publicly available.

SA 2014. Mr. HEINRICH (for himself and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON CONSTRUCTION OF CERTAIN ELEMENTS OF THE PHYSICAL BARRIER ALONG THE SOUTHERN BORDER OF THE UNITED STATES IN NATIONAL WILDLIFE REFUGES, WILDERNESS AREAS, AND RELATED AREAS.

Notwithstanding any other provision of law, no Federal funds may be used to design or construct any levee wall, steel bollard fence, or other wall within the following:

(1) A unit of the national wildlife refuge system.

(2) A unit of the national wilderness preservation system.

(3) A wildlife corridor, as determined by the Secretary of the Interior acting through the Director of the U.S. Fish and Wildlife Service.

SA 2015. Mr. HEINRICH (for himself, Ms. HEITKAMP, and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RECEIPT OF COMPENSATION REQUIRED FOR USE OF EMINENT DOMAIN FOR CONSTRUCTION OF BORDER INFRASTRUCTURE.

Notwithstanding section 3114 of title 40, United States Code, or section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note; Public Law 104–208) the Federal Government shall not take physical possession of any land acquired, or proposed to be acquired, pursuant to those sections for the construction of any infrastructure (including a pedestrian fence, vehicle barrier, levee, gate, wall, fence, road, or port of entry) at the international border between the United States and Mexico until the date on which the applicable court determines that—

(1) in the case of private land—

(A) all persons or entities entitled to compensation for the acquisition have received the entire full fair market value amount of compensation due on the date of acquisition of the private land; and

(B) all relevant court proceedings described in section 3114(a) of title 40, United States Code, have been—

(i) completed; and

(ii) terminated by the court;

(2) in the case of State land (including State land in the vicinity of a unit of the National Wildlife Refuge System, a unit of the National Park System, or Tribal land or in the vicinity of a historic district or a State park)—

(A) the requirements of subparagraphs (A) and (B) of paragraph (1) have been met; and

(B) all relevant stakeholders (including Tribes) have been consulted and have approved the acquisition; and

(3) in the case of Tribal land—

(A) the requirements of subparagraphs (A) and (B) of paragraph (1) have been met; and

(B) all relevant Tribal stakeholders have been consulted and have approved the acquisition.

SEC. _____. CONSULTATION REQUIRED PRIOR TO ACQUISITION OF LAND FOR CONSTRUCTION OF BORDER INFRASTRUCTURE.

(a) IN GENERAL.—Before implementing any plan to acquire private land, State land, or Tribal land on which the Secretary of Homeland Security (referred to in this section as the ''Secretary'') intends to build or construct a temporary or permanent structure related to efforts to secure or protect the border between the United States and Mexico, the Secretary shall conduct significant consultation with—

(1) any owners of the land proposed to be acquired; and

(2) any individuals or communities that could be impacted by the construction of the structure, as determined by the Secretary.

(b) FINAL PLANS; TRANSPARENCY.—Before beginning construction of a temporary or permanent structure described in subsection (a), the Secretary shall—

(1) give significant weight to the opinions and information presented to the Secretary during the consultation process conducted under that subsection; and

(2) publish in the Federal Register information describing ways in which the final plan of the Secretary for acquiring the land or constructing the structure was modified as a result of the consultation process conducted under that subsection.

SA 2016. Mr. HEINRICH (for himself and Mr. UDALL) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. RESTRICTIONS ON THE REPLACEMENT OF VEHICLE BARRIERS WITH A BORDER WALL ALONG THE SOUTHERN BORDER.

(a) WAIVER OF LAWS RELATING TO THE REPLACEMENT OF VEHICLE BARRIERS WITH A BORDER WALL.—The waiver authority under section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) shall not apply to replacing existing vehicle barriers with a primary wall or fence along the international border between the United States and Mexico.

(b) PROHIBITION ON USE OF FEDERAL FUNDS FOR THE REPLACEMENT OF VEHICLE BARRIERS WITH A BORDER WALL OR PEDESTRIAN FENCE.—Notwithstanding any other provision of law, no funds authorized to be appropriated or appropriated under this Act may be used to design or construct any levee wall, steel bollard fence, or other wall intended to replace existing vehicle barriers along the international border between the United States and Mexico.

SA 2017. Mr. FLAKE (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike sections 4002 and 4003 and insert the following:

SEC. 4002. SPONSORSHIP BY CITIZENS OF SPOUSES AND CHILDREN ONLY.

(a) IN GENERAL.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

''(1) SPOUSES AND CHILDREN OF CITIZENS.—Qualified immigrants who are the spouse or child of a citizen of the United States shall be allocated visas in a number not to exceed—

''(A) the worldwide level specified in section 201(c); minus

''(B) 114,200.''; and

(2) by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 201(f) (8 U.S.C. 1151(f))—

(A) by striking paragraph (3);

(B) by redesignating paragraph (4) as paragraph (3); and

(C) in paragraph (3), as so redesignated, by striking ''through (3)'' and inserting ''and (2)'';

(2) in section 202 (8 U.S.C. 1152)—

(A) in subsection (a)(4), by striking subparagraph (D); and

(B) in subsection (e)(2), by striking ''through (4)'' and inserting ''and (2)'';

(3) in section 204 (8 U.S.C. 1154)—

(A) in subsection (a)(1)—

(i) in subparagraph (A)(i), by striking ''paragraph (1), (3), or (4) of section 203(a)'' and inserting ''section 203(a)(1)''; and

(ii) in subparagraph (D)(i)(I), by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1) or (2)''; and

(B) in subsection (f)(1), by striking ''203(a)(1), or 203(a)(3)'' and inserting ''or 203(a)(1)''; and

(4) in section 212(d)(11) (8 U.S.C. 1182(d)(11)), by striking ''(other than paragraph (4) thereof)''.

SEC. 4003. SPONSORSHIP BY LAWFUL PERMANENT RESIDENTS OF SPOUSES AND CHILDREN ONLY.

(a) IN GENERAL.—Section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) is amended to read as follows:

''(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouse or child of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the sum of—

''(A) 114,200;

''(B) the number (if any) by which such worldwide level exceeds 226,000; and

''(C) the number of visas not required for the class described in paragraph (1).''.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking ''section 203(a)(2)(A)'' each place it appears and inserting ''section 203(a)(2)'';

(2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)'';

(3) in section 202 (8 U.S.C. 1152)—

(A) in subsection (a)—

(i) in paragraph (2), by striking ''(3), (4), and (5)'' and inserting ''(3) and (4)''

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4); and

(B) in subsection (e), by striking '', or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)'';

(4) in section 203(h) (8 U.S.C. 1153(h))—

(A) in paragraph (3), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)''; and

(B) by striking ''(a)(2)(A)'' each place it appears and inserting ''(a)(2)'';

(5) in section 204 (8 U.S.C. 1154)—

(A) in subsection (a)(1)(B)—

(i) in clause (ii)—

(I) in subclause (I), by striking ''if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and''; and

(II) in subclause (II)(cc), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)''; and

(ii) in clause (iii), by striking ''section 203(a)(2)(A)'' and inserting ''section 203(a)(2)''; and

(B) in subsection (k)(1)—

(i) by striking ''alien unmarried son or daughter's classification as a family- sponsored immigrant under section 203(a)(2)(B)'' and inserting ''alien child's classification as a family-sponsored immigrant under section 203(a)(2)'';

(ii) by striking ''son or daughter'' and inserting ''child''; and

(iii) by striking ''unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1)'' and inserting ''child as an immediate relative under section 201(b)(2)''; and

(6) in section 214(q)(1)(B)(i) (8 U.S.C. 1184(q)(1)(B)(i)), by striking ''(a)(2)(A)'' each place it appears and inserting ''(a)(2)''.

SEC. 4004. CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIEN PARENTS OF ADULT UNITED STATES CITIZENS.

(a) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a semicolon;

(2) in subparagraph (U)(iii), by striking ''or'' at the end;

(3) in subparagraph (V)(ii)(II), by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States, if the citizen is at least 21 years of age.''.

(b) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s)(1) The initial period of authorized admission for a nonimmigrant described in section 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still residing in the United States.

''(2) A nonimmigrant described in section 101(a)(15)(W)—

''(A) is not authorized to be employed in the United States; and

''(B) is not eligible for any Federal, State, or local public benefit.

''(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the United States citizen son or daughter who sponsored the nonimmigrant parent shall be responsible for the nonimmigrant's support while the nonimmigrant resides in the United States.

''(4) An alien is ineligible to receive a visa or to be admitted into the United States as a nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof that the United States citizen son or daughter has arranged for health insurance coverage for the alien, at no cost to the alien, during the anticipated period of the alien's residence in the United States.''.

SEC. 4005. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by sections 4002 through 4005 shall take effect on the date that is 1 year after the date of the enactment of this Act.

(b) GRANDFATHERED PETITIONS.—Notwithstanding the termination by this title of the family-sponsored immigrant visa categories under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available to, any alien who has—

(1) an approved family-based petition that has not been terminated or revoked, or

(2) a properly-filed family-based petition that is—

(A) pending with U.S. Citizenship and Immigration Services; and

(B) based on subsection (a) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this Act).

(c) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall continue to allocate a sufficient number of visas in family-sponsored immigrant visa categories until the date on which a visa has been made available, in conformance with the numeric and per country limitations in effect on the day before the date of enactment of this Act, to each beneficiary of an approved petition described in paragraph (1) or (2) of subsection (b), if the beneficiary—

(1) indicates an intent to pursue the immigrant visa not later than 180 days after the date on which the Secretary of State notifies the beneficiary of the availability of the visa; and

(2) is otherwise qualified to receive a visa under this Act.

SEC. 4006. VISA REALLOCATION.

(a) APPLICATION OF AMENDMENTS.—The amendments made by sections 4002 through 4004 shall apply only with respect to visas issued under section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) on or after the effective date specified in section 4006.

(b) VISA REALLOCATION.—Of the number of visas available under section 203 of such Act after the effective date that would otherwise have been available under section 203(a) of such Act, as in effect before such effective date, such visas shall be reallocated after such effective date—

(1) to family-sponsored immigrants under section 203(a) of such Act to reduce or eliminate the backlog in visas under that section; and

(2) if any visas remain for allocation after the elimination of the backlog in visas under section 203(a) of such Act—

(A) the number equal to 33 percent of the remaining visas shall be available for aliens who are members of the professions holding advanced degrees or aliens of exceptional ability under section 203(b)(1) of such Act; and

(B) the number equal to 34 percent of the remaining visas shall be available for aliens who are members of the professions holding advanced degrees or aliens of exceptional ability under section 203(b)(2) of such Act; and

(C) the number equal to 33 percent of the remaining visas shall be available for aliens who skilled workers, professionals, or other workers under section 203(b)(3) of such Act.

(c) TRANSITION RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2018, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2011 under such paragraphs.

(B) For fiscal year 2019, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2012 under such paragraphs.

(C) For fiscal year 2020, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2015 under such paragraphs.

(2) PER-COUNTRY LEVELS.—

(A) RESERVED VISAS.—The number of visas reserved under each of subparagraphs (A) through (C) of paragraph (1) made available to natives of any single foreign state or dependent area in the appropriate fiscal year may not exceed 25 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas.

(B) UNRESERVED VISAS.—Not more than 85 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) and not reserved under paragraph (1), for each of the fiscal years 2018, 2019, and 2020, may be allotted to immigrants who are natives of any single foreign state.

(3) SPECIAL RULE TO PREVENT UNUSED VISAS.—If, with respect to fiscal year 2018, 2019, or 2020, the application of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).

(4) RULES FOR CHARGEABILITY.—Section 202(b) of such Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.

SEC. 4007. ELIMINATION OF DIVERSITY VISA PROGRAM.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), and (g), respectively;

(3) in subsection (c), as redesignated, by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)'';

(4) in subsection (d), as redesignated—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2);

(5) in subsection (e), as redesignated, by striking ''subsection (a), (b), or (c) of this section'' and inserting ''subsection (a) or (b)'';

(6) in subsection (f), as redesignated, by striking ''subsections (a), (b), and (c)'' and inserting ''subsections (a) and (b)''; and

(7) in subsection (g), as redesignated—

(A) by striking ''(d)'' each place it appears and inserting ''(c)''; and

(B) in paragraph (2)(B), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection (a)—

(i) in paragraph (1), by adding ''and'' at the end;

(ii) in paragraph (2), by striking ''; and'' and inserting a period; and

(iii) by striking paragraph (3);

(B) by striking subsection (e); and

(C) by redesignating subsection (f) as subsection (e);

(3) in section 203(b)(2)(B)(ii)(IV) (8 U.S.C. 1153(b)(2)(B)(ii)(IV)), by striking ''section 203(b)(2)(B)'' each place such term appears and inserting ''clause (i)'';

(4) in section 204 (8 U.S.C. 1154)—

(A) in subsection (a)(1)—

(i) by striking subparagraph (I); and

(ii) by redesignating subparagraphs (J) through (L) as subparagraphs (I) through (K), respectively;

(B) in subsection (e), by striking ''subsection (a), (b), or (c) of section 203'' and inserting ''subsection (a) or (b) of section 203''; and

(C) in subsection (l)(2)—

(i) in subparagraph (B), by striking ''section 203 (a) or (d)'' and inserting ''subsection (a) or (c) of section 203''; and

(ii) in subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(5) in section 214(q)(1)(B)(i) (8 U.S.C. 1184(q)(1)(B)(i)), by striking ''section 203(d)'' and inserting ''section 203(c)'';

(6) in section 216(h)(1) (8 U.S.C. 1186a(h)(1)), in the undesignated matter following subparagraph (C), by striking ''section 203(d)'' and inserting ''section 203(c)''; and

(7) in section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)), by striking ''section 203(d)'' and inserting ''section 203(c)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year beginning on or after the date of the enactment of this Act.

SEC. 4008. REALLOCATION OF VISAS; GRANDFATHERED PETITIONS.

(a) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under section 4007 of the diversity visa program described in sections 201(e) and 203(c) of the Immigration and Nationality Act (8 U.S.C. 1151(e) and 1153(c)) (as in effect on the day before the date of enactment of this Act), the amendments made by this section shall not apply, and visas shall remain available, to any alien whom the Secretary of State has selected to participate in the diversity visa lottery for fiscal year 2018.

(b) REALLOCATION OF VISAS.—

(1) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on which the number of visas allocated for aliens who qualify for visas under the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make available the annual allocation of diversity visas as follows:

(A) 20,000 visas shall be made available to aliens who—

(i) have earned a Ph.D. degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in a field of science, technology, engineering, or mathematics; and

(ii) have an offer of employment from a United States employer in a field related to such degree.

(B) 20,000 visas shall be made available to aliens who qualify for an Entrepreneur Immigrant Visa.

(C) 10,000 visas shall be made available to aliens under section 203(b)(6) of the Immigration and Nationality Act, as added by paragraph (2)(B).

(2) ENTREPRENEUR IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) ENTREPRENEUR IMMIGRANTS.—

''(A) DEFINITIONS.—In this paragraph and in sections 101(a)(15)(W) and 214(s):

''(i) QUALIFIED ANGEL INVESTOR.—The term 'qualified angel investor' means an individual or organized group of individuals investing directly or through a legal entity—

''(I) each of whom is an accredited investor (as defined in section 230.501(a) of title 17, Code of Federal Regulations, or any similar successor regulation) investing the funds owned by such individual or organized group in a qualified entrepreneur's United States business entity;

''(II)(aa) if an individual, is a citizen of the United States or an alien lawfully admitted for permanent residence; or

''(bb) if an organized group or legal entity, a majority of the individuals investing through such group or entity are citizens of the United States or aliens lawfully admitted for permanent residence; and

''(III) each of whom in the previous 3 years has made qualified investments totaling not less than $50,000 (or such higher amount determined appropriate by the Secretary) in United States business entities that are less than 5 years old.

''(ii) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'qualified community development financial institution' means an entity that has been certified by the Community Development Financial Institutions Fund under section 1805.201 of title 12, Code of Federal Regulations, or any similar successor regulation.

''(iii) QUALIFIED ENTREPRENEUR.—The term 'qualified entrepreneur' means an individual who—

''(I) has a significant ownership interest, which need not constitute a majority interest, in a United States business entity;

''(II) is employed in a senior executive position at such entity;

''(III) submits a business plan to U.S. Citizenship and Immigration Services; and

''(IV) had a substantial role in the founding or early-stage growth and development of such entity.

''(iv) QUALIFIED GOVERNMENT ENTITY.—The term 'qualified government entity' means an agency or instrumentality of the United States or of a State, local, or tribal government.

''(v) QUALIFIED INVESTMENT.—The term 'qualified investment'—

''(I) means an investment in a qualified entrepreneur's United States business entity that is—

''(aa) a purchase from such entity of equity or convertible debt issued by such entity;

''(bb) a secured loan;

''(cc) a convertible debt note;

''(dd) a public securities offering;

''(ee) a research and development award from a qualified government entity to the United States business entity;

''(ff) another investment determined appropriate by the Secretary; or

''(gg) a combination of any of the investments described in items (aa) through (ff); and

''(II) does not include an investment from—

''(aa) such qualified entrepreneur;

''(bb) the parents, spouse, son, or daughter of such qualified entrepreneur; or

''(cc) any corporation, company, association, firm, partnership, society, or joint stock company over which such qualified entrepreneur has a substantial ownership interest.

''(vi) QUALIFIED JOB.—The term 'qualified job' means a full-time position at a United States business entity owned by a qualified entrepreneur that—

''(I) is located in the United States;

''(II) has been filled for at least 2 years by a United States citizen or legal permanent resident who is not the qualified entrepreneur or the spouse, son, or daughter of the qualified entrepreneur; and

''(III) is compensated at a wage level that is commensurate with similarly situated employees in comparable positions in the metropolitan statistical area of the employment.

''(vii) QUALIFIED STARTUP ACCELERATOR.—The term 'qualified startup accelerator' means a corporation, company, association, firm, partnership, society, or joint stock company that—

''(I) is organized under the laws of the United States or of any State and conducts business in the United States;

''(II) in the ordinary course of business, provides a program of training, mentorship, and logistical support to assist entrepreneurs in growing their businesses;

''(III) is managed by individuals, the majority of whom are citizens of the United States or aliens lawfully admitted for permanent residence;

''(IV)(aa) regularly acquires an equity interest in companies that participate in its programs in which the majority of the capital so invested is committed from individuals who are United States citizens or aliens lawfully admitted for permanent residence, or from entities organized under the laws of the United States or any State; or

''(bb) is an entity that has received not less than $250,000 in funding from a qualified government entity or entities during the previous 5 years and regularly awards grants to companies that participate in its programs (in which case, such grant shall be treated as a qualified investment for purposes of clause (v));

''(V) during the previous 5 years, has acquired an equity interest in, or, in the case of an entity described in subclause (IV)(bb), regularly made grants to, not fewer than 10 United States business entities that—

''(aa) have participated in its programs; and

''(bb)(AA) have each secured at least $100,000 in initial investments; or

''(BB) during any 2-year period following the date of such acquisition, have generated not less than $500,000 in aggregate annual revenue within the United States;

''(VI) has its primary location in the United States; and

''(VII) satisfies such other criteria as the Secretary may establish.

''(viii) QUALIFIED VENTURE CAPITALIST.—The term 'qualified venture capitalist' means an entity that—

''(I)(aa) is a venture capital operating company (as defined in section 2510.3-101(d) of title 29, Code of Federal Regulations or any successor to such regulation); or

''(bb) has management rights, as defined in, and to the extent required by, such section 2510.3-101(d) or successor regulation, in its portfolio companies;

''(II) has capital commitments of not less than $10,000,000; and

''(III) has an investment adviser that—

''(aa) is registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3);

''(bb) has its primary office location in the United States;

''(cc) is directly or indirectly owned by individuals, the majority of whom are citizens of the United States or aliens lawfully admitted for permanent residence in the United States;

''(dd) has been advising such entity or other similar funds or entities for at least 2 years; and

''(ee) has advised such entity or a similar fund or entity with respect to at least 2 investments of not less than $500,000 made by such entity or similar fund or entity during each of the most recent 2 years.

''(ix) SECRETARY.—Except as otherwise specifically provided, the term 'Secretary' means the Secretary of Homeland Security.

''(x) SENIOR EXECUTIVE POSITION.—The term 'senior executive position' includes the position of chief executive officer, chief technology officer, and chief operating officer.

''(xi) UNITED STATES BUSINESS ENTITY.—The term 'United States business entity' means any corporation, company, association, firm, partnership, society, or joint stock company that is organized under the laws of the United States or any State and that conducts business in the United States that is not—

''(I) a private fund (as defined in 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2));

''(II) a commodity pool (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a));

''(III) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); or

''(IV) an issuer that would be an investment company without an exemption provided in—

''(aa) section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)); or

''(bb) section 270.3a-7 of title 17, Code of Federal Regulations, or any similar successor regulation.

''(B) IN GENERAL.—Not more than 10,000 visas shall be available during each fiscal year for qualified immigrants seeking to enter the United States for the purpose of creating new businesses, as described in this paragraph.

''(C) ELIGIBILITY.—An alien who is a qualified entrepreneur is eligible for a visa under this paragraph if—

''(i)(I) the alien maintained valid nonimmigrant status in the United States for at least 2 years;

''(II) during the 3-year period ending on the date the alien files an initial petition for such status under this section—

''(aa)(AA) the alien has a significant ownership in a United States business entity that has created not fewer than 5 qualified jobs; and

''(BB) a qualified venture capitalist, a qualified angel investor, a qualified government entity, a qualified community development financial institution, qualified startup accelerator, or such other entity or type of investors, as determined by the Secretary, or any combination of such entities or investors, has devoted a qualified investment or combination of qualified investments of not less than $500,000 to the alien's United States business entity; or

''(bb)(AA) the alien has a significant ownership interest in a United States business entity that has created not fewer than 5 qualified jobs; and

''(BB) during the 2-year period ending on such petition date, has generated not less than $500,000 in annual revenue within the United States; and

''(III) not more than 2 other aliens have received nonimmigrant status under this section on the basis of an alien's ownership of such United States business entity; or

''(ii)(I) the alien maintained valid nonimmigrant status in the United States for at least 3 years before the date on which the alien filed an application for such status;

''(II) the alien holds an advanced degree in a field of science, technology, engineering, or mathematics that has been approved by the Secretary;

''(III) during the 3-year period ending on the date on which the alien files an initial petition for such status under this section—

''(aa)(AA) the alien has a significant ownership interest in a United States business entity that has created not fewer than 4 qualified jobs; and

''(BB) a qualified venture capitalist, a qualified angel investor, a qualified government entity, a qualified community development financial institution, qualified startup accelerator, or such other entity or type of investors, as determined by the Secretary, or any combination of such entities or investors, has devoted a qualified investment or combination of qualified investments of not less than $500,000 in total to the alien's United States business entity; or

''(bb)(AA) the alien has a significant ownership interest in a United States business entity that has created not fewer than 3 qualified jobs; and

''(BB) during the 2-year period ending on such petition date, the entity has generated not less than $500,000 in annual revenue within the United States; and

''(IV) not more than 3 other aliens have received nonimmigrant status under this paragraph on the basis of an alien's ownership of such United States business entity.

''(D) NEW BUSINESS PLAN REQUIREMENT.—

''(i) IN GENERAL.—A qualified entrepreneur shall submit a new business plan to U.S. Citizenship and Immigration Services if there has been a material change to the business plan referred to in subparagraph (A)(iii)(III).

''(ii) PRESUMPTION.—There shall be a presumption in favor of approval for any new business plan submitted pursuant to clause (i).

''(E) ATTESTATION.—The Secretary may require an alien seeking a visa under this paragraph to attest, under penalties of perjury, to the alien's qualifications.''.

(3) NOTIFICATION.—

(A) FEDERAL REGISTER.—The Secretary, in consultation with the Secretary of State, shall publish a notice in the Federal Register to notify affected aliens with respect to—

(i) the availability of visas under paragraph (1);

(ii) the manner in which the visas shall be allocated.

(B) VISA BULLETIN.—The Secretary of State shall publish a notice in the monthly visa bulletin of the Department of State with respect to—

(i) the availability of visas under paragraph (1);

(ii) the manner in which the visas shall be allocated.

AUTHORITY FOR COMMITTEES TO MEET

Mr. CORNYN. Mr. President, I have 11 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 9:30 a.m., to conduct a hearing on the following nominations: Joseph Simons, of Virginia, Christine S. Wilson, of Virginia, Noah Joshua Phillips, of Maryland, and Rohit Chopra, of New York, each to be a Federal Trade Commissioner.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 10:30 a.m., to conduct a hearing entitled ''The President's Fiscal Year 2019 Budget.''

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing on the President's budget and the following nominations: Dennis Shea, of Virginia, to be a Deputy United States Trade Representative (Geneva Office), with the rank of Ambassador, and C. J. Mahoney, of Kansas, to be a Deputy United States Trade Representative (Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere), with the rank of Ambassador.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 10 a.m., to conduct a business meeting and hearing on the following nominations: Jeff T.H. Pon to be Director, Office of Personnel Management and Michael Rigas, to be Deputy Director, Office of Personnel and Management.

COMMITTEE ON INDIAN AFFAIRS

The Committee on Indian Affairs is authorized to meet during the session of the Senate on Wednesday, February, 14, 2018, at 2:30 p.m., to conduct a hearing entitled ''Making Indian Country Count: Native Americans and the 2020 Census.''