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

SA 1982. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1899 proposed by Mr. GRAE- LEY (for himself, 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 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. MARKY 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. MARKY 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 Mr. 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. ROUND (for himself, Mr. KING, Ms. COLLINS, Mr. MANCHIN, Mr. GRAH- AM, Mr. Kaine, Ms. COINS, Mr. GARDNER, Ms. HEITKAMP, Mr. MURKOWSKI, Mrs. SHAHEEN, Mr. ALEXANDER, Ms. KLO- BUCHAR, 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. GRAMM) 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, supra; which was ordered to lie on the table.

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 MAINTENANCE.

(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 infrastructures 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, to be administered through the Department of Homeland Security and, in fiscal year 2018 only, through the Department of State, a total of $7,639,000,000, as follows:

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

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

(3) For fiscal year 2020, $2,467,000,000, to re- main 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 U.S. Customs and Border Protection—Procurement, Construction and Improvements account, for the purpose of constructing, re- placing, 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) $1,842,000,000 for fiscal year 2019.

(C) $1,600,000,000 for fiscal year 2020.

(D) $1,842,000,000 for fiscal year 2021.

(2) AVAILABILITY OF FUNDS.—Notwith- standing section 1553(a) of title 31, United States Code, any amounts obligated for the purposes described in this subsection shall remain available for disbursement until expi- ration of the Act.
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 (b); or

(e) USE OF FUNDS.—If the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives provides for the transfer of funds in a fiscal year for a purpose described in 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.

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

(a) 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.

(6) REPORTING REQUIREMENT.—At the beginning of fiscal year 2018, 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 amount of funds transferred under this section in any fiscal year; and

(2) the amount planned to be expended on border security during the upcoming fiscal year, 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 of such chapter 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 pursuant to 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) punishable by imprisonment for a term not exceeding 1 year.

"(A) The term 'significant misdemeanor' means an offense punishable by imprisonment not exceeding 1 year.

"(B) The term 'serious, chronic disability' means a disability that—

(1) is determined by the Secretary to be permanent; and

(2) requires him to receive medical treatment on a regular basis in order to prevent severe deterioration in his condition;

(3) is of a nature which, because of a serious, chronic disability; and

"(E) The term 'significantly higher income' means a level of income—

(A) that is greater than five times the Federal poverty level; and

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

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

(a) 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.

(6) REPORTING REQUIREMENT.—At the beginning of fiscal year 2018, 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 amount of funds transferred under this section in any fiscal year; and

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

"(b) Authorization.—The Secretary—

"(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.

(3) Reporting Requirement.—At the beginning of fiscal year 2018, 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 amount of funds transferred under this section in any fiscal year; and

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

"(c) Eligibility Criteria.—An alien is eligible for provisional protected presence under this section and employment authorization under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

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

(1) is a veteran of the United States Armed Forces; or

(2) is a veteran of the Armed Forces of any other country who served during World War II.

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

"(f) Status During Period of Provisional Protected Presence.—The granting of provisional protected presence under this section does not excuse previous or subsequent periods of unlawful presence.

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

(1) is a veteran of the United States Armed Forces; or

(2) is a veteran of the Armed Forces of any other country who served during World War II.

"(h) Fraud and Misrepresentation.—

"(1) In General.—Any person who knowingly represents that he is an alien who is eligible for provisional protected presence under this section and employment authorization under this section by making any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(2) Injunction.—Any alien who is in a status described in subsection (d) and who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(3) Removal.—Any alien who is in a status described in subsection (d) and who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(4) Authorization.—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.

"(5) Fraud.—Any person who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(6) Employment Authorization.—

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

(1) is a veteran of the United States Armed Forces; or

(2) is a veteran of the Armed Forces of any other country who served during World War II.

"(C) Injunction.—Any alien who is in a status described in subsection (d) and who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(D) Removal.—Any alien who is in a status described in subsection (d) and who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(E) Fraud.—Any person who—

(1) makes any false statement or representation of a material fact to the Secretary of Homeland Security or the Secretary of Labor with the intent to procure or induce the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d); or

(2) engages in any conduct designed to cause the Secretary of Homeland Security or the Secretary of Labor to grant an alien a status described in subsection (d) is guilty of a felony.

"(F) Employment Authorization.—

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

(1) is a veteran of the United States Armed Forces; or

(2) is a veteran of the Armed Forces of any other country who served during World War II.
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.—If the Secretary in conjunction with the approval of the foreign national’s deferred action status, may apply for provisional protected presence under this section if the alien 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 Act, the Secretary shall begin accepting applications for provisional protected presence and employment authorization.

“(g) RISCSSION OF PROVISIONAL PROTECTED PRESENCE.—The Secretary may 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)(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.

“(i) 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 conjunction with 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 in accordance with 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. Hirono, Mr. Reed, Ms. Murkowski, Shaheen, Mr. Alexander, Mr. 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 struck, insert the following:

SECTION 1—PROVISIONAL PROTECTED PRESENCE

(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.

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, $567,000,000 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) $152,000,000 for—

(A) border security technologies;

(B) facilities;

(C) equipment; and

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

(2) $45,000,000 for retention, recruitment, and relocation of Border Patrol Agents, Customs Officers, and Air and Marine personnel.

(3) $4,000,000 to hire 615 additional U.S. Customs and Border Protection Officers for deployment to ports of entry.

(4) $1,000,000 for data centers 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) $700,000,000 for 32 miles of border bollard fencing in the Rio Grande Valley Sector, Texas.

(2) $598,000,000 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 unmaned aerial vehicles, and equipment.
(5) $38,239,000 to prepare the reports required under subsections (b) and (c) of section 106.
(6) $20,000,000 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, all necessary land acquisitions;
(2) the total number of necessary condemnation actions; and
(3) the precise number of landowners that will be impacted by the construction of such physical barriers;
(4) contains a comprehensive plan to consult State and local elected officials on the eminent domain and construction process relating to such physical barriers;
(5) 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
(6) 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) Federal, State, local, and privately-owned roads;
(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 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 that—

(d) GAO EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits each report described in paragraphs (b) and (c), the Comptroller General of the United States shall submit 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 Comptroller General of the United States that—

(1) in general.—For purposes of subsections (c) and (d), the Secretary shall de-
In accordance with the requirement to complete a period of employment as a CBP employee of not less than 2 years, and in agreement with the Secretary that the bonus is payable, subject to the requirements of this subsection, including—

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

(III) the amount of the bonus; and

(IV) Feedback from employees 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 if, after the 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—

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

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

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

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

(1) IMPROVING CBP HIRING AND RETENTION.

(A) IN GENERAL.—Each year, the Secretary shall review the use of hiring flexibilities by the Secretary under subsections (c) and (d) to determine whether the use of these flexibilities is helping the Secretary meet hiring and retention needs in rural and remote areas.

(B) OVERSIGHT.—The Commissioner may delegate any authority under this section to the Commissioner.

(C) 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.

(D) DELEGATION.—Subject to paragraph (B), the Secretary may delegate any authority under this section to the Commissioner.

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

(F) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preempt the Secretary or the Director from the applicability of the merit system principles under chapter 2303.

(G) 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.

4752. U.S. Customs and Border Protection employment authorities:—

SEC. 113. DISTRIBUTION.

(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) be self-powering, with a beaconing 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 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 disposal of personal items.
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 3-year grant program to improve emergency communications in the Southern border region.
(b) Eligibility for Grants.—An individual is eligible to receive 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 services 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 phone 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 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 agents of U.S. Customs and Border Protection;
(B) not fewer than 1/5 of such cameras are deployed to agents of U.S. Border Patrol; and
(C) not fewer than 1/5 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 to Congress a report that includes—
(1) a detailed description of incidences of the use of force by an officer or agent under the pilot program, disaggregated by the race, ethnicity, gender, and age of the individual 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 used 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 public safety;
(8) an assessment of the effect of the use of body-worn cameras under the pilot program on public service;
(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 public safety 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 the extent to which the development 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 security and handling of recordings from body-worn cameras;
(12) a description of issues that arose under the pilot program relating to the proper collection of evidence 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) 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; and
(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 an encounter that can reasonably be expected to result in an immediate threat to an officer’s or agent’s life or safety; and
(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 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; and
(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) meets, 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, ensuring the use of privacy 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 with the victim or witness; and
(C) require that an officer or agent who is wearing a body-worn camera notify an individual who is the subject of a recording that the 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 management, storage, or use of body-worn camera data.
SEC. 124. IMPLEMENTATION PLAN.
(a) I N GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to Congress for the permanent implementation of the use of body-worn cameras by employees of U.S. Customs and Border Protection.
(b) ELEMENTS.—The plan required under subsection (a) shall include—
(1) a 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 issued to officers and agents on a law enforcement or intelligence agency or to another law enforcement or intelligence agency or to the public; and
(B) operational requirements for body-worn cameras, including systems and support staff;
(3) the locations where body-worn cameras will be used;
(4) costs associated with the use of body-worn cameras; and
(5) a description of the cost-benefit analysis used to determine the number, placement, and location of body-worn cameras specified in the plan.

SEC. 126. DEPLOYMENT.
Not later than 6 months after the date on which the implementation plan is submitted under section 123, the Secretary of Homeland Security, in consultation with 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, State and local 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.

SEC. 121. 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 Homeland Security and Governmental Affairs of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security of the House of Representatives that—
(1) whether such practices and procedures of the Department of Homeland Security were properly followed and obeyed;
(2) 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. 132. 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

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

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

(9) HIGHER EDUCATION.—The term "institution of higher education"—

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

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

(10) MISDEMEANOR.—

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

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

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

(B) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(i) to conduct security and law enforcement background checks, and for any alien who is unable to provide the biometric and biographic data, in accordance with procedures established by the Secretary.

(11) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term "permanent resident status on a conditional basis" 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.

(12) POVERTY LINE.—The term "poverty line" has the meaning given the term in section 6(a)(1) of the Anti-Poverty Act of 1964 (42 U.S.C. 9902).

(13) SECRETARY.—Except as otherwise specifically provided in this section, 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.

(15) UNIFORMED SERVICES.—The term "Uniformed Services" has the meaning given the term "uniformed services" in section 101(a)(2) 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 entered the United States as a child shall be considered to have obtained status on a conditional basis as of the date on which the alien obtained the status, subject to this subtitle.

(b) ELIGIBILITY.—

(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; and

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

(2) APPLICATION.—(A) In general.—The application under this section must be filed by the alien, and is subject to the payment of a reasonable filing fee.

(B) SUBMISSION OF APPLICATION.—The Secretary shall provide an alternative procedure for an applicant who is unable to provide the biometric and biographic data for any reason.

(C) TREATMENT OF EXPUNGED CONVICTIONS.—The Secretary may, on a case-by-case basis, determine that a conviction referred to in section 1182(a) shall not automatically be treated as a conviction referred to in paragraph (1)(C)(iii). The Secretary shall cancel the alien's removal if the alien has obtained DACA and has not been convicted of—

(i) a felony;

(ii) an alien with a significant misdemeanor; or

(iii) 3 or more misdemeanors—

(aa) not committed on the same date; and

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

(D) The Secretary may, on a case-by-case basis, grant the alien permanent resident status on a conditional basis if the alien—

(i) has been convicted of—

(I) a felony;

(II) a significant misdemeanor; or

(III) 3 or more misdemeanors—

(aa) not committed on the same date; and

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

(E) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent residence under this section.

(F) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent residence under this section.

(G) the alien has obtained the status referred to in paragraph (2) while the alien was lawfully admitted for permanent residence under this section.

(H) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent resident status under this section.

(I) the alien is a DACA recipient.

(J) the alien is an immediate relative of a United States citizen.

(K) the alien is a former lawful permanent resident who was automatically or voluntarily removed.

(L) the alien is a former lawful permanent resident who was selectively removed.

(M) the alien is a former lawful permanent resident who was removed for failing to pay Federal, State, or local criminal offense.

(N) the alien is a former lawful permanent resident who was removed for failure to pay an income tax.

(O) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(P) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(Q) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(R) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(S) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(T) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(U) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(V) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(W) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(X) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(Y) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(Z) the alien is a former lawful permanent resident who was removed for failure to pay a Federal tax liability.

(aa) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent resident status under this section.

(bb) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent resident status under this section.

(cc) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent resident status under this section.

(dd) the alien has paid any applicable Federal tax liability incurred by the alien during the entire period for which the alien was lawfully admitted for permanent resident status under this section.

(II) the alien is eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

(3) APPLICATION.—The Secretary shall evaluate the application on a case-by-case basis according to the nature and severity of the offense underlying the expunged conviction, based on the record of the 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 RECIPIENT.—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) EXCEPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—

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

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

(6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

(A) IN GENERAL.—The Secretary may 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 CHECK.—The Secretary shall conduct a background check, and other data that the Secretary determines to be appropriate—

(i) to conduct security and law enforcement background checks, and for any alien who is unable to provide the biometric or biographic data referred to in paragraph (A) due to a physical impairment.

(ii) to determine if an alien seeking permanent resident status on a conditional basis; and
(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 agreement, the Secretary shall provide the alien with a reasonable opportunity to apply for relief under this section.

(3) CERTAIN ALIENS ENROLLED IN ELEMENTARY SCHOOLS.—

(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 AUTHORIZATION.—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.

(9) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis shall undergo a medical examination.

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

(11) MINIMUM AGE.—In the case of an alien who is 18 years of age or older, the Secretary shall stay the removal proceedings of an alien who—

(i) provides notice to the alien regarding the proceedings; and

(ii) has been employed for periods totaling at least 1 year in the United States.

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

(13) CERTAIN ALIENS ENROLLED IN ELEMENTARY SCHOOLS.—

(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 AUTHORIZATION.—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.

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(16) MINIMUM AGE.—In the case of an alien who is 18 years of age or older, the Secretary shall stay the removal proceedings of an alien who—

(i) provides notice to the alien regarding the proceedings; and

(ii) has been employed for periods totaling at least 1 year in the United States.

(17) CERTAIN ALIENS ENROLLED IN ELEMENTARY SCHOOLS.—

(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 AUTHORIZATION.—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.

(18) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis shall undergo a medical examination.

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

(20) MINIMUM AGE.—In the case of an alien who is 18 years of age or older, the Secretary shall stay the removal proceedings of an alien who—

(i) provides notice to the alien regarding the proceedings; and

(ii) has been employed for periods totaling at least 1 year in the United States.

(21) CERTAIN ALIENS ENROLLED IN ELEMENTARY SCHOOLS.—

(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 AUTHORIZATION.—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.

(22) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis shall undergo a medical examination.

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

(24) MINIMUM AGE.—In the case of an alien who is 18 years of age or older, the Secretary shall stay the removal proceedings of an alien who—

(i) provides notice to the alien regarding the proceedings; and

(ii) has been employed for periods totaling at least 1 year in the United States.

(25) CERTAIN ALIENS ENROLLED IN ELEMENTARY SCHOOLS.—

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

(2) RENUNCIATION REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of the permanent resident status granted to an alien under this subsection 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 a conditional basis of permanent resident status on a conditional basis, to pay a reasonable fee that is commensurate with the cost of processing the application.

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

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

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

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

D. DOCUMENTATION REQUIREMENTS.

(1) IN GENERAL.—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 of the alien; or
(4) a school identification card that includes the alien's name; and
(7) an automobile license receipt or registration;

(2) the nature and duration of the relationship between the alien and the alien's family member; or
(3) the alien has attended in the United States a religious ceremony;

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

(6) records from any educational institution certifying that the alien has been admitted to the institution of higher education; and

(7) records of service from the Uniformed Services.

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

(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) any medical or dental 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; or

(6) any document that includes the employer's name and address, and telephone number of the employer.

(7) any document establishing that an alien has not abandoned the United States; or

(8) any document from an institution of higher education.

(9) documents establishing the alien's participation in a religious ceremony;

(10) any other document that establishes that an alien has not abandoned the United States; or

(11) any document establishing that an alien has participated in a religious ceremony.
(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 graduated 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, 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;

(3) the alien passed a State-authorized exam, including the general educational development exam, in the United States; or

(4) an alien has earned a high school diploma or other alternate award; or

(g) Documents Establishing Enrollment in an Educational Program.—To establish that an alien is enrolled in any school or educational level 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 Familiar 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 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—

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

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

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

(4) Documents to Establish Unpaid Medical Expense.—To establish that the alien has incurred or incurred a medical expense, the alien shall provide receipts or other documentation from a medical provider that—

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

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

(C) document that the alien has accumulated $10,000 in unpaid medical expenses incurred by the alien or an immediate family member of the alien.

(i) Documents Establishing Authorization 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; a National Guard Report of Separation and Record of Service form 22; 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)(i) 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) Documents Establishing Receipt of Benefits.—The Secretary shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances—

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

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

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

(2) an application filed under this subtitle; or

(2) a request for DACA.

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

(1) for assistance in the consideration of an application for permanent resident status on a conditional basis; 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 paragraph (2) 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 apply 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
preliminary 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.

CHAP. 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. Facilities 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. 1155. Grant accountability.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

Sec. 1201. Definitions.

Sec. 1202. Ports of entry infrastructure.

Sec. 1203. Secure communications.

Sec. 1204. Border security deployment program.

Sec. 1205. Pilot and upgrade of license plate readers at ports of entry.

Sec. 1206. Biometric technology.

Sec. 1207. Nonintrusive inspection operational demonstration project.

Sec. 1208. Biometric exit data system.

Sec. 1209. Sense of Congress on cooperation between agencies.

Subtitle C—Border Security Enforcement Fund


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

Sec. 1401. Short titles.

Sec. 1402. 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 analog 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. Reinstitution of the Secure Communities Program.

Sec. 1510. Ensuring that local and Federal law enforcement officers may cooperate, 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 Smuggling, Terrorism, and Illegal Entry and Reentry; Bars to Readmission of Removed Aliens

Sec. 1601. Dangerous human smuggling, human trafficking, and human rights violations.

Sec. 1602. Putting the Brakes on Human Smuggling Act.

Sec. 1603. Drug trafficking and crimes of violence committed by illegal aliens.

Sec. 1604. Establishing inadmissibility and requirements for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.

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 instrumen
t

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. Expeditement 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 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 VISANITY 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 resident status 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 prosecutors 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. 2006. Identity authentication employing eligibility verification pilot programs.

TITLE III—SUCCEED ACT

Sec. 3001. Short titles.

Sec. 3002. Definitions.

Sec. 3003. Certification 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 resident status.

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 priority.

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.

TITTLE 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 corrections.

TITILE 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 in the section in 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 191(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 in the section in 102(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as added by section 1111.

(5) OPERATIONAL CONTROL.—The term “operational control” has the meaning given in the section in 2(b) of the Secure Fence Act of 2006 (6 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 in the section in 102(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 in the section “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).
SECTION 102. 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.

(b) in subsection (b)—

(i) in the heading, by striking “FENCING AND ROAD IMPROVEMENTS” and inserting “PHYSICAL BARRIERS”;

(ii) by striking paragraph (A)—

(A) by striking “subsection (a)” and inserting “this section”;

(B) by striking “roads, lighting, cameras, and sensors” and inserting “tactical infrastructure, and technology”; and

(iii) by striking “gain” and inserting “achieve situational awareness and”; and

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

(“B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.”

(ii) OTHER.—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.

(iii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

The deployment of physical barriers and tactical infrastructure under this subparagraph shall be designed to apply to an 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.

(iv) in paragraph (C)—

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

(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall, before constructing physical barriers in a specific area or region, consult with the Secretary of the Interior, the Secretary of Agriculture, and the 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 to be most practical and effective to achieve situational awareness and operational control in a specific area and the other alternatives the Secretary considered before making such a determination.; and

(IV) 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

(” by striking subparagraph (D); and

(C) in paragraph (2)—

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

(ii) by striking this section 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 consultation with the appropriate operators 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 maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.

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—

(a) INCREASED FLIGHT HOURS.—The Commissioner shall contract for increased flight hours for the southern border of the United States for the week.

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

(1) the primary missions for Air and Marine Operations are to directly support law enforcement and national security operations; and

(2) before deploying UAS in the airspace over the United States, the Commissioner shall ensure that—

(i) the primary missions for Air and Marine Operations are to directly support law enforcement and national security operations; and

(ii) the UAS deployed are subject to all applicable legal requirements.

(c) CONTRACT AIR SUPPORT AUTHORIZATION.—The Commissioner shall contract for increased flight hours for the southern border of the United States for the week.

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

(1) the primary missions for Air and Marine Operations are to directly support law enforcement and national security operations; and

(2) before deploying UAS in the airspace over the United States, the Commissioner shall ensure that—

(i) the primary missions for Air and Marine Operations are to directly support law enforcement and national security operations; and

(ii) the UAS deployed are subject to all applicable legal requirements.

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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 for 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. 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.

(f) SMALL UNMANNED AERIAL VEHICLES.—

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

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

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

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

(3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of 2002 (6 U.S.C. 231(e)(3)) is amended by—

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

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

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

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

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

(A) Tower-based surveillance technology.

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

(C) Improved agent communications capabilities.

(D) Advanced unattended surveillance sensors.

(E) Ultralight aircraft detection capabilities.

(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.

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

(K) Improved agent communications capabilities.

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

(M) Improved unattended surveillance sensors.

(N) Improved reaction capability supported by aviation assets.

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

(P) Improved agent communications capabilities.

(Q) Improved reaction capability supported by aviation assets.

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

(A) Tower-based surveillance technology.

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

(C) Improved unattended surveillance sensors.

(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.

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

(K) Improved agent communications capabilities.

(L) Improved reaction capability supported by aviation assets.

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

(N) Improved agent communications capabilities.

(O) Improved reaction capability supported by aviation assets.

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

(F) 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.

(19) To increase maritime domain awareness—
(i) unmanned aerial vehicles with maritime surveillance capability; and
(ii) increased maritime aviation patrol hours.

(20) 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.

(B) 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, Deshano 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) 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.

(2) NOTIFICATION.—If the Secretary exercises the authority provided in paragraph (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) ALTERNATION.—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) EXCISE CIRCUMSTANCES.—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, to areas 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 AUTHORIZA-
TION.—Nothing in this section authorizes any additional funds to be appropriated in any fiscal year to carry out section 434 of this Act in any fiscal year after the fiscal year in which funds were appropriated to carry out section 434 of this Act in such fiscal year.

(3) ELEMENTS.—Each report under paragraph (1) shall include, for each 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.

(4) REPORT PERIOD.—The period specified in paragraph (3) is—

(a) IN GENERAL.—The Secretary of Defense shall submit the first report under paragraph (1) on or before the date of the enactment of this Act.

(b) THE INITIAL REPORT.—The Secretary of Defense shall submit a second report under paragraph (1) on or before the 90-day period beginning on the date of sub-
mission of the first report. Such report shall include a strategy, developed after con-
sulting with relevant authorities of the Government of Mexico relating to such matters; and

(c) ALLOCATION OF FUNDS; REPORT.—Any assistance made available by the Secretary of State under this section shall be subject to—

(1) the notification procedures set forth in section 68A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1); and

(2) the notification requirements of—

(A) the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Appropriations of the Senate.

(c) ALLOCATION OF FUNDS; REPORT.—Any assistance made available by the Secretary of State under this section shall be subject to—

(1) the notification procedures set forth in section 68A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1); and

(2) the notification requirements of—

(A) the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Appropriations of the Senate.

(d) NOTIFICATIONS.—Any assistance made available by the Secretary of State under this Act shall be subject to—

(1) to combat drug production and trafficking and related violence, transnational organized criminal organizations, and corruption;

(2) to build a secure, modern border security system capable of preventing illegal migration;

(3) to support border security and coopera-

tion with United States military, intel-

ligence, 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.

(e) ALLOCATION OF FUNDS; REPORT.—Notwithstanding any other provision of law, 50 percent of any assistance appropriated in any appropriations Act to implement this section shall be withheld until—

(1) to combat drug trafficking and related violence and organized crime; and
(a) 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, or a possessor of a other interest in land, and any person having a right to grant permission to use the land.

SEC. 1112. 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:

"(1) INDEMNITY FOR ACTIONS OF LAW ENFORCEMENT OFFICERS.—

"(A) Definitions.—In this subsection—

"(i) the term 'land' includes roads, water, watercourses, and private ways, and buildings, structures, machinery, and equipment that is attached to real property; and

"(ii) the term 'owner' includes the possessor of a fee interest, a tenant, a lessee, an occupant, or a possessor of a other interest in land, and any person having a right to grant permission to use the land.
SEC. 1122. PREVENTION, DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) Definition—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 livestock, poultry, and other domesticated animals.

(5) MEANS OF CONVEYANCE.—The term ‘means of conveyance’ means any personal property used for, or intended for use, for the movement of any person, article, or animal, from or within southern border of the United States.

(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 arthropod.

(D) A bacterium.

(E) A fungus.

(F) A virus or viroid.

(G) An infectious disease agent or other pathogen.

(H) An arthropod.

(I) A parasite or parasitic plant.

(J) A prion.

(K) A vector.

(L) Any organism similar to or allied with any of the organisms described in this paragraph.

(7) PLANT.—The term ‘plant’ means any plant (including any plant part) capable of propagation, including a tree, a tissue culture, pollen, tuber, root, vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(b) Prevention, Detection, Control, and Eradication of the Spread of Diseases and Pests.—

(1) IN GENERAL.—The Secretary of Agriculture shall—

(A) in general, carry out operations and measures to prevent, detect, or eradicate the spread of any disease or pest in support of a plant part, plant or plant part, livestock, or any segment of agriculture threatened by the spread of any pest or disease of livestock or plant; and

(B) carry out measures to prevent, detect, control, or eradicate the spread of any disease or pest of livestock or plant that threatens a segment of agriculture.

(c) Compensation.—In general, the Secretary of Agriculture shall reimburse any plant owner for not more than 15 years, or both.

(d) Cooperation.—The Secretary of Agriculture may compensate industry participants and State agencies that cooperate with the Secretary of Agriculture, that result in cooperation with the Secretary of Agriculture, in carrying out operations and measures under this section.

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

(a) BRINGING IN AND HARBORING CERTAIN ALIENS.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) by inserting ‘‘or attempts to’’ and inserting ‘‘or attempts or conspires to’’; and

(2) by adding at the end the following:

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

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

(2) by adding at the end the following:

‘‘(c) Destruction of United States Border Controls.—Section 331 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’’;

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

(3) by striking ‘‘If the damage’’ after ‘‘both’’; and

(4) by adding at the end the following:

‘‘(2) Except as otherwise provided in this section, if the damage’’;

(5) by striking ‘‘If the damage’’ after ‘‘By reason of’’; and

(6) 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 operate a fort, wall, or other structure intended to de- feat, 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 deprecation 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) ILICIT SPOTTING.—Any person who knowingly and without lawful authorization destroys, alters, obliterates, conceals, hides, takes, exerts, 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 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 commits a violation of such subsection.

“(2) CONTENTS.—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 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 (A), by inserting “alien smuggling crime,” after “crime of violence” each place that term appears; and

(2) in paragraph (D), by inserting “alien smuggling crime,” after “crime of violence”;

(3) by striking paragraphs (2) through (4); and

(4) by redesignating paragraph (5) as paragraph (2); and

(4) by adding at the end the following:

“(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 that have justification 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 operated by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense; and

(ii) the use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets;

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

(E) efforts to detect, interdict, and disrupt illegal introductions of 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 and emerging technology deployed by the Department of Homeland Security;

(H) any technology required to maintain, support, and enhance security and facilitate the use of ports of entry; noninvasive 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 stakeholders, including through public meetings with such stakeholders, including representatives from border agricultural and ranching organizations and representatives of businesses and civic organizations along the northern border or the southern border;
(M) staffing requirements for all departmental border security functions; 
(N) a prioritized list of departmental research and development objectives to enhance security along the southern border; 
(O) an assessment of training programs, including training programs for— 
 identifier 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. 221(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; 
(21) 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 workflow staffing model.’’

(b) Definitions.—Section 411(r) of the Homeland Security Act of 2002 (6 U.S.C. 221(r)) is amended—

(1) by striking “this section, the terms” and inserting the following: ‘‘this section,’’ ‘‘the terms,’’ and; and 
(2) in paragraph (1), by adding as 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. 


SEC. 1127. INTEGRATED BORDER ENFORCEMENT TASK FORCE. 

(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. 

(1) 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). 
(2) 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.’’

(b) 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.

(c) Definitions.—In this section— 

(1) the term ‘‘IBET’’ means an IBET established pursuant to subsection (a); and 
(2) the term ‘‘Secretary’’ means the Secretary of Homeland Security.

SEC. 1134. INTEGRATED CROSS-BORDER LAW ENFORCEMENT OPERATION PROGRAM. 

(a) Operations.—The Secretary may—

(1) direct the assignment of Federal personnel to such IBETs; and 
(2) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and other costs associated with such participation.

(b) Duties.—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.

(c) Definitions.—In this section— 

(1) the term ‘‘IBET’’ means an IBET established pursuant to subsection (a); and 
(2) the term ‘‘Secretary’’ means the Secretary of Homeland Security.
(A) the lawfully 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 lawfully 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 shall offer the condemnation proceedings in accordance with the procedures prescribed for the condemnation of property pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

(4) The Secretary may accept, on behalf of the United States, the 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 purpose of detecting and neutralizing 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 implement a pilot program to evaluate the use of electromagnetic spectrum by U.S. Customs and Border Protection in support of border security operations through—

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

(2) automated spectrum management to enable and ensure 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 and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate that contains the findings and data derived from such pilot program.

SEC. 1131. FOREIGN MIGRATION ASSISTANCE.

(a) IN GENERAL.—Subtitle C of title IV of the Act of June 23, 1966 (70 Stat. 133 et seq.), as amended by section 3502 of the Act of August 2, 1970, is amended—

(1) by adding at the end the following:

``SEC. 350. Foreign assistance.

(1) The Commissioner of U.S. Customs and Border Protection shall provide, to a foreign government, financial assistance under this section for which such reimbursement may be provided only if the Commissioner determines that such assistance would enhance the capacity of such government to address irregular migration flows that may affect the United States.

(2) Assistance provided under subsection (a) may be provided only if—

(A) the Commissioner credits as offsetting collections to the account that finances the assistance under this section for which such reimbursement is received; and

(B) the Commissioner is notified by the Secretary of State when the price reimbursement is used.

(c) Rules of construction.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State under section 600 of the Act of August 2, 1970, or any financial assistance under this section to which such reimbursement may be provided.

(d) REIMBURSEMENT AS CREDIT.—Reimbursement credited pursuant to subsection (c) shall be credited as offsetting collections to the account that finances the assistance under this section for which such reimbursement is received.

(e) USE OF CANINES.—The Commissioner shall deploy not fewer than 50 the number of officers assisting in the detection and operation of border tunnel detection and technology activities along the southern border.

SEC. 1132. FOREIGN MIGRATION ASSISTANCE.

(a) TUNNEL DETECTION AND TECHNOLOGY PROGRAM.—Not later than September 30, 2022, the Commissioner shall increase the number of officer of U.S. Customs and Border Protection to maintain not fewer than 150 percent of the regular rate at which the Commissioner receives compensation at a rate that is not less than the regular rate of basic pay in effect for the United States Code).

(b) HISTORIC COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any reimbursement from the receiving foreign government for the provision of financial assistance under this section.

(c) DEVELOPMENT AND PROGRAM EXECUTION.—The Secretary and the Commissioner of U.S. Customs and Border Protection shall jointly develop and implement any financial assistance under this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State under section 600 of the Act of August 2, 1970, or any financial assistance under this section to which such reimbursement may be provided.

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 and other required staff, at land ports of entry and checkpoints, on the southern border and other border.

(d) U.S. CUSTOMS AND BORDER PROTECTION K-9 UNITS AND HANDLERS.—

(1) K-9 UNITS.—Not later than September 30, 2022, the Commissioner shall deploy not fewer than 300 new K-9 units, with supporting officers of U.S. Customs and Border Protection and other required staff, at land ports of entry and checkpoints, on the southern border and the northern border.

(2) USE OF CANINES.—The Commissioner shall train and assign canines at the primary inspection lanes at land ports of entry and checkpoints.

(e) U.S. CUSTOMS AND BORDER PROTECTION SEARCH TRAUMA AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of officers assisting search and rescue activities along the southern border.

SEC. 1142. FAIR LABOR STANDARDS FOR BORDER PATROL AGENTS.

(a) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

``(8) EMPLOYMENT AS A BORDER PATROL AGENT.—No public agency shall be deemed to have violated subsection (a) with respect to the employment of any border patrol agent (as defined in section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days, the border patrol agent receives compensation not less than 150 percent of the regular rate at which the agent is employed for all hours of work from 80 hours to 160 hours. Payments required under this section shall be in addition to any payments made under section 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitation set forth in that title.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) in paragraph (6), by adding “or” at the end;

(2) in paragraph (17), by redesignating subparagraphs (E) and (F) by striking “; or” and inserting a period; and

(3) by striking paragraph (18)."

SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION CIVIL Service, including a position in another agency or component of the Department of Homeland Security.

(a) Definitions.—For purposes of this section—

(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection described under any of subsections (a) through (h) of section 1141 of the Building America’s Trust Act; and

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

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

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

(d) the term ‘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 expediently meet the hiring goals and staffing levels required under section 1141 of the Building America’s Trust Act. The Secretary may not use such authority beyond the requirements of this subsection, including—

(A) the commencement and termination dates of the required service period; or

(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).

(c) SPECIAL RATES OF PAY.—In addition to the authorities provided to the Secretary to assist the Secretary in meeting the hiring of current employees; and

(3) the term ‘Director’ means the Director of the Office of Personnel Management.

(d) RULES FOR BONUSES.—

(1) 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.

(2) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph (3) or (4) shall not be considered part of the basic pay of the employee for any purpose, including for retirement or in computing a lump sum payment for an employee for accumulated and accrued annual leave under section 5551 or section 5552.

(3) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—

(i) IN GENERAL.—A bonus paid to an employee under paragraph (3) 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.

(4) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay under section 5753 or a retention bonus under section 1141 of the Building America’s Trust Act.

(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 conditions 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); and

(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;

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

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

(ii) that includes—

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

(II) the amount of the bonus; and

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

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

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

(D) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(E) the Committee on Finance of the Senate.

(3) the term ‘Director’ means the Director of the Office of Personnel Management.

(4) RULES FOR BONUSES.—

(1) 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 for an 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 (3) 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.

(D) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay under section 5753 or a retention bonus under section 1141 of the Building America’s Trust Act.

(E) RULES FOR BONUSES.—

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

(2) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph (3) or (4) shall not be considered part of the basic pay of the employee for any purpose, including for retirement or in computing a lump sum payment for an employee for accumulated and accrued annual leave under section 5551 or section 5552.

(F) CONSIDERATION.—In compiling each report required under this subsection to the appropriate congressional committees.

(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 other field offices located 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 higher education institutions defied in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement agencies;  

“(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 existing hiring and retention flexibilities under subsection (b) to help address identified hiring challenges, including in rural or remote areas.

“(2) To a current, full-time Federal law enforcement officer for not fewer than 3 years;  

“(3) To a member of the Armed Forces (or a reserve component thereof) or a veteran, if separated other than dishonorably.

“(4) To a law enforcement officer for not fewer than 3 years.

“(5) To a member of the Armed Forces (or a reserve component thereof) or an individual who has continuously served as a law enforcement officer for not fewer than 3 years.

“(6) To an individual 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 15 of the Fair Labor Standards Act (29 U.S.C. 213), an officer described in paragraph (1) shall be deemed to be a criminal investigator.

“(2) 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).

“(b) 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. 1144. 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) if—

“(1) the number of waivers requested, including in rural or remote areas; and

“(2) the annual report submitted to Congress by the Secretary 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. 1145. ANTI-BORDER CORRUPTION REAUTHORIZATION ACT.  

(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 Secretary of Homeland Security.

(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) and holds a current Tier 5 background investigation shall be subject to a Tier 5 background investigation.

(c) ADMINISTRATION OF POLYGRAPH EXAMINATIONS.—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.

“(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 succeeding 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) instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;
“(5) an update 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 a 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 under the U.S. Code—
“(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 applicable, to the same or a similar offense under the Uniform Code of Military Justice.
“(4) VETERAN.—The term ‘veteran’ has the meaning given such term in section 101(2) of title 38, United States Code.
“(5) POLYGRAPH EXAMINERS.—By not later than September 30, 2022, the Secretary shall increase by 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(1) of the Homeland Security Act of 2002 (6 U.S.C. 211(1)) is amended to read as follows:

“(1) 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) PLTSC.—The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Center to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

(b) 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 complete not fewer than 8 hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policy and guidelines related to relevant subject matters.

“(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform 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, which identifies the guidelines and curriculum established to carry out subsection (a) of section 411 of the Homeland Security Act of 2002, as amended by subsection (a).

SEC. 1147. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.

(a) ENVIRONMENT AND REMOVAL OFFICERS.—By not later than September 30, 2022, the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time equivalents of U.S. Immigration and Customs Enforcement Enforcement and Removal Operations law enforcement officers serving 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—
“(1) increase the number of trained, full-time, active-duty Homeland Security Investigations special agents by not fewer than 1,500; and

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 no fewer than 100 the number of Assistant United States Attorneys and
“(B) increase by no fewer than 50 the number of Special Assistant United States Attorneys in the United States Attorneys’ offices for the Department of Justice on the date of enactment and any existing attorney vacancies within the Department of Justice on such date of enactment,

(b) 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.

(c) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney General is authorized to procure space, temporary facilities, support staff, and full-time interpreters on an expedited basis, to accommodate the additional immigration judges authorized under subparagraph (A).

(b) 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 attorneys assigned to support the Board of Immigration Appeals by not fewer than 70 members of 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—
“(A) increase by not fewer than 100 the number of attorneys assigned to support the Board of Immigration Appeals by not fewer than 500.

(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. Immigration and Customs Enforcement shall increase by no fewer than 100 the number of trained full-time active duty Fraud Detection and National Security (FDNS) officers.

(c) SPECIAL AGENTS FOR THE DEPARTMENT OF HOMELAND SECURITY—
“(1) DOMESTIC 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 Domestic 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 Services attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of 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, 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 FE FEES.—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 concerns.

SEC. 1149. JUDICIAL RESOURCES FOR BORDER SECURITY.

(A) BORDER CROSSING PROSECUTIONS; CRIMINAL CONSEQUENCE CONSIDERATION.—

(1) IN GENERAL.—Amounts appropriated for the fiscal years 2018 through 2022, such sums as may be necessary to carry out this section:

(i) attorneys and administrative support staff in offices of United States attorneys;

(ii) support staff and interpreters in court clerks’ offices;

(iii) personnel 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;

(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.

SEC. 1150. 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:

(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. 333 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**

Northern ............................................ 17; 

Eastern ............................................. 19;

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

**Texas:**

Northern ............................................ 12;

Southern ........................................... 21;

Eastern .............................................. 7;

Western ............................................. 17.

*February 14, 2018*
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 214 of this title, or under the conditions of any such status:—

(3) in paragraph (4), by inserting “and aliens with an unknown status” after “unauthorized alien”:—

(iv) if the alien was taken into custody by any law enforcement agency or the Attorney General, a detailed description of:

(A) the 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 for 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, receive, and hire women and members of racial and ethnic minority groups in law enforcement positions of the agency or agencies:—

(4) by providing critical power generation systems, infrastructure, and technological upgrades to support State and local data management systems and fusion centers; and

(5) by providing specialized training and funding for the direct operating expenses associated with detecting and prosecuting drug trafficking, human smuggling, and other illegal activity 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 agencies, shall submit to the Attorney General an application that includes the information described in paragraph (2) at such time and in such manner as the Attorney General may require:—

(2) CONTENT.—Each application submitted under paragraph (1) shall include—

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) PERMITTED USES.—The recipient of a grant awarded under subsection (a) shall be used to address:

(1) equipment, including maintenance and sustainment costs;

(2) personnel, including overtime and training for high-intensity areas for drug trafficking, smuggling, and border security;

(3) the acquisition, deployment, and maintenance of any appropriate activity, as determined by the Secretary, acting through the Administrator, to implement the Department's most recent Homeland Security Grant Program Notice of Funding Opportunity; and

(4) any other appropriate activity, as determined by the Secretary, acting through the Administrator, to implement the Department's most recent Homeland Security Grant Program Notice of Funding Opportunity:—

(c) BUILDING BLOCKS.—Each grant awarded under this section shall be used to:

(1) equipment, including maintenance and sustainment costs;

(2) personnel, including overtime and training for far reaching and border enforcement activities.

SEC. 1153. OPERATION STONEGARDEN.

(a) ESTABLISHMENT.—There is established in the Department a program to be known as ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agencies, to implement the program 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;

(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.—All grants awarded to eligible law enforcement agencies shall be used to:

(1) equipment, including maintenance and sustainment costs;

(2) personnel, including overtime and training, 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 Secretary, acting through the Commissioner of U.S. Customs and Border Protection.

(d) PERIOD OF PERFORMANCE.—The Secretary shall establish a period of performance for each grant awarded 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 to the Committees on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report describing the expenditure of grants made under this section by each grant recipient.

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $110,000,000, for each of the fiscal years 2018 through 2022, for grants under this section.”.

(2) 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.

(b) CHERICAL 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 2000 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 may 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 aliens 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) The term “awarding entity” means the Secretary, the Administrator of the Federal Emergency Management Agency, the Director of the National Science Foundation, and the Director of the Office of Citizenship and New Americans.

(2) 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:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and thereafter, the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation, shall conduct audits of recipients of grants under this subtitle to ensure that all grant funds made available by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such Inspectors General shall determine the appropriate number of audits to be conducted each year.

(B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this subtitle or any amendment made by this subtitle during the first 2 fiscal years beginning after the first fiscal year in which a finding described in subsection (A) was discovered.

(2) PRIORTY.—In awarding a grant under this subtitle or any amendment made by this subtitle, the awarding entity shall give priority to 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 a grant under this subtitle or any amendment made by this subtitle during the 2-year period when the entity is barred from receiving grants under subparagraph (B), the awarding entity shall:

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to such entity into the general fund of the Treasury;

(ii) seek to recover the costs of the 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 other persons who have a substantial interest in the awarding entity, in the application for the grant, the process for determining such compensation, or the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the determinations made. 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 grants awarded by the Director of the National Science Foundation or the Deputy Director of the National Science Foundation, or their designee, are subject to section 3307 of title 40, United States Code.

(B) CONDUCT OF MEETINGS.—The Secretary of Homeland Security shall conduct meetings to ensure that, to the extent feasible, each such meeting is conducted electronically.

(C) REPORT.—The Secretary of Homeland Security shall, within 180 days of the date of enactment of this Act, submit a report to the Committees on Homeland Security and Governmental Affairs of the Senate and the House of Representatives describing the manner in which the conference is conducted and the costs associated with such conference.

(4) ADDITIONAL PORTS OF ENTRY.—

(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.

(b) CONSULTATION.—

(A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of State, the Secretary of Transportation, the Secretary of Homeland Security, 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 by paragraph (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.

(2) 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 of Homeland Security, shall expand the 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.

(4) 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, and other Committees of the Senate, the Committee on Homeland Security 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; and
(B) a description of the need for such new port of entry and associated anticipated benefits;

(5) a description of the consultations undertaken by the Secretary and the Administrator of General Services pursuant to subsection (a)(2)(A);

(6) 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.

SEC. 1207. BIOMETRIC TECHNOLOGY.

(a) BIOMETRIC STORAGE.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program at the port of entry under paragraph (1)—

(A) shall be located within the pre-primary inspection area at the port of entry; and

(B) the Secretary, in consultation with the Secretary of Transportation, shall ensure that the collection and use of iris scans and voice prints for identification verification, authentication, background checks, and document production required by subsection (a), the Secretary, the Administrator for expanding or modernizing ports of entry, shall implement 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.

(b) 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. 1210. BIOMETRIC TECHNOLOGY.

(a) BIOMETRIC STORAGE.—

(1) CREATION OF SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall 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 with respect to a law enforcement system that is used for the collection and storage of biometric data for criminal aliens.

(b) REPORT.—When the system created under subsection (a) is operational, U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall submit an implementation plan to 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.

(c) 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. 1216. BIOMETRIC TECHNOLOGY.

(a) BIOMETRIC STORAGE.—

(1) CREATION OF SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Congress shall provide, by appropriation, for the development and implementation of a system that allows each officer to communicate, and 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 (including multi- or dual-band encrypted portable radio.)
(A) an integrated master schedule and cost estimate, including the 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 for 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 matters issued by the Government Accountability Office and the Department;

(E) information received after consultation with private sector stakeholders, including—

(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 vehicles, pedestrians, 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 may pursue biometric initiatives at air, land, and sea ports of entry for the purpose of border security and trade facilitation distinct from the biometric exit data system described in subsection (a).

(2) LEGENDARY BADGER.—If the Secretary determines that—

(A) a store biometrics of known or suspected terrorists; and

(B) identify visa holders who violate the terms of their visas.

(c) 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 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.

(d) CONSIDERATION OF MULTI-MODAL COLLECTION.—The Secretary shall make every effort to collect biometric data using multiple modes of biometrics.

(e) FACILITIES.—All facilities at which the biometric exit data system established under this section is implemented shall provide 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.

(f) NORTHERN LAND BORDER.—The requirements under subsections (a)(2)(C) and (b) may be applied to 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.

(g) 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.

(h) OTHER BIOMETRIC INITIATIVES.—The Secretary may pursue biometric initiatives at air, land, and sea ports of entry for the purpose of border security and trade facilitation distinct from the biometric exit data system described in subsections (a)(1) and (b).

(i) 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 the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives regarding the Science and Technology Directorate’s Air and Sea Port and Land Transportation Biometric Entry-Exit Systems Program of the Department and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

(j) CONSIDERATION OF FAILURES.—Nothing in this section may be construed to prohibit the collection of use fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (2 U.S.C. 13031).

(k) 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 inspecting land ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or otherwise, 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 until expended for the purposes described in section 1120, which shall be available until expended for the purposes described in section 1120.

(b) USE OF FUND.—If the Committee on Appropriations of the Congress makes a determination that the Fund is not necessary—

(1) the Fund shall be used to facilitate increased trade and commerce.

(2) the amounts transferred by the Secretary pursuant to subsection (c), the amounts transferred by the Secretary of State pursuant to subsection (d), and any remaining amounts in the Fund to accounts within the Department of Homeland Security for eligible activities under this section.

(c) TRANSFER AUTHORITY.—In addition to the amounts transferred by the Secretary pursuant to subsection (c) and 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.

(d) USE OF FUND.—If the amounts in the Fund are transferred pursuant to subsection (c) and the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives provide, in a subsequent appropriation, for the full transfer of funds pursuant to subsection (c) in an amount that is not less than that of the transfer of funds pursuant to subsection (c), the Secretary of Homeland Security may transfer any remaining amounts in the Fund to accounts within the Department of Homeland Security to eligible activities.

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 “SITSTAA Act”.

SEC. 1402. ESTABLISHMENT OF SCHEDULE A

Section 201 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.—

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:

“(11) Meta-fluorofentanyl.

(12) 3-fluorobutyryl fentanyl.

(13) Flurofentanyl.

(14) Fentanyl.”
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. 811(b)(1)), by adding at the end the following:

"(F)(1) In the case of any controlled substance in schedule A, 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 and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

(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 under this paragraph, 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 and shall, notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph who provide a mandatory term of imprisonment if death or serious bodily injury results.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 950(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 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment for any term of years or for life, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

(c) SCHEDULE A COMPOUNDS.—Section 403(a) (21 U.S.C. 843(a)) is amended—

(1) in subsection (a)(16), by inserting "or section (f)" after "subsection (e)"; and

(2) in subsection (c)(1)(D), by inserting "or a schedule A substance" after "anabolic steroid".

SECTION 1405. REGISTRATION REQUIREMENTS FOR HANDLERS OF SCHEDULE A SUBSTANCES.

(3) by adding at the end the following:

"(x)(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 against diversion of particular controlled substances and any controlled substance in schedule A compounded therefrom in the course of legitimate research; and

(B) by adding at the end the following: "Any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph who provide a mandatory term of imprisonment if death or serious bodily injury results.

(c) FALSE LABELING OF SCHEDULE A COMPOUNDS.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

(1) in subsection (f), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following:

"(1) It is intended solely for investigative 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".

1405. REGISTRATION REQUIREMENTS FOR HANDLERS OF SCHEDULE A SUBSTANCES.—Section 305 of the Controlled Substances Act (21 U.S.C. 823) is amended—

(1) in subsection (b), by inserting "or A" after "schedule I" each place it appears; and

(2) by adding at the end the following:

"(C) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule A compounded therefrom in the course of legitimate medical, scientific, research, and industrial purposes; and

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

"(C) promotion of technical advances in the field of manufacturing substances described in subparagraph (A) and the development of new substances; and

"(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) the applicant’s past behavior 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.

“(4) The Attorney General shall register an applicant to distribute schedule A substances—

“(A) if the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

“(B) if the Attorney General determines that the issuance of such registration is consistent 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; and

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

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

“(D) 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) 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 309(c) to deny, the application; or

“(B) request supplemental information from the applicant.

“(ii) Not later than 30 days after the date on which the Attorney General receives an application for registration to conduct research on a schedule A substance, the Attorney General shall 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 309(c)(2).

“(3) If an applicant is registered to import or export a controlled substance in schedule I or II under subsection (a) and 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), by striking ‘‘schedule I or II’’ and inserting ‘‘schedule I, II, or A’’;

“(E) in subsection (e), in the first sentence, by striking ‘‘schedules I and II’’ and inserting ‘‘schedules I, II, or A’’;

“(F) in paragraph (1), by striking ‘‘schedule I or II’’ and inserting ‘‘schedule I, II, or A’’;

“(3) If an applicant is registered to import or export a controlled substance in schedule I or II; or

“(4) 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; or

“(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. 1408. 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 substances under the Controlled Substances Act (21 U.S.C. 801 et seq.); or

“(2) the authority of the Attorney General to temporarily or permanently schedule, decontrol, or reclassify 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 203 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.**—If the Attorney General, or 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 may—

“(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

“(ii) release the alien on his or her own recognizance, subject to appropriate conditions set forth by the Secretary or the Attorney General, if the Secretary or the Attorney General determines that the alien will not pose a danger to the safety of other persons or property and is likely to appear for any scheduled proceeding; and

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

**(B) not be required to apply for a separate registration under this subsection.
is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

(II) DEPORTATION OF BOND OR PAROLE.—The Secretary, at any time, may revoke bond or parole authorized under subsection (a), re-arrest the alien, and detain 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; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(2) DEPORTABLE BY LAW.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(3) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(4) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(5) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(6) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(7) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(8) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(9) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(10) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(11) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(12) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(13) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(14) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(15) DEPORTABLE PERSON.—The Secretary, at any time if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(b) RESTRICTIONS ON BOND OR PAROLE.—A bond or parole authorized under subsection (a) may be revoked by the Secretary if the alien—

(A)(i) has not been admitted or paroled into the United States; or

(ii) was apprehended anywhere within 100 miles of the international border of the United States; or

(B) is inadmissible by reason of having committed any offense covered in section 212(a)(2).

(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 determines pursuant to section 3521 of title 18, United States Code, and in accordance with a procedure that considers the security of the offense committed by the alien, that—

(i) release of the alien from custody is necessary to provide protection to—

(I) a witness; or

(II) a potential witness; or

(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) if the alien demonstrates to the satisfaction of the Secretary that the alien—

(I) is not a flight risk; and

(II) poses no danger to the safety of other persons or of property; and

(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.—

(1) RELEASE FOR PROCEEDINGS.—The Secretary, at any time, may hold an alien described in paragraph (1) to the appropriate authority for any proceedings subsequent to the arrest.

(2) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (1), 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 (1); 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.

(c) CRIMINAL ALIEN.—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."
"(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 proceedings.

(d) ISSUANCE OF NONIMMIGRANT VISAS.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(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 governing 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 204(a)(1), 243(h), 244, 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 101(a)(15)(U), withdrawal of removal under section 240(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 212(a) of the Immigration and Nationality Act (8 U.S.C. 1252(a)) is amended by adding at the end the following:

"(6) Period of Stay.—Any alien who an examining officer determines 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 214 of the Immigration and Nationality Act (8 U.S.C. 1313) if such alien is admitted as a parolee, shall be issued, and the alien 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 101(a)(15)(U), withdrawal of removal under section 240(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.

(2) PREVIOUSLY ADMITTED INDIVIDUALS.—An alien 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 of the Department of Homeland Security to a daily immigration detention capacity of not fewer than 48,879 detention bed.

(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 237(a)(1)(B)(i)(I), 236, 236a, or 238 of such Act (8 U.S.C. 1226(a)(1)(B)(i)(I), 1236, 1236a, and 1223); or

(ii) is the subject of a final order of removal under section 240 of such Act (8 U.S.C. 1225a) 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 an applicant arriving at or departing from the United States to provide biometric data for the purposes of verifying the identity of the applicant and for intelligence and law enforcement purposes.

(b) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric information from an alien arriving to or departing from the United States.

(SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESSING.—

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish, in consultation with the 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 process and serve charging documents, including notices to appear, while in the field;
"(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 paroled; or

"(IV) the alien is a lawful applicant for adjustment of status under section 245, or

"(V) the alien is lawfully granted status under section 236 or lawfully admitted under section 207.

"(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section 214(c), the Secretary may, in his or her sole and unreviewable discretion, temporarily parole an alien into the United States Government in a significant matter, such as an 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 grounds for parole of an alien under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) or section 214 of the Immigration and Nationality Act (8 U.S.C. 1155). Such parole shall not 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 parole to parole an alien 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 alien's probable significant risk of loss of life or bodily function due to a medical emergency; or

"(bb) the failure to parole the alien would result in significant risk 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 an 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.

"(B) LIMITATION ON THE USE OF PAROLE AUTHORITY.—

"(i) IN GENERAL.—The Secretary may use parole authority under this paragraph to permit to come to the United States aliens who have applied for and have been found to be eligible for parole to the United States, either by a decision on the merits or by an administrative judgment, as long as such parole is granted under the provisions of this paragraph.

"(ii) TERMINATION OF PAROLE.—The Secretary shall, in the Secretary's discretion, terminate parole of an alien who has been paroled and, upon such determination:
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 geographic areas, including an explanation of the reasons for this disparity and the methodology being taken to ensure consistent and uniform application of the standards for granting parole;

(b) an analysis of the effect of the procedures and policies applied with respect to parole and custody determinations by the Attorney General and by the Secretary of Homeland Security in securing the alien’s presence at the immigration court proceedings;

(D) recommendations with respect to whether the existing parole and custody determination procedures and policies attributable 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) a description of any corresponding failure to appear rates, in absence rates, and absconders.

SEC. 1509. REINSTATEMENT OF THE SECURE COMMUNITIES PROGRAM.

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

(b) IN GENERAL.—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 cooperates with enforcement personnel issued by the Department of Homeland Security under section 287 of Title 8, United States Code, shall have all authority 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.

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

SEC. 1511. INFORMATION SHARING.

(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall provide the legal framework for information sharing with respect to unaccompanied alien children.

(b) INFORMATION.—The Secretary shall provide to the Attorney General and the Secretary of Health and Human Services the location of the child, the child with a potential sponsor, the Secretary of Health and Human Services the relevant information related to an unaccompanied alien child.

(c) REQUIREMENTS.—The Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall provide the legal framework for information sharing with respect to unaccompanied alien children.

(d) REQUIREMENTS.—The Secretary shall provide to the Attorney General and the Secretary of Health and Human Services the location of the child, the alien child with a potential sponsor, the Secretary of Health and Human Services the relevant information related to an unaccompanied alien child.

(e) REQUIREMENTS.—The Secretary shall provide to the Attorney General and the Secretary of Health and Human Services the location of the child, the alien child with a potential sponsor, the Secretary of Health and Human Services the relevant information related to an unaccompanied alien child.

SEC. 1512. CHILD WELFARE AND LAW ENFORCEMENT INFORMATION SHARING.

(a) INFORMATION.—The Secretary of Health and Human Services shall provide to the Attorney General and the Secretary of Homeland Security, upon request, any relevant information regarding the identity of the unaccompanied alien child to the Secretary of Health and Human Services.

(b) IN GENERAL.—The Secretary of Homeland Security shall provide to the Secretary of Health and Human Services the information status of such potential sponsor before the placement of the unaccompanied alien child.

(c) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.

(d) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.

(e) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.

(f) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.

(g) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.

(h) IN GENERAL.—The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security the information status of such potential sponsor before the placement of the unaccompanied alien child.
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) Limitation on placement.—The Secretary of Health and Human Services shall ensure that facilities utilized to provide care and custody of unaccompanied alien children are operated at a rate of cost not greater than $500 per day for each child housed or detained at such facility, unless the Secretary determines that compliance with this requirement is temporarily impossible due to emergency circumstances.

SEC. 1524. CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.—

(a) In general.—Section 235(c)(2) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1223(c)(2)) is amended by adding at the end of the section the following:

"(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—"

"(1) LIMITATION ON PLACEMENT.—Notwithstanding any settlement or consent decree prevailing date with respect to the date of enactment of this subpart, and under section 226.3 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 if the failure to appear 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 judge 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 sexual 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));

"(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) shall be conducted using a set of fingerprints or other biometric identifier through—

"(I) the Federal Bureau of Investigation;

"(II) criminal histories 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.

"(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—"

"(1) In general.—Section 235(c)(2) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1223(c)(2)) shall be amended by striking subparagraph (B) and inserting—

"(B) by redesignating subsections (d) through (j) of section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)) as subsections (d) through (j), respectively; and

"(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—"


"(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—"

"(1) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every 180 days 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.

"(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 provide follow-up services, including partnering with local community programs that focus on early morning and after school programs for at-risk children who—

"(II) need a secure environment to engage in studying, training, and skills-building programs; and

"(III) 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. 1223) is further amended—

"(A) by redesignating subsections (d) through (j) of section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)) as subsections (d) 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—


"(II) the decision whether to detain or release the alien minor shall be in the sole and unreviewable discretion of the Secretary of Homeland Security;

"(III) 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

"(IV) 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.

"(E) FUNDING LIMITATION.—No appropriated funds may be used to implement the terms of the settlement agreement in Flores v. Reno,
SEC. 1525. REPORT ON 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. 279a(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) Payment.—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.

"(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.

SEC. 1527. REPORTS TO CONGRESS.

(a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019, the Secretary of Homeland Security 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 Homeland Security and Human Services to the care of a sponsor or placement in a facility;
(5) the number of unaccompanied alien children who are 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 Homeland Security 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 monitoring the release of unaccompanied alien children, including the length of time such children have been waiting to return; 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 includes—

"(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, after proceedings under section 235B of the Immigration and Nationality Act were returned to their country of nationality or last 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; and
(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 temporary, permanent, or 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 alien children;
(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 and
(4) the number of sponsors who were levied a penalty, including the amount and whether the penalty was collected or recovered.
(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 judges 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 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 Illegally Aiding or Assisting

SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN TRAFFICKING, AND HUMAN BRIBERY

(a) Criminal Penalties for Human Smuggling and Human 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) knowingly disregard of the fact, that an alien has come to, entered into, or remains in the United States in violation of such section;"

(2) in subparagraph (C), by striking the words "more than 25 years, or both;" and

(3) in subparagraph (D), by striking the words "and attempting to assist the alien with the alien's entry in violation of such section;"

(b) Second or Multiple Violations.—Section 31318(o)(1) of title 49, United States Code, is amended—

(1) in subparagraph (E), by striking the words "the or the"; and

(2) by inserting after subparagraph (E) the following:

"(F) using a commercial motor vehicle in willfully aiding or abetting the 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) Short Title.—This section may be cited as the "Putting the Brakes on Human Smuggling Act".
monetary instruments, bulk cash, or weapons by any individual departing the United States; or:

(d) LIFETIME DISQUALIFICATION.—Section 33109(b) of title 49, United States Code, is amended to read as follows:

‘‘(d) LIFETIME DISQUALIFICATION.—The Secretary shall permanently disqualify an individual from engaging in commerce 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. 1329); or

(B) section 277 of such Act (8 U.S.C. 1327); or

(3) in willfully aiding or abetting the transportation of controlled substances, monetary instruments, bulk cash, and weapons by any individual departing the United States.’’.

(e) REPORTING REQUIREMENTS.—

(1) FEDERAL MOTOR VEHICLE LICENSING SYSTEM.—Section 31309(b)(1) of title 49, United States Code, is amended—

(A) in subparagraph (E), by striking ‘‘and at the time of’’ and inserting ‘‘and at the time’’;

(B) in subparagraph (F), by striking the period at the end and inserting ‘‘and’’; and

(C) by adding at the end the following:

‘‘(1) the Secretary was disqualified, either temporarily or permanently, from operating a commercial motor vehicle under section 31318, including subsection (b)(1), (c)(1)(F), or (d) of such section.’’

(2) NOTIFICATION BY THE STATE.—Section 31311(a)(d)(1) of title 49, United States Code, is amended by inserting ‘‘including such a disqualification, suspension, or cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d) of such section’’ after ‘‘the Secretary’’.

SEC. 1605. PENALTIES FOR ILLEGAL ENTRY; ENHANCED PENALTIES FOR DRUG TRAFFICKING AND CRIMES OF VIOLENCE COMMITTED BY ILLEGAL ALIENS;

(a) In General.—Title 18, United States Code, is amended by inserting after section 27 27 the following:

‘‘CHAPTER 25—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 State, or Federal 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, is subject to a criminal penalty (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 alien convicted of an offense under this section shall be consecutive to any term imposed for any other offense.’’.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following:

‘‘28. Drug trafficking and crimes of violence committed by illegal aliens .................................................................................. 581’’.

SEC. 1604. ENHANCED PENALTIES FOR CRIMES OF VIOLENCE AND DEPORTABILITY.

(a) INADMISSIBLE.—Sections 212(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182), and section 240(a)(15)(T), are amended by adding at the end the following:

‘‘(ii) in willfully aiding or abetting the commission of 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.—Sections 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)) is amended by—

(A) redesigning clause (vi) and clause (vii); and

(B) inserting after clause (vii) the following:

‘‘(vii) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Secretary or the Attorney General may consider other documentary evidence related to the conviction, including, but not limited to, charging documents, plea agreements, plea colloquies, jury instructions, and police reports, to determine whether the other evidence clearly establishes that the conduct in which the alien was engaged constitutes a crime involving moral turpitude.’’.

(2) DOMESTIC VIOLENCE.—Section 237(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(B)) is amended by—

(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 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) REQUIREMENT FOR CONSECUTIVE SENTENCES.—Any alien 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.

(d) OFFENSES.—

(1) BAR TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be inadmissible for all immigration benefits or relief available under the immigration laws, including relief under 8 U.S.C. 1255a, 1225a, and 1229, 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), or relief as a victim of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 23, 1949 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme cruelty.

(2) CRIMINAL OFFENSE.—An alien who violates any provision under paragraph (1) 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 for not more than 6 months, or both; (B) shall, for a second or subsequent violation, be fined under title 18, United States Code, imprisoned for not more than 2 years, or both; and

(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.

(e) EXCLUSION.—

(1) BAR TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who violates any provision under paragraph (1) 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 for 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 for not more than 2 years, or both; and

(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.
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) PREREGISTRATION.—The prior convictions described in subparagraphs (C) through (E) of paragraph (3) are elements of the offenses described in that paragraph and the penalty 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, at a place outside the United States or the foreign contiguous territory, has expressly consented to such alien’s reentry, or any other Act.

(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 under any other provision of law, in an amount equal to—

(A) not less than $50 but not more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

(B) the amount described in subparagraph (A) if the alien had previously been subject to a civil penalty under this subsection.

(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in place of, any criminal or other civil penalties that may be imposed.

(b) ENHANCED PENALTIES.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended by adding at the end the following:

(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2), and except as provided in subsection (c), an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or deportation, of a significant misdemeanor or other Act.

(2) CRIMINAL OFFENSES.—An alien who—

(A) has been convicted of a felony or multiple misdemeanors, or

(b) with respect to an alien previously denied admission and removed, such alien is subject to removal or deportation, of the alien’s reapplying for admission; or

(C) an alien described in subsection (a) who has been denied admission, deported, or removed or has departed the United States while an order of removal was outstanding; and

(D) an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or deportation, of 2 or more misdemeanors involving drugs, crimes against persons, or both, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

(3) CONSPIRACY.—An alien who—

(A) conspired to commit an offense described in subsections (a)(1) and (a)(2), and except as provided in subsection (c), an alien described in subsection (a) who was convicted, on a date that is before the date on which the alien was subject to removal or deportation, of 3 or more misdemeanors for which the alien was sentenced to a term of imprisonment of not less than 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, and

(b) an alien described in subsection (a) who, on or after the date on which the alien was subject to removal or deportation, of a significant misdemeanor or other Act.

(4) 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), an alien described in subsection (a) who has been convicted, on a date that is before the date on which the alien was subject to removal or deportation, of a significant misdemeanor or other Act.

(2) CRIMINAL PENALTIES.—An alien who—

(A) has been convicted, on a date that is before the date on which the alien was subject to removal or deportation, of a felony for which the alien was sentenced to a term of imprisonment of not less than 5 years, and

(b) an alien described in subsection (a) who, on or after the date on which the alien was subject to removal or deportation, of a felony for which the alien was sentenced to a term of imprisonment of not less than 5 years, shall be fined under title 18, United States Code, imprisoned not more than 5 years, and

(c) an alien described in subsection (a) who has been denied admission, deported, or removed or has departed the United States while an order of removal was outstanding; and

(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 deportation, of a significant misdemeanor or other Act.

(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 deportation or after such removal or deportation, for murder, rape, kidnapping, or a felony offense described in chapter 71 (relating to firearms and slavery) or 133 (relating to terrorism) of such title shall be fined under such title, imprisoned not more than 25 years, or both.

"(c) EXCLUDABLE MINIMUM CRIMINAL PENALTY FOR REEFENCY OF CERTAIN REMOVED ALIENS.—Notwithstanding the penalties under subsection (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 deportation, 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 reentry was detected.

"(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b)(2) are elements of the crimes described in that subsection. The prior convictions described in this 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 UNREMOVING REMOVAL ORDER.—In a criminal proceeding under this section, an alien (notwithstanding the availability of collateral review) shall not challenge the validity of a removal order described in subsection (a), (b), or (c) concerning the alien unless the alien demonstrated that

"(1) the alien exhausted any administratively remedies that may have been available to seek relief against the order;

"(2) the removal or deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for a full and fair review; and

"(3) the entry of the order was fundamentally unfair.

"(g) REMOVAL OF ALIEN REMOVED BEFORE THE COMPLETION OF THE TERM OF IMPEISONMENT.—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 pendint on deportation or removal without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary has expressly authorized, in 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' refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

"(2) Felony' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the laws of the United States, any State, or a foreign government.

"(3) Misdeemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the laws of the United States, any State, or a foreign government.

"(4) Removal.—The term 'removal' includes any denial of admission, deportation, or removal, or any agreement by which an alien stipulates or agrees to deportation, or removal.

"(5) Significant misdemeanor.—The term 'significant misdemeanor' means a misdemeanor crime that—

"(A) involves the use or attempted use of physical force or 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 3141 of title 18, United States Code),

"(C) involved the unlawful possession of a firearm (as defined in section 921 of title 18, United States Code),

"(D) is an offense for 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.

"(7) FELONY.—The term 'felony' means any offense punishable by a term of imprisonment of more than 1 year under the applicable laws of the United States, any State, or a foreign government.

"(8) Significant Misdemeanor.—The term 'significant misdemeanor' means a misdemeanor crime that—

"(A) involves the use or attempted use of physical force or 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 3141 of title 18, United States Code),

"(C) involved the unlawful possession of a firearm (as defined in section 921 of title 18, United States Code),

"(D) is an offense for 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.

"(f) 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.

"(g) Effectiveness Date: Applicability.—Section 276A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1255A(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 was outstanding; and

"(2) after such denial, exclusion, deportation or removal, attempts to enter, crosses the border into, attempts to cross the border into, or is at any time found in, the United States, unless—

"(A) if the alien in such deportation or removal 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 reemergence at a place outside the United States or the alien's application for admission from a foreign contiguous territory, has expressly consented to such alien's reentry or reapplied for admission; or

"(B) with respect to an alien previously denied admission and removed, such alien establishes that the alien was not required to depart the United States under section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

"(h) General.—(1) Definitions.—

"(A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES, DIGITAL CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.
“(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders, pre-
paid access devices, digital currencies, or any digital exchanger or tumbler of digital cur-
rencies;”

(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—

(C) PREPAID ACCESS DEVICE.—Section 5312 of such title is amended—

(i) BY DESIGNATING PARAGRAPH (6) AS PARAGRAPH (7); and

(ii) BY INSERTING AFTER PARAGRAPH (5) THE FOLLOW-

ING:

“(6) PREPAID access device means an elec-

tronic device or vehicle, such as a card, plate, code, number, electronic serial num-

ber, mobile identification number, personal identification number, or other instru-

ment 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 to Congress a report that describes—

(A) the impact of amendments made by paragraph (1) on law enforcement, the pre-

paid 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. 4503 (July 29, 2011)).

(b) CUSTOMS AND BORDER PROTECTION STRATEGY FOR PREPAID ACCESS DEVICES.—

Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, 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 de-

tect prepaid access devices, digital cur-

rencies, or other similar instruments, at bor-

der crossings and other ports of entry for the United States;

(2) includes an assessment of the infra-

structure needed to carry out the strategy detailed pursuant to paragraph (1); and

(c) INFORMATION THROUGH BLANK CHECKS IN BEARER FORM.—Section 5316 of title 31, United States Code, is amended by adding at the end the following:

“(g) 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. 1016. CLOSING THE LOOPHOLE ON DRUG CARTEL ASSOCIATES ENGAGED IN MONEY LAUNDERING.

(A) INTENT TO CONCEAL OR DISGUISE.—Section 1966(a) of title 18, United States Code, is amended—

(i) 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—

(ii) conceals or disguises, or is intended to conceal or disguise, the nature, source, loca-

tion, 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 instru-

ment, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transaction, or transfer—

(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, loca-

tion, 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) PROCEDURES OF A FELONY.—Section 1956(c)(1) of title 18, United States Code, is amended by inserting “; and” 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. DEFINITION OF TERRORIST ACTIVITY, TERRORIST ORGANIZATIONS, AND PROCEEDS OF A FELONY.

(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)(II) of such Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)) is amended to read as follows:

“(II) a group or subgroup that—

(A) in general—

(i) is a group of 2 or more individ-

uals, whether organized or not, which engages in, or has a subgroup that engages in, the activities described in subclauses (I), (V), or (VI) of clause (iv); or

(ii) is a group or subgroup that—the group or subgroup presents a threat to the national security of the United States;”

(c) EFFECTIVE DATE.—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) is inadmissible.”

SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS FOR REMOVAL.

SEC. 1703. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 228 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”; and

(2) in subsection (b)—

(A) by striking “Attorney General” and insert-

ing “Secretary, in the Secretary’s sole and unreviewable discretion.”; and

(B) by striking “set forth in this subsec-

tion or” and inserting “set forth in this sub-

section or lieu of removal proceedings under”;

(B) in paragraphs (3) and (4) by striking “(A) General” each place that term ap-

pears and inserting “Secretary”; and

(C) in paragraph (5)—
(1) by striking “described in this section” and inserting “described in paragraph (1) or (2)”; and

(2) by striking “the Attorney General may grant 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

(2) by inserting after paragraph (2) the following:

“(3) The Secretary, in the exercise of discretion, may bar an alien from parole under this section until 30 days after the date on which such parole is determined to be inadmissible or unauthorized. The Secretary, in the exercise of discretion, may also bar an alien from parole under this section until 30 days after the date on which such parole is determined to be unauthorized. The Secretary, in the exercise of discretion, may also bar an alien from parole under this section until 30 days after the date on which such parole is determined to be unauthorized.

(4) The Secretary, in the exercise of discretion, may bar an alien from parole under this section until 30 days after the date on which such parole is determined to be unauthorized. The Secretary, in the exercise of discretion, may also bar an alien from parole under this section until 30 days after the date on which such parole is determined to be unauthorized.

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

“(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO TERRORISM-RELATED GROUNDS FOR REMOVAL.—

“(1) IN GENERAL.—The Secretary—

“(A) notwithstanding section 240, shall—

“(i) determine the inadmissibility of any alien under 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 (1); and

“(A) at any time—

“(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 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 (1).”

“(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 a relief from removal that the Secretary may grant in the Secretary’s discretion.

“(5) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of the enactment of this Act, but such amendments shall apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such date.

“SEC. 1704. DETENTION OF REMOVABLE ALIENS.

“(a) CRIMINAL ALIEN ENFORCEMENT PARTNERSHIPS.—Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 1173, is amended to read as follows:

“(1) IN GENERAL.—The Secretary may enter into a written agreement with a State or with any political subdivision of a State, to permit the temporary placement of 1 or more U.S. Customs and Border Protection agents or officers of U.S. Immigration and Customs Enforcement agents or investigators at a local police department or precept—

“(A) to determine the immigration status of any individual arrested by a State, county, or local police, enforcement, or peace officer for any criminal offense;

“(B) to issue charging documents and notices of removal pursuant to the procedures or reinstatement of prior removal orders under section 241(a)(5); and

“(C) to enter information directly into the Automated Biometric Identification System (IDENT) and any other Department of Homeland Security database authorized for storage of biometric information for aliens; and

“(D) 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 to be deported to the alien’s country of last maintenance 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 identify and carry out the order of removal, including making timely application in good

“(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 or officers, and investigators on a temporary duty assignment under this subsection mobile access to Federal databases containing, live scan technology for collection of biometrics, and video-conferencing capability for use at local police departments or precincts in removal proceedings.

“(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 Homeland Security of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Immigration, Border Protection agent or officer or U.S. Immigration and Customs Enforcement agent or investigator during the temporary duty assignment,

“(C) the number of criminal aliens transferred from State to Federal custody during the agreement period.

“SEC. 1231a. SUSPENSION OF PERIOD.—The removal period begins on the date that is the latest of the following:

“(1) if the alien is ordered removed, the date of the order of removal;

“(2) if the alien is released and the deportation order is not sought to be enforced, the date of the deportation order;

“(3) if the alien is released on parole, supervised release, or to be deported to the alien’s country of last residence or to fully cooperate with the efforts of the Secretary to identify and carry out the order of removal, including making timely application in good

“(1) REMOVAL PERIOD.—

“(a) IN GENERAL.—Section 212(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1229a(a)(1)(A)) is amended by striking “Attorney General” and inserting “Secretary”.

“(b) BEGINNING OF PERIOD.—

“(1) IN GENERAL.—Subject to clause (ii), the removal period begins on the date that is the latest of the following:

“(i) if the alien is ordered removed, the date of the order of removal;

“(ii) if the alien is released on parole, supervised release, or to be deported to the alien’s country of last residence or to fully cooperate with the efforts of the Secretary to identify and carry out the order of removal, including making timely application in good

“(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 identify and carry out the order of removal, including making timely application in good

“(ii) the alien is released on parole, supervised release, or to be deported to the alien’s country of last residence or to fully cooperate with the efforts of the Secretary to identify and carry out the order of removal, including making timely application in good

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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;’’;

‘‘(iii) the court, Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien;’’;

(2) by redesignating paragraph (2)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(2)) as amended—

(A) by inserting ‘‘(A) in general—’’ before ‘‘Determination’’;

(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, the alien is subject to the 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)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended—

(A) in the matter preceding clause (i), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’;

(B) in subparagraph (C), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and

(C) by adding subparagraphs (D) to read as follows:

‘‘(D) an alien—

(i) who has engaged in conduct, or acts, or performed 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’’;

(B) in subparagraph (C), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and

(C) by adding 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.’’;

(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY ENTERING.—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 ENTERING.—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 in effect from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2);’’

‘‘(B) the alien is not eligible and may not apply for asylum 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.’’;

(6) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(4)) is amended by—

(A) in subsection (g), by inserting ‘‘grant, rescind, or deny any form of discretionary relief under this title, or to’’ before ‘‘command’’;

(B) by adding at the end the following:

‘‘(i) REVIEW OF DETERMINATION.—Section 222 of such Act (8 U.S.C. 1252) is amended by—

(I) in subsection (g), by inserting ‘‘Secretary’’ for ‘‘Attorney General’’;

(II) in making a determination under subsection (d), the Secretary shall 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 or information available to the Secretary pertaining to the ability to remove the alien;

(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 whether to release an alien described in clause (i) after the end of the alien’s removal period; and

(3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended—

(A) in subparagraph (A), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’;

(B) in subparagraph (B), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and

(C) by adding subparagraphs (C) to read as follows:

‘‘(C) IN GENERAL.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(4)) is amended—

(A) by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and

(B) by inserting ‘‘Secretary’’ after ‘‘Secretary’’.

(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended—

(A) in paragraph (4), by striking ‘‘Secretary’’ and inserting ‘‘Secretary’’;

(B) by adding after paragraph (3) the following:

‘‘(4) 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 ‘‘Attorney General’’ and inserting ‘‘Secretary’’.

(5) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended—

(A) in the matter preceding clause (i), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’;

(B) in subparagraph (C), by striking ‘‘Attorney General’’ and inserting ‘‘Secretary’’; and

(C) by adding 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.’’;

(1) REVIEW OF DETERMINATION.—The Secretary shall establish the alien’s identity and carry out the tense available to the Secretary pertaining to the ability to remove the alien.

(2) 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, 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 the United States;

‘‘(B) until the alien is removed, if the Secretary certifies in writing—

(i) in consultation with the Secretary of Health and Human Services, 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 reasonable cause 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 any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either—

(A) 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 crimes specified in Section 237(a)(2)(A)(iii) of such Act (or a corresponding list of 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) because of or by reason of condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence to persons or property, and the further

(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) if there is 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 a hearing, and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may no longer 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) REDETECTION.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release, if the Secretary determines after reconsideration that the alien does not 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 detention 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.—With 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 nonstatutory) available to the alien as of right.

(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.—If 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.

(g) 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):

(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.

(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 DETERMINE COUNTRIES OF REMOVAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1225) 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 1 or more of such countries is prejudicial to the interests of the United States.”;

(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. Sections 235 and 236 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 on 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 section 241 of such sections, if the alien was subject to 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 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, diplomatic and consular posts, nongovernmental organizations, and family members to accurately identify deceased individuals;

(4) the use of DNA analysis in shoring 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. 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, diplomatic and consular posts, nongovernmental organizations, and family members to accurately identify deceased individuals;

(4) the use of DNA analysis in shoring 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, INCLUDING 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 proscribed, tried, or punished for violation of any provision of section 101, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to violate any provision of such sections, if the 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 proscribed, tried, or punished for violation of any provision of section 101, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to violate any provision of such sections, if the

(B) in paragraph (2), 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.

(C) the detention of aliens during removal proceedings.—
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 filed 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 ‘the judicial officer means conduct described in section 116;

"(3) the term ‘detention’ means conduct described in section 1091(a);

"(4) the term ‘human rights violations, crimes against humanity, or war crimes’ means conduct described in subsections (c) and (d) of section 2441; and

"(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 5(3) of the International Religious Freedom Act of 1998 (22 U.S.C. 6462(3));

"(7) the term ‘persecution’ means conduct that would have been an offense described in section 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));

"(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2430;

"(9) the term ‘use or recruitment of child soldiers’ means conduct described in subsections (a) and (b) of section 2441; and

"(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section 2441; and


"(b) PROTECTION PUBLIC SAFETY.

"(1) in subparagraph (A), by striking ‘and’;

"(2) in clause (iii)—

"(I) that, if such conduct occurred in the United States or in the particular social group, or political opinion, is inadmissible.

"(v) CRIMES AGAINST HUMANITY defined.—In this subparagraph, the term ‘crimes 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 with the intent that the conduct be part of the attack.

"(1) that, if such conduct occurred in the United States or in the particular social group, or political opinion, is inadmissible.
“(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 1590(a) of such title (relating to sale into involuntary servitude); “(gg) section 1590(b) of such title (relating to forced labor); “(hh) section 1590(a) of such title (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor); “(ii) section 1991(a) of such title (relating to sex trafficking of children or by force, fraud, or coercion); “(jj) section 2241(a) of such title (relating to aggravated sexual abuse by force or threat); or “(kk) section 2242 of such title (relating to sexual abuse); “(II) that would constitute cruel or inhuman treatment, as described in section 2441(d)(1)(B) of such title; “(III) that would constitute mutilation or maiming, as described in section 2441(d)(1)(E) of such title; or “(IV) that would constitute intentionally causing serious bodily injury, as described in section 2441(d)(1)(F) of such title. “(v) 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) ‘systematic’ means the commission of a series of acts following a regular pattern and occurring in an organized, non-random manner; and “(III) the term ‘widespread’ means a single, large scale act or a series of acts directed against a substantial number of victims. “(b) REMOVAL OF 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 ‘3(a)’ and “(2) by striking ‘or (ii)’ 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 ‘AND PERSONS’; and “(2) by striking ‘, while serving as a foreign government official’; “(d) BARING PERSECUTORS FROM ESTABLISHING GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1181(f)) is amended— “(1) in paragraph (8), by striking ‘or’ at the end; “(2) in paragraph (9), by striking ‘killings’ and inserting ‘killings, or the threatened use of physical force or the resulting serious bodily injury, including an injury that may ultimately result in the death of a person’; “(3) in paragraph (10), by striking ‘or’ and inserting ‘or the threatened use of physical force or the resulting serious bodily injury, including an injury that may ultimately result in the death of a person’; “(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); “(ii) Any criminal offense described in section 102 of the Controlled Substances Act (21 U.S.C. 802); “(iv) An offense involving illicit trafficked in a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); “(v) An offense under section 211 (relating to obstructing or impeding the administration of justice); “(vi) A violation of Federal, State, or Tribal law, that has, as an element of the offense, the threatened use of physical force or the resulting serious bodily injury, including an injury that may ultimately result in the death of a person; “(vii) An offense involving obstruction of justice or tampering with or retaliating against a witness, victim, or informant. “(a) Any conduct paragraph 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 of numbers to be used in illegal gambling 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). “(a) 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 conviction for any such association shall be considered a criminal gang regardless of whether the conduct occurred before, on, or after the date of the enactment of the law. “(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: “(4) ALIENS-associated with CRIMINAL GANGS.— “(i) IN GENERAL.—Any alien who 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; “(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 caus- ing the alien to be found inadmissible under this section.”. “(5) DESIGNATION OF CRIMINAL GANGS.— “(1) IN GENERAL.— “(1) in paragraph (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 group if their conduct is described in section 101(a)(33) or if the group's or association's conduct poses a significant risk that threatens the security and the prosperity of United States nationals, 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—

"(1) has been a member of a criminal gang; or

"(2) 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—

"(1) who did not know, or should not reasonably have known, of the activity causing the alien to be found deportable under this section; or

"(2) 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(a) 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 section 237(a)(2)(G)(i) (relating to participation in criminal gangs)."

(g) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) 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 “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, in clause (v), by striking “or” at the end;
“(A) who has been convicted of (or who has admitted committing acts that constitute)—

(1) murder or criminal acts of torture; or
(2) an attempt or conspiracy to commit murder or an act constituting the elements of section 3466 of title 18, United States Code (relating to the unlawful procurement of citizenship or naturalization),—

(B) who has been convicted of an aggravated felony; or

(C) who has been lawfully admitted for permanent residence and was not the primary perpetrator of violence described in subsection (i) is filed.”;

(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; and

(2) all other proceedings initiated to establish admissibility on or after such date of enactment; and

(3) all removal, deportation, or exclusion proceedings that were initiated to remove an alien who has been battered or subjected to extreme cruelty and were not the primary perpetrator of violence described in subsection (i) is filed.”;

SEC. 1714. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 209(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 an alien lawfully admitted for permanent residence and who since the date of enactment of this Act and shall apply to petitions filed on or after such date of enactment;”;


(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 officers

(1) EVADING A CHECKPOINT.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by 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 20 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; or

(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; and

(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) 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.

(e) 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) any 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 device;

(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 11181(d), except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in such 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.

(f) APPLICABILITY.—The amendments made by this section shall apply to petitions filed on or after such date of enactment.

SEC. 1716. CRIMINAL PENALTIES FOR DISREGARDING LAW ENFORCEMENT AGENCY CHECKPOINT.

(a) IN GENERAL.—Section 204(a)(1)(A)(viii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(viii)) is amended—

(1) in clause (i), by striking the comma at the end and inserting “204(a)(1)(A)(viii)”;

(2) in clause (ii), by redesigning the second subclause (I) as subclause (II); and

(3) by redesigning subclause (I) as subclause (II).


(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. 1717. ENHANCED CRIMINAL PENALTIES FOR DISREGARDING LAW ENFORCEMENT AGENCY CHECKPOINT.

(a) IN GENERAL.—Section 758 of title 18, United States Code, is amended to read as follows:

“§ 758. Unlawful flight from immigration or customs officers

(1) EVADING A CHECKPOINT.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by 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 20 years, or both.

(b) FAILURE TO STOP.—Any person who, while operating a motor vehicle, aircraft, or vessel—

(1) 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; or

(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; and

(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) 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.

(e) 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) any 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 device;

(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 11181(d), except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in such 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.

(f) APPLICABILITY.—The amendments made by this section shall apply to petitions filed on or after such date of enactment.
"(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. 1717. AGGRAVATED FELONIES.

(a) Definition of Aggravated Felony. — Section 101(a)(41)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(41)) is amended to read as follows:

"(41) the term ‘aggravated felony’ means—

"(i) any offense punishable by a maximum term of imprisonment of not less than 2 years regardless of the terms 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

"(v) any offense described in section 16 of title 18, United States Code (or in explosive materials (as defined in section 921 of title 18, United States Code))."

(b) Restricion on Removal. — Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(3)(A)) is amended—

(A) by inserting "or the Secretary" after "Attorney General" both places it appears; and

(B) in clause (iii), striking the period at the end; and

(C) by adding a semicolon at the end.

"(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the alien’s life or freedom would be threatened for a reason alien has demonstrated that the alien’s life or freedom would be threatened for a reason.

(3) SUSTAINING BURDEN OF PROOF. — Credibility of the evidence adduced in support of the defense, if any, shall be sustained by the alien.

(4) EFFECTIVE DATE AND APPLICATION. — The amendments made by this section shall take effect as if enacted on May 11, 2005, and shall apply to applications for with-holding of removal made on or after such date.

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 206(b)(2)(A), 280A(c), and 241(b)(3)(A) 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 or after the date of the enactment of this Act.
“(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 subsection does not prohibit the Attorney General from the exercise of discretion, that the conviction is still valid for immigration purposes. Notwithstanding any reference to a criminal offense or criminal conviction of an alien described in subparagraphs (A) through (D) of section 212(a)(2)(A) of title 8, United States Code.

“(XXIV) A conviction for violating section 267 of title 18.

“(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.

“(D) Any reference to a term of imprisonment that is punishable by a maximum statutory 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 aggravating circumstances (if any) subjected to applying a categorical or modified categorical approach (including determining whether such an order should be given any effect under the immigration laws).

“(XXVI) An attempt, conspiracy, solicitation to commit an offense described in subclauses 1 through XXV or any other inchoate offense described in this clause.

“(XXVII) Any offense described in subparagraphs (A) through (D) of section 212(a)(2)(A) of title 8, United States Code.

“(d) 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 crime described in chapter 115B of title 18, United States Code.

“(XXVII) Failure to Obe...
is a national of that country since the date of enactment of this Act and the total number of such aliens, disaggregated by nationality: 

(1) each country that has an additional service with respect to aliens to which the United States is Parties of 1974 (8 U.S.C. 1182(a)(3)(B)(ii)) with or without regard to such asylum. 

The Secretary may exempt a country from inclusion on the list under paragraph (1) if the Secretary determines that—

(2) the country has accepted the aliens. 

The Secretary may issue, refuse, or revoke any nonimmigrant status or otherwise unauthorized to study at an institution of higher education; and 

the completion of the following: 

(1) in a risk-based manner; 

(II) after considering the criteria described in clause (i); and 

(III) in accordance with Nationality Security Decision Directive 38, issued by President Obama on July 23, 2013, superseding presidential directive concerning staffing at diplomatic and consular posts. 

The Secretary of Homeland Security shall secure such information, and the Secretary shall ensure priority consideration of any staffing assignments referred to in this subparagraph. 

The Secretary 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 Secretary of Homeland Security” and “the Secretary” (as so amended),

(2) by inserting at the end the following:

(II) in a risk-based manner; 

(III) in accordance with Nationality Security Decision Directive 38, issued by President Obama on July 23, 2013, superseding presidential directive concerning staffing at diplomatic and consular posts. 

The Secretary of Homeland Security shall ensure priority consideration of any staffing assignments referred to in this subparagraph. 

The criteria described in clause (i) are—

(1) in 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 analyzing the presence, activity, or movement of terrorist organizations (as 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; 

(III) information analyzing the presence, activity, or movement of terrorist organizations (as 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 that 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) The Commission on the Use of Visa Security Units.—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-JUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing post, which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, designate an employee of the Department to remotely perform the functions required under paragraph (2) at not fewer than 50 of such posts.”

(c) VISA SECURITY ADVISORY OPINION UNIT.—Section 236(e)(5) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)(5)), as amended by section 12 of the Homeland Security and Governmental Affairs Appropriations Act, 2005 (Public Law 108–27), is amended—

“(D) Screen any such applications against the appropriate criminal, national security, and terrorism databases maintained by the Department of State 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)(5) of the Homeland Security Act of 2002 (Public Law 107–200): 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 such surcharges, the Secretary of Homeland Security shall—

“(a) in General.—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.”.

(c) 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 236(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 FACIAL RECOGNITION 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:

“(3) 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 Security Act of America, 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) APPLICATION.—

“(1) ELECTRONIC PASSPORT SCREENING.—

“Subsection (a)(1) shall apply to passports belonging to individuals who are United States citizens or legal permanent residents, aliens whose countries 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.”


“(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 and—

“(f) PRE-JUDICATED 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-JUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing post, which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, designate an employee of the Department to remotely perform the functions required under paragraph (2) at not fewer than 50 of such posts.”

“(c) 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 236(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this section.

SEC. 1734. REPORTING VISA OVERSTAYS.

Section 2 of Public Law 105–173 (8 U.S.C. 1176) is amended—

“(1) in subsection (a)—

“(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

“(B) by inserting “and”, 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:

“(D) ANNUAL REPORT.—Not later than September 30, 2018, and annually thereafter, the Secretary of Homeland Security shall submit to Congress a report to 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, 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) the total number of such aliens within each of the classes of nonimmigrants, as described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

“(2) the number of such aliens within each of the subclasses of such classes of nonimmigrants, as well as the number of such aliens within each of the subclasses of such classes of non-immigrants, as applicable; and

“(3) the number of aliens described in subsection (a) who were present in the United States and were admitted to the United States as non-immigrants who are described in subsection (a); and

“(4) the number of aliens described in subsection (a) who entered the United States
using a border crossing identification card (as defined in section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6))); and

"(6) in 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. 1753. AUTHORITY OF THE SECRETARY OF STATE.

(a) IN GENERAL.—Notwithstanding section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary may, in the performance of the functions of the Secretary under this Act, take any action that the Secretary determines to be necessary to carry out the purposes of this Act.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1754. AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—Notwithstanding the provisions of title 8, United States Code, the Secretary shall be authorized to enter into arrangements with the head of any other Federal department or agency to delegate to such head the authority of the Secretary to issue regulations, establish policy, and administer the provisions of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) and any other provision of law, including section 221 of title 28, United States Code, other than sections 321 and 321a of such title, to the extent that the head of such department or agency determines that such delegation is consistent with the purpose of this Act.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

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.—Notwithstanding section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and any other provision of law, and to formulate and carry out policies and programs relating to the enforcement of such provisions, if the Secretary determines that such policies and programs are necessary to carry out the purposes of this Act.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.
immigration and nationality act (8 u.s.c. 1101 et seq.) and all other immigration or national-
other status or benefit under the immigration laws by, to, or on behalf of any alien with respect to whom a criminal proceeding or investigation is open or pending (including the arrest warrant or notice of removal or detention), if such proceeding or investigation is deemed by such official to be material to the alien’s eligibility for the status, relief, protection sought.

"(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the Secretary of State, or the Secretary of Labor may, on the basis of any provision of law (statutory or non-statutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1261 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.

"(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or non-statutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1261 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) of the Act to remove the appropriate database, including database maintained by the National Crime Information Center; and any other provision of law (statutory or non-statutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1261 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.

SEC. 1773. ACCESS TO THE NATIONAL CRIME INFORMATION CENTER IDENTIFICATION INDEX.

(a) CRIMINAL JUSTICE ACTIVITIES.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1106) 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) LAISSION WITHIN 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) CRIC 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 and the Interstate Identification Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the National Crime Information Center for the purposes of verifying an applicant or petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws, or any beneficiary of an application for, 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 immigration 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 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.—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) W RITTEN EXPLANATION.—The requirement of paragraph (1) may be satisfied by a written explanation of the court in which the action is pending if the court determines that the action satisfies paragraph (1) and would be unlikely to result in significant conflicts among class members.

SEC. 1775. APPROPRIATE REMEDIES FOR IMMIGRATION LITIGATION.

(a) 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—

"(1) limit the relief to the minimum necessary to correct the violation of law;

"(2) adopt the least intrusive means to correct the violation of law;

"(3) minimize, to the greatest extent practicable, the adverse impact on national security, the economy, and immigration administration and enforcement, and public safety; and

"(4) 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.

(b) WRITTEN EXPLANATION.—The requirement of paragraph (1) may be satisfied by a written explanation of the court if the court determines that the action satisfies paragraph (1) and would be unlikely to result in significant conflicts among class members.

SEC. 1776. EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief granted under paragraph (1) shall automatically expire on the date on which such relief is entered, unless the court—

"(A) finds that such relief meets the requirements of paragraphs (2) 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 any 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), 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 prevent 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’ means—

"(1) any consent 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 ‘‘Attorney General’’ each place it appears and inserting ‘‘Secretary’’;

"(2) by inserting ‘‘United States citizen’’ before ‘‘owner’’;

"(3) by inserting ‘‘Secretary’’ in place of ‘‘Attorney General’’ each place it appears before ‘‘the United States citizen’’; and

"(4) by inserting ‘‘Secretary’’ in place of ‘‘Attorney General’’ each place it appears before ‘‘the United States citizen’’;

"(h) USE OF 1805 OF THE IBCA LEGALIZATION IN FORMATION FOR NATIONAL SECURITY PURPOSES.—

"(A) SPECIAL AGRICULTURAL WORKERS.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by adding at the end the following:

"(b) SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—If an alien is a special agricultural worker whose expiration date is before the date on which such alien is first employed, and has not been granted legal status, the alien may be granted legal status by the Secretary of Homeland Security, if the alien meets the requirements for the special agricultural worker program established by the Secretary pursuant to section 101(a)(15)(H)(i)(ii) of the Act.

"(2) AUTHORIZED ACTIVITIES.—

"(A) AUTHORIZED ACTIVITIES.—

"(i) the alien is a special agricultural worker;

"(ii) the alien has not been granted legal status;

"(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief granted under paragraph (1) shall automatically expire on the date on which such relief is entered, unless the court—

"(A) finds that such relief meets the requirements of paragraphs (2) through (D) of paragraph (1) for the entry of permanent prospective relief; and
(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 “Servicing” and inserting “Department of Homeland Security”;

“(b) ADJUSTMENT OF STATUS.—Section 245(a)(6) 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.—

“(ii) 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 PRONCE OFFENSES.

Section 3291 of title 18, United States Code, is amended to read as follows:

“§ 3291. Nationality, citizenship and passports

“No person shall be prosecuted, tried, or punished for a violation of any section of chapter 48 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration offenses), for a violation of any criminal provision of section 243, 247, 256, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1234, 1255, 1237, 1238), or for an attempt or conspiracy to violate any such section, unless the information furnished or the information is filed within 10 years after the commission of the offense.”.

SEC. 1777. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETING ACTIVITY.

Section 1962(c) of title 18, United States Code, is amended by striking “section 1545” 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. 1551 et seq.) and section 1326(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 handwritten or electronic signature on any petition, application, or any other document executed or provided for any purpose under the immigration laws establishes a rebuttable presumption that the signature executed is that of the individual signing, that the individual is aware of the contents of the document, and intends to sign it.”;

“(b) RECORD INTEGRITY.—The Secretary shall 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 236, as added by section 112(a)(2) of this Act, the following:

“Sec. 296. Validity of signatures.”.

(b) CRIMAL 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, a 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 content 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 RESIDENT STATUS FOR 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 212(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)) is 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 ASYLLE 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)” and inserting “other than paragraph (C)”.

(b) GROUNDS OF DEPORTABILITY.—Section 209 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

“(4) 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 the date of such an act of 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 UNIVERSAL 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 238(a) (whether the alien is within or outside the United States); and

“(iii) is described in section 212(a)(2)(G) (persons who have committed particularly severe violations of religious freedom), 212(a)(3)(C)(I), (C)(II), and (F) of persecution, genocide, war crimes, crimes against humanity, extrajudicial killing, torture, or specified human rights violations), or 212(a)(3)(G) (persons associated with violations of human rights).”.

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. 1111 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 subsection (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.

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. 1158) is amended by striking the section heading and subsection (a) and inserting the following:

‘‘SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERMANENT RESIDENT.

‘‘(a) IN GENERAL.—

‘‘(1) ELIGIBILITY FOR ADJUSTMENT.—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, 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.—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 or the Attorney General may deny an application for adjustment of status. If the Secretary or the Attorney General denies an application for adjustment of status, the Secretary or the Attorney General 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.’’.

(b) PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT OF 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 defined 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 to make a showing that the alien is a threat to national security or public safety or if the Secretary determines that the alien may be a threat to national security or public safety; 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. 1807. TREATMENT OF APPLICATIONS FOR ADJUSTMENT OF STATUS DURING PENDING DEPORTATION PROCEEDINGS.

(a) VISA ISSUANCE.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1211) is amended—

(1) by inserting ‘‘(1)’’ before ‘‘No visa’’;

(2) by striking ‘‘if (1) it appears’’ and inserting the following: ‘‘if—’’;

(3) by striking ‘‘law, (2) the application’’ and inserting the following: ‘‘law;’’

(4) by striking ‘‘thereunder, or (3) the consular officer’’ and inserting the following: ‘‘thereunder;’’

(5) by striking ‘‘provision of law; Provided, That a visa’’ and inserting the following: ‘‘provision of law; or’’

(6) by adding subsection (2) in order to provide 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 deportability under section 240.

‘‘(2) A visa’’; and

(6) by striking ‘‘section 213: Provided further, That a visa’’ and inserting the following: ‘‘section 213’’.

(b) ADJUSTMENT OF STATUS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding a proviso to the following:

‘‘(O) An application for adjustment of status may not be considered or approved by the Secretary or the Attorney General, and a 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 REMOVAL OF PERMANENT RESIDENT STATUS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—

(1) in subsection (a) (8 U.S.C. 1256a) by striking ‘‘(A)’’ after ‘‘(a);’’

(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, 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), or (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 permanent 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 CITIZENS

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) Except as provided in subparagraph (B), a person may not be naturalized if the Secretary determines, in the discretion of the Secretary, that the alien is described in section 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an application for naturalization.

"(B) A determination made by subsection (g) shall not apply to an alien described in section 212(a)(3) and (B) shall bar the alien from naturalization under this paragraph if specifically covered by the exemption referred to in clause (1).

"(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 309(d) of such Act (8 U.S.C. 1431(d)) is amended—

(1) by striking the first sentence and inserting "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:

"Any person;"

(3) in subsection (e), by striking ""If,"

SEC. 1822. TOURIST 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(b), 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 revocable 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.

(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 determining the applicant’s conduct and acts at any time. The Secretary or the Attorney General may determine that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder, 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 of imprisonment was commenced 15 years or longer before the date on which the person filed an application under this Act.

(b) Aggravated Felonies.—Section 309(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) 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) 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 FOLLOWING 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 the immigration laws pending on or filed after the date of the Secretary’s administrative final determination on the application after a hearing before an immigration officer under section 336(a), seek review of such denial after such date of enactment, and 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.

(b) Burden of Proof.—A person described 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).

(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 benefit or matter under the immigration laws that is pending on, or filed after, such date of enactment.

SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGENT’S FINDING WAS NOT MADE DECISION ON NATURALIZATION APPLICATION AND ON DENIALS.

(a) Limitation on Review of Pending Naturalization Applications.—Section 336 of the Immigration and Nationality Act (8 U.S.C. 1447) is amended—

(1) in subsection (a), by striking "If," and inserting the following:

"(b) In General.—If;"; and

(2) by amending subsection (b) to read as follows:

"(b) Request for Hearing Before District Court.—If a final administrative determination is not made on an application for naturalization under this Act 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 application was not supported for a hearing on the matter. Such court shall only have jurisdiction to review the basis for denial and remand the matter to the Secretary for the Secretary’s determination on the application.

(b) Limitations on Review of Denial.—Section 336(b) of the Immigration and Nationality Act (8 U.S.C. 1442) 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 after a hearing before an immigration officer under section 336(a), seek review of such denial before the United States district court in the district in which such person resides in accordance with chapter 7 of title 28, 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 review a determination made at any time regarding, whether, for purposes of an application for naturalization, an alien—

(A) is a person of good moral character; or

(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), by inserting ""subpoenas""— before the ""immigration officer;"

(3) by striking "subpoenas" each place such term appears and inserting "subpoenas;" and

(4) by amending subsection (f) to read as follows:

"(f) 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 benefit or matter under the immigration laws that is pending on, or filed after, such date of enactment."
SEC. 1826. CLARIFICATION OF DENATIONALIZATION AUTHORITY.

Section 340 of the Immigration and Nationality Act, as amended—

(a) by repealing subsections (a) through (c) of section 340(b) and inserting in lieu thereof—

"(1) The Secretary may not adjudicate or approve any petition filed under this section by an individual who has a judicial proceeding pending, or pending appeal, against such order that would result in the individual's denationalization under section 340 until—

"(A) such proceedings have concluded; and

"(B) the period for appeal has expired or any appeals have been finally decided, if applicable;

"(b) the Secretary may not adjudicate or approve any application, petition, or request for any immigration benefit from an individual against whom there is a judicial proceeding pending that would result in the individual's denationalization under this section until—

"(1) such proceedings have concluded; and

"(2) the period for appeal has expired or any appeals have been finally decided, if applicable.

(b) SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

(a) In General.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421 et seq.) is amended by inserting after section 344 the following:

"SEC. 345. NATURALIZATION DOCUMENT RETENTION.

"(a) In General.—The Secretary shall retain documents described in subsection (b) for a minimum of 7 years for law enforcement and national security investigations and for litigation purposes, regardless of whether such documents are scanned into an 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.

"(c) Right of Review.—Any individual may request a hearing before the Secretary 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 previously issued to any individual, the Secretary of State 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 (division C of Public Law 104-208; 8 U.S.C. 1324a note) is amended by adding at the end the following:

"(f) 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 in reliance on the employment authorization 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 and implement a program to improve information sharing among their respective agencies that could lead to the identification of unauthorized aliens who entered the United States on a limited pilot program basis before making it fully available to all individuals.

SEC. 2004. SMALL BUSINESS DEMONSTRATION PROGRAM.

Section 405 of the Illegal Immigration Reform and Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(a) by redesignating subsection (d) as subsection (e); and

(b) 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 method by which victim of identity fraud and other individuals may suspend or limit the use of their Social Security account number or other identifying numbers of the purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

(c) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD’S IDENTITY.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a method by which parents or legal guardians may suspend or limit the use of the Social Security account number or other identifying information of a minor under their care for the purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

SEC. 2006. IDENTIFICATION AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PROGRAM.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish a program under which there shall be 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 OF EMPLOYMENT.—The employer may cancel the employee’s participation in an Authentication Pilot after 1 year after election to participate in the program without prejudice to future participation.

(d) REPORT.—Not later than 12 months after commencement of the Authentication Pilot, 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.

(1) This title may be cited as the "Solutions for Undocumented Children through Caregivers, 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 an alien 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 status under section 245(k)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(k)(1)), each of whom shall have the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) CONDITIONAL TEMPORARY RESIDENT.—

(A) DEFINITION.—The term "conditional temporary resident status" 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 required to be in the United States for purposes of the immigration laws, including section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1255a);

(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 303;

(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 conditional permanent status to that of an alien lawfully admitted for permanent residence under section 303, the alien shall be considered to have been inspected and admitted for the purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255a).

(B) ALIEN PUBLIC BENEFIT.—The term "public benefit" means—

(A) the American Opportunity Tax Credit authorized under section 25A(1) 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 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


(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)).

The term "institute 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 shall include an institution of higher education outside of the United States.

(8) MILITARY-RELATED TERMS.—The terms "active duty" "active service" "active forces" "military forces" "military" 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 crime involving—

(i) domestic violence;

(ii) sexual abuse or exploitation;

(iii) driving under the influence or driving while under the influence of alcohol or any other drug;

(iv) unlawful possession or use of a firearm;

(v) drug distribution or trafficking;

(vi) driving while the influence or driving while under the influence of alcohol or any other drug;

(B) any other misdemeanor for which the individual was sentenced to a prison term 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 of not less than 90 days (excluding a suspended sentence), 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) the alien entered the United States for purposes of section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)).
(ii) had no lawful status in the United States; 
(iii) the alien had committed an offense of moral turpitude, or was a convicted criminal alien, before the date on which the Secretary does not have jurisdiction to review a determination by the Secretary under clause (ii); and 
(iv) the alien has participated in, or conspired to commit, or otherwise engaged in, terrorist activity, or the alien is a member of a criminal gang; and

(ii) has, while in the United States, earned an early childhood education, obtained a general education development certificate recognized under State law, or received a high school equivalency diploma; 

(iii) in the sole and unreviewable discretion of the Secretary, pose a threat to national security or public safety;

(iv) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(v) is not a member of a criminal gang; or

(vi) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,

(i) an alien who is 18 years of age or older on the date of enactment of this Act, the alien—

(ii) 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; and

(iii) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(iv) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,

(i) an alien who is 18 years of age or older on the date of enactment of this Act, the alien—

(ii) meets the other requirements of this section; and

(iii) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(iv) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,

(i) had no lawful status in the United States; 
(ii) was convicted of, or has been found removable for, an offense of moral turpitude, or was a convicted criminal alien, before the date on which the Secretary does not have jurisdiction to review a determination by the Secretary under clause (ii); and 

(iii) the alien has participated in, or conspired to commit, or otherwise engaged in, terrorist activity, or the alien is a member of a criminal gang; and

(iv) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(v) is not a member of a criminal gang; or

(vi) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,

(i) an alien who is 18 years of age or older on the date of enactment of this Act, the alien—

(ii) has, while in the United States, earned an early childhood education, obtained a general education development certificate recognized under State law, or received a high school equivalency diploma; and

(iii) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(iv) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,

(i) an alien who is 18 years of age or older on the date of enactment of this Act, the alien—

(ii) meets the other requirements of this section; and

(iii) is not inadmissible under paragraph (1), and is not, in the sole and unreviewable discretion of the Secretary, a threat to national security or public safety; and

(iv) if the alien, before the date on which the alien attains 18 years of age, has, in the sole and unreviewable discretion of the Secretary, participated in, or conspired to commit, or otherwise engaged in, terrorist activity,
(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 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 505.
(B) Judicial review.—Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28, United States Code, any other habeas corpus provision described in section 761(a)(2) of such title, no court shall have jurisdiction to review a determination by the Secretary under subparagraph (A).

(3) Final regulations.—Within a reasonable time after publication of the interim regulations described in paragraph (1) by 60 days after the date of enactment of this Act, the Secretary shall publish final regulations implementing this section.

(4) Removal of alien.—The Secretary may not seek to remove an alien who established 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 subsection shall be effective, on an interim basis, immediately upon publication of the Armed Forces of the United States; or

(b) Terms of Conditional Temporary Resident Status.—
(1) Employment.—A conditional temporary resident may—
(A) be employed in the United States incident to conditional temporary resident status under this title; and
(B) enroll in the Armed Forces of the United States in accordance with section 506(b)(1)(D) of title 10, United States Code.

(2) Travel.—A conditional temporary resident—
(A) may travel within the United States; and
(B) may be eligible for—
(i) conditional temporary resident status under this title until the alien reaches 18 years of age;
(ii) adjustment to that of an alien lawfully admitted for permanent residence under this title; or
(iii) other lawful immigration status under this title.

(c) Termination of status.—The Secretary shall terminate the conditional temporary resident status of an alien—
(1) if the alien fails to attend school for a period exceeding 90 days; or
(2) if the alien fails to attend secondary school as a full-time student, but has received an honorable discharge; or
(3) in the case of an alien who was granted conditional temporary resident status under this title, if the alien—
(i) was not for a period of 180 days or longer, or for multiple periods exceeding 180 days in the aggregate, during a 5-year period.

(2) Extensions for exceptional circumstances.—The Secretary may extend the periods described in paragraphs (1) and (2) by 60 days if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances shall be sufficiently compelling 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 dependents, or an inability to attend school.

(3) Exception for military service.—Any time spent outside of the United States that is due to the 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 535 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 established eligibility for cancellation of removal and conditional temporary resident status under this title until the alien

least 1 year since the alien was granted conditional temporary resident status under this title and while the alien was enrolled as a student in a postsecondary school;

while the alien has not filed to adjust status to that of an alien lawfully admitted for permanent residence under section 245 of the Act 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 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 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—

(1) 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 did not abandon the alien’s residence;

(B) an alien who is absent from the United States for a period of time 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.

SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS GRANTED CONDITIONAL TEMPORARY RESIDENCE STATUS.

(a) Citizenship Requirement.—

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 under this title shall not lose any right of 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 remand all powers and duties delegated to the Secretary under this title. A final order entered before relief is granted under this title, the Attorney General shall terminate any 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 proceedings 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. The Attorney General shall continue to exercise such jurisdiction until such proceedings are terminated.

SEC. 3008. PRIVIDENTIALITY 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—

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—

(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 103-335; 107 Stat. 1556) or an amendment made by such act; or

(3) for homeland security or national security purposes.

(4) an official coroner for purposes of affirmatively identifying 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.

(6) Fraud in Application Process or Certificate.—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 is engaging in fraud or 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 immigration benefits by the individual on a date after the date on which the individual filed the application under this title.

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

SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR CONDITIONAL TEMPORARY RESIDENTS.

An individual who has met the requirements under section 3005 for adjustment from conditional temporary resident status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year eligibility waiting period under section 463 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

SEC. 3010. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Appropriations 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.

Sec. 1 of chapter 5 of title 10, United States Code, is amended by adding at the end the following:

“(D) An alien who is a conditional temporary resident under section 1032 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. 1312 and 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 is 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 of each year.

(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 necessary to implement this title;

(C) outreach to the public, including development and promulgation of any regulations, rules, or other public notice; and

(D) anti-fraud and other 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 to the Committee on Appropriations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives for spending the funds appropriated under paragraph (2) that describes how such funds will be obligated in each fiscal year, by program.

(b) DEPOSIT AND USE OF PROCESSING FEES.

(1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be deposited monthly in the general fund of the Treasury until the funding provided by subsection (a)(2) has been repaid.

(2) DEPOSIT IN THE IMMIGRATION EXAMINATION ACCOUNT.—Of the fees collected under this title in excess of the amount referenced in paragraph (1) shall be deposited in the Immigration Examination Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(m) of such Act (8 U.S.C. 1356(m)).

TITLE II: FAMILY-SPONSORED IMMIGRATION 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

(2) in section 201 (8 U.S.C. 1151)—

(A) in subsection 201(a)(2)(A), (1) in clause (1), by striking “children, spouses, and parents of a citizen of the United States, except that, in the case of parents, the child must be at least 21 years of age,” and inserting “children and spouse of a citizen of the United States;”;

and (B) in clause (1), 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 10 percent of the total number of visas issued in accordance with subparagraph (A) to nationals of the country of origin 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 nationals of the country of origin or dependent area that is subject to subsection (e) is less than the quota under paragraph (1).

(2) SUBSECTION (e) CEILING DEFINED.—In clause (1), the term “subsection (e) ceiling” means—

(i) in paragraph (1), by adding “and” at the end of the period under paragraph (2); and

(ii) by striking subparagraph (C) and (D);

(3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended by striking “(c)(2)(A)” each place such term appears and inserting “(c)(2)(A)”;

(4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended

SEC. 4003. FAMILY-SPONSORED IMMIGRATION NUMBERS.

(a) FAMILY-SPONSORED ALIENS.—Family-sponsored immigrants described in subsection (a)(2) may include—

(1) a spouse of a citizen or national of the United States;

(2) a parent of a citizen or national of the United States;

(3) a child of a citizen or national of the United States; and

(4) a sibling of a citizen or national of the United States.
(A) in subsection (a)(1)—
(1) in subparagraph (A)(i), by striking “to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 201(a)(15)”;
(2) in subparagraph (B), by striking “203(a)(2)(A)” each place such term appears and inserting “203(a)”; and
(3) in subparagraph (D)(1), by striking “a petitioner” and all that follows through “(a)(1)(B)(ii)”.

(b) in subsection (f)(1), by striking “203(a)(1), or 203(a)(3); as appropriate”; and
(C) by striking subsection (E).

(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)(i), by striking “section 203(a)(2)” and inserting “section 203(a)”; and
(B) in subsection (d)(1), by striking “other than the family-sponsored petitions for spouses and minor children of United States citizens and lawful permanent residents under—”.

(6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C. 1186a(q)(1)(B)(i)) is amended by striking “section 203(a)(3)” and inserting “section 203(a)”. 

(7) DEFINITION OF ALIEN SPOUSE.—Section 218(b)(1)(C) of such Act (8 U.S.C. 1186a(b)(1)(C)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”. 


(9) CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIENS 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)(i)(II), by striking the period at the end and inserting “or”;
(B) in subparagraph (U)(ii), by striking “or” at the end; and
(C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”; and
(D) by adding at the end the following:
“(W) Subject to section 214(e), an alien who is a parent of a citizen of the United States, if the alien is 21 years of age or over.”

(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:
“(o)(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 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 or daughter who is the nonimmigrant’s 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 to the United States citizen son or daughter who 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(c)(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 continue to allocate a sufficient number of visas to all such 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 date before the date of enactment of this Act, and the beneficiaries of such 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 a petition 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 still 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 date before the date of enactment of this Act, and the beneficiaries of such visas shall—

(A) indicate 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) be otherwise qualified to receive a visa under this Act.

(5) 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 subsection designation and heading and all that follows through “For purposes” in the first sentence and inserting the following:
“(gg) Lists.—
(1) In general.—For purposes; and
(3) by adding at the end 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 such 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 redesigning subsections (d), (e), (f), (g), (h), and (l) as subsections (c), (d), (e), (f), and (g), respectively;
(3) in subsection (c), as redesignated, by striking “(a), (b), or (c)” and inserting “(a), (b), or (c)”;
(4) in subsection (d), as redesignated—
(A) by striking paragraph (2); and
(B) by redesigning paragraph (3) as paragraph (2);
(5) in subsection (e), as redesignated, by striking “(a), (b), or (c) of this section” and inserting “(a) or (b)”;
(6) in subsection (f), as redesignated, by striking “(a), (b), and (c)” and inserting “(a) and (b)”;
(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 “subsections (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) 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 (d); and
(C) by redesignating subsection (I) as subsection (e);
(4) in section 204 (8 U.S.C. 1145)—
(A) in subsection (a)—

(i) by striking paragraph (I); and
(ii) by redesigning 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 (I)(2)—

(i) in subparagraph (B), by striking “section 203(a) or (d)” and inserting “section 203(a) or (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)”; and
(6) in section 216(g)(1) (8 U.S.C. 1168a(g)(1)), in the designated 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.—
(I) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this subsection 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 to any alien whom the Secretary of State has selected to participate in the diversity visa lottery for fiscal year 2018.

(II) REALLOCATION OF VISAS.—

(A) RELOCATION.—

(1) IN GENERAL.—Beginning in fiscal year 2019 and for each fiscal year thereafter, the number of visas allocated for fiscal year 2018 shall be made available to aliens who qualify for visas under the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153) that have not been terminated or revoked as of the date of enactment of this Act.

(2) REALLOCATION OF VISAS.—

(B) by inserting ''(1)'' after ''(b)''; and

(C) by redesignating paragraphs (1) in subsection (b)—

(i) the availability of visas under subparagraph (A); and

(ii) the manner in which the visas shall be allocated.

(ii) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G); and

(iii) 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 finality of such certificate retained by the Department.''; and

(2) by adding at the end the following:

"(c) The Secretary shall cause the technical requirements under this section in the Department to hire term, temporary limited, and part-time employees under this paragraph.

(3) 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. 5006. 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 accordance with the authority granted by section 255(a) of title 41, United States Code, 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 paragraph (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 PERSONNEL IN UNITED STATES TERRITORIES.

(A) IN GENERAL.—Section 305(c) of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by inserting "the Department of Homeland Security" after "Department of Justice"; and

(B) by inserting "or the Secretary of Homeland Security" after "Attorney General"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) the ratio of such employees to permanent full-time employees; or

(ii) the Department to hire term, temporary limited, and part-time employees under this paragraph.

(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. 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 portion of the provision or amendment to any other person or circumstance shall not be affected.

SEC. 5007. FUNDING.

(a) Authorization.—The Director of the Office of Management and Budget shall determine and identify—

(1) the appropriation accounts which have unobligated balances which may 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 Labor; and

(3) the Department of Veterans Affairs.

TITLE VI—TECHNICAL AMENDMENTS

SEC. 6001. REFERENCES TO THE IMMIGRATION AND NATIONALITY ACT.

Except as expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF THE IMMIGRATION AND NATIONALITY ACT.

(a) SECTION 101.—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;"

(b) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(A) in subparagraph (F)(i), by striking "certifies to the Secretary of Homeland Security 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

(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";

(C) in subparagraph (M)(i), by striking the term "Attorney General" each place that term appears and inserting "Secretary";

(D) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by striking "Secretary" and inserting "the Secretary or" before "the Secretary or of the United States designated by the Attorney General" and inserting "Secretary or of the United States designated by the Secretary.";

(E) 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 and have all the powers, duties, and responsibilities vested in the Attorney General by law and all responsibilities and authority in the administration of the Department of Homeland Security.

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 (I)—

(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 294.—Section 294 (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1)(G)(ii), by inserting "of State" after "by the Secretary";

(2) in subsection (c), by inserting "the Secretary or" before "the Attorney General" each place that term appears; and

(3) in subsection (e), by inserting "to" after "admitted".

(d) SECTION 298.—Section 298 (8 U.S.C. 1155) is amended—

(1) in subsection (a)(2)—

(A) by inserting "the Secretary or" before "Attorney General" in subparagraph (A); and

(B) by inserting "the Secretary or" before "Attorney General" in subparagraph (D);
(2) in subsection (b)(2)—
(A) in subparagraph (B)(i), 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

(C) in paragraph (4)—
(i) by striking “Attorney General” each place that term appears and inserting “Secretary”;

(ii) by striking “Attorney General’s” and inserting “Secretary’s”;

and

(D) in paragraphs (5) through (8), by inserting “Secretary or” before “Attorney General” each place that term appears;

(B) in paragraph (3)—
(i) in subparagraph (B)(i)(II), by inserting “the Attorney General” each place that term appears; and

(ii) in subparagraph (D), by inserting “the Secretary or” before “Attorney General” each place that term appears;

(C) in paragraph (8)—
(i) in subparagraph (A), by inserting “the Attorney General” each place that term appears;

(ii) in subparagraph (B), by striking “Attorney General’s” and inserting “Secretary’s”;

and

(D) in paragraph (9)—
(i) in subparagraph (C), by striking “Attorney General” each place that term appears; and

(ii) in subparagraph (D), by striking “Attorney General’s” and inserting “Secretary’s”.

(2) Subsection (b) is amended—
(A) in paragraph (1), by striking “Secretary” and inserting “Secretary General”;

(B) in paragraph (2), by striking “Secretary” and inserting “Secretary General”;

(C) in paragraph (3)—
(i) by striking “Secretary General” each place that term appears and inserting “Secretary”; and

(ii) by striking “Secretary General’s” and inserting “Secretary’s”;

and

(D) in paragraphs (4) through (6), by inserting “Secretary” before “Attorney General” each place that term appears;

(B) in paragraph (3)—
(i) in subparagraph (B)(i)(II), by inserting “Secretary” before “or the Attorney General” each place that term appears; and

(ii) in subparagraph (D), by inserting “Secretary or” before “Attorney General” each place that term appears;

(C) in paragraph (4)—
(i) in subparagraph (A), by inserting “Secretary” before “or the Attorney General”;

(ii) in subparagraph (B), by inserting “Secretary” before “or the Attorney General”;

and

(ii) by inserting “Secretary” before “or the Attorney General” each place that term appears;

(D) in paragraph (5), by striking “Secretary” and inserting “Secretary General”; and

(E) in paragraph (6)—
(i) in subparagraph (A), by inserting “Secretary General” each place that term appears; and

(ii) in subparagraph (B), by striking “Secretary General” each place that term appears;

and

(F) in paragraph (7), by striking “Secretary” and inserting “Secretary General”;

(G) in paragraphs (1) and (2), by striking “Secretary General” and inserting “Secretary”;

(H) in paragraphs (3) through (6), by striking “Secretary General” and inserting “Secretary”; and

(I) in paragraphs (7) through (9), by striking “Secretary General” and inserting “Secretary”.

(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 Attorney General has determined that departure from the United States would impose exceptional hardship upon the alien’s spouse or child (if the alien has a spouse or child who 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 except that it 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 Secretary shall be subject to the requirements under section 214(a):”;

(4) in subsections (g), (h), (i), and (k), by inserting “Secretary” after “Attorney General” each place that term appears;

(5) in subsection (m)(2)(E)(iv), by inserting “‘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 Attorney General,” after “the Attorney General,” and “or the Attorney General” before “the Secretary”;

(2) in subsection (d)(6)(B), by inserting “the Secretary,” after “the Attorney General,” and “or the Attorney General” before “the Secretary”;

(3) in subsection (d)(8)(A), by striking “the alien” and inserting “an alien”.

(i) Section 213B—Section 213B (8 U.S.C. 1183b) is amended—
(A) in section (c)(3)(A), by inserting a comma after “Secretary of Labor”;

(B) in subsection (c)(2)(C), by inserting section (c)(2)(C) and inserting “Secretary of Labor”;

and

(C) in subsection (c)(3)(A), by striking “the alien” and inserting “an alien”.

(ii) Section 213C—Section 213C (8 U.S.C. 1183c) is amended—
(A) by inserting “Secretary” before “Secretary or” each place that term appears and inserting “Secretary’s”;

(B) by striking “Commissioner” each place that term appears and inserting “Secretary”;

(C) in subparagraph (D), by striking “or the Secretary” and inserting “or the Attorney General”;

and

(D) in paragraph (3), by striking “Secretary” and inserting “Secretary General”.

(h) Section 214—Section 214 (8 U.S.C. 1183a) is amended—
(1) in section (a)(1)(B)—
(A) by inserting “Attorney General” each place that term appears and inserting “Secretary”;

(B) by striking “Attorney General’s” and inserting “Secretary’s”;

and

(C) in subparagraph (B)(i), by inserting “Secretary or” before “Attorney General” each place that term appears;

(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”.

(i) Section 215—Section 215 (8 U.S.C. 1183d) is amended—
(1) in subsection (a)(1)(B)—
(A) by inserting a colon in place of “of the Secretary or”;

and

(B) by striking the closing parenthesis before “Secretary General”;

(2) in subsection (c)(3)(D), by striking “Secretary’s” and inserting “Secretary’s”;

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.”.

(j) Section 222—Section 222 (8 U.S.C. 1222) is amended—
(1) by inserting “or the Secretary” after “Secretary of State” each place that term appears; and

(2) in subsection (g)—
(A) in the matter preceding paragraph (1), by inserting “, the Department,” after “Department of State”; and

(B) in paragraph (2), by striking “Secretary and inserting “Secretary”;

(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 place that term appears and inserting “Secretary”; and

(B) by striking “Commissioner” each place that term appears and inserting “Secretary”;

(4) in subsection (h), by striking “Attorney General” each place that term appears and inserting “Secretary”;

(5) in paragraph (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

(6) by inserting “the Secretary or” before “the Attorney General under”.

(n) Section 236A—Section 236A(a)(4) (8 U.S.C. 1225a(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 (8 U.S.C. 1227(a)) is amended—
(1) in the matter preceding paragraph (1), by inserting “for the purpose of removing proceedings after” “upon the order of the Attorney General”;

and

(2) in paragraph (2)(E), in the subparagraph heading, by striking “CRIMES AGAINST CHILDREN” and inserting “CRIMES AGAINST CHILDREN”.

(q) Section 238—Section 238 (8 U.S.C. 1228) is amended—
(1) in subsection (a)—
(A) in paragraph (2), by striking “Attorney General” each place that term appears and inserting “Secretary”;

(B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney General” each place that term appears; and

(2) in subsection (e) as redesignated by section 1703(a)(4)—
(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. 1229a(a)(1)) is amended by inserting “and the Secretary” after “Attorney General” each place that term appears;

and

(2) in subsection (a), by inserting “Secretary or” before “the Attorney General”.

(s) Section 240—Section 240 (8 U.S.C. 1229a) is amended—
(1) in subsection (a)—
(A) in paragraph (1), by inserting “, with the concurrence of the Secretary with respect to employees of the Department” after “Attorney General”;

and

(B) in paragraph (2), by inserting “Secretary or” before “the Attorney General”;

and

(C) in paragraph (3), by striking “Commissioner” and inserting “Secretary General” and inserting “Secretary General”.

(E) in paragraph (4), by inserting “Secretary or” before “the Attorney General”;

and

(F) in paragraph (5), by striking “Secretary” and inserting “Secretary General.”
(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)(i)(I), by striking "240A(b)(2)" and inserting "section 240A(b)(2)".
(b) SECTION 240A.—Section 240A(b) (8 U.S.C. 1229(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".
(c) SECTION 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended by adding a new paragraph (1) and (3), by inserting "Secretary" after "Attorney General" each place that term appears.
(d) 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 "DEPORTATION FACILITIES OF THE DEPARTMENT OF HOMELAND SECURITY."; and
    (B) by striking "Service, the Commissioner" and inserting "Department, the Secretary".
(e) SECTION 242.—Section 242(g) (8 U.S.C. 1229g(g)) is amended by inserting "the Secretary or before "the Attorney General".
(f) SECTION 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in subsection (b)—
    (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".
(g) 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 that term appears; and
    (2) in subsection (g), by inserting "or the Secretary" after "Attorney General".
(h) 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) by striking the 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(B))" and inserting "(10(E))".
(i) SECTION 246.—Section 246 (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" and inserting "The"; and
      (B) in paragraph (5), by striking "(Public Law 96–122)" and inserting "(8 U.S.C. 1522 note)".
(j) SECTION 271.—Section 271(b)(2) (8 U.S.C. 1234b(b)(2)) is amended by striking "Secretary of the Treasury" and inserting "Secretary".
(k) SECTION 274B.—Section 274B(d)(2) (8 U.S.C. 1235(b)(2)) is amended by striking "section 274(b)(2)(A)" and inserting "section 274(b)(2)".
(l) SECTION 274C.—Section 274(c)(2)(A) (8 U.S.C. 1234(c)(2)(A)) is amended by inserting "Secretary" after "(or the Secretary)" after subsection (a), the Attorney General", the Commissioner of Immigration and Naturalization Services', the headquarters of which shall be in the same State as the office of the Secretary.
(m) SECTION 274D.—Section 274D(a)(2) (8 U.S.C. 1235(a)(2)) is amended by striking "Commissioner, in consultation with the Deputy Attorney General," and inserting "Secretary, in consultation with the Attorney General, and inserting "Secretary".
(n) SECTION 274E.—Section 274E(a) (8 U.S.C. 1236a) is amended—
    (1) in subsection (a), in the designated matter following paragraph (4), by striking "Commissioner, in consultation with the Deputy Attorney General," and inserting "Secretary," and
    (2) in subsection (d), by striking "(Secretary)" and inserting "(Secretary)".
SEC. 6005. TECHNICAL AMENDMENTS TO TITLE VII OF THE IMMIGRATION AND NATURALIZATION ACT. (a) SECTION 504.—Section 504 (8 U.S.C. 1543) 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. 1553(e)(2)) is amended by inserting "and the Secretary" after "Attorney General." and
SEC. 6007. OTHER AMENDMENTS. (a) CORRECTION OF COMMISSIONER OF IMMIGRATION AND NATURALIZATION—. 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 that term appears and inserting "Secretary".
(b) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by paragraph (1) shall not apply to any reference to the "Commissioner of Social Security".
(c) CORRECTION OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking "Service" and "Immigration and Naturalization Service" each place that term appears and inserting "Department".
(d) CORRECTION OF DEPARTMENT OF JUSTICE.—
    (1) In general.—The Immigration and 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".

that term appears and inserting “Department”.

(2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

(A) subsections (d)(3)(A) and (f)(3)(A) of section 214 (8 U.S.C. 1184);

(B) section 274B(h)(1) (8 U.S.C. 1324b(h)(1));

or

(C) title V (8 U.S.C. 1551 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)(7)(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 206.

(10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

(11) Subparagraphs (A), (B)(i)(II), and (D) of section 220(a)(3).


(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)(3)(C).

(17) Section 219(b)(4).


(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 239(c)(2)(D)(IV).

(24) Subparagraphs (a) and (b) of section 239.

(25) Section 240.

(26) Section 240A.

(27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.


(29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the amendment shall apply).

(30) Paragraph 241(i) (except for paragraphs (3)(B) and (b) 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 subsections (a)(1)(B)(i), subsection (a)(2)(D) and the first reference to the Attorney General in subsection 245(i)(1)).

(36) Section 245(a)(1)(A).

(37) Section 246(a).

(38) Section 249.

(39) Section 254(e).

(40) Paragraph 254(i).

(41) Section 274A.

(42) Section 274B.

(43) Section 274C.

(44) Section 282.

(45) Subsections (d) and (f)(1) of section 316.

(46) Section 342.

(47) Section 412(f)(1)(A).

(48) Subsection for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to which the amendment shall apply.

SEC. 6009. 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 amendment made by this title of section 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. 1532) is repealed.

(B) 8 U.S.C. 1532.—The language of the compiler 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, 1987 (70 Stat. 307, chapter 414; 8 U.S.C. 1533) is amended, in the matter under the heading “Immigration and Naturalization Service” and under the subheading “SALARIES AND EXPENSES”, by striking “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. 1543) is amended in the matter following the heading “Bureau of Immigration” by striking “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 amendments made by this title.

(c) By amending subparagraph (D), as redesignated, to read as follows:

“(D) by inserting before “any alien”;

(2) by adding at the end the following:

“(Y) the initial period of validity of a nonimmigrant visa issued under section 101(a)(15)(H)(i)(b) to an alien described in paragraph (3)(C) which is exempt from the numerical limitations under paragraph (1)(A) shall be 12 months.

“(ii) The period of validity of a visa described in clause (i) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—

“(I) the employer has filed, on the alien’s behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition forAlien Worker;

“(II) such application or petition has not been denied in a final agency action.”.

(b) ANTI-HOARDING.—

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”;

(B) by adding at the end the following:

“(Y) the initial period of validity of a nonimmigrant visa issued under section 101(a)(15)(H)(i)(b) to an alien described in paragraph (3)(C) which is exempt from the numerical limitations under paragraph (1)(A) shall be 12 months.

“(II) The period of validity of a visa described in clause (i) shall be extended beyond the initial period described in such clause if the employer provides evidence to the Secretary that—

“(I) the employer has filed, on the alien’s behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition for Alien Worker;

“(II) such application or petition has not been denied in a final agency action.”.

SEC. 6100. 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); and

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

“(C)(i) has earned a master’s or higher degree from a United States institution of higher education (as defined in section 101(a)(10) 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; or

“(ii) has received a hearing officer’s approval of an Immigrant Petition on behalf of the alien; or

“(iii) has received an Immi-
year for H–1B visa classification subject to the cap established under paragraph (1)(A) are approved; and

“(BB) the employer withdraws more than 20 percent of the approved H–1B visa petitions subject to the numerical limitation under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 10 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.”

“(BB)(AA) more than 50 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

“(III)(i) The penalty for a violation of clause (i) shall be deposited into—

(a) $10,000 for each petition described in such clause that was filed during the first fiscal year that a penalty is imposed; and

(b) $100,000 (or the adjusted amount under clause (ii), 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. 1061(a))) in the United States in a specialty related to the intended employment;”

“(BB) by striking the period at the end and inserting ‘‘ ''; and''; and

(III) including the penalties described in clause (i) in any 3 fiscal years shall be—

(1) in paragraph (3)(B)—

(a) in paragraph (6)(A), by striking ‘‘(AA) more than 20 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.’’;

(b) in clause (ii), by striking the period at the end and inserting ‘‘ ''; and’’; and

(2) by striking the provisions of paragraphs (3)(B)(i) and (ii) and inserting the following:

‘‘(iii) the amount under clause (i)(1)(bb) shall be increased, for the third fiscal year beginning after the date of the enactment of this Act and for each of the 5 fiscal years 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.”’

SECTION 13. STRENGTHENING THE PREVAILING WAGE REQUIREMENT.

Section 212(p)(4) of the Immigration and Nationality Act (8 U.S.C. 1152(p)(4)) is amended by adding at the end the following: ‘‘(II) the amount under clause (i)(1)(bb) shall be increased, for the third fiscal year beginning after the date of the enactment of this Act and for each of the 5 fiscal years 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.”’

Subtitle B—Employment-based Immigrant Visas

SECTION 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-SPOUSED 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 ratio of the total number of such visas made available under such section in that fiscal year to the total number of available immigrant visas for all countries and dependent areas;’’

(b) in clause (ii), by striking the period at the end and inserting ‘‘ ''; and’’; and

(c) by redesignating subparagraph (C) as subparagraph (D).

SEC. 22. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.

(a) 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.

(b) 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(a).

SECTION 23. SECURING A SUPPLY OF HIGHLY-SKILLED WORKERS.

(a) in General.—Section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1154(n)) is amended—

(1) in paragraph (5)—

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

(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 101(a) of title 20) and whose employer has certified that the alien filed for the position of employment will file an Immigrant Petition on behalf of the alien; or’’; and

SA 1961. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table.

At the appropriate place, insert the following:

SEC. 24. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

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-SPOUSED 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 ratio of the total number of such visas made available under such section in that fiscal year to the total number of available immigrant visas for all countries and dependent areas.’’

SEC. 25. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.

(a) Petition.—Any alien, and any eligible dependent of such alien, who has been found to be an H–1B nonimmigrant means an H–1B nonimmigrant who—

(1) receives wages (including cash bonuses) at an annual rate equal to not less than the higher of—

(aa) $105 percent of the occupational 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 (ii), if applicable); 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) 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.

(bb)(AA) more than 50 petitions filed by the employer in a fiscal year for H–1B visa classification subject to the cap established under paragraph (1)(A) that were received by the employer in the fiscal year or the employer withdraws more than 5 percent of such petitions because the alien worker resigned his or her employment with the employer before completing 3 months of employment.

(2) in paragraph (3)(B)—

(a) in paragraph (6)(A), by striking the period at the end and inserting ‘‘ ''; and’’; and

(b) by redesigning subparagraph (B) as subparagraph (C).

SEC. 26. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

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-SPOUSED 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 ratio of the total number of such visas made available under such section in that fiscal year to the total number of available immigrant visas for all countries and dependent areas.’’
(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)(5)(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 Immigration and Nationality Act, as defined under clause (i) subject to 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—

"(A) the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition; and

"(B) such petition 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 for the following:

At the appropriate place, insert the following:

SEC. 104. 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. 1184g(10)) is amended—

(A) by inserting "(A)" before "Any alien"; and

(B) by adding at the end the following:

"(b) An employer withdrawing a petition

(iii) as a result of an 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; and

(cc) the alien worker's position with the employer.

(II) Except as provided in clause (ii), an employer approved during the most recent fiscal year.

(iii) unless the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition.

(II) has attained a doctoral 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 the United States in a specialty related to the intended employment:

(B) by adding at the end the following:

(ii) that date on which each such H–1B nonimmigrant during the 5-year period preceding the filing of the application.

(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:

"(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.

DEFERRED 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 (ii), by striking "(as defined in paragraph (4))"; and

(B) by striking clause (ii) and inserting the following:

"(ii) Except as provided in clause (ii), 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 (D) 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:

"(III) Subject to clause (ii), the employer is barred from filing any petitions for H–1B visas 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 reigned his or her employment with the employer before completing 3 months of employment;

"(bb)(AA) more than 50 petitions filed by the employer in a fiscal year if—

"(aa) $10,000 for each petition described in clause (i) that was filed during the first fiscal year that a penalty is imposed; and

"(cc) $25,000 for each such petition that was filed after the first fiscal year that a penalty is imposed.

"(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 withdrew more than an additional 10 percent of such petitions because the alien worker reigned his or her employment with the employer before completing 3 months of employment.

"(BB) an employer that has been found under paragraph (1)(A) to have filed or will file an H–1B visa petition for an alien described in paragraph (1)(A)(i)(B) of the Immigration and Nationality Act (8 U.S.C. 1161(b)(1)(A)) and whose employer has not certified that the employer has filed or will file an Immigration and Nationality Act, as defined under clause (i) subject to the numerical limitations under paragraph (1)(A) shall be 12 months.

(ii) that date on which each such H–1B nonimmigrant during the 5-year period preceding the filing of the application is an application described in this clause is an application filed by—

"(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 petition or petition has not been denied in a final agency action.

By the authority vested in me by the laws of the United States of America, I hereby order as follows:

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 for the following:

At the appropriate place, insert the following:

SEC. 104. 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. 1184g(10)) is amended—

(A) by inserting "(A)" before "Any alien"; and

(B) by adding at the end the following:

"(b) An employer withdrawing a petition

(i) the date on which each such H–1B nonimmigrant during the most recent fiscal year.

(ii) that date on which each such H–1B nonimmigrant during the most recent fiscal year.

(iii) unless the employer has filed, on the alien's behalf, a nonfrivolous Application for Permanent Employment Certification or a nonfrivolous Immigrant Petition.

(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) by adding at the end the following:

(ii) that date on which each such H–1B nonimmigrant during the 5-year period preceding the filing of the application is an application described in this clause is an application filed by—

"(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 petition or petition has not been denied in a final agency action.

By the authority vested in me by the laws of the United States of America, I hereby order as follows:

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 for the following:

At the appropriate place, insert the following:
SEC. 5. 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. 1152a) is amended to read as follows:

"(2) PER COUNTRY LEVELS FOR FAMILY-SPOONORED 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. 1152a) 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)”;

(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 will 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 “section (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 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:

"(a) Adjustment of Status for Employment-Based Immigrants.—

"(1) Petition.—Any alien, and any eligible dependent of such alien, who has an approved petition for adjustment of 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 288(a). 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 1896 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 6. EMPLOYMENT AND TRAINING OPPORTUNITIES FOR HIGHLY-SKILLED IMMIGRANTS.

(a) Employment Authorization for Dependents of H-1B Nonimmigrants.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184a) 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 authorization endorsement or other appropriate derivative authorization;

"(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 experience 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 petitioner is employed in a corporate restructuring, including a merger, acquisition, or consolidation;

"(B) a new corporate entity succeeds to the employer for the specific employment in question or in the interests and obligations of the original 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) of section 214, as 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 shall—

"(I) issue a nonimmigrant visa, or application for admission involving the same employer and alien un-
him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 7. 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 OR DEPENDENT AREA.—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.—

(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 shall be limited to 2 percent of the total number of visas made available under the Immigration and Nationality Act (8 U.S.C. 115(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.

(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. 115(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.

(C) 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. 115(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).

(4) RULES FOR CHARGABILITY.—Section 202(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.

SA 1966. Mr. PAUL submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

Strike [3] after the enacting clause and insert the following:

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Sec. 1. Table of contents.

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TITLE II—INTERIOR IMMIGRATION ENFORCEMENT

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Sec. 2202. State noncompliance with enforcement of immigration law.

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Sec. 2501. Repatriation of unaccompanied alien children.

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Sec. 2506. House oversight of unauthorized alien activity.
TITLE III—BORDER ENFORCEMENT

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Sec. 3111. Strengthening the requirements for barriers along the southern border.

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Sec. 4102. Contingent nonimmigrant status for certain aliens who entered the United States as minors.

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Sec. 4105. Rulemaking.

Sec. 4106. Statutory construction.
(A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section 203(a)”; and

(B) in subsection (d)(1), by striking “(other than subsection (a))” and inserting “subsection (a)”; and

(5) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C. 1184q(1)(B)(i)) is amended by striking “section 203(a)”; and inserting “section 203(a)”.

(6) DEFINITION OF ALIEN SPouse.—Section 215(b)(1)(C) of such Act (8 U.S.C. 1188a(b)(1)(C)) is amended by striking “section 203(a)” and inserting “section 203(a)”.

(7) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C. 1225(a)(1)(E)(ii)) is amended by striking “section 203(a)” and inserting “section 203(a)”.

(8) CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIEN PARENTS OF ADULT UNITED STATES CITIZENS.—(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1151(a)(15)) is amended—

(A) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”;

(B) in subparagraph (V)(ii)(II), 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:

“(ii) Subject to section 214(e), an alien who is a parent of a citizen of the United States, if the citizen—

(i) is at least 21 years of age; and

(ii) has never received contingent nonimmigrant status under title IV of the Secretary for Homeland Security for additional 5-year periods if the nonimmigrant is still residing in the United States.

(2) nonimmigrant described in section 101(a)(15)(W)—

(A) is not authorized to be employed in the United States;

(B) is not eligible for any Federal, State, or local public benefit.

(3) 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.

(I) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2016.

(2) INELIGIBILITY OF CERTAIN PETITIONS AND APPLICATIONS.—(A) IN GENERAL.—No person may file, and the Secretary of Homeland Security and the Secretary of Labor 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), (2b), (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 Labor shall be required to take any action on any petition or application for adjustment of status or an immigrant visa based on such a petition shall be invalid.

(C) Interpretation.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153) pending as of the date of enactment of this Act shall be interpreted as if section 203(a)(1)(A)(i) of such Act (8 U.S.C. 1153(b)(1)(A)(i)) with respect to a parent of a United States citizen, or under paragraph (1), (2b), (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 WAITLESTED 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), (2b), (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 apportioned to each category described in subparagraph (A), no additional visas may be issued for that category.

SEC. 1102. ELIMINATION OF DIVERSITY VISA PROGRAM.

(A) in 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)”; and

(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); and

(C) in section 203—

(1) in subsection (b)(2)(B)(i)(IV), by striking “section 203(b)(2)(B)” place such term appears and inserting “clause (i)”; and

(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 “section (a), (b), or (c)” and inserting “section (a) or (b)”; and

(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 “section (a), (b), or (c) of this section” and inserting “section (a) or (b)”; and

(vi) in subsection (f), as redesignated, by striking “section (a), (b), and (c)” and inserting “sections (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), by striking “subsection (a), (b), and (c)” and inserting “subsection (a) or (b)”; and

(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 (c) of section 203”;

and

(iii) in subsection (1)(2)—

(I) in subparagraph (B), by striking “subsection (a), (b), or (c) of section 203” and inserting “subsection (a) or (c) of section 203”;

and

(II) in subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”;

and

(F) in section 216(b)(1), in the undesignated matter following subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”;

and

(G) in section 245(a)(1)(B), by striking “section 203(d)” and inserting “section 203(c)”;

(2) IMMIGRANT INVESTOR PILOT PROGRAM.—Section 619(d) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Public Law 102-396) 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 PREFERENCES.—(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”; and

(B) in paragraphs (2) and (3), by striking “28.6 percent of such worldwide level” each place it appears and inserting “58.374”; and

(C) by striking “7.1 percent of such worldwide level” each place it appears and inserting “9.940”;

and

(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. 1151(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. 1222(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) 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 221(j) of the Immigration and Nationality Act (8 U.S.C. 1221(j)) is amended by inserting “(G) by striking “and on the basis of reciprocity” and all that follows” and inserting the following:

“(G) by striking “and on the basis of reciprocity” and all that follows” and inserting the following:—

“(G) that it is in the national interest to provide such information to a foreign government.’’

(b) 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 referrals and revocations occurring before, on, or after such date.

SEC. 1203. PETITION AND APPLICATION PROCESSES FOR VISAS AND IMMIGRATION BENEFITS.

(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 non-immigrant may be approved unless the petition or application is signed by each party required to sign such petition or application.

(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 non-immigrant may be approved unless each applicable portion of the petition or application has been completed.

(c) 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 non-immigrant, such petition or application may not be approved unless all of the additional information requested is provided on or before any reasonably established deadline included in the request; or
is necessary to establish a family relationship, the immigrant shall provide DNA evidence of such a relationship in accordance with procedures established for submitting such evidence. In consultation with the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General may issue regulations to require DNA evidence for certain visa classifications to establish family relationships, after “by the consular officer.”

(b) ACCESS TO NCIC CRIMINAL HISTORY DATABASE FOR DIPLOMATIC VISAS—Subsection (a) of section 217 of the National Criminal History Access and Child Protection Act (34 U.S.C. 4031b(V)(a)) is amended—

(1) by striking “(b)(5)” and inserting “(b)(5), (7), or (9)”;

(2) by striking “is or has been” and inserting “is, or has been”;

(3) in clause (ii), by striking “the Secretary of Homeland Security” and inserting “the Department of Homeland Security”; and

(4) by inserting “and shall make available to the Secretary of Homeland Security for the purpose of preventing and detecting visa fraud.”

(c) ELIMINATION OF SIGNED PHOTOGRAPH REQUIREMENT FOR VISA APPLICATIONS—Subsection 222(a) of the Immigration and Nationality Act (8 U.S.C. 1221(b)) is amended by striking the first sentence and inserting the following:

“Each alien who applies for a visa shall be registered in connection with his or her application and shall furnish copies of his or her photograph for such use as may be required by regulation.”


(1) in the matter preceding clause (i), by striking “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;”;

(3) in clause (ii), by striking “including primarily fraud by applicants for visas described in subparagraph (H)(ii), (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 Code of 1986 (relating to salaries 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. 1225a(h)(3))) is amended—

(1) by striking “may be assessed, or a proceeding may be begun without assessment, at any time within 6 years after the return was filed.”;

(2) by striking “of the Internal Revenue Code of 1986” in paragraph (2), and inserting “of the Internal Revenue Code of 1986, after “enforcement of this Act”;

and

(5) in clause (ii), by striking “(5), or (7)” in the matter preceding subparagraph (A) and inserting “(5), (7), or (9)”.

(b) PAYMENT OF WAGES TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wages 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. 1225a(h)(3))

(1) that are paid for services performed by an unauthorized alien

(2) that are paid by an employer who was not required to withhold taxes with respect to such wages

and

(B) SAFE HARBOR.—If a person or entity is participating in the E-Verify Program described in section 408(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1294a note) and obtains certification 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

and

(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 such wages were paid to or on behalf of an unauthorized alien.

SEC. 2102. 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 for a taxable year in which a deduction for wages paid to unauthorized aliens is claimed at the end of such year, the tax may be assessed, or a proceeding 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. 1234a) is amended—

(1) by striking “of the Internal Revenue Code of 1986” in paragraph (2), and inserting “of the Internal Revenue Code of 1986, after “enforcement of this Act”;

and

(3) in paragraph (2), by striking “of the Internal Revenue Code of 1986” in paragraph (2), and inserting “of the Internal Revenue Code of 1986, after “enforcement of this Act”;

and

(d) AVAILABILITY OF INFORMATION.—(1) IN GENERAL.—The Commissioner of Social Security, the Secretary of the Treasury, and the Secretary of the State, may issue regulations to require the Department of Homeland Security, the Department of Labor, the Attorney General, or other agencies that may or could lead to the certification 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.

SEC. 2103. DISCLOSURE BY SECRETARY OF THE TREASURY.—(A) IN GENERAL.—Subsection (a) of section 6103 of the Internal Revenue Code of 1986 is amended by striking at the end the following new paragraph:

“(9) PAYMENT OF WAGES TO UNAUTHORIZED ALIENS.—Upon request from the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of the Department of Homeland Security, the Secretary shall disclose to officers and employees of such Administration or Department—

(1) the taxpayer identity information of employers who paid wages with respect to which a deduction was not allowed by reason section 162(c)(4), and

(2) the 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.

(2) RECORDKEEPING.—(A) EFFECTIVE DATE.—Except as provided in paragraph (2), this Act shall take effect on the date of the enactment of this Act.

SEC. 2104. ENFORCEMENT AUTHORITY.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, may issue regulations...
SEC. 2202. STATE NONCOMPLIANCE WITH ENFORCEMENT OF IMMIGRATION LAW.

(a) IN GENERAL.—Section 622 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 person from complying with any of the following law enforcement activities relating to information regarding the citizenship or immigration status, the admissibility, the deportability, or the custody status, of any individual:

(1) Making inquiries to any individual in order to obtain 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) TRANSFER OF CUSTODY OF ALIENS PENDANT.—Section 287(d) of the Immigration and Nationality Act (8 U.S.C. 1373) is amended—

(1) by striking paragraphs (1) and (2); and

(2) 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) may prohibit, or in any way restrict, a Federal, State, or local law enforcement entity, or other personnel of a State or political subdivision of a State, from obtaining information from Federal law enforcement entities, officials, or other personnel of a State or political subdivision of a State.

(2) TRANSFER OF CUSTODY OF ALIENS PENDANT.—A State, or a political subdivision of a State, that is not in compliance with subsection (a) or (b) may prohibit, or in any way restrict, a Federal, State, or local law enforcement entity, or other personnel of a State or political subdivision of a State, from obtaining information from Federal law enforcement entities, officials, or other personnel of a State or political subdivision of a State.

(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) may prohibit, or in any way restrict, a Federal, State, or local law enforcement entity, or other personnel of a State or political subdivision of a State, from obtaining information from Federal law enforcement entities, officials, or other personnel of a State or political subdivision of a State.

(2) TRANSFER OF CUSTODY OF ALIENS PENDANT.—A State, or a political subdivision of a State, that is not in compliance with subsection (a) or (b) may prohibit, or in any way restrict, a Federal, State, or local law enforcement entity, or other personnel of a State or political subdivision of a State, from obtaining information from Federal law enforcement entities, officials, or other personnel of a State or political subdivision of a State.

(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) may prohibit, or in any way restrict, a Federal, State, or local law enforcement entity, or other personnel of a State or political subdivision of a State, from obtaining information from Federal law enforcement entities, officials, or other personnel of a State or political subdivision of a State.

In the matter preceding paragraph (1), by inserting "the Secretary of Homeland Security" after "the United States".

SEC. 2203. CLARIFYING THE AUTHORITY OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICIALS TO PERMIT THE TRANSFER OF CUSTODY OF ALIENS TO FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Homeland Security shall—

(1) determine, for each calendar year, which States or political subdivisions of a State are not in compliance with subsection (a) or (b); and

(2) report such determinations to Congress not later than March 1 of the succeeding calendar year.

SEC. 2204. MODIFICATION OF E-VERIFY PROGRAM.

After "Department of Homeland Security" and inserting "after "Department of Homeland Security'"; and inserting "or continued employment in the United States''; after "United States'') and "(C) JOB OFFER MAY BE MADE CONDITIONAL" after "all that provision of section 402(c)(2) of such Act is amended to read as follows:

"(C) JOB OFFER MAY BE MADE CONDITIONAL

"(1) by striking paragraph (1); and

(2) by striking paragraph (2) and inserting the following:

"(2) The amendments made by subsection (a)(3) shall only apply to prohibiting acts committed on or after such date of enactment.

This subtitle may be cited as the "No Sanctuary for Criminals Act".
“(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 voluntary evidence that indicates 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, local, nonfederal 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, the United States, or any or all of its authorities 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 exemplary damages.

(2) FEDERAL GOVERNMENT AS DEFENDANT.—In any civil action arising out of the compliance with a Department of Homeland Security detention, 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 in the suit in the suit in the suit resulting from compliance with the detainer.

(3) BAD FAITH EXCEPTION.—Paragraphs (1) and (2) do 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. The United States Government shall be the proper party named in the suit in the suit resulting from the detention resulting from compliance with the detainer.

(4) 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, any State or political subdivision, or in the suit in the suit resulting from the detention resulting from compliance with the detainer, except as provided in paragraph (3).

(A) released the alien from custody prior to the occurrence of such crime, in sequence 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)); or

(B) has in effect a statute, policy, or practice not to honor the immigration and nationality law detainer issued pursuant to section 1362 of the Immigration and Nationality Act (8 U.S.C. 1362), and, as a consequence of its statute, policy, or practice, released the alien from custody before the commission of such crime.

(C) is acting under color of Federal authority for purposes of detaining the alien so that the alien may be taken into the custody of the Department of Homeland Security for purposes of transfer of custody to the Department of Homeland Security or 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 Reintegration Act of 1996 (8 U.S.C. 1357(d)(1)) and a political entity declines to honor such 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, policy or other legal requirement prohibiting political entities within its jurisdiction from honoring a detainer issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) and, as a consequence of its statute, policy or other legal requirement, the political subdivision declined to honor a detainer issued pursuant to such section, and as a consequence released the alien from custody before the commission of such crime.

(4) IMMUNITY.—If a State or a political subdivision that has in effect a statute, policy, or other legal requirement of a State or an authority to decline to honor any or all of the detainers issued pursuant to such section, and as a consequence of its statute, policy or other legal requirement, the political subdivision declined to honor a detainer issued pursuant to such section, and as a consequence released the alien from custody before the commission of such crime, the Secretary determines it is practical to take such alien into custody.”.

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” before “or before the Attorney General”; and

(ii) in paragraph (2), by amending subparagraph (B) to read as follows:

“(B) recognizance; and;”.

(2) PROPER DEFENDANT.—If a State or a political subdivision of a State has in effect a statute, policy 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 Reintegration Act of 1996 (8 U.S.C. 1357(d)(1)) and a political entity declines to honor such a detainer against an alien described in paragraph (1) based on such statute or legal requirement, 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.

(3) ATTORNEY’S FEE AND OTHER COSTS.—In any action or proceeding under this subsection—

(A) the plaintiff is entitled to recover a reasonable attorneys’ fee as part of the costs, including expert fees.

(B) ELEIGIBILITY 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 other legal requirement that prohibits it from fully complying with any or all Department of Homeland Security detainers issued pursuant to section 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)) shall not be eligible to receive—

(A) any of the funds that would otherwise be allocated to the State or political subdivision under title II of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10001 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under part D 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 paired by alcohol or drugs) without regard to whether an alien is released on parole, supervised release, or probation, or whether 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 imported or imprisoned again for the same offense, and, if the activity described in this paragraph occurs after the alien is released or paroled, or on probation by the State or political subdivision, except as provided in paragraph (3).

(A) any of the funds that would otherwise be allocated to the State or political subdivision under title II of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10001 et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program under part D 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 paired by alcohol or drugs) without regard to whether an alien is released on parole, supervised release, or probation, or whether the alien may be imported or imprisoned again for the same offense, and, if the activity described in this paragraph occurs after the alien is released or paroled, or on probation by the State or political subdivision, except as provided in paragraph (3).

(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 1902(b) of the United States Code) of another person; or

(ii) is deportable by reason of a visa revocation section 221(i); or

(ii) is deportable under section 237(a)(1)(C)(i); and

(ii) is sentenced to a term of imprisonment of at least 1 year, or

(iii) is deported by reason of a visa revocation section 221(i); or

(iii) is sentenced to a term of imprisonment of at least 1 year, or

(iii) is deported by reason of a visa revocation section 221(i); or

(iii) has been convicted and sentenced to a term of imprisonment of at least 1 year, or

(iii) has been convicted and sentenced to a term of imprisonment of at least 1 year, or
(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:

"(L) The length of detention under this section shall not affect a determination under section 241.

(g) IMMUNITY.—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 231(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 there is not a high risk of flight or 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.

SECTION 2205. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 267(c) 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, 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 investigating inadmissibility 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 enforcement, 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 of this kind shall be imposed. The Secretary shall process requests for such agreements with all due haste, and in no case shall not take more than 90 days from the date the request is made until the agreement is consummated.”;

(2) by redesignating paragraph (2) as paragraph (3);

(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 of immigration Subsection 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, in violation of 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 30 days prior to the date of termination. 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.

(D) 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, online training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display training course or courses. Distance learning through a secure, encrypted, distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of the National Security 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 officers. Preference shall be given to private sector-based, web-based immigration enforcement training programs for which the Federal Government has already provided support.”

SECTION 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) Illegal entry or presence.—An alien who at any time or place other than as designated by immigration officers shall—

"(1) not less than $50 or more than $250 for each entry or attempt 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—

"(B) $50 or more than $250 for each entry, crossing, attempted entry, or attempted crossing; or

"(2) twice the amount specified in paragraph (1) if the alien had been subject to a civil penalty under this section.

(b) CRIMINAL PENALTIES.—The table of penalties for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by striking the item relating to section 275 and inserting the following:

"Sec. 275. Illegal entry or presence.

"(a) Criminal penalties.—

"(1) CRIMINAL PENALTIES.—Section 225(a) of the Immigration and Nationality Act, as
amended by subsection (a), shall take effect on

(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 effective date.

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February 14, 2018

Tribal Government, or unit of local or foreign government.

(a) INADMISSIBILITY ON CRIMINAL AND RE-
LATED GROUNDS; WAIVERS.—Section 212 of
the Immigration and Nationality Act (8 U.S.C. 1182) is
amended—

(1) in subsection (a)—

(A) in subparagraph (A)(i)—

(i) in subclause (I), by striking "or" 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 follow-
ing:

 ``(iii) Waiver authorized.—The waiver au-
thority described in 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 con-
stitutes a crime of violence;'';

and

(B) by inserting at the end the follow-
ing:

``(J) PROCUREMENT OF CITIZENSHIP OR NATU-
RALIZATION UNLAWFUL.—Any alien con-
victed of, or 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, sub-
section (a) or (b) of section 1425 of title 18,
United States Code (relating to fraud and related
activity in connection with identification docu-
ments, authentication features, and information); or'';

and

(ii) of a violation of, or an attempt or a
conspiracy to violate, section 1227(a)(3)(B) of
the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(B)) is
amended—

(1) in subparagraph (A)(i), by striking the comma
at the end and inserting a semicolon;

(2) in subsection (b)—

(A) by striking "The Attorney General
may, in its discretion, waive the appli-
cation 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 since the date of such
admission the alien has been convicted of an
aggravated felony or the alien'' and inser-
ting "if since the date of such admission the
alien'';

(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" 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 fol-
lowing:

``(iv) Fraud and related activity associ-
ated with social security act benefits and
other public benefits; and''

(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:

``(S) The term ‘criminal gang’ means an
ongoing group, club, organization, or asso-
ciation of 5 or more persons that has, as a
primary purpose, the commission of 1 or
more of the criminal offenses listed in sub-
paragraphs (A) through (G), whether in viola-
tion of Federal or State law or foreign law
and regardless of whether the offenses oc-
curred before, on, or after the date of the en-
actment 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 162 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
Criminal gang.

(ii) has participated in the activities of a criminal gang.

(iii) 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—

(A) is or has been a member of a criminal gang;

(B) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, or support the illegal activity of the criminal gang.

(C) 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 involved in, or knowing of or setting aside under subsection (c).

(b) INADMISSIBILITY.—Section 212(a)(3) of the Immigration and Nationality Act, as amended by sections 2201 and 2202, is further amended by adding at the end the following:

(2) (A) 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—

(A) is or has been a member of a criminal gang;

(B) has participated in the activities of a criminal gang, knowing or having reason to know that such activities will promote, further, or support the illegal activity of the criminal gang.

(c) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act, as amended by sections 2301 and 2302, is further amended by adding at the end the following:

(i) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

(A) 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:


(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 designation of such entity is described in section 101(a)(5).

(2) Procedure.

(A) Notification.—Not later than 7 days before making the 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 shall consider classified information, in making a designation under paragraph (1), other than information that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

(C) Period of designation.

(1) In general.—A designation under paragraph (1) shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside under subsection (c).

(2) Review of designation upon petition.

(i) In general.—The Secretary shall review the designation under this paragraph in accordance with clauses (ii) and (iv) if the designated group, club, organization, or association of 5 or more persons files a petition for revocation for judicial review, and the petition period begins 2 years after the date on which the designation was made, or such reconstitution or new designation is made in accordance with this subsection.

(ii) Petition period.

(1) If a designated group, club, organization, or association of 5 or more persons has not previously filed a petition for revocation under clause (i), the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

(iii) Procedure.

(1) In general.—Not later than 180 days after revocation under clause (i), the Secretary shall make a determination regarding the revocation sought by such petition.

(2) Administration.—The Secretary may consider classified information in making a designation 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).

(3) Procedure.—Any revocation by the Secretary shall be made in accordance with paragraphs (1) and (2).

(4) Other review of designation.

(i) In general.—If no review takes place under paragraph (3) during the 1-year period, the Secretary shall publish the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (2).

(ii) Procedure.—If a review does not take place under paragraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewed in any court.

(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 paragraphs (1) and (2) 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)(5); 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 upon completion of a review conducted pursuant to paragraphs (1) and (2) of paragraph (4) if the Secretary determines that—

(i) the group, club, organization, or association of 5 or more persons has been designated as a criminal gang, or

(ii) 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 subsection shall be published in the Federal Register.

(IV) Procedures.—Any revocation by the Secretary shall be made in accordance with paragraphs (1) and (2).

(J) Other review of designation.

(i) In general.—If no review takes place under paragraph (D) during the 1-year period, the Secretary shall publish the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (2).

(ii) Procedure.—If a review does not take place under paragraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewed in any court.

(III) Publication of results of review.—The Secretary shall publish any determination made under this subparagraph in the Federal Register.

(IV) Revocation by act of Congress.—Congress may block or revoke a designation made under paragraph (1) by an Act of Congress.

(V) 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 paragraphs (1) and (2) 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)(5); 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 upon completion of a review conducted pursuant to paragraphs (1) and (2) of paragraph (4) if the Secretary determines that—

(i) the group, club, organization, or association of 5 or more persons has been designated as a criminal gang, or

(ii) 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 subsection shall be published in the Federal Register.

(IV) Procedures.—Any revocation by the Secretary shall be made in accordance with paragraphs (1) and (2).

(K) Other review of designation.

(i) In general.—If no review takes place under paragraph (D) during the 1-year period, the Secretary shall publish the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (2).

(ii) Procedure.—If a review does not take place under paragraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewed in any court.

(III) Publication of results of review.—The Secretary shall publish any determination made under this subparagraph in the Federal Register.

(V) Revocation by act of Congress.—Congress may block or revoke a designation made under paragraph (1) by an Act of Congress.

(VI) 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 paragraphs (1) and (2) 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)(5); 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 upon completion of a review conducted pursuant to paragraphs (1) and (2) of paragraph (4) if the Secretary determines that—

(i) the group, club, organization, or association of 5 or more persons has been designated as a criminal gang, or

(ii) 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 subsection shall be published in the Federal Register.

(IV) Procedures.—Any revocation by the Secretary shall be made in accordance with paragraphs (1) and (2).

(L) Other review of designation.

(i) In general.—If no review takes place under paragraph (D) during the 1-year period, the Secretary shall publish the designation of the criminal gang to determine whether such designation should be revoked pursuant to paragraph (2).

(ii) Procedure.—If a review does not take place under paragraph (B) in response to a petition for revocation under that subparagraph, a review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewed in any court.

(III) Publication of results of review.—The Secretary shall publish any determination made under this subparagraph in the Federal Register.

(V) Revocation by act of Congress.—Congress may block or revoke a designation made under paragraph (1) by an Act of Congress.
sec. 2204. INADMISSIBILITY AND DEPORTABILITY OF DRUNK DRIVING VIOLATORS.—

(a) In General.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)), as amended—

(1) in subparagraph (T), by striking ‘‘and’’;

(2) in subparagraph (U), by striking the period at the end and inserting ‘‘; and’’; and

(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 before, on, or after such date.

sec. 2305. DEFINITION OF AGGRAVATED FELONY.—

(a) Definition of Aggravated Felony.—Section 1101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 2204, is amended—

(1) by striking ‘‘The term ‘aggravated felony’ means—’’ and inserting ‘‘Notwithstanding any other provision of law, the term ‘aggravated felony’ applies to—’’;

(2) in subparagraph (A), by striking ‘‘a conviction for’’ and inserting ‘‘an offense relating to’’;

(3) in subparagraph (B), by striking ‘‘conviction of driving under the influence of or impaired by alcohol or drugs’’ and inserting ‘‘a conviction for driving while under the influence of or impairment by alcohol or drugs’’; and

(4) in subparagraph (C), by striking ‘‘(except if the conviction is based on a 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 5 years, even if the length of the term of imprisonment for the offense, if based on a violation of a foreign country’s law, was less than one year)’’ and inserting ‘‘(except if the conviction is based on a 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)’’.

SEC. 2306. INELIGIBILITY FOR ASYLUM.—


(a) in subparagraph (A), by striking ‘‘in the case of’’ and inserting ‘‘if the alien involved was’’;

(b) in subparagraph (B), by inserting ‘‘the alien involved was’’ after ‘‘and they’’;

(c) in subparagraph (C), by striking ‘‘the alien involved was’’ and inserting ‘‘the alien involved was’’; and

(d) in subparagraph (D), by striking ‘‘the alien involved was’’ and inserting ‘‘the alien involved was’’.

SEC. 2307. INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—

Section 241(b)(3)(B) of such Act (8 U.S.C. 1255(b)(3)(B)) is amended—

(1) in clause (i), by redesignating clause (ii) as clause (i); and

(2) in clause (ii), by striking ‘‘certified by the Secretary of Homeland Security’’ and inserting ‘‘certified by the Attorney General’’.

SEC. 2308. ILENIBILITY FOR ASYLUM.—

Section 208(b)(1)(B)(iii)(F)(iii), as added by section 2204, is amended—

(a) in subparagraph (A), by striking ‘‘in the case of’’ and inserting ‘‘if the alien involved was’’;

(b) in subparagraph (B), by inserting ‘‘if the alien involved was’’ after ‘‘and they’’;

(c) in subparagraph (C), by striking ‘‘the alien involved was’’ and inserting ‘‘the alien involved was’’; and

(d) in subparagraph (D), by striking ‘‘the alien involved was’’ and inserting ‘‘the alien involved was’’.

SEC. 2309. IMPEACHMENT AND REMOVAL OF CRIMINAL GANG MEMBERS.—

(a) Recommendation.—Section 236(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1226a(a)(1)) is amended—

(1) in paragraph (1), by striking ‘‘in the case of’’ and inserting ‘‘if the alien involved was’’;

(2) in paragraph (2), by inserting ‘‘the alien involved was’’ after ‘‘and they’’; and

(3) in paragraph (3), by striking ‘‘the alien involved was’’ and inserting ‘‘the alien involved was’’.

(b) Effective Date.—The amendments made by paragraph (a) shall take effect on the date of the enactment of this Act and shall apply to acts that occur before, on, or after such date.

SEC. 2310. 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 such date.
“(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 treasonable, treason, or violation of an off- fense 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 consti- tutes a theft or burglary offense, the At- torney General or Secretary of Homeland Se- curity, as appropriate, may consider other evidence related to the conviction that estab- lishes that the conduct for which the alien was engaged constitutes a theft or bur- glarly offense;”;
(6) in subparagraph (N)—
(A) by striking “paragraph (1)(A) or (2)’’; and
(B) by inserting a semicolon at the end;
(7) 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 chap- ter 72 of the 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 alleging, abetting, counseling, procuring, command- ing, inducing, or soliciting the commis- sion 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) shall—
(A) take effect on the date of the en- actment of this Act; and
(B) apply to any act or conviction which 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 521 of the Illegal Immigration Reform and Immigrant Respons- ibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–627) shall continue to apply to petitions filed on or after such date.
SEC. 2308. CLARIFICATION TO CRIMES OF VIO- LENCE 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 striking “204(a)(1)(A)(viii))”.
(b) DISBARRED ALIENS.—Section 241(b)(3)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended by striking”.
(11) by amending subparagraph (U) to read as follows:
“(U) attempting or conspiring to commit an offense described in this paragraph, or alleging, abetting, counseling, procuring, command- ing, inducing, or soliciting the commis- sion of such an offense;.”;
and
(12) by striking the undesignated matter following subparagraph (U),
SEC. 2309. DELINQUENT ALIENS.
(a) SECTION 236(c)(1) OF THE IMMIGRATION AND NATIONALITY ACT (8 U.S.C. 1225(c)(1)) IS AMENDED—
(1) in subparagraph (A), by amending clause (viii) to read as follows:
“(viii) Clause (I) shall not apply to a cit- izen of the United States who has been con- victed of an offense described in subpara- graph (A), (I), or (K) of section 101(a)(43), un- less the Secretary, in the Secretary’s sole and unrevealing discretion, determines that the citizen poses no risk to the alien with respect to whom a pet- ition described in clause (I) is filed.”;
and
(2) in subparagraph (B)(i), by striking the second subclause (I) and inserting the fol- lowing:
“(II) Subclause (I) shall not apply in the case of an alien admitted for permanent resi- dence 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 unrevealing discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with re- spect to whom a petition described in sub- clause (I) is filed.”;
(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. 2310. PRECLUDING WITHHOLDING OF RE- MOVAL FOR AGGRAVATED FELONS.
(a) IN GENERAL.—Section 211(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1110(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 fol- lowing:
“(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 admis- sibility on or after such date, and in all removal, deportation, or exclusion pro- ceedings that are filed, pending, or reopened on or after such date of enactment.
SEC. 2307. PROHIBITIONS AGAINST CON- VICTED SEX OFFENDERS.
(a) IMMIGRANTS.—Section 201(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(1)) is amended—
(1) in subparagraph (A), by amending clause (viii) to read as follows:
“(viii) Clause (I) shall not apply to a cit- izen of the United States who has been con- victed of an offense described in subpara- graph (A), (I), or (K) of section 101(a)(43), un- less the Secretary, in the Secretary’s sole and unrevealing discretion, determines that the citizen poses no risk to the alien with respect to whom a pet- ition described in clause (I) is filed.”;
and
(2) in subparagraph (B)(i), by striking the second subclause (I) and inserting the fol- lowing:
“(II) Subclause (I) shall not apply in the case of an alien admitted for permanent resi- dence 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 unrevealing discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with re- spect to whom a petition described in sub- clause (I) is filed.”;
(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 VIO- LENCE 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:
“(IV) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not con-clusively establish whether a crime con- stitutes a crime involving moral turpitude, the Attorney General or the Secretary of Homeland Security, as appropriate, may con- sider other evidence related to the convic- tion that establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.”;
(b) DISBARRED ALIENS.—Section 241(b)(3)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended by striking “204(a)(1)(A)(viii)” each place such term appears and inserting “204(a)(1)(A)(viii)(I)’’;
(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. DISBARRED ALIENS.
(a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended—
(1) by striking “Attorney General” each place such term appears (except for the first reference in paragraph (4)(B)(i) and insert- ing “Secretary of Homeland Security”; and
(2) by amending subparagraph (A) to read as follows:
“(A) by amending paragraph (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 re- moval 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 ad- ministratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such deten- tion 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—
(1) the alien willfully 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, in- cluding the timely application in good faith for travel or other documents nec- essary 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 Ap- peals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such deten- tion or confinement;”;
and
(II) in subparagraph (A) by inserting a semicolon at the end;
(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 striking subparagraph (D) as so amended and inserting—

(1) in paragraph (1)(A), by striking ‘‘parag-raph (2)’’ and inserting ‘‘paragraph (B)’’; and

(2) 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 with respect to nonimmigrants who is not otherwise subject to mandatory detention, terrorist dangers, or national security interests of the United States related to the removal of an alien who has been convicted of a crime 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.

(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the Secretary’s sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i) if—

(aa) such detention is necessary to—

(A) continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary, in the Secretary’s sole discretion, may determine that the alien can be detained under subparagraph (B). This section shall apply to any alien returned to custody pursuant to this subparagraph if the removal order terminated on the day of the detention.

(ii) REVIEW OF DETERMINATIONS BY SECRETARY.—A determination by the Secretary under paragraph (i) shall 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 (a)(3) and on the date on which that country is no longer included in such list, the Secretary of State may not issue visas under section 101(a)(15)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(i)), to attendants of nationals of that country, and members of the immediate families of officials or employees of that country who are not otherwise subject to the visa provisions of that section.

(b) DEFINITIONS.—

(1) IN GENERAL.—Beginning on the date on which a country is included in the list described in subsection (a)(3) and on the date on which that country is no longer included in such list, the Secretary of State may not issue visas available under clause (1) 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 (1) or (ii) of section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)) 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 2302(d) of such Act (8 U.S.C. 1182(e)), the Secretary may not reduce the number of visas available under clause (1) or (ii) of section 101(a)(15)(A) of such Act.

(c) REPORTS.—

(1) NATIONAL SECURITY WAIVER.—If the Secretary of State submits to Congress a written determination that significant national security interests require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number. The Secretary shall not delegate the authority under this subsection.

(2) TEMPORARY EXEMPT 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 for the 6-month period. The Secretary may not delegate the authority under this subsection.

(3) 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)(3) if the Secretary of Homeland Security determines that the alien has a highly contagious disease that poses a threat to public safety;
SEC. 2311. ILLEGAL REENTRY.

(a) 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 has not occurred during that period.

(5) 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.

(b) GAO REPORT—Not later than 1 day after the date on which the President submits under section 1252 of title 8, 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. 2403. RECORDING EXPEDITED REMOVAL

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)) is amended to read as follows:

SEC. 276. REENTRY OF REMOVED ALIEN.

"(c) 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 from official restraint.

"(2) FELONY.—The term "felony" 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.

"(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 Secretary of Homeland Security or the Secretary of State and that serves the purpose of preventing the alien from going at large into the United States. Surveillance unbrokenly in 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 the Government to permit an alien to depart to a country in order to effect such a removal.

"(6) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, the District of Guam, or the Trust Territory of the Pacific Islands.

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. 1225) is amended—

(1) by striking "(a) in any removal proceeding before an immigration judge in which the alien is represented by counsel provided by the Attorney General from any such removal proceedings and is inserting "(a) in any removal proceeding before an immigration judge, or any appeal proceedings before any immigration judge, or any other 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 the alien 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 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)) 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 alien is a refugee, 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 the alien’s language.

(d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—There shall be an audio or audio...
Act (8 U.S.C. 1158(c)(3)) is amended by inserting of the consequence of filing a frivolous application for asylum and the alien has received notice under paragraph (4) that his or her application is frivolous, or—

(A) in paragraph (1), by inserting “Secretary of Homeland Security” and inserting “Secretary of Homeland Security or the Attorney General” each place such term appears and inserting “Secretary of Homeland Security” before “Attorney General”;

(B) by inserting “Secretary of Homeland Security or the Attorney General” each place such term appears and inserting “Secretary of Homeland Security or the Attorney General” before “Attorney General”;

(C) in paragraph (5)—

(i) in subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(ii) in subparagraph (B), by striking “Secretary of Homeland Security or the Attorney General” each place such term appears and inserting “Secretary of Homeland Security or the Attorney General” each place such term appears; and

(D) in paragraph (6), by striking “Secretary of Homeland Security or the Attorney General” each place such term appears and inserting “Secretary of Homeland Security or the Attorney General” each place such term appears.

Title XI—Immunizations

Section 3291 of title 18, United States Code, is amended by inserting “Secretary of Homeland Security or the Attorney General” each place such term appears.

Title XVII—Punitive Damages

Section 1907 of title 18, United States Code, is amended by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security or the Attorney General” each place such term appears.
(B) by redesigning paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(8) SMALL UNMANNED AERIAL VEHICLE. — The term ‘small unmanned aerial vehicle’ has the meaning given such term in section 2(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 3111 of this division.

(9) SEC. 3001. SHORT TITLE.

Sec. 3101. DEFINITIONS.

Sec. 3102. PATRIOT ACT RESPONSE.

Sec. 3103. HOVERING AND PERCHING.

Sec. 3104. NONHOVERING.

Sec. 3105. USE 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. 3011. DEFINITIONS.

In this subtitle:

(1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term ‘advanced unattended surveillance sensor’ means any sensor that utilize an onboard computer to analyze detections in an effort to discern between vehicles, humans, and animals, and ultimately filters 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)(8) 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 SOUTH-ERN 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, 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—

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

(B) in paragraph (1)—

(1) in subparagraph (A)—

(i) by striking "subsection (a)" and inserting "this subsection";

(ii) by inserting "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—

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

(B) in paragraph (1)—

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

"(i) IN GENERAL.—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 Secretary determines, in the Secretary's sole discretion, are necessary to maximize the safety and effectiveness of such design, construction, or deployment.

(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

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

"(a) 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 situational awareness and operational control of the border.

(2) O PERATIONAL CONTROL.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).

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

(4) TECHNOLOGY.—The term 'technology' includes border detection, communication, identification, and surveillance equipment, 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 portable surveillance capabilities.

(G) Unmanned aerial vehicles.

(H) Other border detection, communication, identification, and surveillance equipment.

"(ii) UNMANNED AERIAL VEHICLES.—The term 'unmanned aerial vehicle' has the meaning given the term 'unmanned aircraft' in section 1031(a) of the Secure Fence Act of 2010 (49 U.S.C. 70201)."

"(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 such design, construction, or deployment.

(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, construction, installation, deployment, operation, and maintenance of the physical barriers, tactical infrastructure, and technology.

"(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

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

(iii) by striking "this subsection" and inserting "this section"; and

(iv) by striking subparagraph (D); and

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

(iii) by striking "gain" and inserting "achieve situational awareness"; and

(4) in subsection (d) the following new clause:

"(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 situational awareness and operational control of the border.

(i) in subparagraph (A)—

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

"(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security, after coordination with the Administrator of the Federal Aviation Administration to ensure the safe and efficient operation of unmanned aerial systems, 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.

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

(iii) by striking "this subsection" and inserting "this section"; and

(iv) by striking subparagraph (D); and

(2) O PERATIONAL CONTROL.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).

(8) PHYSICAL BARRIERS.—The term 'physical barriers' includes reinforced fencing, border wall, and other physical constructs.

(9) SITUATIONAL AWARENESS.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).

(2) by striking paragraph (2) and inserting the following:

"(2) O PERATIONAL 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, and other physical constructs.

(4) SITUATIONAL AWARENESS.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).

(2) by striking paragraph (2) and inserting the following:

"(2) O PERATIONAL 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, and other physical constructs.

(4) SITUATIONAL AWARENESS.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).

(2) by striking paragraph (2) and inserting the following:

"(2) O PERATIONAL 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, and other physical constructs.

(4) SITUATIONAL AWARENESS.—The term 'situational awareness' has the meaning given such term in section 102(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328)."
operation of the National Airspace System; and
(B) coordinate with the Executive Assistant
Commissioner for Air and Marine Oper-
ations of U.S. Customs and Border Protec-
tion to ensure the safety of other U.S. Cus-
toms and Border Protection aircraft flying in
the vicinity of small unmanned aerial ve-
cicles operated by the U.S. Border Patrol.

(3) CONFORMING AMENDMENT.—Paragraph
(S) of section 411(e) of the Homeland Security
Act of 2002 (6 U.S.C. 211(e)) is amended
(A) by striking paragraph (B), by striking “and”
after the semicolon at the end;
(B) by redesignating subparagraph (C) as
subparagraph (D); and
(C) by inserting after subparagraph (B) the
following new subparagraph:
“(C) carry out the small unmanned aerial vehicle
requirements pursuant to subsection (t) of section 1112 of the Border Security
for America Act of 2018; and”.

(g) SAVING CLAUSE.—Nothing in this sec-
tion 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 Protec-
tion or the Chief of the U.S. Border Pa-
trol any authority of the Secretary of Trans-
portation or the Administrator of the Fed-
eral Aviation Administration relating to the
use of airspace or aviation safety.

SEC. 3113. CAPABILITY DEPLOYMENT TO SPE-
CIFIC SECTORS AND TRANSIT ZONE.

(a) In General.—Not later than September
30, 2022, the Secretary, in implementing sec-
tion 102 of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996 (as
amended by section 311 of this division), and
acting through the appropriate component of
the Department of Homeland Security, shall
deploy to each sector or region of the south-
ern border and the northern border, in a
prioritized manner to achieve situational aware-
ness and operational control of such
borders, the following additional capabili-
ties:

(1) SAN DIEGO SECTOR.—For the San Diego
sector, the following:
(A) Tower-based surveillance technology.
(B) Subterranean surveillance and detec-
tion technologies.
(C) To increase coastal maritime domain aware-
ness, the following:
(i) Deployable, lightweight-air surface surve-
illance equipment.
(ii) Unmanned aerial vehicles with mar-
time surveillance capability.
(iii) U.S. Customs and Border Protection
maritime patrol aircraft.
(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabil-
ties.

(D) Ultralight aircraft detection capabil-
ties.
(E) Advanced unattended surveillance sen-
sors.
(F) A rapid reaction capability supported by
aviation assets.
(G) Mobile vehicle-mounted and man-port-
able surveillance systems.

(H) Man-portable unmanned aerial ve-
ciles.

(I) Improved agent communications capa-
bilities.

(2) EL CENTRO SECTOR.—For the El Centro
sector, the following:
(A) Tower-based surveillance technology.
(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Man-portable unmanned aerial ve-
ciles.

(D) Ultralight aircraft detection capabil-
ties.

(E) Advanced unattended surveillance sen-
sors.

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

(G) Man-portable unmanned aerial vehi-
ciles.

(H) Improved agent communications capa-
bilities.

(3) YUMA SECTOR.—For the Yuma sector,
the following:
(A) Tower-based surveillance technology.
(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Ultralight aircraft detection capabil-
ties.

(D) Advanced unattended surveillance sen-
sors.

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

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

(G) Man-portable unmanned aerial ve-
ciles.

(H) Improved agent communications capa-
bilities.

(4) TUCSON SECTOR.—For the Tucson sector,
the following:
(A) Tower-based surveillance technology.

(B) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.

(C) Deployable, lightweight-air ground surve-
illance equipment.

(D) Ultralight aircraft detection capabil-
ties.

(E) Advanced unattended surveillance sen-
sors.

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

(G) Man-portable unmanned aerial ve-
ciles.

(H) Improved agent communications capa-
bilities.

(5) EL PASO SECTOR.—For the El Paso sec-
tor, the following:
(A) Tower-based surveillance technology.

(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Ultralight aircraft detection capabil-
ties.

(D) Advanced unattended surveillance sen-
sors.

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

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

(G) Man-portable unmanned aerial ve-
ciles.

(H) Improved agent communications capa-
bilities.

(6) BIG BEND SECTOR.—For the Big Bend
sector, the following:
(A) Tower-based surveillance technology.

(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Ultralight aircraft detection capabil-
ties.

(D) Improved agent communications capa-
bilities.

(E) Man-portable unmanned aerial ve-
ciles.

(F) Improved agent communications capa-
bilities.

(7) DEL RIO SECTOR.—For the Del Rio sec-
tor, the following:
(A) Tower-based surveillance technology.

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

(C) Man-portable unmanned aerial ve-
ciles.

(D) Ultralight aircraft detection capabil-
ties.

(E) Improved agent communications capa-
bilities.

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

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

(H) Man-portable unmanned aerial ve-
ciles.

(I) Improved agent communications capa-
bilities.

(8) LAREDO SECTOR.—For the Laredo sector,
the following:
(A) Tower-based surveillance technology.

(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.

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

(E) Ultralight aircraft detection capabil-
ties.

(F) Advanced unattended surveillance sen-
sors.

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

(H) Man-portable unmanned aerial ve-
ciles.

(I) Improved agent communications capa-
bilities.

(9) RIO GRANDE VALLEY SECTOR.—For the
Rio Grande Valley sector, the following:
(A) Tower-based surveillance technology.

(B) Deployable, lightweight-air ground surve-
illance equipment.

(C) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.

(D) Ultralight aircraft detection capabil-
ties.

(E) Advanced unattended surveillance sen-
sors.

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

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

(H) Increased maritime interdiction capa-
bilities.

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

(J) Man-portable unmanned aerial ve-
ciles.

(K) Improved agent communications capa-
bilities.

(10) BLAINE SECTOR.—For the Blaine sector,
the following:
(A) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capa-
bilities.

(D) Mobile vehicle-mounted and man-port-
able surveillance capabilities.

(E) Advanced unattended surveillance sen-
sors.

(F) Ultralight aircraft detection capabil-
ties.

(G) Man-portable unmanned aerial ve-
ciles.

(H) Improved agent communications capa-
bilities.

(11) SPOKANE SECTOR.—For the Spokane
sector, the following:
(A) Increased flight hours for aerial detec-
tion, interdiction, and monitoring operations
capability.

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

(C) Improved agent communications capa-
bilities.

(D) Advanced unattended surveillance sen-
sors.

(E) Ultralight aircraft detection capabil-
ties.

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

(G) Man-portable unmanned aerial ve-
ciles.
section, interdiction, and monitoring operations, 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 necessary to achieve situational awareness or operational control.

(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall—

(i) notify the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security and Governmental Affairs of the House of Representatives, and the Committee on Transportation and Infrastructure 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 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 Coast Guard’s mission in the transit zone referred to in paragraph (18) of subsection (a).
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.

"(4) Goal.—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, as independent verification and validation resources for border security technology. Under the plan, new border security technologies shall be evaluated by independent 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 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 paragraph (3) 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 unmanned and manned aircraft;

(3) provide radio communications interoperability between U.S. Customs and Border Protection and State, local, and tribal law enforcement agencies;

(4) construct checkpoints along the Southern border to bridge the gap to long-term permanent checkpoints; and

(5) provide intelligence support.

(d) Materiel and Logistics 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 for operations and missions in full-time State Active Duty in support of a southern border mission. The Secretary of Defense may not seek reimbursement 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) 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 for any assistance provided under this section.

(d) 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).

(2) Authorization of Appropriations.—There are authorized to be appropriated for the Department of Defense $75,000,000 to provide assistance under this section.

(3) Period Specified.—The period specified in paragraph (1) shall begin on the date of the enactment of this Act.

(e) 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.

(f) Period Specified.—The period specified in this paragraph is—

(1) the period specified in paragraph (1), the 90-day period beginning on the date of the enactment of this Act; and

(2) 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 IMPAIR FEDERAL LAND.

(a) Prohibition on Interference with Covered Federal Land.

(1) In General.—The activities of U.S. Customs and Border Protection described in subsection (b) may not impair, prohibit, or restrict activities described in subsection (b) or covered Federal land.

(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, drug traffickers, and other criminals; to protect the national and economic security of the United States; to protect the environment and natural resources of the United States; to protect against alien deleterious plant and animal species; to protect against human and livestock diseases; to protect against prohibited agriculture commodities, waste, products, and materials; to prevent the introduction and spread of pests and plant and animal diseases; to conduct archaeological investigations and related activities; to transport persons and property; to prevent and respond to natural disasters; to ensure the safety of persons and property; to conduct law enforcement activities; to carry out this Act; to carry out any other law relating to the safety, health, or security of the United States; and to conduct all other activities described in subsection (b) on covered Federal land.
known as the “Administrative Procedure Act”.


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


BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).


EE) The Eagle Protection Act (16 U.S.C. 668 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 proviso 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) TO THE EXTENT THAT THE WAIVER AUTHORITY UNDER THIS SUBSECTION MAY NOT BE CONSTRUED AS AFFECTING, NEGATING, OR DIMINISHING IN ANY MANNER THE APPLICABILITY OF SECTION 522 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 shall be construed to—

(1) authorize 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) CATEGORIC 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) 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 consult, report to, and make recommendations to the Secretary on matters relating to border security matters, including—

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1082 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

(c) MEMBERSHIP.—The National Border Security Advisory Committee shall consist of at least one member from each State who—

(1) has at least five year practical experience in border security operations; or

(2) lives and works in the United States within 60 miles from the southern border or the northern border.

(d) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE 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 and any salt cedar along the Rio Grande River that impede border security operations.

(b) CONTENTS.—The Secretary shall ensure the inclusion in the National Border Threat Analysis of—

(1) The technology needs and challenges, including such needs and challenges identified as a result of previous investments that have not fully realized the security and operational benefits that were sought;

(2) The personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(3) The infrastructure needs and challenges;

(4) The roles and authorities of State, local, and tribal law enforcement in general border security 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.

(h) 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.

(i) U.S. BORDER PATROL STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 90 days after the submission of the threat analysis required under subsection (a), the Secretary shall submit to the House of Representatives and the Senate a 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 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 systems.

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

(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) recognize that any new border security technology can be operationally integrated with existing technologies in use by the Department;

(H) appropriate 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) information obtained from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the Northern border or the Southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including 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 that enhance the security of the Southern border;

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

(i) identifying and detecting fraudulent documents;

(ii) understanding the scope of enforcement authorities and the use of force policies; and

(iii) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and

(P) the extent to which under security operations affect border crossing times.

SEC. 3122. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION ACT.

(a) DUTIES.—Subsection (a) 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 section 301;

“(20) administer preclearance operations under the Preclearance Authorization Act of 2015 (19 U.S.C. 4331 et seq.), as enacted by section 433(e)(1); and

“(21) Office of Field Operations Staffing.—Subparagraph (B) 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: “and unless otherwise indicated by the current fiscal year work flow staffing model”;

“(c) IMPLEMENTATION PLAN.—Subparagraph (B) of section 411(g)(1) of the Preclearance Authorization Act of 2015 (19 U.S.C. 433(e)(1); enacted as title B of title VIII of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114-128); as added by section 432.

“(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 “this section: “the terms”;

(2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(f) Other Department personnel, as appropriate.

“(2) LOCATION.—The Secretary is authorized to designate ports of entry which would be established is significantly improved if—

(B) The availability of Federal, State, local, and tribal, and foreign law enforcement resources to participate in an IBET.

(C) Whether, in addition 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.

(D) USE 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.

(E) 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 to such IBETs shall be assigned only for the purposes of securing the maritime borders of the United States, in accordance with subsection (c)(1)(B).

“(f) MEMORANDA OF UNDERSTANDING.—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.

“(g) REPORT.—Not later than 180 days after the date on which an IBET is established and beginning 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, 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;”

“(c) DETERMINATION.—The Secretary may determine that such assistance would enhance the recipient government’s capacity to—

“(i) mitigate the risk or threat of transnational organized crime and terrorism;

“(ii) address irregular migration flows that may affect the United States, including any detection or threat response operations of the recipient government; or

“(iii) protect and expedite legitimate trade and travel.”

“SEC. 437. SECURITY ASSISTANCE.

“(a) I N 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 3214 of this division, is amended by adding at the end the following new section:

“Sec. 437. Integrated Border Enforcement Teams.

“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) I N 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) REQUIREMENTS.—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 report to 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 ASISTANCE.

“(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 3214 of this division, is further amended by adding at the end the following:

“Sec. 437. Security assistance.

“(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide assistance, in the form of financial assistance and, with or without reimbursement, security assistance, including equipment, training, maintenance, supplies, and sustainment, to—

“(1) U.S. Customs and Border Protection personnel and other required staff, at land ports of entry and checkpoints.

“(2) U.S. Customs and Border Protection agricultural specialists to ports of entry along the northern border.

“(3) U.S. Customs and Border Protection search and rescue teams.

“(b) AGRAULCULTURAL SPECIALISTS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of officers engaged in search and rescue activities along the southern border.

“(c) K-9 UNITS 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 assisting in search and rescue activities along the southern border.

“(d) HORSEBACK UNITS.—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.

“(e) U.S. CUSTOMS AND BORDER PROTECTION SEARCH AND RESCUE TEAMS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain not fewer than 100 officers and 50 horses for security patrol along the southern border.

“(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 AGRICULTURAL SPECIALISTS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special agents to maintain not fewer than 100 officers and 50 horses for security patrol along the northern border.

“(h) AGRICULTURAL SPECIALISTS.—Not later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of officers assisting in search and rescue activities along the southern border.

“(i) U.S. CUSTOMS AND BORDER PROTECTION SECURITY AGENTS AND OFFICERS.—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.

“(j) AGRAULCULTURAL SPECIALISTS.—Not later than September 30, 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to maintain not fewer than 700 full-time equivalent employees.

“(k) GAO REPORT.—If the staffing levels required under this section are not achieved by the end of fiscal year 2022, the 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:

“Sec. 9702. U.S. Customs and Border Protection temporary employment authorities

“(a) DEFINITIONS.—In this section—

“(1) OFFICER.—The term ‘territorial officer’ means—

“(A) a law enforcement officer of the United States, including an agent and an officer in the Drug Enforcement Administration, the National Drug Intelligence Center, the Office of Foreign Assets Control, or the Office of Security for International Trade;
``(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 Committees 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 provide authorities 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 in the Department of Homeland Security and Governmental Affairs. The Secretary may appoint, without regard to any other provision of that section;
``(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—
``(A) the term 'appropriate congressional committees' means the Committee on Oversight and Government Reform, the Committee on Homeland Security, and the Committees 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 provide authorities 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.—
``(A) RECRUITMENT 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 determined 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—
``(i) 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 subsection (b)(2)(B)(i)(I) of such section or to any other provision of such section); and
``(ii) the commencement and termination dates of the required service period (or provisions for the determination thereof); 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—
``(A) the Secretary determines that—
``(i) in the absence of a retention bonus, the CBP employee would be likely to leave—
``(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;
``(bb) the effect of a termination described in item (aa).
``(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report required under this subsection to the appropriate congressional committees. The Secretary shall submit each report to the appropriate congressional committees. The Secretary shall submit each report to the appropriate congressional committees.

``(f) IMPROVING CBP HIRING AND RETENTION CHALLENGES.—
``(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 headquarter, field, or remote areas, who are involved in the recruitment, hiring, assessment, or selection of candidates, as well as the retention of current employees.
``(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the following:
``(A) Developing or updating training and educational materials on hiring and human resources flexibilities for employees who are involved in the recruitment, hiring, assessment, or selection of candidates, as well as the retention of current employees.
``(B) 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 and training programs 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 and training programs in rural or remote areas.
``(E) Examination of existing agency programs on how to most effectively aid spouses of current employees or individuals who have completed with reservations of that section;
SEC. 3133. ANTI-BORDER CORRUPTION AUTHORIZATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Anti-Border Corruption Authorization Act of 2018".

(b) HIRING FLEXIBILITY.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 2301) 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 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, file seizures, carry firearms, and serve warrants, orders, 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;

(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 been arrested 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 Commissioner may terminate a waiver under subsection (b) terminate on the date that is four years after the date of the enactment of the Border Security for America Act of 2018.

(d) REPORT.—The Commissioner of U.S. Customs and Border Protection is authorized to administer and implement the polygraph waiver program on filling law enforcement positions at U.S. Customs and Border Protection.

(2) ADDITIONAL INFORMATION.—The first report submitted under subsection (a) shall include—

(1) a description of the objectives of the polygraph waiver program;

(2) a description of the methodology for the evaluation of the polygraph waiver program; and

(3) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

SEC. 5. REPORTING.

(a) ANNUAL REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter, 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 paragraph (1);

(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 statute 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:

(A) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’ means a law enforcement officer defined in section 8321(20) or 8411(17) of title 5, United States Code.

(B) 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
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:

"(a) MANDATORY TRAINING.—The Commissioner of U.S. Customs and Border Protection may require training for all employees under subsection (a) to participate in not later than one year after such employees are trained.
"(b) REPORT.—Not later than 180 days after September 30, 2022, the Secretary shall submit to Congress a report that contains a plan for training for mid- and senior-level career employees for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).
"(c) PERMITTED USES.—The recipient of a grant under this section may use such grant for:
"(1) equipment, including maintenance and support; and
"(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities.
"(d) Period of Performance.—The Secretary shall award grants under this section for a period of not less than 36 months.
"(e) Report.—For each of fiscal years 2018 through 2022, the Secretary shall submit to Congress a report that contains an evaluation of the implementation of this section.
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 section shall be supplemented by a description of 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 Homeland Security and Governmental Affairs, 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, away from checkpoints, has a multi- or dual-band encrypted portable radio.

(c) LTE CAPABILITY.—In carrying out subsection (a), 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 month operational demonstration to deploy a high-throughput non-intrusive passenger vehicle inspection system at not fewer than three ports of entry along the United States-Mexico border with significant cross-border traffic. Such demonstration shall be located within the pre-primary traffic flow and should be scalable to span up to 26 contiguous in-bound traffic lanes without reconfiguration of existing lanes.

(b) RECOVERY.—Not later than 90 days after the conclusion of the operational demonstration under subsection (a), the Commissioner shall submit to the Committee on Homeland Security and Governmental Affairs, and the Committee on Finance of the Senate a report that describes the following:

(1) The effects of such demonstration on legitimate travel and trade.

(2) The operational 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:

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SEC. 416. BIOMETRIC ENTRY-EXIT.

(1) ESTABLISHMENT.—The Secretary shall—

(A) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security and the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives 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 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 matters issued by the Government Accountability Office and the Department;

(C) a consideration of how such a system will affect arrival and departure wait times that takes into account prior reports on matters issued by the Government Accountability Office and the Department;

(D) a consideration of how such a system affect arrival and departure wait times that takes into account prior reports on matters 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 milestone achievements;

(H) identified risks and mitigation strategies to address such risks;

(I) a demonstration that non-pedestrian traffic at the—

(1) ports of entry on the northern land border;

(2) ports of entry for non-pedestrian outbound traffic; and

(3) ports of entry for non-pedestrian outbound freight; 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;

(2) AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—Not later than two years after the date of enactment of this section, the Secretary shall expand the biometric exit data system at the—

(A) 15 United States ports of entry 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 border and one land port of entry on the northern 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.

(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.—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.

(3) EXTENSION.—Not later than five years after the date of the enactment of this section, 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 system 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.

(3) 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.

Sec. 2206. AUTHORIZATION OF APPROPRIATIONS.

SEC. 3207. AUTHORIZATION OF APPROPRIATIONS.

SEC. 416. Biometric entry-exit.

(a) FINDING.—Congress finds that personnel constrained entry-exit points of entry with regard to sanitary and phytosanitary inspections for exported goods.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the natural 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. Such inspection shall be performed by 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 are appropriated to the Secretary for fiscal year 2018 $250,000,000 to carry out this subtitle, of which—

(1) $400,000 shall be used by the Secretary for border and emergency management, innovation, 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.

(2) $5,000,000 shall be used to implement the biometric exit data system described in section 2206 of the Homeland Security Act of 2002, as added by section 3206 of this division.

Sec. 2206. 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:

(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 1252 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 examination 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—

(C) conduct constituting a criminal offense described in section 115(a)(1) (relating to the Immigration and Nationality Act (8 U.S.C. 1151(a)(1));

(D) sexual conduct with a minor who is under 16 years of age, or with a minor under 16 years of age where the alien was at least 4 years older than the child; or

(E) conduct punishable under section 2251 or 2252A (relating to the sexual exploitation of children and the selling or buying of children).
relating to material constituting or containing child pornography) of title 18, United States Code; or

(B) conduct constituting the elements of any one of the following offenses for sexual offense requiring a defendant, if convicted, to register on a sexual offender registry (except that this provision shall not apply to convictions solely involving or defeating in public.

(6) VIOLATE.—The term ‘violate’ has the meaning given the term in section 503(e) of the Victims’ Rights and Restitution Act of 1990 (5682).

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);

(b) ELIGIBILITY REQUIREMENTS.—

(1) AN ELIGIBLE ALIEN.—An alien is eligible for contingent nonimmigrant status if the alien establishes by clear and convincing evidence that he or she—

(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 since June 15, 2012, beginning on the date on which the alien is granted contingent nonimmigrant status under this section;

(G) had no lawful immigration status on June 15, 2007;

(H) has requested the release to the Department of Homeland Security of all immigration documents received by such alien for refunds described in section 2302 of the Consolidated Appropriations Act for Fiscal Year 2016;

(I) possesses a valid Employment Authorization Document which authorizes the alien to work to 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 Notice of a determination entitled “Exercising Prosecutorial Discretion With Respect to Individuals Who Came to the United States as Children”;

(J) EDUCATION REQUIREMENT.—

(A) IN GENERAL.—An alien may 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 or State law, or has earned a recognized high school equivalency certificate under applicable State law.

(2) 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 in question in a form which the alien has acquired a diploma or certificate.

(G) 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) an offense relating to murder, manslaughter, or infanticide (including an offense relating to murder, manslaughter, or infanticide committed in the United States in the course of any other offense committed in the United States);

(II) child abuse or neglect (as defined in section 101(a)(43)(A) of the Immigration and Nationality Act (8 U.S.C. 1157), or granted asylum under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158); or

(jj) an alien who, according to the records of the Secretary or the Legal Alien, 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 292 of the Violence Against Women Act of 1994 (34 U.S.C. 1229a(a)(3) of such Act and the amendment made by section 803 of the Consolidated Appropriations Act of 2008 (Public Law 110-229), notwithstanding any unauthorized employment or violation of nonimmigrant status;

(m) fails to comply with the requirements of any removal order or voluntary departure agreement;

(n) has been ordered removed in absentia pursuant to section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)(A));

(o) has failed to attend or remain in attendance at a educational institution

(D) 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.

(2) 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. This application period is the period on which the interim final rule is published in the Federal Register pursuant to section 1105.
(A) REQUIRED INFORMATION.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines to be necessary and appropriate in order to determine whether an alien meets the eligibility requirements set forth in subsection (b).

(B) REVIEW.—The Secretary shall conduct an in-person interview of each applicant for contingent nonimmigrant status under this section as part of the determination as to whether the alien satisfies the eligibility requirements set forth in subsection (b).

(4) DOCUMENTARY REQUIREMENTS.—An application filed by an alien under this section shall include the following:

(A) A passport (or national identity document) from the alien's country of origin.

(B) A certified birth certificate along with photo identification.

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

(D) An Armed Forces identification card issued by the Department of Defense.

(E) A Coast Guard identification card issued by the Department of Homeland Security.

(F) A certified copy of the alien's birth certificate or certified school transcript demonstrating the alien satisfies the requirements of subsection (b)(2)(A)(ii) and (v).

(G) A certified school transcript demonstrating that the alien satisfies the requirements of subsection (b)(2)(A)(i) and (v).

(H) Immigration records from the Department of Homeland Security (demonstrating that the alien satisfies the requirements under subsection (b)(2)(A)(ii) and (v)).

(5) FEES.—

(A) STANDARD PROCESSING FEE.—(i) In general.—Aliens applying for contingent nonimmigrant status under this section shall pay a processing fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) Recovery of costs.—The processing fee authorized under clause (i) shall be set at a level that is, at a minimum, sufficient to recover the costs of processing male application, including any costs incurred—

(I) to adjudicate the application;

(II) to take and process biometrics;

(III) to perform national security and criminal checks;

(IV) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(B) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected under clause (i) shall be deposited into the Immigration Examinations and INS Processing Account pursuant to section 286(m)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(C) BORDER SECURITY FEE.—

(i) In general.—Aliens applying for contingent nonimmigrant status under this section shall pay a border security fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) Use of border security fees.—Fees collected under clause (i) shall be, to the extent provided in advance in appropriation Acts, deposited into the Secretary of Homeland Security for the purposes of carrying out title III, and the amendments made by that title.

(D) ALIENS APPEARED 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's sole and unreviewable discretion, determines that expeditious removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(6) ALIENS APPREHENDED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period described in paragraph (2) appears prima facie eligible for contingent nonimmigrant status, 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's sole and unreviewable discretion, determines that expeditious removal of the alien is in the national security, public safety, or foreign policy interest of the United States.

(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, the Secretary shall not remove, deport, or exclude such 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), if—

(i) it is determined that the alien is inadmissible under section 212(a)(3)(B)(i) or (v) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i) or (v)), or under section 212(a)(3)(B)(ii) or (v) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii) or (v)), or under section 212(a)(3)(B)(iii) or (v) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii) or (v)), or under section 212(a)(3)(B)(iv) or (v) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv) or (v)), or

(ii) it is determined that the alien is deportable, or excludable, under any provision of such Act.

(B) ALIENS ORDERED REMOVED.—If an alien who is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review, the Secretary shall—

(i) provide the alien with a reasonable opportunity to apply for such status; and

(ii) if the alien applies within the time frame provided, suspend such proceedings until the Secretary has made a determination on the application.

(C) 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 224 or 229 of the Immigration and Nationality Act (8 U.S.C. 1224, 1229).

(D) 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 before the Secretary makes a determination regarding such application, an otherwise removable alien may not be removed from the United States without—

(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 described in this section in accordance with procedures established by the Secretary.

(B) ALTERNATIVE PROCEDURES.—The Secretary may provide an alternative procedure for the biometric data required under subparagraph (A) due to a physical impairment.

(C) WINDOWED EXCEPTION.—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.

(9) 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.

(10) ELIGIBILITY AND INELIGIBILITY FOR CONTINGENT NONIMMIGRANT STATUS.—

(A) IN GENERAL.—The Secretary shall grant employment authorization to an alien granted contingent nonimmigrant status who requests such authorization.

(B) AUTHORIZATION.—The Secretary may authorize a contingent nonimmigrant to travel outside the United States and may revoke such authorization if the alien—

(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).

(11) CLARIFICATION ON ADMISSION.—The admission to the United States of a contingent nonimmigrant after such trips as described in subsection (c) shall not be considered an admission for the purposes of section 214(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

(12) 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 is not eligible to receive the health care affordability credit under section 36B of such Code; and

(ii) is not eligible for premium assistance tax credits authorized under section 36B of such Code and is not eligible to receive the health care affordability credit under section 36B of such Code.
(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. 1155(a)).

(6) REVOCATION.—(A) The Secretary shall revoke the status of a contingent nonimmigrant at any time if the alien—

(i) no longer meets the eligibility requirements for the status;

(ii) knowingly uses documentation issued under this section for an unlawful or fraudulent purpose; or

(iii) is absent from the United States at any time without authorization after being granted contingent nonimmigrant status.

(B) 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.

(C) 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 an 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 on or before the date of the enactment of this Act, pending before the Secretary or in any other jurisdiction.

(B) SIGNATURE REQUIREMENTS.—An applicant under this title shall sign their application, and the signature shall be an original signature or a facsimile.

(3) RECORD FOR REVIEW.—Administrative appellate review under this subsection shall be conducted solely on the record.

(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 by section 242 of title 8, 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 242(a) 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) LIMITATIONS.—(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 pursuant to this subsection, 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) limit the relief to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety; and

(iv) provide for the expiration of the relief on a specific date, which allows for the minimum practical time needed to remedy the violation.

(C) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THIRD PARTIES.—(i) IN GENERAL.—An alien in the United States on or before the date of the enactment of this Act pending before the Secretary or in any other jurisdiction.

(ii) shall be subject to the rules applicable to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow 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; the electronic 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 be available until September 30, 2022, and of the amount available under this paragraph—

(A) $784,000,000 shall be available for 32 miles of secondary fencing in the San Diego Sector, California; and

(B) $225,000,000 shall be available for planning activities related to physical barrier construction along the Southwest border;

(2) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph—

(A) $2,019,000,000 shall be available for 28 miles of a bollard levee in the Rio Grande Valley Sector, Texas;

(B) $1,842,000,000 shall be available for 14 miles of border bollard fencing in the Rio Grande Valley Sector, Texas; and

(C) $251,000,000 shall be available for 14 miles of secondary fencing in the San Diego Sector, California; and

(3) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph—

(A) $784,000,000 shall be available for 32 miles of secondary fencing in the Rio Grande Valley Sector, Texas;

(B) $225,000,000 shall be available for planning activities related to physical barrier construction along the Southwest border; and

(4) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph—

(A) $2,019,000,000 shall be available for 28 miles of a bollard levee in the Rio Grande Valley Sector, Texas; and

(B) $1,842,000,000 shall be available for 14 miles of border bollard fencing in the Rio Grande Valley Sector, Texas; and

(5) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2018, to remain available until September 30, 2023, and of the amount available under this paragraph—

(A) $2,019,000,000 shall be available for 28 miles of a bollard levee in the Rio Grande Valley Sector, Texas; and

(B) $1,842,000,000 shall be available for 14 miles of border bollard fencing in the Rio Grande Valley Sector, Texas; and

(6) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2022, to remain available until September 30, 2023, and of the amount available under this paragraph $1,745,000,000 shall be available for the construction of physical barriers; and

(7) $2,500,000,000 shall not be available for obligation or commitment until October 1, 2022, to remain available until September 30, 2023, and of the amount available under this paragraph $1,745,000,000 shall be available for the construction of physical barriers; and

(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 obligation or commitment until October 1, 2029, and of the amount available under this paragraph $1,746,000,000 shall be available for obligation or commitment until October 1, 2024, 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 bollard designs, that prioritize agent safety.

(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report, for which a full evaluation has been completed, to the Permanent 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) describes 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) planned goals 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, types, and sources, such as fencing, other physical barriers, or other tactical infrastructure and technology and a comprehensive plan to consult State and local elected officials, 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 supporting resources, such as fencing, other physical barriers, or other tactical infrastructure and technology and a comprehensive plan to identify ways that technology can be applied in conjunction with existing physical barriers or other resources, such as fencing, other physical barriers, or other tactical infrastructure and technology and a comprehensive plan to consult State and local elected officials, the eminent domain and construction process relating to such physical barriers;

(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 open recommendations by the Office of Inspector General and the Government Accountability Office related to border security, including, in addition to unaddressed recommendations that are no longer open for action, a description of the status and when these recommendations will be addressed; and
(10) includes certifications by the Under Secretary for Management, including all documents, memos, 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 applicable management 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 a report described in subsection (c), the Comptroller General of the United States shall complete the evaluation required under such subsection.

(e) TRANSFER.—The Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide for the transfer of amounts made available in subsection (a) for each fiscal year to eligible activities under this section.

(f) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under subsection (a) that remain available after the completion of the construction program as described in subsection (c) shall be rescinded and returned to the general fund of the Treasury.

(g) PROHIBITION.—Notwithstanding any other provision of law, and except for the activities described under subsection (a), none of the amounts appropriated under this section are available for any other component or activity within the Department of Homeland Security.

(h) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to this section—

(1) shall be included in each budget for a fiscal year submitted by the President under section 1105 of title 31, United States Code; and
(2) shall describe planned obligations by program, project, and activity in the receiving account at the same level of detail provided for in the request for other appropriations in that account.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability of funds made available in any other Act for carrying out the purposes described in this section.

(j) BUDGETARY EFFECTS.—

(1) IN GENERAL.—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.

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

(A) access roads;
(B) border roads;
(C) patrol roads; and
(D) Federal, State, local, and privately-owned roads.

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

(d) GOVERNMENT ACCOUNTABILITY OFFICE EVALUATION.—Not later than 180 days after the date on which the Secretary of Homeland Security submits a report described in subsection (c), the Comptroller General of the United States shall complete the evaluation required under such subsection.

(2) TRANSFER.—The Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives may provide for the transfer of amounts made available in subsection (a) for each fiscal year to eligible activities under this section.

(3) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under subsection (a) that remain available after the completion of the construction program as described in subsection (c) shall be rescinded and returned to the general fund of the Treasury.

(4) PROHIBITION.—Notwithstanding any other provision of law, and except for the activities described under subsection (a), none of the amounts appropriated under this section are available for any other component or activity within the Department of Homeland Security.

(5) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to this section—

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

(6) 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 this section.

(7) BUDGETARY EFFECTS.—

(A) IN GENERAL.—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).

(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), the Secretary shall—

(A) consider—

(i) the rural or remote nature of the area;
(ii) the rural or remote nature of the area;

(B) use—

(i) the rural or remote nature of the area;
(ii) the rural or remote nature of the area;

(C) the rural or remote nature of the area;
(D) the rural or remote nature of the area;

(E) the rural or remote nature of the area;
(F) the rural or remote nature of the area;

(G) the rural or remote nature of the area;
(H) the rural or remote nature of the area.

(3) MAKING FINDINGS.—Notwithstanding the provisions of section 4106 of H.Con.Res. 71 (115th Congress), the Secretary shall—

(A) identify the rural or remote area; and
(B) provide for the transfer of amounts made available in subsection (a) for each fiscal year to eligible activities under this section.

(4) RESCISSION.—Notwithstanding any other provision of law, any amounts appropriated under subsection (a) that remain available after the completion of the construction program as described in subsection (c) shall be rescinded and returned to the general fund of the Treasury.

(5) PROHIBITION.—Notwithstanding any other provision of law, and except for the activities described under subsection (a), none of the amounts appropriated under this section are available for any other component or activity within the Department of Homeland Security.

(6) BUDGET REQUEST.—An expenditure plan for amounts made available pursuant to this section—

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

(7) 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 this section.

(8) BUDGETARY EFFECTS.—

(A) IN GENERAL.—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).

(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), the Secretary may consider evi—
“(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 current employees that negatively impacts agency operations at a local or regional level; or

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

(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND RETENTION BONUSES; RETENTION BONUSES

(1) DIRECT HIRE AUTHORITY.—

(2) RECRUITMENT AND 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 commencement and termination dates of the required service period (or provisions for the determination thereof); and

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

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

(ii) that includes—

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

(II) the amount of the bonus; and

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

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

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

‘‘(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 to be relevant.

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

‘‘(h) EXERCISE OF AUTHORITY.—

‘‘(1) SOLE DISCRETION.—The exercise of authority under subsection (c) shall be subject to the sole and exclusive discretion of the Secretary 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 subsection is intended to exempt the Secretary or the Director from the applicability of the merit system principles under section 2301.

‘‘(ii) SUNSET.—The authorities under subsection (c) and (d) shall terminate on the date that is 5 years after the date of the enactment of this section.

SEC. 113. DISTRESS BEACONS.

Subtitle C—Additional Matters

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 global positioning system.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated 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 adjudicating pending cases and efficiently process future cases by at least—

(1) 55 judges during fiscal year 2018;

(2) an additional 55 judges during fiscal year 2019; and

(3) an additional 55 judges during fiscal year 2020.

(b) QUALIFICATIONS OF IMMIGRATION JUDGES.—The Attorney General shall ensure that all newly hired immigration judges are highly qualified and trained to conduct fair, impartial hearings consistent with due process and that all newly hired immigration judges represent a diverse pool of individuals that includes a balance of individuals with legal, governmental, or nongovernmental experience or academic experience in addition to government experience.

(c) NECCESSARY SUPPORT STAFF FOR IMMIGRATION JUDGES.—The Attorney General shall ensure that each immigration judge has sufficient support staff, including computer hardware, software, outreach,蝮�, 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.

(c) 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.

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, allowing for electronic filing, to improve efficiency in the handling of immigration proceedings.

SEC. 124. PERMANENT REAUTHORIZATION OF E-VERIFY.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of
TITLE II—EARNED CITIZENSHIP FOR
CHILDHOOD ARRIVALS

SEC. 201. DEFINITIONS.
In this subtitle:
(1) IN GENERAL.—Except as otherwise
specified, any term used in this sub-
title 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 tax (determined under section 6101 of 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 de-
ferred 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
terms 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 1302 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 801 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 is the alien’s immigra-
tion status) punishable by imprisonment for a term exceeding 1 year.
(8) IMMIGRATION LAWS.—The term “immig-
ration laws” has the meaning given the term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).
(9) INSTITUTION OF HIGHER EDUCATION.—
The term “institution of higher education” means an educational institution that:
(A) except as provided in subparagraph (B), has the meaning given in the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
(B) does not include an institution of higher education outside of the United States.
(10) MISDEMEANOR.—The term “misdeme-
anor” means a Federal, State, or local criminal offense (excluding a State or local offense for which an essential element is the alien’s immigra-
tion 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;
(ii) the individual was sentenced to time in custody of 90 days or less.
(11) PERMANENT RESIDENT STATUS ON A CON-
DITIONAL BASIS.—The term “permanent resident status on a conditional basis” means status as an alien lawfully admitted for permanent residence on a conditional basis.
(12) POVERTY LINE.—The term “poverty line” has the meaning given the term in section 673 of the Community Services Block Grant Act of 1992 (42 U.S.C. 2996c).
(13) SECRETARY.—Except as otherwise
specified, the term “Secretary” means the Secretary of Homeland Security.

SEC. 202. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO EN-THROUGH THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Not-
withstanding 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 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 inadmissible or deportable from the United States is in temporary protected status under the Immigration and Nationality Act (8 U.S.C. 1254a).

(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—
(1) is not inadmissible under paragraph (2), (3), (4)(C), or (6)(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, omis-

(sion, or scheme of misconduct;

(D) the alien—

(i) has not 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) has been 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 in the United States;

(II) passing a general educational develop-

ment exam, a high school equivalency di-
poma examination, or other similar State-
Paragraph 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, effective 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)).

Paragraph 2: Treatment of Certain Breaks in Presence. (A) In General. Except as provided in subparagraphs (B) and (C), an alien shall be considered to maintain a continuous period of residence in the United States under section 216(d)(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.

Section 204. Removal of Conditional Basis of Permanent Resident Status. (a) Eligibility for Removal of Conditional Basis. (1) In General. An alien applying for permanent resident status on a conditional basis shall not be removed from the United States if the alien is subject to registration under this section, a cumulative $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, or (2) 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.

(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 revoked.

(c) Termination of Status. The Secretary may terminate the permanent resident status on a conditional basis of an alien on the basis that the alien ceases to meet the requirements under paragraph (1)(C) of section 239(b), subject to paragraphs (2) and (3) of that section.

(d) Prior to the termination, the provides the alien—(1) notice of the proposed termination; and (2) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise contest the termination.

(e) 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 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.

(f) Ineligibility for Public Benefits. An alien who has been granted permanent resident status on a conditional basis shall not be eligible for any Federal means-tested public benefit (within the meaning of section 409 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) until the date on which the conditional permanent resident status of the alien is removed.

Section 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 239(b), subject to paragraphs (2) and (3) of that section; or (B) has not abandoned the residence of the alien in the United States.

(c) Determination of Continuous Presence.

Section 206. 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...
at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States; (i) has served in the Uniformed Services for at least 1 year, and (ii) received the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1424(a)) due to disability.

(A) APPLICATION FEE.— (A) Except as provided in subparagraph (B), the conditional basis of the permanent resident status granted to an alien shall not be reduced by the number of days that the alien was a DACA recipient.

(B) REDUCTION IN PERIOD.— (1) In general.—Subject to clause (i), 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.

(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 that includes the alien's name and the alien's photograph or fingerprint; and (2) a school identification card that includes 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(a)(1)(A), an 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 that 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 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; and (2) records from any educational institution that the alien has attended in the United States.

(d) ANY DOCUMENT FROM 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) 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 document from the institution stating that the alien has received such a degree.

(1) DOCUMENTS ESTABLISHING RECEIPT OF A 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 or recognized equivalent, 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 educational program described in section 208(b)(1)(B)(i), 208(d)(3)(A)(ii), or 208(a)(1)(C)(i), the alien shall submit school records from the United States schools 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 208(b)(1)(B) or 208(a)(4)(B), the alien shall submit to the Secretary the following relevant documents:
(1) DOCUMENTS TO ESTABLISH AGE.—To establish 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 FAMILIAR SUPPORT, HOMELESSNESS, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, otherwise lacks parental or other familiar support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that:
(A) a statement that the alien is in foster care, otherwise lacks parental or other familiar support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that:
(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; and
(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 208(a)(2)(A)(iii), the alien shall submit to the Secretary a 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.

(j) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien satisfies 1 of the criteria for a hardship exemption described in section 208(a)(2)(A)(iii), the alien shall submit to the Secretary a document that the alien has completed service in the Armed Forces and who have direct knowledge of the circumstances that:
(A) bear the provider’s name and address; and
(B) bear the name of the individual receiving treatment; and
(C) document that the alien has accumulated $10,000 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.

(k) DOCUMENTS ESTABLISHING EMPLOYMENT.—To establish that the alien satisfies 1 of the criteria for the hardship exemption described in section 208(a)(2)(A)(iii), the alien shall submit to the Secretary a document that the alien has completed service in the Armed Forces and:
(1) in general.—An alien may satisfy the employment requirement under section 208(a)(1)(C)(iii) by submitting records that—
(A) establish compliance with such employment requirement by submitting at least 2 types of reliable documents that provide evidence of employment, including—
(B) documents to establish the employer’s name and contact information; and
(C) records of a labor union, day labor center, or organization that assists workers in employment;
(D) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—
(i) the name, address, and telephone number of the affiant; and
(ii) the nature and duration of the relationship between the affiant and the alien; and
(F) remittance records.
(2) AFFIRMATIVE APPLICATION.—The records published under paragraph (1) shall apply to any action to implement this subtitl
DACA may be shared with a Federal security or law enforcement agency—
(i) for assistance in the consideration of an application for permanent resident status on a conditional basis;
(ii) to identify or prevent fraudulent claims;
(iii) for national security purposes; or
(iv) for the investigation or prosecution of any felony not related to immigration status.

(ii) Suspension of removal.—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. MARKET, MS. SMITH, and Ms. KLOBuchar) submitted an amendment intended to be proposed by him to the bill S.R. 579, to amend the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) to authorize, notwithstanding any provision of the Act (8 U.S.C. 1255(c)), the status of any alien whose status has been adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1); and
(iii) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(B) Exception.—In the case of a condition of submitting or approving an application for an alien defined in section 245(c) of the Immigration and Nationality Act to file an application for adjustment of status under subparagraph (B).

(B) Adjustment of status.—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 resident status if the alien—
(i) has not been removed;
(ii) has not been deported under paragraph (2), (3), or (4) of section 237(a) of such Act (8 U.S.C. 1227(a));
(iii) is not described in section 202(b)(2)(A)(i) of such Act (8 U.S.C. 1158(b)(2)(A)(i));
(iv) has not been removed from the United States for any period or periods that exceed in the aggregate, 180 days.

(A) Adjustment of status 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 subparagraph (A)(i) may not be required, as specified in clause (i) may not be required, as specified in subparagraph (A)(ii) and notwithstanding any provision of the 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 under paragraph (1); and
(ii) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(B) Exception.—In the case of an alien whose status has been adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1);
(i) in general,—the status of an unmarried
son or daughter referred to in subparagraph (A)(i) may not be adjusted under subparagraph (A)(ii) until such son or daughter establishes that he or she has been physically present in the United States for at least 1 year;
(ii) in general,—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)(ii), the grounds for inadmissibility under paragraphs (4), (5), (6), (7)(A), and (9) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182).

(A) Adjustment of status for spouses and children.—
(i) In general.—If 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,

(ii) in general,—the status of any alien lawfully admitted for permanent residence if the alien—
(i) is the spouse, domestic partner, child, or law enforcement agency—

(iii) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(B) Exception.—In the case of an alien whose status has been adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1);

(C) Waiver.—In determining eligibility and admissibility under subparagraph (A)(ii), the grounds for inadmissibility under paragraphs (4), (5), (6), (7)(A), and (9) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182).

(A) Adjustment of status 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 subparagraph (A)(i) 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.

(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.—If an alien is subject to a final order of removal may not be removed if the alien—
(ii) indications that he or she intends to file an application under paragraph (1); and
(iii) is prima facie eligible to file an application under paragraph (1); and

(D) Work authorization.—The Secretary of Homeland Security shall provide applicants for adjustment of status under paragraph (1) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 246 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) Exclusions 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 ad-
misssed pursuant to paragraph (1).

(B) Adjustment of requirements regarding future discontinued eligibility of aliens from countries currently limited under temporary protected status.—Section 244(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)) is amended—

(A) by striking “the Attorney General” and inserting “the Secretary of Homeland Security”;

(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 period of designation” after “Government”; and

(C) by striking “to the Attorney General” and inserting “to the Secretary”;

(ii) in subparagraph (B)—

(A) by striking “If the Attorney General” and inserting the following:

(i) In general.—If the Secretary of Homeland Security renders a final administrative decision that the application submitted by an alien under clause (i), the order related to the alien that is referred to in such subparagraph.

(ii) Denial.—If the Secretary of Homeland Security finds that the alien was not lawfully admitted for permanent residence under such paragraph (1) to work in the United States while such application is pending;

(A) adjustment of status for spouses and children.—

(i) in general.—If the Secretary of Homeland Security 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 at such status.
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:

At the appropriate place, insert the following:

SEC. 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:

TITLE I—BAR REMOVAL OF INDIVIDUALS WHO DREAM AND GROW OUR ECONOMY ACT

Sec. 101. Provisional protected presence for young individuals.

TITLE II—SECURITY APPROPRIATIONS.

Sec. 201. Operations and support.


Sec. 203. Administrative provisions.

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:

(1) DACA RECIPIENT.—The term 'DACA recipient' means an alien who was in deferred action status on September 5, 2013, 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 more.

(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 violence (as defined in section 16 of title 18, United States Code) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution, 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 secured person was released under section 221(a)(3)(B)(i)(IX) (relating to the inadmissibility of persons unaccompanied by a parent or legal guardian) or for which a significant traffic offense (as defined in section 237(a)(2)(E)(ii)) or an offense of sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution, 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

(C) the alien is a '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).

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

(A) a convicted felon;

(B) has been convicted of 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

(D) is a threat to national security or a threat to public safety.

(7) Has not been convicted of—

(A) a felony;

(B) a significant misdemeanor; or

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

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

(8) Duration of Provisional Protected Presence and Employment Authorization.—(A) Provisional protected presence and the employment authorization provided under this section shall be effective through the date on which the alien files an application under this section; and

(B) the duration of such 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 is effective upon the expiration of a previous or subsequent periods of unlawful presence.

(1) APPLICATION.—

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

(B) EXEMPTION.—The age requirement set forth in subparagraph (A) shall not apply to an alien who, on the date on which the alien applies for provisional protected presence, is in removable detention, 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) 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;

(iv) is a victim of a crime;

(v) is a victim of trafficking;

(vi) is a victim of domestic abuse, or is afraid that the alien's presence in the United States will be a danger to the alien's self or to the alien's immediate family member of the alien; and

(vii) has medical expenses incurred by the alien or an immediate family member of the alien; or

(viii) has accumulated $10,000 or more in debt in the period ending on the same date and not arising out of the same act, omission, or scheme of misconduct.

(3) APPLICATION.—

(A) IN GENERAL.—The Secretary may not rescind the alien's provisional protected presence or employment authorization granted under this section unless the Secretary determines that the alien—

(i) 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;

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

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

(iv) has ceased to continuously reside in the United States;

(b) TREATMENT OF BRIEF, CASUAL, AND NONINCIDENT DEPARTURES AND CERTAIN OTHER ABSENCES.—In considering subparagraphs (c)(3) and (g)(4), an alien shall not be considered to have failed to continuously reside in the United States due to—

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

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

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

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

(1) PROVISIONAL PROTECTED PRESENCE.—A DACA recipient is deemed to have provisional protected presence under this section through date that is the earlier of—

(A) the date that is 1 year after the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application; or

(B) 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.

(2) EMPLOYMENT AUTHORIZATION.—If a DACA recipient has been granted employment authorization by the Secretary in addition to deferred action status, the employment authorization shall continue through the earlier of—

(A) the date that is 1 year after the expiration date of the alien’s deferred action status, as specified by the Secretary in conjunction with the approval of the alien’s DACA application; or

(b) CERCA—Section 244A. Provisional protected presence.

TITLE II—BORDER SECURITY APPROPRIATIONS.

SEC. 201. OPERATIONS AND SUPPORT.

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

(1) $551,000,000 shall be available for—

(A) border security technologies;

(B) facilities;

(C) equipment; and

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

(2) $18,239,000 shall be available for reten-

tion, 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 other associated personnel.

SEC. 202. PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in such fiscal year, $2,630,239,000 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, and

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

(1) Borrowings shall be available for border security technologies, marine vessels, aircraft unmanned aerial systems, facilities, and equipment;

(2) $329,000,000 shall be available to prepare the reports required under subsections (b) and (c) of section 203; and
SEC. 202. 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, 2015, for physical barriers described in subsections (b) and (c), the Comprehensive Analysis of the Environmental Impacts of the Construction and Placement of Such Physical Barriers along the Southwest Border, including barriers in the San Diego National Wildlife Refuge, and such other penalties relating to the reentry of removed aliens as may be available under such other provision of law, none of the 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.

(b) PROHIBITION.—Notwithstanding any other provision of law, none of the amounts appropriated under paragraphs (1) through (3) of section 202 may be reprogrammed or transferred for any other activity within the Department of Homeland Security.

SEC. 203. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.—Amounts appropriated under paragraphs (1) through (3) of section 203 shall only be available for operationally effective designs deployed as of the date of the enactment of this Act, for physical barriers described in subsections (b) and (c), and for the comprehensive analysis of the environmental impacts of the construction and placement of such physical barriers along the Southwest border, including barriers in the San Diego National Wildlife Refuge; and (4) includes, for each barrier segment described in paragraphs (1) through (3) of section 203, a thorough analysis and comparison of alternatives to a physical barrier to determine the most cost effective security solution, including—

(1) underground sensors;

(2) infrared and, or day/night cameras;

(3) tethered or mobile aerostats;

(4) drones or other airborne assets;

(5) integrated fixed towers; and

(6) the deployment of additional border personnel.

(b) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and thereafter, the Secretary of Homeland Security shall submit a report containing all of the information required under paragraphs (1) through (4) of subsection (a) to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, 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 San Diego 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 and, or 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 thereafter, the Secretary of Homeland Security shall submit a report describing the physical barriers described in subsections (b) and (c), the Comprehensive Analysis of the Environmental Impacts of the Construction and Placement of Such Physical Barriers along the Southwest border, including barriers in the San Diego National Wildlife Refuge; and

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

(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 paragraphs (1) through (3) of section 202 may be reprogrammed or transferred for any other activity within the Department of Homeland Security.

SEC. 204. ADMINISTRATIVE PROVISIONS.

(a) LIMITATION.—Amounts appropriated under paragraphs (1) through (3) of section 204 shall only be available for不好定的了，因为没有继续往下写。
"(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 uninsured COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION . . . H-2B NONIMMIGRANT RETURNING WORKERS.

Section 214(c)(9) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)) is amended—

(1) in subparagraph (A)—

(i) by striking “(B) and (C)” and inserting “(B), (C), and (D),”;

(ii) by striking “fiscal year 2013, 2014, or 2015” and inserting “any of the three previous fiscal years”; and

(iii) 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 to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to uninsured 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 Title.—This section may be cited as the “Humane Enforcement and Legal Protections for Separated Children Act” or the “HELP Separated Children Act”.

(b) Construction.—(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 with the Department, cooperating entities, or the Secretary.

(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—

(i) 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—

(aa) child welfare agencies and family courts in the same jurisdiction as the child; and

(bb) consulates, attorneys, and legal service providers capable of providing free legal advice or counseling; young 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, cooperating entities, and the Secretary of Health and Human Services and independent child welfare and family law experts, shall develop a settlement agreement that—

(I) child welfare agencies and family courts as often as is necessary to ensure that the settlement agreement is fully implemented; and

(II) conforms to the United Nations Convention Governing the Protection of All Children Outside Their Country (commonly known as the “United Nations Convention”);

(d) ensure that any parent or primary caregiver of a child in the United States—

(i) absent medical necessity or extraordinary circumstances, is placed in a detention facility proximate to the location of apprehension from his or her area of apprehension until the individual—

(I) has made arrangements for the care of such child;

(II) if such arrangements are unavailable or the individual is unable to make such arrangements, is informed of the care arrangements made for the child and of a means to maintain communication with the child;

(ii) absent medical necessity or extraordinary circumstances, and to the extent practicable, is placed in a detention facility; and

(iii) proximate to the location of apprehension;

and

(ii) proximate to the child’s habitual place of residence and

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 LOCAL AND STATE ENTITIES.—If the Secretary requests a State or local entity to provide custody of an individual whom the Department has reason to believe is removable pending transfer of that individual to the custody of the Secretary or to provide information, the entity shall, unless the Secretary shall authorize otherwise, request that the Secretary or local entity provide the individual the protections specified in subparagraphs (A) and (B) of paragraph (1) and any other protections the Secretary shall authorize.

(d) Access to Children, State and Local Courts, Child Welfare Agencies, and Court Officials.—At all detention facilities, the Secretary shall—

(1) prominently post in a manner accessible to detainees and visitors and include in detainees 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) provided with a telephone and contact visits with their children;

(B) provided with contact information for child welfare agencies and family courts in the most recent jurisdiction of the individual;

(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 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 the purpose of obtaining parole or removal while maintaining the ability of detained alien parents and primary caregivers to share information with 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;

(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 with their children regarding travel arrangements with their consulate, 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 such personnel 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.

(4) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement paragraphs (a) and (b). (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, or amendment to any person or circumstance is held to be unconstitutional, or amendment to any person or circumstance, or the application of any such provision or amendment to any person or circumstance shall not be affected by such holding.

SA 1975. Mrs. McCASKILL (for herself, Mr. Tester, and Ms. HAITKAMP) 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. 14. 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 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 unexpected 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. 106a), the Commissioner shall include information concerning the progress made toward meeting Office of Field Operations officer and support staff hiring targets, as described in paragraph (1).

(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 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 detect drugs at ports of entry; 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 trafficking.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,500,000 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 II.—Visas for Veterans

SEC. 2. 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.—

(A) IN GENERAL.—Notwithstanding any other provision of law, including sections 212 and 237 of the Immigration and Nationality Act (8 U.S.C. 1112 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).

(3) WAIVER.—The Secretary may waive the application of paragraph (1) if—

(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 as provided—

(1) when determining whether the noncitizen is a person of good moral character, disregard the ground on which the noncitizen was deported; or

(A) ordered removed, or was removed, from the United States; or
At the appropriate place, insert the following:

At the appropriate place, insert the following:

SEC. 6. AJUSTMENT OF STATUS.

(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

(d) keeping records of any service member or veteran who—

(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) ANNOTATION.—In each such 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. 1182); and

(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:

SEC. 3. IDENTIFYING ALIENS CONNECTED TO THE ARMED FORCES.

Upon an application for an immigration benefit or the placement of such alien in an immigration enforcement proceeding, the Secretary of Homeland Security shall—

(1) determine if the alien is serving, or has served, as a member of—

(A) a regular or reserve component of the Armed Forces of the United States on active duty; or

(B) a reserve component of the Armed Forces in an active status; and

(2) annotate for 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. 6. PERMANENT RESIDENT STATUS FOR MIGUEL ANGEL PEREZ-MONTES, JR.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), on filing an application for issuance of an immigrant visa under section 201 of that Act (8 U.S.C. 1154) or 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.

(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) DEADLINES FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed, together with the applicable fees, not later than 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISAS NUMBERS.—On the granting of an immigrant visa or permanent residence to Miguel Angel Perez-Montes, Jr., the Secretary of States 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); 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. 2. 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, upon the recommendation of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Secretary of the Coast Guard, shall establish a naturalization office at each initial military training site of the Armed Forces under the jurisdiction of the respective Secretary.

(c) OUTREACH.—In coordination with the Under Secretary of Defense for Personnel
and Readiness and the Director of U.S. Citizenship and Immigration Services, each Secretary concerned shall, to the maximum extent practicable—

(1) identify each member of the Armed Forces overseen by such Secretary who is not a citizen of the United States;

(2) inform each noncitizen member of the Armed Forces overseen by such Secretary about—

(A) the existence of a naturalization office at each initial military training site; 

(B) the availability of each naturalization office throughout the career of a member of the Armed Forces to—

(i) evaluate the extent to which a noncitizen member of the Armed Forces is eligible to become a naturalized citizen; and

(ii) assess the suitability for citizenship of a noncitizen member of the Armed Forces;

(C) each potential pathway to citizenship; and

(D) each service a naturalization office provides;

(E) any 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; and

(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 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 require service members to 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; and

(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

(b) 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. MARKLEY) submitted an amendment intended to be proposed by Mr. PORTMAN to the bill S. 411, 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 ARRIVAL 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 for Childhood Arrivals program.

(2) The term ‘armed forces’ has the meaning defined for ‘army’ in section 101(a)(4) of title 10, United States Code.

(3) The term ‘armed forces’ includes any member of the Reserve or former members of the Armed Forces.

(4) 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 CONTINUING EMPLOYMENT.—It is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

“(B) PROHIBITION ON CONSIDERATION OF PRI- VILEGED EMPLOYMENT.—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 engagement 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), (3), 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 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 referral by such agency, certifying that such agency has compiled with the procedures described in subsection (c) with respect to such 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 a preponderance of the evidence that the employer, person, or entity has not established such good faith compliance.

“(B) EXCLUSION FOR CERTAIN EMPLOYERS.—An employer who is not required to participate in the System or who is part of a program 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 good faith 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 that was not the result of a good faith attempt to comply with the requirement.

“(B) EXCEPTION IF FAILURE TO CORRECT ADMINISTRA TIVE ERROR.—Subparagraph (A) shall not apply if—

“(i) the failure is not de minimis; and

“(ii) the Secretary of Homeland Security has reasonable cause to believe that the employer, person, or entity is 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 VIOLATIONS.—Subparagraph (A) shall not apply to an employer, person, or entity that has engaged in or is engaging in a pattern or practice of violations of paragraph (1)(A) or (2).

(7) PRESUMPTION.—After the date on which an employer is required to participate in the subsection (d) mechanism described in clause (iii) or (iv) of subparagraph (F), the employer is presumed to have acted with knowledge for purposes of paragraph (1)(A) if the employer hires, employs, recruits, or refers an unauthorized alien during or after the period of employment
(i) the employer's or employee's failure to correct the failure voluntarily within 6 months after the date of the enactment of the SECURE and SUCCEED Act;
(ii) the employer's or employee's failure to comply with the requirements under this paragraph (A)(i)—
(a) a paper form;
(b) a form that may be completed by an employer via telephone or video conference;
(c) an electronic form; or
(d) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).
(ii) ATTENTION.—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 of the driver's license or identification card specified in clauses (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 consisting of a photograph of the individual's status in the United States, or a federally recognized Indian tribe, or a government-issued official document evidencing that the alien is lawfully admitted for permanent residence or another document specified in subparagraphs (C) and (E) on the U.S. Citizenship and Immigration Services website.

(1) FORM.—The form referred to in subparagraph (A)(i)—
(I) contains a photograph of the individual; and
(II) is approved by the Secretary.

(2) REQUIREMENTS.—
(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).

(D) EMPLOYER VERIFICATION SYSTEM.—
(1) IN GENERAL.—(a) The Secretary, acting through the Office of Worker Rights, shall establish a system for the employment verification of unauthorized aliens.
(b) The Secretary shall establish a centralized online system that
(i) contains a photograph of the individual; and
(ii) is available to individuals who—
(A) seek employment a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual.
(1) by examining
(a) a document specified in subparagraph (C), or
(b) a document specified in subparagraph (D) and a document specified in subparagraph (E) and;
(2) by using an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).
(ii) PUBLICATION OF DOCUMENTS.—The Secretary shall prescribe and publish procedures or instructions provided by the Secretary; and
(iii) EXAMINATION BY EMPLOYER.—An employer shall examine documents or forms of identification for purposes of this paragraph
(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) security features to make the license
(aa) a document specified in subparagraph (C), or
(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E) and
III) a document specified in subparagraph (D) and a document specified in subparagraph (E) and
(III) documents evidencing employment authorized status.
(iii) 3 months extends the employment authorization status of the individual.
(4) CONFIDENTIALITY.—Any information collected under this section shall be used only for purposes of enforcement of this Act.
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 and made available to employers not later than 1 year after the date on which registration becomes available information; and

(iv) ADDITIONAL SECURITY MEASURES.—

(1) MAY USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (ii) because the employee did not present a covered document for employment eligibility verification purposes shall verify the identity of such individual using the additional security measures described in clause (iii).

(2) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (ii). Such additional security measures—

(aa) shall be kept up-to-date with technological advances;

(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identity information that may include review of identity documents or background screening verification techniques using publicly available information; and

(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

(3) 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)(1) or anytime thereafter. An election under this subsection may not be revoked 90 days after the employer notifies the Secretary of the employer’s intent to discontinue such election.

(4) 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 the Federal Government that is presented under subparagraph (A), 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 through appropriate means.

(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 described in subparagraph (A), (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 set forth in paragraph (3); or

(ii) may require such state to provide the Secretary with evidence of such reliability.

(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 federal Government agency, or another 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.

(2) 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.

(3) COPYING OF 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).

(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.

(C) RETROACTIVE REGULATIONS.—The Secretary may promulgate regulations regarding—

(1) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

(2) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

(2) REQUIREMENT OF RECORD-KEEPING.—The Secretary may authorize the use of receipts for replacement documents, and temporary evidence of employment authorization by an individual to meet the requirements of 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.

(b) No authorization of national identifi-
cation card: Nothing in this section may be construed to directly or indirectly authorize the issue, use, or establishment of a national identification card.

(4) 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 those 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 authorization documents.

(iv) the security, integrity, and privacy of the System.

(C) Procedures.—The Secretary—

(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

(I) all persons or entities that have queried the individual through the System;

(II) the date of each such query; and

(III) the System response for each such query; and

(ii) in consultation with the Commissioner, shall develop—

(I) a process to monitor and, 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 other entities of the executive branch, 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; or

(ii) the date of the appointment of the Secretary or the appointment of the Commissioner of the Department of Homeland Security, as the Secretary shall specify.

(B) Federal contractors.—Federal contractors shall participate in the System as provided in paragraph (1), while relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

(C) Critical infrastructure.

(1) In general.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any 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.

(2) Notification to employers.—The Secretary may require that an employer that has become otherwise required to participate in the System under this subsection 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.

(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.

(3) Consequence of failure to participate.—

(A) In general.—Except as provided in paragraph (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 this subsection with respect to an individual—

(i) shall be treated as a violation of subsection (a)(1)(B) with respect to that individual; and

(ii) shall create a rebuttable presumption that the employer has violated paragraph (1)(A) or (2) of subsection (a).

(B) Exception.—

(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 publish regulations 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 shall prescribe necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System, if practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

(iv) Participation of employers.—The employer shall inform individuals hired for employment that the—

(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 nation of the United States citizens or an alien who has employment authorization status.

(B) 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, if available;

(ii) if the individual does not attest to United States citizenship or status as a national of the United States under subsection (c)(1)(A), the individual’s alien registration number or the alien’s status, if any, or the alien’s alien registration number established by the Department as the Secretary shall specify; and

(iii) such other information as the Secretary determines necessary to identify and employment authorization of an individual.
(vi) Presentation of documentation.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements of paragraph (c) of subsection a confirmation or notification in such manner as the Secretary may specify.

(i) Initial response.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, or a confirmation or nonconfirmation notice from the Secretary, shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary.

(v) Reexamination.—Nothing in this subsection shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been issued. The Secretary may prescribe that the confirmation or nonconfirmation indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not interfere in any way an employee's right to appeal a nonconfirmation.

(IV) Employment protections.—An employer may not terminate employment or discriminate against another adverse action against an individual solely because of a failure of the individual to have identity and employment authorized status confirmed under this subsection. In making such determination, the Secretary shall not take into account adverse impacts to the employer or any other party resulting from the employment of the individual.

(aa) a nonconfirmation has been issued;

(bb) if the further action notice was contested during the period before an administrative law judge has been assigned to hear the case;

(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.

(ii) Continuation of employment after nonconfirmation.—The employer shall continue to employ the individual after receiving nonconfirmation.

(iv) Reexamination.—Nothing in this subsection shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been issued. The Secretary may prescribe that the confirmation or nonconfirmation indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not interfere in any way an employee's right to appeal a nonconfirmation.
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—

"(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 concerning queries or responses from 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 susceptible information, such as social security numbers or identity theft in the use of the System. Failure to comply with a request under this subsection 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) or (f).

"(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable period as the Secretary may prescribe, the employer shall—

"(aa) notify the individual of any such requirement for further action; and

"(bb) record the date and manner of such notification.

"(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subsection (II) in writing, or in such other manner as the Secretary may prescribe.

"(IV) RULEMAKING.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

"(aa) to facilitate the functioning, accuracy, and fairness of the System; and

"(bb) to prevent misuse, disclosure, fraud, or identity theft in the use of the System; and

"(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; or maintain the confidentiality of any petition described in section 384(b)(2) of the Illegal Immigration Reform and Immigrant Rights Act of 1996 (8 U.S.C. 1367(a)(2)).

"(II) NOTICE.—The regulations issued under subsection (I) shall be—

"(aa) published in the Federal Register; and

"(bb) provided directly to all employers registered in the System.

"(F) DESIGNATION.—The Secretary shall establish a process—

"(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated 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 Commissioner, shall submit a weekly report to the Administrator regarding the documents relied upon for purposes of subsection (c).

"(II) NOTICE.—The regulations issued 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 susceptible information, such as social security numbers or identity theft in the use of the System.

"(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 subsection, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with employers, labor organizations, 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 the program.

"(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraud, or identity theft in the use of the System 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 or verified 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 protect the System, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who does not have their own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

"(J) 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, any 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.

"(K) ADMINISTRATIVE APPEAL.—

"(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Secretary or the Commissioner, as applicable, if the individual reasonably determines that the nonconfirmation resulted after the individual acknowledged receipt of the further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under paragraph (6).

"(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 upon 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 regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or information that was not provided or considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal is 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 or argument the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and decision period in order to receive an accurate resolution of an appeal before the Secretary or the Commissioner.

"(D) PREFERENCE OF EVIDENCE.—Administrative appeals under paragraph (6) shall be limited to whether a nonconfirmation notice is supported by a preponderance of the evidence.

"(E) DAMAGES, FEES, AND COSTS.—No money damages, fees, or costs may be awarded in the administrative appeal process under this paragraph.

"(F) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

"(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final nonconfirmation on an administrative appeal, under paragraph (6), the individual may obtain review of such determination by filing a
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mines that the action is frivolous or filed for

the timely filing of a complaint under this

confirmation related to such final deter-

tion of such court.

an order requiring compliance with such sub-

district court of the United States may issue

'tempt of such court.

order lost wages and other appropriate rem-

ation on the request for reconsideration and

rehearing.

firming or reversing the result of the agency,

dence adduced at a hearing, a decision af-

at any designated place or hearing;

for the period ending 120

days after completion of the administrative

law judge review process. No lost wages shall

be awarded for the time during which the

individual was not in employment

authorized status.

ensuring full notice of such

signing employers at any time through the

system; and

the integrity and security of the information

and assess System accuracy, and to preserve

the security of the information in all of the System, including—

(i) to develop and use tools and processes
to detect and prevent fraud and identity theft,
such as multiple uses of the same identifying

information or documents to fraudulently

gain employment;

(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 det-

ect anomalies in the behavior of the System

that may indicate potential fraud or misuse of the

system; and

(iv) to use available documents and information

submitted by employees to employers, in-

cluding authority to conduct interviews with

employees and employers, and obtain infor-

mation concerning employment from the

employer;

(vii) to confirm identity and employment

authorization through verification and com-

parison of records as determined necessary

by the Secretary;

(viii) to confirm electronically the issuance of the

employment authorization or identity document; and

(ix) to require that employees use the

System.

(i) to respond to inquiries made by partici-

pating employers at any time through the

internet, or such other means as the Sec-

retary may designate, concerning an individ-

ual'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

the employer obligations under subsection

(1)(F)(iv); and

(iii) provide information to, and require

action by, employers and individuals using

the System.

(2) 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 confidentiality of the underlying

information, and ensuring full notice of such

use to employees;

(ii) to maximize its ease of use by em-

ployees, including direct notification of its

termination in accordance with those assess-

ments;

(iii) to provide employees, including direct

notification of its

the System;

(iv) to maintain appropriate administra-

tive, technical, and physical safeguards to

prevent unauthorized disclosure of personal

information, misuse by employers and

employees, and unlawful use of the System

by employers and employees;

(v) to require regularly scheduled re-

resher training of all users of the System

to ensure compliance with all procedures;

(vi) to require the issuance of the System

to determine 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 and prevent fraud and identity theft;

(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 det-

ect anomalies in the behavior of the System

that may indicate potential fraud or misuse of the

system; and

(iv) to use available documents and information

submitted by employees to employers, in-

cluding authority to conduct interviews with

employees and employers, and obtain infor-

mation concerning employment from the

employer;

(vii) to confirm identity and employment

authorization through verification and com-

parison of records as determined necessary

by the Secretary;

(viii) to confirm electronically the issuance of the

employment authorization or identity document; and

(ix) to require that employees use the

System.

(i) to respond to inquiries made by partici-

pating employers at any time through the

internet, or such other means as the Sec-

retary may designate, concerning an individ-

ual'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

the employer obligations under subsection

(1)(F)(iv); and

(iii) provide information to, and require

action by, employers and individuals using

the System.

(2) DESIGN AND OPERATION OF SYSTEM.—
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(i) to maximize its reliability and ease of use

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tive, technical, and physical safeguards to

prevent unauthorized disclosure of personal

information, misuse by employers and

employees, and unlawful use of the System

by employers and employees;

(v) to require regularly scheduled re-

resher training of all users of the System

to ensure compliance with all procedures;

(vi) to require the issuance of the System

to determine 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—

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ect anomalies in the behavior of the System

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system; and

(iv) to use available documents and information

submitted by employees to employers, in-

cluding authority to conduct interviews with

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mation concerning employment from the

employer;

(vii) to confirm identity and employment

authorization through verification and com-

parison of records as determined necessary

by the Secretary;

(viii) to confirm electronically the issuance of the

employment authorization or identity document; and

(ix) to require that employees use the

System.
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 only the verification of individuals;

‘‘(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 identifiers that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity records under the System, 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 subpart, to provide proper 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 and implement proper privacy and security training for the Federal and State employees accessing 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 access, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for and limits on access, as 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 assessment 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 authorization individuals who received further action notices, such as not authorized, and who subsequently found to be employment authorized; by

‘‘(bb) the number of System inquiries submitted for employment authorized individuals.

‘‘(III) Error rate determination.—The audit requirements 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 subsection (b), but no reduction in fines pursuant to subclause (ii).

‘‘(IV) Reduction of penalties for recordkeeping or processing practices allowing persistent system inaccuracies.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General pursuant to (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.

‘‘(V) Required 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 authority granting access.

‘‘(VI) 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 prevent unauthorized 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 storage.

‘‘(VII) Authorized personnel defined.—In this subparagraph, the term ‘authorized personnel’ means anyone registered as a System user, the Secretary, or any person with responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification, who accesses System data.

‘‘(VIII) Authorized 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.

‘‘(IX) Responsibilities of the Secretary.—

‘‘(I) In general.—As part of the System, the Secretary shall conduct regular reviews and evaluations to assess the condition and quality of the System and within the time periods specified, compares the name, alien identification or authorization number, or other information maintained 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 authorization status, and to determine 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 conduct a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (E)(vii).

‘‘(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 secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information for 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 reducing situations 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 obtained or used 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 information.

‘‘(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 government 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) FUNDING.—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 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 paragraph (I) shall not be considered a violation of section 2721 of title 18, United States Code, and is permissible use under subsection (c)(1)(C) or (D) if the Secretary confirms that the System check, and 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.

- (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 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.

- (ii) EXTENDING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner to maximize maximum accuracy and shall provide a process for the prompt correction of erroneous information.

- (iii) 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.

- (iv) 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)(B)(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.

- (B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(B)(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 when a System determination indicates that the System may not provide further action notices.

- (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.

- (E) An assessment of the rate of employee noncompliance in each of the following categories:

- (i) Obtaining employment when unauthorized with an employer employing with the System.

- (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.

- (G) 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 report shall include, at a minimum, the following:

- (i) An assessment of System performance with respect to the rate at which individuals who are not authorized to be employed in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens and 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 harmed by fraud committed 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) Recommendations of the Comptroller General regarding System improvements.

- (vi) An assessment of the frequency and manner of changes in 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 verification 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.

- (x) OUTFRONT AND PARTNERSHIP.—

- (A) OUTFRONT.—The Secretary may conduct outreach and establish initiatives to assist employers in verifying employment authorization and preventing identity fraud.

- (B) PARTNERSHIP INITIATIVE.—The Secretary may establish initiatives to enhance relationships between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.

- (C) 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 compelling 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 such provisions for contempt and further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E); and

- (C) 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 Security Administration.

‘‘(3) COMPLIANCE PROCEDURES.—

‘‘(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there is a violation of this section or any regulation thereunder, the Secretary shall issue to the employer concerned a written notice of such violation. The Secretary may, in such notice, request an opportunity for the employer to present written statements as to why a monetary or other penalty shall not be imposed.

‘‘(B) EMPLOYER’S RESPONSE.—Whenever any employer receives a written pre-penalty notice of a violation under this section, the employer, upon receipt of such notice, file with the Secretary its written response to the notice. The response shall include an evidence or proffer of evidence that the employer wishes to present with respect to whether the employer violated this section and the administrative law judge deems appropriate under subparagraph (A) and any other forfeitures of either subsection (a)(1)(A) or (a)(2) occurred.

‘‘(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) less than $500 and not more than $2,000, for each violation shall be fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation;

‘‘(ii) if an employer has previously been fined under this paragraph, not less than $3,000 and not more than $7,000 for each violation; and

‘‘(iii) if an employer has previously been fined more than once under this paragraph, not less than $15,000.

‘‘(D) OTHER PENALTIES.—The Secretary may impose additional penalties for violations of terms and conditions of a civil money penalty claim, if the Secretary determines that the employer has violated the terms and conditions for a civil money penalty claim.

‘‘(4) CIVIL PENALTIES.—

‘‘(A) P RE-PENALTY NOTICE .—If the Secretary has reasonable cause to believe that there has been a civil violation of this section, the Secretary is authorized, at any time, to notify the employer that it is in compliance with this section, or that it is not in compliance with this section, and require the employer to certify that it is in compliance with this section, or has instituted a program to come into compliance with this section.

‘‘(B) EMPLOYER CERTIFICATION.—

‘‘(i) EMPLOYER CERTIFICATION.—Except as provided in subparagraph (C), not later than 60 days after receiving a notice of either subsection (a)(1)(A) or (a)(2), the employer shall provide 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 documentation verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to all employers), and 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 displace any other penalty provided by this section.

‘‘(5) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to a final determination of penalty under subsection (d), the court may not review the determination, including cease and desist orders, special compliance plans, and special compliance program, the size and level of sophistication of the penalty claim at issue, the setting of any monetary or other penalty should not be imposed.

‘‘(6) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to a final determination of penalty under subsection (d), the court may not review the determination, including cease and desist orders, special compliance plans, and special compliance program, the size and level of sophistication of the penalty claim.

‘‘(7) Enforcement of the Final Determination.—If a final determination is made and an employer fails to file a brief within the time provided for in subparagraph (a)(2), and with any additional requirements that the Secretary may promulgate by rule pursuant to subparagraph (d), the court shall enter an order of internal review and compliance, if the employer fails to file a brief within the time provided for in subparagraph (a)(2), and with any additional requirements that the Secretary may promulgate by rule pursuant to subparagraph (d), the court shall enter an order of internal review and compliance.

‘‘(8) COMPLIANCE.—If a final determination is made and an employer fails to file a brief within the time provided for in subparagraph (a)(2), and with any additional requirements that the Secretary may promulgate by rule pursuant to subparagraph (d), the court shall enter an order of internal review and compliance.

‘‘(9) 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) less than $500 and not more than $2,000, for each violation shall be fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation;

‘‘(ii) if an employer has previously been fined under this paragraph, not less than $3,000 and not more than $7,000 for each violation; and

‘‘(iii) if an employer has previously been fined more than once under this paragraph, not less than $15,000.

‘‘(10) ORDER OF INTERNAL REVIEW AND COMPLIANCE.—If the administrative law judge deems appropriate 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 documentation verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to all employers), and has instituted a program to come into compliance with these requirements.

‘‘(11) 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.

‘‘(12) 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 displace any other penalty provided by this section.

‘‘(13) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to a final determination of penalty under subsection (d), the court may not review the determination, including cease and desist orders, special compliance plans, and special compliance program, the size and level of sophistication of the penalty claim.

‘‘(14) Enforcement of the Final Determination.—If a final determination is made and an employer fails to file a brief within the time provided for in subparagraph (a)(2), and with any additional requirements that the Secretary may promulgate by rule pursuant to subparagraph (d), the court shall enter an order of internal review and compliance.

‘‘(15) COMPLIANCE.—If a final determination is made and an employer fails to file a brief within the time provided for in subparagraph (a)(2), and with any additional requirements that the Secretary may promulgate by rule pursuant to subparagraph (d), the court shall enter an order of internal review and compliance.

‘‘(16) 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) less than $500 and not more than $2,000, for each violation shall be fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation;

‘‘(ii) if an employer has previously been fined under this paragraph, not less than $3,000 and not more than $7,000 for each violation; and

‘‘(iii) if an employer has previously been fined more than once under this paragraph, not less than $15,000.

‘‘(17) ORDER OF INTERNAL REVIEW AND COMPLIANCE.—If the administrative law judge deems appropriate 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 documentation verification requirements, and with subsection (d), pertaining to the System (once the System is implemented with respect to all employers), and has instituted a program to come into compliance with these requirements.

‘‘(18) 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.

‘‘(19) 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 displace any other penalty provided by this section.
provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(E) SCOPE AND STANDARD FOR REVIEW.—The court shall conduct a de novo review of the administrative record on which the final determination was based and any additional evidence that the Court finds was previously unavailable at the time of the administrative hearing.

"(F) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final determination only if—

"(i) the petitioner has exhausted all administrative remedies available to the petitioner with respect to the determination in question; and

"(ii) another court has not decided the validity of the order, unless the reviewing court determines 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 section 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 collection of the amounts due, and the court finds that the employer comply with the final determination.

"(H) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—In any such civil action, the court shall have jurisdiction to require the return of any amounts 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, and from participation in any other Federal programs or activities.

"(I) RIGHT TO HABITUAL CRIMINAL.—In any such civil action, the court shall have the right to any criminal conviction, including any administrative law judge's determination, and the court shall have the right to any other Federal program or activity, or under the authority of the Secretary to have violated this section, is contrary to applicable provisions of this section or was issued through this paragraph.

"(J) CHALLENGES TO VALIDITY OF THE SYSTEM.—

"(1) IN GENERAL.—Any right, benefit, or order, except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Comptroller of the Currency.

"(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 not more than $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. If the employee cannot be located, the general fund of the Treasury.

"(2) TERRY OF IMPRISONMENT.—The maximum term of imprisonment of a person convicted of a crime under this section is 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 is unable to enforce the order against an employer, it is hereby declared to be the policy of the Congress that the remedy provided in this section is required to be imposed against the employer, so that an employer engaging in a pattern or practice of employment in violation of subsection (a)(1)(A) or (a)(2), the Attorney General may bring an action in any appropriate court of the proper state or of the United States for the proper enforcement of the law, and for the protection of the rights of employees, and for the enforcement of the national labor policy set forth in section 1 of this title, and for any other appropriate relief.

(4) MONITORING.—The Secretary of Labor and the Attorney General shall jointly designate the monitoring, compliance, and enforcement personnel necessary to effectuate the requirements of this section.

(5) CONSTRUCTION OF STATUTES.—Nothing in this section shall be construed to authorize the Secretary of Labor to seek the adjudication of an unfair labor practice, or to bring suit on behalf of any employee who is not a party to such unfair labor practice.

(a) SUMMARY.—This section applies to any pattern or practice of employment in violation of subsection (a)(1)(A) or (a)(2), if the pattern or practice affects commerce, and the pattern or practice is not authorized by law.

(b) PROHIBITIONS.—The Secretary of Labor or the Attorney General may bring an action in any appropriate court of the United States for

(A) a permanent or temporary injunction restraining the violation of this section;

(B) an order enjoining the violation of this section;

(c) DAMAGES.—In any action under this section, the prevailing party shall be entitled to recover reasonable attorney’s fees and costs from the adverse party.

(d) REPORT.—The Secretary of Labor shall submit to Congress a report describing the results of the action under this section, and the Secretary shall make such report available to the public.

(e) DISCLOSURE.—Notwithstanding any other provision of law, the Secretary of Labor and other appropriate Federal agencies shall disclose any information relating to the administration of this section to any person who is a party to a civil action brought under this section.

(f) EFFECTS.—This section shall not affect any cause of action that accrued before the date of the enactment of this Act.

(g) ENFORCEMENT.—Nothing in this section shall be construed to authorize the Secretary of Labor to seek the adjudication of an unfair labor practice, or to bring suit on behalf of any employee who is not a party to such unfair labor practice.

(h) MONITORING.—The Secretary of Labor and the Attorney General shall jointly designate the monitoring, compliance, and enforcement personnel necessary to effectuate the requirements of this section.

(i) CONSTRUCTION OF STATUTES.—Nothing in this section shall be construed to authorize the Secretary of Labor to seek the adjudication of an unfair labor practice, or to bring suit on behalf of any employee who is not a party to such unfair labor practice.

(j) ENFORCEMENT.—Nothing in this section shall be construed to authorize the Secretary of Labor to seek the adjudication of an unfair labor practice, or to bring suit on behalf of any employee who is not a party to such unfair labor practice.

(k) MONITORING.—The Secretary of Labor and the Attorney General shall jointly designate the monitoring, compliance, and enforcement personnel necessary to effectuate the requirements of this section.

(l) CONSTRUCTION OF STATUTES.—Nothing in this section shall be construed to authorize the Secretary of Labor to seek the adjudication of an unfair labor practice, or to bring suit on behalf of any employee who is not a party to such unfair labor practice.
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.

(B) 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 any 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 identification verification system, service, or method (in addition to the employment verification system established by section 274A(d)) after 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)(1)(P) 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.

(C) 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 of any portion of the System that is not more than 5 years, or both.

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 social security cards.

(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, when such number is known not to be a social security account number, and available to the person, entity, or employment agency that is not valid for employment.

(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 1901, there shall be available such sums as may be necessary to carry out this section and any other prescribed by this Act, as follows:

(a) 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 by—

(1) inserting “(i)” after “(G)”;

(2) by adding at the end the following:

(ii) The Commissioner of Social Security shall restrict the 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 the limits under this clause on a case-by-case basis in compelling circumstances.”;

(b) 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

(1) knowingly uses, 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 a 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 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 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

(5) sells or offers for sale any social security account number or social security card;

(6) knowingly uses, distributes, or transfers a social security account number or a social security card knowing that the number or card is to be intentionally altered, counterfeited, forged, falsely made, or stolen; or

(7) 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, and 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 the System 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 paragraph (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 of Homeland Security.

SEC. 2004. RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

“PART E—EMPLOYMENT VERIFICATION

SEC. 1186. RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

(1) CONFIRMATION OF EMPLOYMENT VERIFICATION DATA.—The System is 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) completes the correspondence of 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 certified;

(2) determines the correspondence of the name, date of birth, and number;

(3) determines whether the individual has presented a social security account number that is not valid for employment.

(2) 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 274(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended to read as follows:

“PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

(1) PROHIBITION ON DISCRIMINATORY GENERAL EMPLOYMENT PRACTICES.—It is an unfair immigration-related employment practice for a person, other entity, or employment agency, to discriminate

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against any individual (other than an unauthorized alien defined in section 274A(b) because of such individual’s national origin or citizenship status, with respect to the following:

(‘‘A’’) The hiring of the individual for employment.

(‘‘B’’) The verification of the individual’s eligibility to work in the United States.

(‘‘C’’) The discharging of the individual from employment.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if acting in good faith if:

(‘‘A’’) A person, other entity, or employer that employs 3 or fewer employees, except for an employment agency.

(‘‘B’’) A person’s or entity’s discrimination because of an individual’s national origin if the discrimination with respect to that employer, person, or entity and that individual’s employment 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 EXCEPTIONS PROVIDING RIGHT TO PREPARE EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for an employer—

(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 employer has received a notice 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 such section;

(c) to use the System to verify the employment authorization of a current employee, including an employee continuing in employment, other than reverification upon expiration of employment authorization, or as otherwise authorized under section 274A(d) or by regulation;

(d) to use the system selectively for employees, except where authorized by law;

(e) to fail to provide to an individual any notice required in section 274A(d) within the relevant time period;

(f) to use the System to deny workers’ employment or post-employment benefits;

(g) to misuse the System to discriminate based on national origin or citizenship status;

(h) to require an employee or prospective employee to use any self-verification feature of the System only to provide, as a condition of application or employment, any self-verification results;

(i) to use an immigration status verification system for a purpose or in a manner 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 protect against unauthorized loss, use, alteration, or destruction of System data.

(6) PROHIBITION OF INTIMIDATION OR RETALIATION AGAINST IMMIGRATION-RELATED EMPLOYMENT PRACTICE.—It is also an unfair immigration-related employment practice for a person, other entity, or employment agency to—

(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 a manner in an investigation, proceeding, or hearing under this section.

(7) 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.

(8) PROFESSIONAL, COMMERCIAL, AND BUSINESS LICENSES.—An individual who is authorized to employ noncitizens 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.

(10) PROHIBITION OF WITHHOLDING EMPLOYMENT RECORDS.—It is an unfair immigration-related employment practice for an employer to require an employee or any person, or to fail to provide to an individual any employment records, including dates or hours of work and wages received, to fail to provide such records to any employee upon request.

(11) PROFESSIONAL, COMMERCIAL, AND BUSINESS LICENSE EXEMPTION.—An employer shall not be treated as failing to comply with this title if such employer provides, or continues to provide, an immigration status verification system, service, or method other than the System, or provide, as a condition of employment, or honor documents tendered that reason-ably appear to be genuine, if the following:

(A) The hiring of the individual for employment, other than reverification upon destruction of System data.

(B) The verification of the individual’s eligibility to work in the United States.

(C) The discharging of the individual from employment.

(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, and not more than 2 years after such date, the Secretary of Homeland Security shall issue interim final regulations implementing sections 2005, 2006, and 2007 and the amendments made by such sections (except for section 2006 of the Immigration and Nationality Act); and

(2) EFFECTIVE DATE.—Regulations issued pursuant to paragraph (1) shall become 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’’).

(b) PURPOSE.—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 attempted compliance with such requirements.

(c) 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 with respect to regulations under subsections (c) and (d) of that section.

(2) Assisting small businesses and individuals in addressing allegedly erroneous failure to provide, as a condition of employment, an immigration status verification system with respect to regulations 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, 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 (b) of section 274A of the Immigration and Nationality Act to mitigate the problems identified under paragraph (2).

(5) Making recommendations through the Secretary to Congress for legislative action to mitigate such problems.

(c) AUTHORITY TO ISSUE ASSISTANCE ORDER.—

(1) IN GENERAL.—Upon application filed by a small business or individual with the Office (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Office may issue an assistance order if—

(A) the Office determines the small business or individual is suffering or about to suffer a significant hardship as a result of the manner in which the employment verification system operates; and

(B) the small business or individual meets such other requirements as are set forth in regulations prescribed by the Secretary.

(2) DETERMINATION OF HARM.—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 fails to follow applicable published administrative guidance, the Office shall construe the factors taken into account in determining whether to issue an assistance order under this subsection as those factors 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 was determined to be arbitrary, capricious, or disproportionate to the underlying offense.

(5) AUTHORITY TO MODIFY OR RESCIND.—Any assistance order issued by the Office under this subsection may be modified or rescinded—

(A) only by the Office, the Director or Deputy Director of U.S. Citizenship and Immigration Services, or the Secretary or the Secretary’s designee; and

(B) if rescinded by the Director or Deputy Director of U.S. Citizenship and Immigration Services, only if a written explanation of the reasons for such official for the modification or rescission is provided to the Office.

(6) LIMITATION.—The running of any period of limitation with respect to an action described in paragraph (4)(A) shall be suspended for—

(A) the period beginning on the date of the small business or individual’s application for assistance under this subsection 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.—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 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:

SEC. 4. FEDERAL PELL GRANT ELIGIBILITY FOR DREAMER STUDENTS.

Section 494 (30 U.S.C. 1091) is amended—

(1) in subsection (a)(5), by inserting ‘‘or be a Dreamer student, as defined in subsection (a)’’ after ‘‘becoming a citizen or permanent resident’’; and

(2) by adding at the end the following:

(1) DREAMER STUDENTS.—

(A) in general.—In this section, the term ‘Dreamer student’ means an individual who—

(i) was younger than 16 years of age on the date on which the individual initially entered the United States; or

(ii) has provided a list of each secondary school that the student attended in the United States; and

(iii) has—

(I) 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 Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents’’; 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’’; or

(III) 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, of paragraph (1); and

(B) satisfies the requirements of subparagraph (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. 235. 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 212(f) 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 the 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 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 average yearly 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 consultation with the Secretary of Health and Human Services and the Assistant Secretary for the Administration for Children and Families, develop guidelines for the treatment of unaccompanied alien children; and (2) DUTIES.—Child welfare professionals, as defined in paragraph (1), shall—

(A) an interview and screening with a child welfare professional to screen unaccompanied alien children; (B) a description of the screening procedures used by the child welfare professionals to screen unaccompanied alien children; (C) notify the Department of Immigration and Customs Enforcement of an unaccompanied alien child in the custody of the Department; (D) conduct screening on behalf of the Department of 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. 1362(c)); (E) notify the Department and the Office of Refugee Resettlement of an unaccompanied alien child in the custody of the Department; (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 on the basis of the Prison Rape Elimination Act of 2003 (42 U.S.C. 1990(f) and (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 legal services and consular officials; and (vii) is provided to make supervised phone calls to family members.

(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 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. 1252)); (iii) the office of the child's file; (iv) the child's right to confer with counsel; and (v) the child's right to appeal any adverse decision. (2) DUTIES.—The Secretary shall ensure that—

(A) the video orientation and written notice of rights described in paragraph (1) is provided in the child's native language or in the language the child speaks most comfortably; (B) the Secretary shall adopt fundamental child protection policies and procedures 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.

(i) 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 (h)(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 how the 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.

(II) the anti-terror provision.—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 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. 1. 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 (8 U.S.C. 279).

(b) PROVISIONAL TREATMENT.—If a child is removed to her or his home country, and to which countries they were removed.

(c) TOTAL NUMBER OF UNACCOMPANIED ALIEN CHILDREN.—The total number of unaccompanied alien children who demonstrated trafficking indicators.

(d) RETURN TO HOME COUNTRY.—If a child is not removed from the United States at the time of the death of the qualifying relative and who continues to reside in the United States, the status of such child 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(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(1)) is amended—

(A) by striking ‘‘After an investigation’’ and inserting the following:

‘‘(1) In general.—‘‘After an investigation’’;

(B) by adding at the end of 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 203(b)(2)(A));

(ii) is a derivative beneficiary of an employment-based immigrant under section 203(b)(2)(C) (as described in section 203(c)(2)); or

(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d));

(ii) is a spouse, partner, or child of a refugee (as described in section 207(c)(2)) or an asylee (as described in section 208(b)(3)).

(B) 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 BAR 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; and

(2) by inserting ‘‘If the spouse is deceased, the alien was a citizen of the United States’’ after ‘‘citizen of the United States’’.

(d) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesigning the second subsection (c) as subsection (u); and

(2) by adding at the end the following:

‘‘(u) 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 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(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(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).’’

IMMEDIATE RELATIVES.—Section 204(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(2)(A)(i)) is amended by striking ‘‘within 2 years after such date’’.

(f) 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 an surviving relative under section 204(i); 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. 3. . RELIEF FOR ORPHANS, WIDOWS, AND ORPHANS.

(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—

(U) the sibling of a citizen of the United States; or

(UII) the married son or married daughter of a citizen of the United States who is older than 31 years of age;’’.

(b) EMPLOYMENT AND PERIOD OF ADMISSION OF NONIMMIGRANTS DESCRIBED IN SECTION 101(a)(15).—Section 214(q) of such Act (8 U.S.C. 1116(q)) is amended by striking ‘‘as follows:’’ and inserting ‘‘as follows:’’;
‘‘(1) CERTAIN SONS AND DAUGHTERS.—

‘‘(A) EMPLOYMENT AUTHORIZATION.—The Secretary shall—

‘‘(i) authorize a nonimmigrant admitted pursuant to section 101(a)(15)(V)(ii) 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) PERIOD OF ADMISSION.—The period of authorized admission for such a non-immigrant shall terminate 30 days after the date on which—

‘‘(i) a 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 pursuant to section 101(a)(15)(V)(iv) to engage in employment in the United States.

‘‘(B) PERIOD OF ADMISSION.—The period of authorized admission for such a non-immigrant 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 non-immigrant.

‘‘(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 409 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611)).

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 her to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow

SEC. 2. IMMIGRATION JUDGES.

(a) SWAP TITLE.—The section may be cited as the “Immigration Court Improvement Act of 2018”.

(b) FINDING; SENSE OF CONGRESS.—

(1) FINDING.—Congress finds that the United States tradition as a nation of laws and a nation of immigrants is best served by effective, fair, and impartial immigration judges, who have decisional independence and are free from political influence.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) immigration judges should be fair and impartial and have decisional independence that is free from political pressure or influence; and

(B) in order to promote even-handed, non-biased, decision making that is representative of the public at large, immigration judges should be a pool of candidates with a variety of legal experience, such as law professors, private practitioners, representatives of pro bono service organizations, and governmental attorneys; and

(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 subpart B of part I of chapter 4.

(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 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 adversarial proceedings if—

(i) the immigration judge is acting in his or her personal capacity and does not reflect any official positions or policies; 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.

(2) PERFORMANCE APPRAISALS.—Any system of completion goals or other efficiency standards imposed on immigration judges (as defined in section 101(a)(15)(V) 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 promulgate interim regulations governing the process that is consistent with the Guidelines for the Evaluation of Judicial Performance established by the Judicial Performance Evaluation Center and the judicial performance evaluation principles developed by the Institute for the Advancement of the American Legal System.

(4) ANNUAL LEAVE.—Every immigration judge shall be presumed to have 15 years of Federal service for the purpose of the accrual of annual leave.

(5) CONTINUING LEGAL EDUCATION.—

(A) IN GENERAL.—In addition to the training required under section 606(c)(1) of the International Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), the Attorney General shall provide immigration judges with—

(i) meaningful, ongoing training, including annual, in-person training, including current knowledge of immigration 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; or

(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) CONFLICT OF INTEREST.—

(A) RULEMAKING.—

(i) INTERNAL 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)(i), 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 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

SEC. 3. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS.

(a) APPOINTMENT OF COUNSEL IN REMOVAL PROCEEDINGS; RIGHT TO REVIEW COURT DECISIONS.—

At the appropriate place, insert the following:

TITLE.—FAIR DAY IN COURT FOR KIDS ACT.

This title may be cited as the “Fair Day in Court for Kids Act of 2018”.

SEC. 4. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL SERVICES.

(a) APPOINTMENT OF COUNSEL IN REMOVAL PROCEEDINGS; RIGHT TO REVIEW COURT DECISIONS.—

At the appropriate place, insert the following:

TITLE.—FAIR DAY IN COURT FOR KIDS ACT.

This title may be cited as the “Fair Day in Court for Kids Act of 2018”.

SEC. 5. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS.

(a) APPOINTMENT OF COUNSEL IN REMOVAL PROCEEDINGS; RIGHT TO REVIEW COURT DECISIONS.—

At the appropriate place, insert the following:
(c) Pro Bono Representation.—

(1) In General.—To the maximum extent practicable, the Attorney General should make every effort to utilize the services of counsel appointed on a pro bono basis to provide representation to such children under subsection (b) without charge.

(2) Development of Necessary Infrastructure and Systems.—The Attorney General shall develop the necessary mechanisms to identify counsel available to provide pro bono legal assistance and representation to children under subsection (b) and to recruit such counsel.

(3) Contracts; Grants.—The Attorney General may enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children to carry out the responsibilities under this section, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(4) Nonprofit agencies that receive grants under paragraph (3) shall be required to—

(A) develop a protocol with legal service providers through the American Bar Association's Model Rules of Professional Conduct, and other relevant domestic or international sources; and

(B) provide ongoing legal orientation and assistance to each such alien.

(5) Other Actions.—The Attorney General shall be required to take all reasonable actions to facilitate the availability of counsel to aliens under subsection (b) and to recruit such counsel.

(b) Address to Counsel for Unaccompanied Alien Children.—

(1) In General.—Except as provided in subsections (a) and (b), no removal proceeding shall proceed until the alien, or the alien's counsel, if the alien is represented—

(A) receives the documents required under paragraphs (a)(1) and (2); and

(B) has been provided at least 10 days to review and assess such documents.

(2) Clarification Regarding the Authority of the Attorney General to Appoint Counsel to Aliens in Immigration Proceedings.—

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 counsel as may be authorized to practice in such proceeding as he or she may choose to practice thereon.

(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 1225a of the Immigration and Nationality Act, as added by this title) shall be represented by Government-appointed counsel, as Government expense.

(2) Limitation of Representation.—Once a child is designated as an unaccompanied alien child, as defined in section 1225a of the Immigration and Nationality Act, as added by this title, 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.

(3) Notice.—Not later than 72 hours after an unaccompanied alien child is taken into Federal custody, the alien shall be notified that she or he will be provided with legal counsel in accordance with this subsection.

(4) Within Detention Facilities.—The Secretary of Homeland Security shall ensure that each unaccompanied alien child has access to counsel inside detention, holding, and border facilities.

(5) Pro Bono Representation.—

(1) In General.—To the maximum extent practicable, the Attorney General should make every effort to utilize the services of counsel appointed on a pro bono basis to provide representation to such children under subsection (b) without charge.

(2) Development of Necessary Infrastructure and Systems.—The Attorney General shall develop the necessary mechanisms to identify counsel available to provide pro bono legal assistance and representation to children under subsection (b) and to recruit such counsel.

(3) Contracts; Grants.—The Attorney General may enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children to carry out the responsibilities under this section, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys. Nonprofit agencies that receive grants under paragraph (3) shall be required to—

(A) develop a protocol with legal service providers through the American Bar Association’s Model Rules of Professional Conduct, and other relevant domestic or international sources; and

(B) provide ongoing legal orientation and assistance to each such alien.

(c) Other Actions.—The Attorney General shall be required to take all reasonable actions to facilitate the availability of counsel to aliens under subsection (b) and to recruit such counsel.

Sec. 292A. 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 to seek out 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 1952 recognized that families should not be kept apart based on the places close relatives were born.
proportion of physical barriers on certain federal land to protect wildlife.

(2) 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. 06. PROCEDURES FOR LAWFUL ACCESS TO DIGITAL DATA AT THE BORDER.

(a) STANDARD.—Subject to subsection (b), a Governmental entity may—

(1) access the digital contents of any electronic equipment belonging to or in possession of a United States person at the border within 4 hours, necessary to determine whether the digital contents has been destroyed.

(2) deny entry into or exit from the United States as a whole.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) reasonably determines that—

(1) an emergency situation exists that involves—

(aa) immediate danger of death or serious physical injury to any person; or

(cc) conspiratorial activities threatening the national security interest of the United States; or

(II) the emergency situation described in clause (i) requires access to the digital contents of the electronic equipment before a warrant described in subsection (a)(1) could be issued authorizing such access; and

(II) 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 a search warrant, but not later than 7 days after the investigative or law enforcement officer accesses the digital contents under the authority under this subparagraph.

(B) WARRANT NOT OBTAINED.—If an application for a warrant described in subparagraph (A)(i) is denied, or in any other case in which an investigative or law enforcement officer accesses the digital contents of electronic equipment belonging to or in possession of a United States person at the border without a warrant 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 who accessed the digital contents shall notify the United States person that any copy of the digital contents has been destroyed.

(c) 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 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 who accessed the digital contents shall notify the United States person that any copy of the digital contents has been destroyed.

(d) 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 possession of the digital contents of an online account of the United States person;

(ii) disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account; or

(A) disclose an access credential that would enable access to the digital contents of electronic equipment or the digital contents of an online account; or

(B) provide online account information; or

(C) provide access to the digital contents of electronic equipment or the digital contents of an online account; or

(d) Emergency Requirements.—

(1) EMERGENCY SITUATIONS—

(A) by any Governmental entity;

(B) by any law enforcement officer of a Governmental entity who is designated by the Secretary of Homeland Security; or

(C) by a United States person;

(i) Access and Use of Digital Data.—

(1) Access and Use of Digital Data.—

(2) EXECUTE WARRANT.—

(A) IN GENERAL.—A Governmental entity may access the digital contents of electronic equipment or the digital contents of an online account of the United States person:

(i) before a warrant authorized by paragraph (a) is issued, 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); and

(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; or

(iii) provide access to the digital contents of electronic equipment or the digital contents of an online account of the United States person; or

(b) 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 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 United States persons entering or exiting the United States, without a lawful warrant based on probable cause, is unreasonable under the Fourth Amendment.

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;

(2) limit the authority of a Governmental entity under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
(iv) provide online account information of the United States person.

(B) CONTENTS.—The notice described in this subparagraph is written in a language understood by the United States person that the Governmental entity—

(i) may not—

(1) 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—

(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 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.—Whenever any 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, 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 in a language understood by the United States person that the Governmental entity—

(i) indicates the United States person understands the protections and limitations described in paragraph (1)(B).

(ii) states that the United States person—

(1) providing consent to the Governmental entity to access certain digital contents or consensually disclosing an access credential; or

(II) consensually providing online account information; and

(iii) specifies the digital contents, access credential, or online account information with respect to which the United States person is providing consent.

(d) RETENTION OF DIGITAL CONTENTS.—

(1) LAWFUL ACCESS.—A Governmental entity that obtains access to the digital contents of electronic equipment, the digital contents of an online account, or online account information with this section may not make or retain a copy of the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, unless there is probable cause to believe the digital contents or online account information contains 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 or the digital contents of an online account, or online account information in a manner that is not in accordance with this section, the Governmental entity—

(A) shall immediately destroy any copy of the digital contents or online account information, and any information directly or indirectly derived from the digital contents or online account information, in the custody or control of the Governmental entity;

(B) may not disclose the digital contents or online account information, or any information directly or indirectly derived from the digital contents or online account information, to any other Governmental entity or a State or local government; and

(C) shall notify the United States person that any copy of the digital contents or online account information, and any information 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. 98. AUDIT AND REPORTING REQUIREMENTS.

In March of each year, the Secretary of Homeland Security shall prepare an audit and report and make publicly available on the Web site of the Department of Homeland Security a report that includes the following:

(A) The number of times during the previous year that an officer or employee of the Department of Homeland Security did each of the following:

(1) 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.

(2) Accessed the digital contents of any electronic equipment belonging to or in the possession of a United States person at the border pursuant to emergency authority under section 505(b).

(B) 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, or the digital contents of an online account 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 an individual at the border.

(F) Accessed the digital contents of electronic equipment or the digital contents of an online account of an individual at the border using an access credential pursuant to written consent provided in accordance with section 505(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, or the digital contents of an online account of an individual who is not a United States person at the border.

(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.

(1) 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 obtaining the digital contents or online account information.

(2) Aggregated data on the number of United States persons for which a Governmental entity obtains access to—

SEC. 99. 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 the electronic equipment contains information that is relevant to an allegation that the United States person has committed a felony.
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. 5702. 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:

* * *

SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION HIRING AND RETENTION.

(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 within an area defined and designated as an urbanized area by the Bureau of the Census in the most recently completed decennial census;

(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.—In determining 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—

(A) 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

(B) 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 Retention 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 as CBP employees, in a rural or remote area, if the Secretary—

(i) determines that—

(A) there is a critical hiring need; and

(B) 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 preference for the hiring of veterans established under subchapter I of chapter 33.

(2) Recruitment and Retention Bonuses.—The Secretary may pay a bonus to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

(A) the Secretary determines that—

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

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

(1) is a position as a CBP employee; and

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

(C) 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 the subsection; and

(C) online account information of the individual while at the border.

SA 1994. Mr. WYDEN submitted an amendment intended to be proposed by Mr. HARKIN of Iowa, Mr. WYDEN of Oregon, Mr. LEVIN of Michigan, and Mr. Kويل of California, 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. 9702. U.S. CUSTOMS AND BORDER PROTECTION HIRING AND RETENTION.

(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 within an area defined and designated as an urbanized area by the Bureau of the Census in the most recently completed decennial census;

(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.—In determining 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—

(A) 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

(B) 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 Retention Bonuses; Retention Bonuses.—The Secretary may pay a retention bonus to a CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

(A) the Secretary determines that—

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

(ii) the amount of the bonus; and

(iii) other terms and conditions under which the bonus is payable, subject to the requirements of the subsection; and

(C) online account information of the individual while at the border.

SA 1995. Ms. HEITKAMP submitted an amendment intended to be proposed
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February 14, 2018

“(A) imposing CBP hiring and retention

(1) 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 for employees who are involved in the recruitment, hiring, assessment, or selection of candidates, as well as the retention of current employees.

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

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

(B) Developing and enhancing strategic recruiting efforts through relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement programs, as appropriate, to address identified hiring challenges in rural or remote areas.

(C) Developing or updating training programs or other programs, as appropriate, to address identified hiring challenges in rural or remote areas.

(D) Developing and enhancing strategic recruiting efforts through relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement programs, as appropriate, to address identified hiring challenges in rural or remote areas.

(E) 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 remote areas for new hires and their families.

(F) Feedback from CBP employees, other than new hires, 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.

(G) 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 Department;

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

(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; and

(ii) other information the Secretary determines relevant.

(4) 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.

(1) 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 LAW ENFORCEMENT AGENCIES.—The term ‘eligible law enforcement agencies’ means—

(1) Federal agencies, including the Department of Homeland Security, the Department of Justice, the National Guard, the Coast Guard, the Department of Transportation, and the Federal Bureau of Investigation.

(2) State, local, or tribal law enforcement agencies, including—

(A) the Department of Homeland Security, the Department of Justice, the National Guard, the Coast Guard, the Department of Transportation, and the Federal Bureau of Investigation;

(B) any State or territory with a maritime border; and

(C) any State or territory without a maritime border.

(3) STATE GRANTS.—The Secretary shall make grants under this subsection—

(A) to eligible law enforcement agencies that—

(i) operate within a State that is not a border State; or

(ii) operate on behalf of a State that is a border State; or

(iii) operate on behalf of a State that is not a border State; or

(iv) are under the jurisdiction of the Department of Homeland Security.

(B) to the extent—

(i) the amount of the grant is not less than the amount of any prior grant to the eligible law enforcement agency; and

(ii) the grant is for a period of not more than 2 years.

(4) REPORT.—Not later than 180 days 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 subsection (b), and report to the Committee on Homeland Security of the Senate and the Committee on Homeland Security of the House of Representatives on the results of the review.

(5) USE OF FLEXIBILITY.—The Secretary shall submit to Congress a report on each review required under paragraph (1).
"(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

"(3) any activity permitted for Operation Border Interdiction 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) PROCUREMENT.—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 and 2020.

"(g) IMPLEMENTATION PLAN.—In developing a new implementation plan for the strategy to the appropriate congressional committees not later than 180 days after the strategy is submitted to the appropriate congressional committees, the Secretary shall include—

"(1) the specific technology, personnel, and infrastructure needs of the Department of Homeland Security; and

"(2) any changes in Department policy required to successfully implement the strategy.

"SEC. 4. NORTHERN BORDER STRATEGY.

"(a) IN GENERAL.—If the Secretary develops a new Northern Border strategy under section 3, the Secretary shall submit to the appropriate congressional committees a new implementation plan for the strategy to the appropriate congressional committees not later than 180 days after the strategy is submitted to the appropriate congressional committees.

"(b) IMPLEMENTATION PLAN REQUIREMENTS.—In developing a new implementation plan under this section, the Secretary shall include—

"(1) the specific technology, personnel, and infrastructure needs of the Department of Homeland Security; and

"(2) any changes in Department policy required to successfully implement the strategy.

"SEC. 5. NORTHERN BORDER STRATEGY IMPLEMENTATION PLAN.

"(a) IN GENERAL.—If the Secretary develops a new Northern Border strategy under section 4, the Secretary shall submit a new implementation plan for the strategy to the appropriate congressional committees not later than 180 days after the strategy is submitted to the appropriate congressional committees.

"(b) IMPLEMENTATION PLAN REQUIREMENTS.—In developing a new implementation plan under this section, the Secretary shall include—

"(1) the specific technology, personnel, and infrastructure needs of the Department of Homeland Security; and

"(2) any changes in Department policy required to successfully implement the strategy.

"SEC. 6. LIMITATION ON RESOURCES TRANSFERS FROM THE NORTHERN BORDER.

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

"(A) the same period of time for which the principal alien is admitted;

"(B) a period of 3 years;

"(C) or renewing the status made under paragraph (1);

"(D) may renew a grant or extension of status made under paragraph (1); and

"(E) granting employment authorization to an abused derivative alien; and

"(f) by adding at the end of the section the following:

"(G) section 106 as an abused derivative alien.

"SEC. 7. 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 this section 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:


The Northern Border Security Review Act (Public Law 114–267) is amended—

"(1) in section 3(a)—

"(A) the alien is admissible under section 101(a)(15);

"(B) a period of 3 years;

"(C) or renewing the status made under paragraph (1);

"(D) may renew a grant or extension of status made under paragraph (1); and

"(E) granting employment authorization to an abused derivative alien; and

"(f) by adding at the end of the section the following:

"(G) section 106 as an abused derivative alien.

"SEC. 6. Limitation on Resources Transfers from the Northern Border.

"(a) Definitions.—In this section:

"(1) Appropriate Congressional Committees.—The term ‘appropriate congressional committees’ means—

"(A) the House of Representatives and the appropriate congressional committees;

"(B) the Committee on Appropriations of the Senate;

"(C) the Committee on the Judiciary of the Senate;

"(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(E) the Committee on Appropriations of the House of Representatives; and

"(F) the Committee on the Judiciary of the House of Representatives.

"(b) Northern Border.—The term ‘Northern Border’ means the land and maritime borders between the United States and Canada.

"(c) 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.

"(d) 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.

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:

"(1) in general.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), as amended by section 2505(d)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as further amended—

"(A) in paragraph (5), by striking ‘or’ at the end of the paragraph;

"(B) in subparagraph (F), by striking the period at the end and inserting a semicolon and ‘or’; and

"(c) by adding at the end of the section 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 this section 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:


The Northern Border Security Review Act (Public Law 114–267) is amended—

"(1) in section 3(a)—

"(A) the alien is admissible under section 101(a)(15);

"(B) a period of 3 years;

"(C) or renewing the status made under paragraph (1);

"(D) may renew a grant or extension of status made under paragraph (1); and

"(E) granting employment authorization to an abused derivative alien; and

"(f) by adding at the end of the section the following:

"(G) section 106 as an abused derivative alien.

"SEC. 6. Limitation on Resources Transfers from the Northern Border.

"(a) Definitions.—In this section:

"(1) Appropriate Congressional Committees.—The term ‘appropriate congressional committees’ means—

"(A) the House of Representatives and the appropriate congressional committees;

"(B) the Committee on Appropriations of the Senate;

"(C) the Committee on the Judiciary of the Senate;

"(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(E) the Committee on Appropriations of the House of Representatives; and

"(F) the Committee on the Judiciary of the House of Representatives.

"(b) Northern Border.—The term ‘Northern Border’ means the land and maritime borders between the United States and Canada.

"(c) 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.

"(d) 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.

"(e) Reporting.—The Secretary shall submit a report to the appropriate congressional committees.

"(f) Duration of Authority.—Any authority exercised under subsection (c) shall last for 90 days but may be extended for additional 90-day periods by the Secretary.

"(g) Final Report.—Not later than 180 days after the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the implementation of the new Northern Border strategy.
"(B) the status under which the principal alien was admitted to the United States would have potentially allowed for eventual adjustment of status.

(c) Effective Date.—Termination of the relationship with principal alien shall not affect the status of an abused derivative alien under this section if battered orFc man by the principal alien was 1 central reason for termi-

ation of the relationship.

(d) Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 295a.(1)."

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:

"Sec. 106. Relief for abused derivative aliens."__

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, 2023".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on October 3, 2007.

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"; and

(2) in subparagraph (B), by striking "Director of United States Information Agency" and inserting "Secretary of State".

(b) Waiver of Waiver.—Section 214(l)(11) of such Act (8 U.S.C. 1184(l)(11)) is amended—

(1) to strike out "within 30 days" after "10 days"; and

(2) to insert "60 days after the date on which the Secretary of Homeland Security determines that the alien will work and includes a statement of the labor and employment laws, including violations by the employer of the employee agreement with the alien or of labor and employment laws, that 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;"

[Further provisions are included regarding the application for a waiver under paragraph (1) and the Secretary's decision on the application.]
SEC. 5. AMENDMENTS TO THE PROCEDURES, DEFINITIONS, AND OTHER PROVISIONS RELATED TO PHYSICIAN IM-
MIGRATION.

(a) Visa Eligibility.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall amend subsection (d) and (e), to accept new employment with such a facility or organization in a different State, the State from which the alien was admitted or otherwise obtaining or maintaining a status as a non-
immiigrant or otherwise obtaining or maintaining the status of a nonimmigrant.

(b) Application of Section 212(e) to Spouses and Children of J-1 Exchange Visitors.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) by inserting ‘‘(1)’’ after ‘‘(e)’’; and

(2) by striking subparagraphs (B) and (D);

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

(4) by redesignating subparagraph (A) as subparagraph (C).

SEC. 6. PERMANENT RESIDENT STATUS FOR INDONESIANS HAVING 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 resident on a conditional basis, an alien who is inadmis-
sible or deportable from the United States or in temporary protected status under sec-
tion 212(c) of the Immigration and Nationality Act (8 U.S.C. 1158(a)); if—

(1) the alien has been continuously physi-
cally 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 mi-
nority in Indonesia; and

(4) the alien—

(A) is not inadmissible under paragraph (2),

(B) has not ordered, incited, assisted, or

otherwise participated in the persecution of any person on account of race, religion, na-
tionality, membership in a particular social

group, or political opinion; and

(C) has not been convicted of

a Federal or State law, other than a State of 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 im-
migration 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.

SEC. 7. ELIMINATION OF ONE-YEAR FILING DEADLINE FOR ASYLUM APPLICA-
tions.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(1) in subparagraph (A), by inserting ‘‘or

the Secretary of Homeland Security’’ after

‘‘the Attorney General’’ both places the term ap-

plies; and

(2) by striking subparagraphs (B) and (D);

(3) by redesigning subparagraph (C) as

subparagraph (B); and

(4) in subparagraph (B), as redesignated, by

inserting after subparagraph (D) ‘‘and

inserting after subparagraph (B), as redesignated, the following new subpara-

graphs:

(C) Changed circumstances.—Notwith-

standing subsection (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 MERCENARY 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. HASSEAN) submitted an amendment to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table as follows:

At the appropriate place, insert the following:

SEC. 244A. Provisional protected presence for Indonesians living in the United States for more than 10 years.

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

(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 three years after the date of the enactment of subsection (a);

(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 failed, been convicted, incarcerated, imprisoned, 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;

(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, sentenced, or imprisoned for, during the 5-year period beginning on the date such status is granted and ending on the date described in subsection (c).

(ii) 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 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. 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 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. 244A. Provisional protected presence for qualified aliens 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 paragraph (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) was denied asylum based solely upon a credible, reasonable ground to believe the alien presents an immediate and credible threat of hurting herself, staff or others; or

(2) has been continuously physically present in the United States since the date that is three years after the date of the enactment of this section.

SEC. 244A. Provisional protected presence for qualified aliens 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 paragraph (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 presents an extraordinary circumstance as described in paragraph (2).

(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 and the employment authorization provided under this section shall be physically 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.

SEC. 244A. Provisional protected presence for qualified aliens 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 paragraph (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 three years after 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 failed, been convicted, incarcerated, imprisoned, 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;

(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, sentenced, or imprisoned for, during the 5-year period beginning on the date such status is granted and ending on the date described in subsection (c).

(ii) 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 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. Provisional protected presence for qualified aliens living in the United States for more than 10 years.”

SEC. 244A. Provisional protected presence for qualified aliens 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 paragraph (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 three years after 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 failed, been convicted, incarcerated, imprisoned, 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;

(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, sentenced, or imprisoned for, during the 5-year period beginning on the date such status is granted and ending on the date described in subsection (c).
With regard to pregnant detainees:

(1) **RELEASE.**—Absent extraordinary circumstances of the pregnant woman being a threat to herself or others or subject to mandatory detention, the United States Government shall not detain pregnant women.

(2) **MANDATED REVIEW.**—For any pregnant detainee held in detention who satisfies the requirements of paragraph (1), the United States Government shall conduct a review, not less than weekly, to determine if the pregnant detainee continues to be a threat to herself or others, or subject to mandatory detention, and release any such pregnant detainee that does not satisfy these conditions.

(3) **ACCESS TO SERVICES.**—A pregnant detainee shall have access to health care services, including services related to reproductive health care and pregnancy such as routine or specialized prenatal care, pregnancy counseling, comprehensive counseling and assistance, postpartum follow-up, and lactation services.

(4) **ANNUAL REPORTS.**—

1. **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 detainees.

   (D) The number of pregnant detainees detained longer than 15 days.

   (E) The number of pregnant detainees detained longer than 30 days.

2. **AUDIT AND REPORTS BY SECRETARY.**—Not later than 90 days after the end of each fiscal year, the Secretary shall—

   (A) complete an audit of the information submitted under subparagraphs (B) through (F) of paragraph (1); and

   (B) submit to the appropriate committees of Congress a report that includes all of the information submitted to the Secretary under paragraph (1), disaggregated by facility.

(5) **PRIVACY.**—No report submitted under this subsection may contain any individually identifying information of any detainee. No report submitted under this subsection that is made available for public inspection may contain any personally identifying information of a facility administrator otherwise included under paragraph (1)(A).

(6) **PUBLIC INSPECTION.**—Except as provided in paragraph (3), each report submitted under this subsection shall be made available for public inspection.

(7) **DEPARTMENTAL DETERMINATION.**—If 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. 1. 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:

(1) **PROHIBITION ON REMOVAL OF CERTAIN VICTIMS WITH PENDING PETITIONS AND APPLICATIONS.**

(A) An alien described in paragraph (2) shall not be ordered removed under this section until there is a final administrative determination whether an application for relief under a provision referred to in any of subparagraphs (A) through (G) of such section.

(b) **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).

(c) **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 determination whether an application for relief under a provision referred to in any of subparagraphs (A) through (G) of such section.

**SA 2010.** Mr. ROUNDS (for himself, Mr. KING, Ms. COLLINS, Mr. MANCHIN, Mr. GRAHAM, Mr. KANE, Mr. FLAKE, Mr. COONS, Mr. GARDNER, Ms. HEEKIN, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. ALLEN, 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:

(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 United States Government shall not detain pregnant women.
(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 the element is the immigration status of an alien.

(9) HIGH SCHOOL.—The term ‘high school’ has the meaning given in the term section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(10) INSTITUTION OF HIGHER EDUCATION.—

(A) IN GENERAL.—The term ‘institution of higher education’ does not include an institution of higher education outside the United States.

(B) EXCLUSION.—The term ‘institution of higher education’ does not include an institution 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; or

(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 resident status on a conditional basis under this section.

(13) POVERTY LINE.—The term ‘poverty line’ has the meaning given 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 in the term 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—

(aa) a crime of domestic violence (as defined in section 223a(2)(E)(1)); or

(bb) an offense of—

(1) sexual abuse or exploitation; or

(2) drug distribution or trafficking; or

(3) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(bb) a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(II) for which the maximum term of imprisonment is 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 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 resident 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; and

(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).—

(1) The alien is not inadmissible under paragraphs (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a).

(ii) the alien has not ordered, incited, assisted, or otherwise participated in the persecution of any person, or members of a particular social group, or political opinion; and

(iii) the alien 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;

(II) 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

(iii) is enrolled in—

(I) secondary school; or

(II) an education program assisting student in—

(aa) obtaining—

(1) a general education development certificate recognized under State law; or

(bb) a regular high school diploma; or

(bb) the recognized equivalent of a regular high school diploma; or

(2) passing—

(1) a general educational development exam; or

(bb) a high school equivalency exam; or

(b) a high school equivalency diploma examination; or

(2) any other similar State-authorized exam;

(iv)(I) that, regardless of the sentence imposed—

(aa) a crime of domestic violence (as defined in section 223a(2)(E)(1)); or

(bb) an offense of—

(1) sexual abuse or exploitation; or

(2) drug distribution or trafficking; or

(3) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(bb) a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(II) for which the maximum term of imprisonment is 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 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 resident 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

(ii) the alien has not ordered, incited, assisted, or otherwise participated in the persecution of any person, or members of a particular social group, or political opinion; and

(iii) the alien 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;

(II) 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

(iii) is enrolled in—

(I) secondary school; or

(II) an education program assisting student in—

(aa) obtaining—

(1) a general education development certificate recognized under State law; or

(bb) a regular high school diploma; or

(bb) the recognized equivalent of a regular high school diploma; or

(2) passing—

(1) a general educational development exam; or

(bb) a high school equivalency exam; or

(b) a high school equivalency diploma examination; or

(2) any other similar State-authorized exam;

(iv)(I) that, regardless of the sentence imposed—

(aa) a crime of domestic violence (as defined in section 223a(2)(E)(1)); or

(bb) an offense of—

(1) sexual abuse or exploitation; or

(2) drug distribution or trafficking; or

(3) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(bb) a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(II) for which the maximum term of imprisonment is 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 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 resident 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

(ii) the alien has not ordered, incited, assisted, or otherwise participated in the persecution of any person, or members of a particular social group, or political opinion; and

(iii) the alien 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;

(II) 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

(iii) is enrolled in—

(I) secondary school; or

(II) an education program assisting student in—

(aa) obtaining—

(1) a general education development certificate recognized under State law; or

(bb) a regular high school diploma; or

(bb) the recognized equivalent of a regular high school diploma; or

(2) passing—

(1) a general educational development exam; or

(bb) a high school equivalency exam; or

(b) a high school equivalency diploma examination; or

(2) any other similar State-authorized exam;

(iv)(I) that, regardless of the sentence imposed—

(aa) a crime of domestic violence (as defined in section 223a(2)(E)(1)); or

(bb) an offense of—

(1) sexual abuse or exploitation; or

(2) drug distribution or trafficking; or

(3) driving under the influence, if the applicable State law requires, as elements of the offense, the operation of a motor vehicle and a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(bb) a finding of impairment or a blood alcohol content equal to or greater than 0.08; or

(II) for which the maximum term of imprisonment is 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.
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.—

(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 checks of an alien seeking permanent resident status on a conditional basis; and

(B) to determine whether there is any criminal, 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.

(i) 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.

(1) MEDICAL EXAMINATION.—

(A) 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 maintained 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 specified in subparagraph (A) for an alien who demonstrates that the failure to timely return to the United States was due to 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).

(3) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

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

(B) 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 detention order, the Attorney General shall provide the alien with a reasonable opportunity to apply for relief under this section.

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

(1) STAY OF REMOVAL.—The Attorney General shall stay the removal proceedings of any 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 removed 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.

(II) 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.

(III) 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).

(i) NO VACATION 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.

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

(A) subject to subsections (c) and (d), determines that the alien—

(ii) is inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a); or

(iii) has been convicted of—

(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.

(IV) 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.

(V) REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.—

(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)—

(1) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a); or

(II) 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) 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 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 required for naturalization.

(4)(A) 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

(4)(B) 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

(5) has demonstrated good moral character during the entire period for which the alien has been in permanent resident status on a conditional basis.

(6) 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).

(7) APPLICATION PROCEDURE.—

(1) IN GENERAL.—The Secretary may require an alien applying for lawful permanent resident status under this subsection to pay a reasonable fee to cover the cost of processing the application.

(2) EXEMPTION.—An applicant may be exempted from paying the fee required under clause (1) only if the alien—

(I) 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 familial support;

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

(Ill) is not capable 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) is a child under 18 years of age and is low-income; and

(5) IN GENERAL.—An alien shall not be entitled to naturalization under this subsection if the alien—

(A) has applied for lawful permanent resident status under this section, the alien files an application under this section, the alien was granted permanent resident status on a conditional basis; or

(B) 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.

(3) LIMITATION ON CERTAIN PARENTS.—An alien shall not be entitled to naturalization under this subsection if the alien—

(I) is the child or son or daughter of an alien who is a parent to the applicant; or

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

(2) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, an alien may submit documents to the Secretary, including—

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

(bb) education records from an educational institution the alien has attended in the United States;

(cc) records of service from the Uniformed Services;

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

(ee) passport entries;

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

(gg) automobile license receipts or registration;

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

(ii) tax receipts;

(jj) insurance policies;

(kk) remittance records;

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

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

(nn) dated bank transactions; or

(oo) 2 or more sworn affidavits from individuals who are not related to the alien and 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.

(4) 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, the date of entry into the United States, as required under subsection (b)(2)(A), or to establish that an alien has been physically present in the United States;

(E) any document from a religious entity confirming the alien's participation in a religious ceremony;

(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) travel records;

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

(L) dated bank transactions; or

(M) remittance records; or

(5) DOCUMENTS ESTABLISHING NUMERICAL BASIS FOR BROADCAST CHECKS.—An alien—

(A) a Uniformed Services identification card;

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

(C) a school identification card that includes the alien's name and the alien's birthplace; or

(D) an admission stamp on the alien's passport.

(6) DOCUMENTATION REQUIREMENTS.—

(1) IN GENERAL.—An alien's application for permanent resident status on a conditional basis may include—

(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.
"(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, 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 of alternate award; or

"(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)(B) or (C), the alien shall submit to the Secretary the following relevant documents:

"(A) the name of the school; and

"(B) the alien’s name, periods of attendance, and current grade or educational level.

"(8) Documents establishing exemption from application fees.—To establish that an alien, who has been granted an application for admission under subsection (f)(2) or (p)(1)(C)(ii), the alien shall submit to the Secretary the following relevant documents:

"(1) initial publication.—

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall allow any eligible individual to immediately apply affirmatively for the relief available under subsection (b) without being placed in removal proceedings.

"(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.

"(9) Final regulations.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to paragraph (1)(A) shall be effective, on an immediate, final basis, on publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a public hearing.

"(10) Documents establishing employment.—

"(A) in general.—An alien may satisfy the employment requirement under section (p)(1)(A)(i)(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 and income that contain—

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

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

"(C) Documents to establish foster care, homeless support, or serious, chronic disability.—To establish that the alien was in foster care, lacks parental or familial support, is homeless, or has 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 familial support, has a serious, chronic disability, or is homeless, 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 a 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; and

"(ii) establish 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.

"(E) Documents establishing service in the uniformed services.—To establish that an alien has served in the United States Armed Forces, the alien shall provide records from the appropriate Uniformed Service; or

"(F) Documents establishing employment.—To establish that an alien has been admitted to an institution of higher education, the alien shall submit to the Secretary—

"(A) a Department of Defense form DD-214; or

"(B) a National Guard Report of Separation and Record of Service form 22; or

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

"(D) health records from the appropriate Uniformed Service.

"(11) Authority to prohibit use of certain documents.—If the Secretary determines, after publication in the Federal Register and opportunity for public comment, that an application for relief 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.

"(1) Rulemaking.—

"(1) Initial Public hearing.—

"(A) Proceedings.—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) Final regulations.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to paragraph (1)(A) shall be effective, on an immediate, final basis, on publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a public hearing.

"(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.

"(5) 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.

"(4) 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.

"(5) Penalty.—Any person who knowingly uses, publishes, or permits information to be used in violation of this subsection shall be fined not more than $10,000.

"(6) Conforming amendment.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1102 note) is amended by inserting after the item relating to section 244 the following:

"Sec. 244A. Cancellation of removal for certain long-term residents who entered the United States as children..."
(A) IN GENERAL.—Qualified immigrants who are the spouse or child of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the following:

(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 allocate visas 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) 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 (B) (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 of age 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:


(3) in section 202—

(A) in subsection (a)(8 U.S.C. 1132(a)—

(i) in paragraph (2), by striking “(3), (4), and (5)” and inserting “(3) and (4)”;

(ii) by striking paragraph (4); and

(iii) by redesigning paragraph (5) as paragraph (4); and

(B) in subsection (e), by striking “,” or as 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 “sub—

sections (a)(2)(A) and (B)” and inserting “subsection (a)(2)(A)”; and

(B) in subsection (a)(2), by striking “class of aliens described in section 205(a)(2)(A)” each place such term appears and inserting “(a)(2)”;

(5) in section 204—

(A) in subsection (a)(1)(B)—

(i) in clause (I), by striking “if such a child has not been classified under clause (ii); and

(ii) in clause (II), by striking “section 203(a)(2)(A)” and inserting “section 203(a)(2)”;

(6) in section 1101(a)(15)(V), by striking “section 203(a)(2)(A)” each place such term appears and inserting “(a)(2)”;

(7) in section 205—

(A) in subsection (b)(1), by striking “as a family-sponsored immigrant under section 205(a)(2)(B)” and inserting “as a family-sponsored immigrant under section 205(a)(2)”; and

(B) in subsection (b)(1)(B)—

(i) by striking “son or daughter” and inserting “child”; and

(ii) 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

(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

(iv) 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—

(i) the Secretary of Homeland Security has adjudicated each petition that is filed under section 203(a)(2)(B) (as in effect on the day before the date of enactment of this Act) before December 31, 2018, for the visa.

(ii) the Secretary of Homeland Security has adjudicated each petition that is filed under section 203(a)(2)(B) after (as in effect on the day before the date of enactment of this Act) after December 31, 2018.

SEC. 2. BORDER SECURITY.

(a) DEFINITION.—In this section,—

(i) 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 for fiscal year 2019:

(1) the construction of physical barriers;

(2) border security technologies;

(3) tactical infrastructure;

(4) transportation vessels;

(5) aircraft;

(6) unmanned aerial systems;

(7) facilities; and

(8) equipment.

(ii) AVAILABILITY FOR FISCAL YEAR 2019.—Of the amount appropriated by subsection (b), amounts shall be available for fiscal year 2019 as follows:

(1) For impedance and denial, $1,571,000,000.

(2) For access and mobility, $143,000,000.

(3) For domain awareness, $658,000,000.

(4) For air and surface transportation, $43,000,000.

(5) For missions and operations, $25,000,000,000.

(6) For border and airport security, $28,000,000,000.

(7) For counterterrorism, $1,651,000,000.

(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 for fiscal year 2019:

(1) the construction of physical barriers;

(2) border security technologies;

(3) tactical infrastructure;

(4) transportation vessels;

(5) aircraft;

(6) unmanned aerial systems;

(7) facilities; and

(8) equipment.

(c) AVAILABILITY FOR FISCAL YEAR 2019.—Of the amount appropriated by subsection (b), amounts shall be available for fiscal year 2019 as follows:

(1) For impedance and denial, $1,571,000,000.

(2) For access and mobility, $143,000,000.

(3) For domain awareness, $658,000,000.

(4) For air and surface transportation, $43,000,000.

(5) For missions and operations, $25,000,000,000.

(6) For border and airport security, $28,000,000,000.

(7) For counterterrorism, $1,651,000,000.

The amount in subsection (b) for fiscal year 2019 shall be $2,500,000,000.

SEC. 3. FUNDING FOR BORDER SECURITY.

(a) IN GENERAL.—The amount appropriated by subsection (b), the amount available for each of fiscal years 2018 and 2019 shall be $2,500,000,000.

(b) LIMITATION.—The amount appropriated under subsection (b) for fiscal years 2018 and 2019 shall only be available for operationally effective designs deployed as of the date of the Consolidated Appropriations Act, 2017 (Public Law 115–51), such as currently deployed steel bollard designs, that prioritize agent safety.

(c) CERTIFICATIONS.—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—

(1) 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.

(d) LIMITATION ON AVAILABILITY FOR FISCAL YEARS 2019 THROUGH 2027.—

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 each fiscal year, a report setting forth—

(i) a description of every planned expenditure under the plan required by subsection (e) in an amount in excess of $50,000,000;

(ii) a description of the total number of mission benefits and outcomes 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) 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 in the budget 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) shall be included in each budget for a fiscal year submitted by the President under section 1105 of title 31, United States Code; and

(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 419 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) IN GENERAL.—(I) In the Senate, it shall not be in order to consider a provision in a bill, joint resolution, motion, amendment, or conference report that would reduce the covered appropriation amount for a fiscal year.

(i) 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.

(ii) FORM OF THE POINT OF ORDER.—A point of order raised by a Senator pursuant to 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. 64(e)).

(iii) 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, 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 recommit the bill, if the Senate shall be in order to consider a provision in a bill, and the Senate 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 by a 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 sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(i) 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 violation of, or any criminal offense for which an essential element of the immigration status of the alien; or

(B) MISDEMEANOR.—

(i) IN GENERAL.—The term "misdemeanor" means a Federal, State, or local criminal offense for which—

(A) the maximum term of imprisonment is—

(aa) greater than 5 years; and

(bb) not greater than 1 year; and

(ii) the individual was sentenced to time in custody of the Federal, State, or local government.

(ii) EXCLUSION.—The term "misdemeanor" does not include a violation of, or any criminal offense for which an essential element is the immigration status of the alien.

(3) POINTS OF ORDER.—(C) SIGNIFICANT MISDEMEANOR.—

(i) IN GENERAL.—The term "significant misdemeanor" means a Federal, State, or local criminal offense for which—

(A) have been convicted of—

(aa) a felony; 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 under this section, the Secretary shall prioritize available immigration enforcement resources to aliens who—

(A) have been convicted of—

(i) a felony; or

(ii) a significant misdemeanor; or

(iii) 3 or more misdemeanor offenses; or

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

(C)(i) are unlawfully present in the United States; and


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. 6. 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; and

(5) increase mountain patrols to gain and enhance domain awareness;

(6) increase and upgrade facilities to the extent necessary to accommodate personnel and asset needs;

(7) perform any maintenance and care that may be necessary to preserve the operational capability of all mountainous, high desert, and backcountry assets; and

(8) hire and deploy additional personnel, as necessary—

(A) to enhance border security in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and

(b) REQUIREMENTS.—In carrying out subsection (a), the Commissioner shall—
(1) consult with agents in the field;
(2) prioritize the deployment of such technology based on the needs of remote stations in mountainous, high desert, and backcountry areas near the international border between the United States and Mexico; and
(3) make the expenditures incurred to acquire and deploy such assets.

(d) AGENT MOBILITY DEMONSTRATION PROGRAM.—
(1) IN GENERAL.—The Secretary of Homeland Security shall establish a 5-year pilot program in the El Paso Sector, to be known as the “Agent Mobility Program”, under which any agent assigned within the El Paso Sector may laterally transfer to a designated, hard-to-fill station within the El Paso sector for a period of at least 3 years.

(b) STANDARDS OF CARE.—
(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the status of implementation of the TEDS policy and the status of implementation of the TEDS policy among the various components of U.S. Customs and Border Protection and the Office of Field Operations have adopted and are implementing more detailed, component-specific standards to supplement the TEDS policy to ensure that all detainees are treated with the same level of consideration as any other law enforcement agency.

(c) MONITORING AND OVERSIGHT.—
(1) INTERIM OVERSIGHT.—Until the TEDS policy and supplemental policies have been adopted and are implemented in accordance with subsection (b), the Secretary of Homeland Security shall direct oversight of the implementation of the TEDS policy among the various components of U.S. Customs and Border Protection.

(2) AUDITS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall direct an independent PREA audit of all facilities in the United States, including any facility that is operated by a subcontractor or other entity.

(3) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the status of implementation of the TEDS policy and the status of implementation of the TEDS policy among the various components of U.S. Customs and Border Protection.

(4) REFERRALS PROHIBITED.—The Secretary may not refer any individual whose case has been deferred pursuant to such program to any other law enforcement agency.

(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for fiscal year 2019, an amount to be determined for each fiscal year thereafter, to carry out this section.

SEC. 7. MONITORING AND OVERSIGHT.

(a) 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; and
(3) make the expenditures incurred to acquire and deploy such assets.

(d) AGENT MOBILITY DEMONSTRATION PROGRAM.—
(1) IN GENERAL.—The Secretary of Homeland Security shall establish a 5-year pilot program in the El Paso Sector, to be known as the “Agent Mobility Program”, under which any agent assigned within the El Paso Sector may laterally transfer to a designated, hard-to-fill station within the El Paso sector for a period of at least 3 years.

(b) STANDARDS OF CARE.—
(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the status of implementation of the TEDS policy and the status of implementation of the TEDS policy among the various components of U.S. Customs and Border Protection and the Office of Field Operations have adopted and are implementing more detailed, component-specific standards to supplement the TEDS policy to ensure that all detainees are treated with the same level of consideration as any other law enforcement agency.

(c) MONITORING AND OVERSIGHT.—
(1) INTERIM OVERSIGHT.—Until the TEDS policy and supplemental policies have been adopted and are implemented 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. 1. PROHIBITION ON CONSTRUCTION OF CERTAIN ELEMENTS OF THE PHYSICAL BARRIER ALONG THE SOUTH-ERN BORDER OF THE UNITED STATES IN NATIONAL WILDLIFE REFUGES, WILDERNESS AREAS, AND TRIBAL LANDS.

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, Mr. Heinrich, Mr. Udall, Mr. Flake, Mr. Durbin, Mr. Harkin, and Mr. Grassley) submitted an amendment intended to be proposed by him to the bill H.R. 2579, to amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. RECEIPT OF COMPENSATION REQUIRED FOR USE OF EMDomin FOR CONSTRUCTION OF BORDER INFRASTRUCTURE.

Notwithstanding section 314 of title 40, United States Code, or section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1107 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 boundary 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 the date of acquisition of the private land; and

(B) all relevant court proceedings described in section 314(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 lands, tribal land, or 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. 3. 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 refers 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. 4. 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 201(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) shall not apply to re-placing existing vehicle barriers with a pri-vate 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, 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 201(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); and

(B) by redesignating paragraph (4) as paragraph (3); and

(2) in section 202 (8 U.S.C. 1152)—

(A) in subsection (a)(4), by striking sub-paragraph (D); and

(B) in subsection (e)(2), by striking "through (4)" and inserting "and (2)";

(3) in section 203 (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 (B), by striking "paragraph (1), (2), or (3)" and inserting "paragraph (1) or (2)"; and

(B) in subsection (b)(1), by striking "section 203(a)(1), or 203(a)(3)" and inserting "section 203(a)(1)"; and

(4) in section 212(d)(11) (8 U.S.C. 1182(d)(11)), by striking "other than paragraph (4) there-
SEC. 4004. CREATION OF NONIMMIGRANT CLASSIFICATION FOR ALIENS WHO ARE SPOUSES OR DEPENDENTS OF U.S. CITIZENS OR PERMANENT RESIDENTS.

(a) IN GENERAL.—Section 101(a)(15)(W) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(W)), by striking “(a)(2)” each place it appears and inserting “(a)(2)(A)”.

(b) In section 201(b)(2) (8 U.S.C. 1151(b)(2)), by striking “section 203(a)(2)(A)” and inserting “section 203(a)(2)(A)”;

(c) In section 202 (8 U.S.C. 1152)—

(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); and

(d) in section 203(h) (8 U.S.C. 1153(h))—

(A) in paragraph (3), by striking “subsections (a)(2) and (d)” and inserting “subsection (d)”;

(B) by striking “(a)(2)(A)” each place it appears and inserting “(a)(2)(A)”;

(C) by striking “section 203(a)(2)” and inserting “section 203(a)(2)(A)”;

(iv) by striking “(3)” in clause (ii);

(v) of section 203(a)(2)(A) each place it appears and inserting “section 203(a)(2)(A)”;

(vi) of section 203(a)(2)(A) by striking “section 203(a)(2)”;

(vii) in section 203(a)(2)(A), by striking “section 203(a)(2)”;

(viii) in section 203(a)(2)(A), by striking “section 203(a)(2)”;

(ix) by striking “section 203(a)(2)”;

(x) in subsection (b)(1)—

(1) by striking “(2) of subsection (b), if the beneficiary—

(i) indicates an intent to pursue the immigrant’s education in the United States; and

(ii) refers to this subsection;

(2) by striking paragraph (3), (4), and (5) of section 203(h) as amended—

(a) by striking “(a)(2)” of such section;

(b) by striking “section 203(a)” and inserting “section 203(a)(2)”;

(c) by striking “section 203(a)(2)”;

(d) in subsection (k)(1)—

(I) in subclause (I), by striking “if such a child is classified as a family-sponsored immigrant under section 203(a)”;

(II) in subclause (II), by striking “section 203(a)(2)” and inserting “section 203(a)(2)(A)”;

(III) by striking “section 203(a)(2)” and inserting “section 203(a)(2)(A)”;

(B) in subsection (k)(2)—

(i) by striking “(3), (4), and (5)” and inserting “(3)”;

(ii) by striking “section 203(a)” each place it appears and inserting “section 203(a)(2)”;

(iii) by striking “section 203(a)(2)”;

(iv) by striking “section 203(a)(2)”;

(v) in subsection (k)(3)—

(I) by striking “section 203(a)” each place it appears and inserting “section 203(a)(2)”;

(II) by striking “section 203(a)” each place it appears and inserting “section 203(a)(2)”;

(III) by striking “section 203(a)”;

(IV) by striking “section 203(a)”;

(vi) by striking “section 203(a)”;

(v) by striking “section 203(a)” and inserting “section 203(a)(2)”;

(B) in subsection (k)(4) by adding at the end the following:

(1) by striking “section 203(a)”;

(2) by striking “section 203(a)”;

(3) by adding at the end the following:

(w) Subject to section 214(a), an alien who is a parent of a citizen of the United States, if the citizen is at least 21 years of age;.

(b) Conditions on Admission.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1116) is amended by adding at the end the following:

(e)(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 alien is a parent of a citizen or a nonimmigrant of the nonimmigrant is still residing in the United States.

(2) A nonimmigrant described in section 101(a)(15)(W)(1) is not authorized to be employed in the United States; and

(3) if the alien is classified as a family-sponsored immigrant 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) 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), 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) of section 204(a) or (b)(1) of the Immigration and Nationality Act (8 U.S.C. 1153) on or after the effective date specified in section 204(b).
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(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 “subsection (a), (b), and (c)”; 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 “subsection (a), (b), (c), and (d)” and inserting “subsections (a) and (b)”; and

(7) in subsection (g), as redesignated—

(A) by striking “(d)” each place it appears and inserting “(c)”; (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—


(A) no longer has a meaning; (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)(i)(IV) (8 U.S.C. 1153(b)(2)(B)(i)(IV)), by striking “section 203(b)(2)(B)” each place such term appears and inserting “section 203(c)”; (4) in section 204 (8 U.S.C. 1154)—

(A) in subsection (a)(1)—

(i) by striking subparagraph (I); and

(ii) by redesigning subparagraphs (A) through (L) as paragraphs (A) through (K), respectively; (B) in subsection (b), by striking “subsection (a), (b), or (c) of section 203” and inserting “subsection (a) or (b) of section 203”; and

(C) in subsection (I)(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(b)(2)” 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 236a(b)(1) (8 U.S.C. 1186a(b)(1)), in the undesignated matter following subparagraph (C), by striking “section 203(d)” and inserting “section 203(c)”; and

(7) in section 245(a)(1)(B) (8 U.S.C. 1225(a)(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. 1153(e) and 1151(c)(2)) in effect on the date of enactment of this Act, the amendments made by this section shall not apply to any alien who remains 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 exceeded, 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 redesigning 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(h) :

(1) "qualified angel investor" means an individual, in personal or fiduciary capacity, who has invested, or committed to invest, in a qualified startup accelerator, qualified small business, or qualified community development financial institution of not less than $500,000 in aggregate annual revenue within the United States during any 2-year period following the date of such investment in a qualified startup accelerator, qualified small business, or qualified community development financial institution.

(2) "qualified small business" 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 United States citizens or aliens lawfully admitted for permanent residence; or

(IV) 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 or other forms of funding to United States citizens or aliens lawfully admitted for permanent residence, or from entities organized under the laws of the United States or any State;

(5) "qualified community development financial institution," if an organized group or legal entity, is an entity that—

(I) is located in the United States; or

(II) has been formed 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 that—

(I) is located in the United States;

(II) has been formed 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 that—

(I) is located in the United States;

(II) has been formed 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 that—

(I) is located in the United States; or

(II) has been formed 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 that—

(I) is located in the United States; (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 195.301 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) has a substantial role in the founding or early-stage growth and development of such entity.

(b) 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.

(c) 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; or

(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 of State for the purpose of promoting entrepreneurship in the United States;

(gg) a combination of any of the investments described in items (aa) through (ff); and

(hh) 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 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 United States citizens or aliens lawfully admitted for permanent residence;

(IV) 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

(V) 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));

(VI) 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) each have secured at least $100,000 in initial investment; 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;

(VII) 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) has a significant ownership interest in—

(aa) a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80a-2); or

(bb) has registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or

(bb) has its primary office location in the United States;

(cc) is directly or indirectly owned by individuals, the majority of whom are citizens of the United States or aliens lawfully admitted for permanent residence in the United States;

(dd) has been advising such entity or other similar funds or entities for at least 2 years;

(ee) has advised such entity or a similar fund or entity with respect to at least 2 investments that has not less than $500,000 made by such entity or similar fund or entity during each of the most recent 2 years.

(ix) Principal Executive or Senior Executive Position.—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 an entity that—

(aa) is organized under the laws of the United States or any State and that conducts business in the United States that is not—

(I) a private fund (as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80a-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-2)); or

(IV) an issuer that would be an investment company without an exemption provided in—

(aa) section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)); or

(bb) section 270.3a-7 of title 17, Code of Federal Regulations, or any similar successor regulation.

(B) IN GENERAL.—Not more than 10,000 visas shall be available during each fiscal year for qualified immigrants seeking to enter the United States for the purpose of creating new businesses, as described in this paragraph.

(C) ELIGIBILITY.—An alien who is a qualified entrepreneur is eligible for a visa under this paragraph if—

(i)(I) the alien maintained valid non-immigrant 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 paragraph—

(aa) has a significant ownership interest 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 entity, a qualified entrepreneur is eligible for a visa under this paragraph—

(i) the availability of visas under paragraph (1); and

(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 (Washington, Washington, Mexico, Central America, El Salvador, Guatemala, and Nigeria), 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 10:30 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 C. J. Mahoney, of Kansas, to be a Deputy United States Trade Representative (Washington, Washington, Mexico, Central America, El Salvador, Guatemala, and Nigeria), with the rank of Ambassador.

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."