(1) the face amount of obligations subject to limitation under such section outstanding as of the close of the applicable date; exceeds

(2) the face amount of such obligations outstanding on the date of enactment of this Act.

(e) RESTORING CONGRESSIONAL AUTHORITY OVER THE NATIONAL DEBT.—

(1) EXTENSION LIMITED TO NECESSARY OBLIGATIONS.—An obligation shall not be taken into account under subsection (d)(1) unless the issuance of such obligation was necessary to fund a commitment incurred pursuant to law by the Federal Government that required payment on or before the applicable date.

(2) PROHIBITION ON CREATION OF CASH RESERVE DURING EXTENSION PERIOD.—The Secretary of the Treasury shall not issue obligations during the period specified in subsection (a) for the purpose of increasing the cash balance above normal operating balances in anticipation of the expiration of such period.

SA 109. Mr. CRUZ submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

At the end of title I of division A, add the following:

SEC. 104. ENFORCING ADDITIONAL SPENDING LIMITS.

(a) IN GENERAL.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), as amended by section 101 of this division, is amended—

(1) in paragraph (9)(B), by striking ''and'' at the end; and

(2) by inserting after paragraph (10) the following:

''(11) for fiscal year 2026 $1,621,959,000,000 for the discretionary category;

''(12) for fiscal year 2027, $1,638,179,000,000 for the discretionary category;

''(13) for fiscal year 2028, $1,654,560,000,000 for the discretionary category; and

''(14) for fiscal year 2029, $1,671,106,000,000 for the discretionary category;''.

(b) CONFORMING AMENDMENT RELATING TO SEQUESTRATION REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904), as amended by section 101 of this division, is amended—

(1) in subsection (c)(2), by striking ''2025'' and inserting ''2029''; and

(2) in subsection (f)(2)(A), by striking ''2025'' and inserting ''2029''.

SA 110. Mr. MARSHALL proposed an amendment to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; as follows:

At the end of the bill, add the following:

DIVISION E—BORDER SECURITY, IMMIGRATION ENFORCEMENT, AND FOREIGN AFFAIRS

SECTION 500. SHORT TITLE.

This division may be cited as the ''Secure the Border Act of 2023''.

TITLE I—BORDER SECURITY

SEC. 501. DEFINITIONS.

In this title:

(1) CBP.—The term ''CBP'' means U.S. Customs and Border Protection.

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

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

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

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

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

(7) UNMANNED AIRCRAFT SYSTEM.—The term ''unmanned aircraft system'' has the meaning given such term in section 44801 of title 49, United States Code.

SEC. 502. BORDER WALL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

(B) the Committee on Appropriations of the Senate;

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

(D) the Committee on Appropriations of the House of Representatives.

(2) TACTICAL INFRASTRUCTURE.—The term ''tactical infrastructure'' includes boat ramps, access gates, checkpoints, lighting, and roads associated with a border wall.

(3) TECHNOLOGY.—The term ''technology'' includes border surveillance and detection technology, including linear ground detection systems, associated with a border wall.

(b) IN GENERAL.—

(1) IMMEDIATE RESUMPTION OF BORDER WALL CONSTRUCTION.—Not later than 7 days after the date of the enactment of this Act, the Secretary shall resume all activities related to the construction of the border wall along the border between the United States and Mexico that were underway or being planned for before January 20, 2021.

(2) USE OF FUNDS.—To carry out this section, the Secretary shall expend all unexpired funds appropriated or explicitly obligated for the construction of the border wall that were appropriated or obligated, as the case may be, for use beginning on October 1, 2019.

(3) USE OF MATERIALS.—Any unused materials purchased before the date of the enactment of this Act for the construction of the border wall may be used for activities related to the construction of the border wall in accordance with paragraph (1).

(c) PLAN TO COMPLETE TACTICAL INFRASTRUCTURE AND TECHNOLOGY.—Not later than 90 days after the date of the enactment of this Act and annually thereafter until construction of the border wall has been completed, the Secretary shall submit to the appropriate congressional committees—

(1) an implementation plan, including annual benchmarks for the construction of 200 miles of such wall; and

(2) associated cost estimates for satisfying all requirements of the construction of the border wall, including installation and deployment of tactical infrastructure, technology, and other elements as identified by the Department before January 20, 2021, through the expenditure of funds appropriated or explicitly obligated, as the case may be, for use, and any future funds appropriated or otherwise made available by Congress.

SEC. 503. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.

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

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

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

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in the heading, by striking ''FENCING'' and inserting ''BARRIERS'';

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

''(A) REINFORCED BARRIERS.—In carrying out this section, the Secretary of Homeland Security shall construct a border wall, including physical barriers, tactical infrastructure, and technology, along not fewer than 900 miles of the southwest border until situational awareness and operational control of the southwest border is achieved.'';

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

''(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective physical barriers, tactical infrastructure, and technology available for achieving situational awareness and operational control of the southwest border.'';

(iv) in subparagraph (C)—

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

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate representatives of State, Tribal, and local governments, and appropriate private property owners in the United States to minimize the impact on natural resources, commerce, and sites of historical or cultural significance for the communities and residents located near the sites at which physical barriers, tactical infrastructure, and technology are to be constructed. Such consultation may not delay such construction for longer than 7 days.''; and

(II) in clause (ii)—

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

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

''(II) delay the transfer to the United States of the possession of property or affect the validity of any property acquisition by the United States 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 new subclause:

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

(v) by striking subparagraph (D);

(C) in paragraph (2)—

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

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

(iii) by striking ''construction of fences'' and inserting ''the construction of physical barriers, tactical infrastructure, and technology'';

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

''(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security,

when designing, testing, constructing, installing, deploying, integrating, and operating physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into such design, test, construction, installation, deployment, integration, or operation of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines are necessary to maximize the safety and effectiveness of officers and 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.''; and

(E) in paragraph (4), by striking ''this subsection'' and inserting ''this section'';

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

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

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) NOTIFICATION.—Not later than 7 days after the date on which the Secretary of Homeland Security exercises a waiver pursuant to paragraph (1), the Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives of such waiver.''; and

(4) by adding at the end the following:

''(e) TECHNOLOGY.—In carrying out this section, the Secretary of Homeland Security shall deploy along the southwest border the most practical and effective technology available for achieving situational awareness and operational control.

''(f) DEFINITIONS.—In this section:

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

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

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

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

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

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

''(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 manportable surveillance capabilities;

''(G) unmanned aircraft systems;

''(H) tunnel detection systems and other seismic technology;

''(I) fiber-optic cable; and

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

''(7) UNMANNED AIRCRAFT SYSTEM.—The term 'unmanned aircraft system' has the meaning given such term in section 44801 of title 49, United States Code.''.

SEC. 504. BORDER AND PORT SECURITY TECHNOLOGY INVESTMENT PLAN.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

(B) the Committee on Appropriations of the Senate;

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

(D) the Committee on Appropriations of the House of Representatives.

(2) COVERED OFFICIALS.—The term ''covered officials'' means—

(A) the Under Secretary for Management of the Department;

(B) the Under Secretary for Science and Technology of the Department; and

(C) the Chief Information Officer of the Department.

(3) UNLAWFULLY PRESENT.—The term ''unlawfully present'' has the meaning provided such term in section 212(a)(9)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii)).

(b) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commissioner, in consultation with covered officials and border and port security technology stakeholders, shall submit to the appropriate congressional committees a strategic 5-year technology investment plan (referred to in this section as the ''Plan''). The Plan may include a classified annex, if appropriate.

(c) CONTENTS OF PLAN.—The Plan shall include—

(1) an analysis of security risks at and between ports of entry along the northern and southern borders of the United States;

(2) the identification of capability gaps with respect to security at and between such ports of entry to be mitigated in order to—

(A) prevent terrorists and instruments of terror from entering the United States;

(B) combat and reduce cross-border criminal activity, including—

(i) the transport of illegal goods, such as illicit drugs; and

(ii) human smuggling and human trafficking; and

(C) facilitate the flow of legal trade across the southwest border;

(3) an analysis of current and forecast trends relating to the number of aliens who—

(A) unlawfully entered the United States by crossing the northern or southern border of the United States; or

(B) are unlawfully present in the United States;

(4) a description of security-related technology acquisitions, listed in order of priority, to address the security risks and capability gaps analyzed and identified pursuant to paragraphs (1) and (2), respectively;

(5) a description of each planned security-related technology program, including objectives, goals, and timelines for each such program;

(6) the identification of each deployed security-related technology that is at or near the end of the life cycle of such technology;

(7) a description of the test, evaluation, modeling, and simulation capabilities, including target methodologies, rationales, and timelines, necessary to support the acquisition of security-related technologies pursuant to paragraph (4);

(8) the identification and an assessment of ways to increase opportunities for communication and collaboration with the private sector, small and disadvantaged businesses, intragovernment entities, university centers of excellence, and Federal laboratories to ensure CBP is able to engage with the market for security-related technologies that are available to satisfy its mission needs before engaging in an acquisition of a security-related technology;

(9) an assessment of the management of planned security-related technology programs by the acquisition workforce of CBP;

(10) the identification of ways to leverage already-existing acquisition expertise within the Federal Government;

(11) a description of the security resources, including information security resources, required to protect security-related technology from physical or cyber theft, diversion, sabotage, or attack;

(12) a description of initiatives—

(A) to streamline the acquisition process of CBP; and

(B) to provide to the private sector greater predictability and transparency with respect to such process, including information relating to the timeline for testing and evaluation of security-related technology;

(13) an assessment of the privacy and security impact on border communities of security-related technology;

(14) in the case of a new acquisition leading to the removal of equipment from a port of entry along the northern or southern border of the United States, a strategy to consult with the private sector and community stakeholders affected by such removal;

(15) a strategy to consult with the private sector and community stakeholders with respect to security impacts at a port of entry described in paragraph (14); and

(16) the identification of recent technological advancements in—

(A) manned aircraft sensor, communication, and common operating picture technology;

(B) unmanned aerial systems and related technology, including counter-unmanned aerial system technology;

(C) surveillance technology, including—

(i) mobile surveillance vehicles;

(ii) associated electronics, including cameras, sensor technology, and radar;

(iii) tower-based surveillance technology;

(iv) advanced unattended surveillance sensors; and

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

(D) nonintrusive inspection technology, including non-x-ray devices utilizing muon tomography and other advanced detection technology;

(E) tunnel detection technology; and

(F) communications equipment, including—

(i) radios;

(ii) long-term evolution broadband; and

(iii) miniature satellites.

(d) LEVERAGING THE PRIVATE SECTOR.—To the extent practicable, the Plan shall—

(1) leverage emerging technological capabilities, and research and development trends, within the public and private sectors;

(2) incorporate input from the private sector, including from border and port security

stakeholders, through requests for information, industry day events, and other innovative means consistent with the Federal Acquisition Regulation (or any successor regulation); and

(3) identify security-related technologies that are in development or deployed, with or without adaptation, that may satisfy the mission needs of CBP.

(e) FORM.—To the extent practicable, the Plan shall be published in unclassified form on the website of the Department.

(f) DISCLOSURE.—The Plan shall identify individuals who contributed to the development of the Plan who are not employed by the Federal Government, and their professional affiliations.

(g) UPDATE AND REPORT.—Not later than 2 years after the date on which the Plan is submitted to the appropriate congressional committees pursuant to subsection (b) and biennially thereafter for the following 10 years, the Commissioner shall submit to the appropriate congressional committees—

(1) an update of the Plan, if appropriate; and

(2) a report that includes—

(A) the extent to which each security-related technology acquired by CBP since the initial submission of the plan or most recent update of the plan, as the case may be, is consistent with the planned technology programs and projects described pursuant to subsection (c)(5); and

(B) the type of contract and the reason for acquiring each such security-related technology.

SEC. 505. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

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

''SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

''(a) DEFINED TERM.—In this section, the term 'major acquisition program' means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least $100,000,000 (based on fiscal year 2023 constant dollars) over its life-cycle cost.

''(b) PLANNING DOCUMENTATION.—For each border security technology acquisition program of the Department that is determined to be a major acquisition program, the Secretary shall—

''(1) ensure that each such program has a written acquisition program baseline approved by the relevant acquisition decision authority;

''(2) document that each such program is satisfying cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

''(3) have a plan for satisfying program implementation objectives by managing contractor performance.

''(c) ADHERENCE TO STANDARDS.—The Secretary, acting through the Under Secretary for Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border security technology acquisition program managers who are responsible for carrying out this section adhere to relevant internal control standards identified by the Comptroller General of the United States. The Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

''(d) PLAN.—The Secretary, acting through the Under Secretary for Management, in coordination with the Under Secretary for Science and Technology and the Commissioner of U.S. Customs and Border Protection, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a plan for testing, evaluating, and using independent verification and validation of resources relating to the proposed acquisition of border security technology. Under such plan, the proposed acquisition of new border security technologies shall be evaluated through a series of assessments, processes, and audits to ensure—

''(1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation (or any successor 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 436 the following:

''Sec. 437. Border security technology program management.''.

(c) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 437 of the Homeland Security Act of 2002, as added by subsection (a).

SEC. 506. U.S. CUSTOMS AND BORDER PROTECTION TECHNOLOGY UPGRADES.

(a) SECURE COMMUNICATIONS.—The Commissioner shall ensure that each CBP officer or agent, as appropriate, is equipped with a secure radio or other 2-way communication device that allows each such officer or agent to communicate—

(1) between ports of entry and inspection stations; and

(2) with other Federal, State, Tribal, and local law enforcement entities.

(b) BORDER SECURITY DEPLOYMENT PROGRAM.—

(1) EXPANSION.—Not later than September 30, 2025, the Commissioner shall—

(A) fully implement the CBP Border Security Deployment Program; and

(B) expand the integrated surveillance and intrusion detection system at land ports of entry along the northern and southern borders of the United States.

(2) 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 years 2024 and 2025 to carry out paragraph (1).

(c) UPGRADE OF LICENSE PLATE READERS AT PORTS OF ENTRY.—

(1) UPGRADE.—Not later than 2 years after the date of the enactment of this Act, the Commissioner shall upgrade all existing license plate readers in need of upgrade, as determined by the Commissioner, along the northern and southern borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $125,000,000 for fiscal years 2024 and 2025 to carry out paragraph (1).

SEC. 507. U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

(a) RETENTION BONUS.—There is authorized to be appropriated up to $100,000,000 to the Commissioner to provide a retention bonus to any front-line U.S. Border Patrol law enforcement agent—

(1) whose position is equal to or below level GS-12 of the General Schedule;

(2) who has completed at least 5 years of service with the U.S. Border Patrol; and

(3) who commits to 2 years of additional service with the U.S. Border Patrol upon acceptance of such bonus.

(b) BORDER PATROL AGENTS.—Not later than September 30, 2025, the Commissioner shall hire, train, and assign a sufficient number of Border Patrol agents to maintain an active duty presence of not fewer than 22,000 full-time equivalent Border Patrol agents, who may not perform the duties of processing coordinators.

(c) PROHIBITION AGAINST ALIEN TRAVEL.—Personnel and equipment of Air and Marine Operations may not be used for the transportation of nondetained aliens, or detained aliens expected to be administratively released upon arrival, from the southwest border to destinations within the United States.

(d) GAO REPORT.—If the staffing level required under this section is not achieved by the date associated with such level, the Comptroller General of the United States shall—

(1) conduct a review of the reasons why such level was not so achieved; and

(2) not later than September 30, 2027, publish a report on a publicly available website of the Government Accountability Office that contains the findings of the review conducted pursuant to paragraph (1).

SEC. 508. ANTI-BORDER CORRUPTION ACT REAUTHORIZATION.

(a) HIRING FLEXIBILITY.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221; Public Law 111–376) is amended by striking subsection (b) and inserting the following:

''(b) WAIVER REQUIREMENT.—Subject to subsection (c), the Commissioner of U.S. Customs and Border Protection shall waive the application of subsection (a)(1)—

''(1) to a current, full-time law enforcement officer employed by a State or local law enforcement agency who—

''(A) has continuously served as a law enforcement officer for not fewer than 3 years;

''(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension; and

''(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;

''(2) to a current, full-time Federal law enforcement officer who—

''(A) has continuously served as a law enforcement officer for not fewer than three years;

''(B) is authorized to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

''(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) holds a current Tier 4 background investigation or current Tier 5 background investigation; or

''(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

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

''(B) holds, or has held within the past five years, a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance;

''(C) holds, or has undergone within the past five years, a current Tier 4 background investigation or current Tier 5 background investigation;

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

''(E) was not granted any waivers to obtain the clearance referred to in subparagraph (B).

''(c) TERMINATION OF WAIVER REQUIREMENT; SNAP-BACK.—The requirement to issue a waiver under subsection (b) shall terminate if the Commissioner of U.S. Customs and Border Protection certifies to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that U.S. Customs and Border Protection has met all requirements pursuant to section 507 of the Secure the Border Act of 2023 relating to personnel levels. If at any time after such certification personnel levels fall below such requirements, the Commissioner shall waive the application of subsection (a)(1) until such time as the Commissioner recertifies to such congressional committees that U.S. Customs and Border Protection has so met all such requirements.''.

(b) SUPPLEMENTAL COMMISSIONER AUTHORITY; REPORTING; DEFINITIONS.—The Anti-Border Corruption Act of 2010 (Public Law 111–376) is amended by adding at the end the following:

''SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

''(a) NONEXEMPTION.—An individual who receives a waiver described in section 3(b) is not exempt from any other hiring requirements relating to suitability for employment and eligibility to hold a national security designated position, as determined by the Commissioner of U.S. Customs and Border Protection.

''(b) BACKGROUND INVESTIGATIONS.—An individual who receives a waiver described in section 3(b) who holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.

''(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver described in 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.

''SEC. 6. REPORTING.

''(a) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of the Secure the Border Act of 2023 and annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that includes, with respect to each such reporting period—

''(1) information relating to the number of waivers granted under such section 3(b);

''(2) information relating to the percentage of applicants who were hired after receiving such a waiver;

''(3) information relating to the number of instances that a polygraph was administered to an applicant who initially received such a waiver and the results of such polygraph;

''(4) an assessment of the current impact of such waiver authority on filling law enforcement positions at U.S. Customs and Border Protection; and

''(5) the identification of additional authorities needed by U.S. Customs and Border Protection to better utilize such waiver authority for its intended goals.

''(b) ADDITIONAL INFORMATION.—The first report submitted pursuant to 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 applicants or employees for suitability for employment or continued employment; and

''(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).

''SEC. 7. DEFINITIONS.

''In this Act:

''(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United States Code.

''(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term 'serious military or civil offense' means an offense for which—

''(A) a member of the Armed Forces may be discharged or separated from service in the Armed Forces; and

''(B) a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Court-Martial, as pursuant to Army Regulation 635–200, chapter 14–12.

''(3) TIER 4; TIER 5.—The terms 'Tier 4' and 'Tier 5', with respect to background investigations, have the meaning given such terms under the 2012 Federal Investigative Standards.

''(4) VETERAN.—The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''.

(c) POLYGRAPH EXAMINERS.—Not later than September 30, 2025, the Secretary shall increase to not fewer than 150 the number of trained full-time equivalent polygraph examiners for administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this section.

SEC. 509. ESTABLISHMENT OF WORKLOAD STAFFING MODELS FOR U.S. BORDER PATROL AND AIR AND MARINE OPERATIONS OF CBP.

(a) DEFINED TERM.—In this section, the term ''appropriate congressional committees'' means—

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

(2) the Committee on Homeland Security of the House of Representatives.

(b) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner, in coordination with the Under Secretary for Management, the Chief Human Capital Officer, and the Chief Financial Officer of the Department, shall implement a workload staffing model for—

(1) the U.S. Border Patrol; and

(2) CBP Air and Marine Operations.

(c) RESPONSIBILITIES OF THE COMMISSIONER.—Section 411(c) of the Homeland Security Act of 2002 (6 U.S.C. 211(c)), is amended—

(1) by redesignating paragraphs (18) and (19) as paragraphs (20) and (21), respectively; and

(2) by inserting after paragraph (17) the following:

''(18) implement a staffing model for the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations that includes consideration for essential frontline operator activities and functions, variations in operating environments, present and planned infrastructure, present and planned technology, and required operations support levels to enable such entities to manage and assign personnel of such entities to ensure field and support posts possess adequate resources to carry out duties specified in this section;

''(19) develop standard operating procedures for a workforce tracking system within the U.S. Border Patrol, Air and Marine Operations, and the Office of Field Operations, train the workforce of each of such entities on the use, capabilities, and purpose of such system, and implement internal controls to ensure timely and accurate scheduling and reporting of actual completed work hours and activities;''.

(d) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act with respect to subsection (b) and paragraphs (18) and (19) of section 411(c) of the Homeland Security Act of 2002, as amended by subsection (c), and annually thereafter with respect to such paragraphs (18) and (19), the Secretary shall submit a report to the appropriate congressional committees a report that includes a status update regarding—

(A) the implementation of subsection (b) and such paragraphs (18) and (19); and

(B) each relevant workload staffing model.

(2) DATA SOURCES AND METHODOLOGY REQUIRED.—Each report required under paragraph (1) shall include information relating to the data sources and methodology used to generate each relevant staffing model.

(e) INSPECTOR GENERAL REVIEW.—Not later than 90 days after the Commissioner develops the workload staffing models pursuant to subsection (b), the Inspector General of the Department shall review such models and provide feedback to the Secretary and the appropriate congressional committees with respect to the degree to which such models are responsive to the recommendations of the Inspector General, including—

(1) recommendations from the Inspector General's February 2019 audit; and

(2) any further recommendations to improve such models.

SEC. 510. OPERATION STONEGARDEN.

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

''SEC. 2010. 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 work through State administrative agencies to award grants to eligible law enforcement agencies, which shall be expended to enhance border security in accordance with this section.

''(b) ELIGIBLE RECIPIENTS.—A law enforcement agency is eligible to receive a grant under this section if the agency—

''(1) is located in—

''(A) a State bordering Canada or Mexico; or

''(B) a State or territory with a maritime border;

''(2) is involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office; and

''(3) has an agreement with U.S. Immigration and Customs Enforcement to support enforcement operations.

''(c) PERMITTED USES.—A recipient of a grant under this section may expend grant funds for costs associated with—

''(1) equipment, including maintenance and sustainment;

''(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities; and

''(3) any activity permitted for Operation Stonegarden under the most recent fiscal year Department of Homeland Security's Homeland Security Grant Program Notice of Funding Opportunity.

''(d) PERIOD OF PERFORMANCE.—The Secretary shall award grants under this section to grant recipients for a period that is not shorter than 3 years.

''(e) NOTIFICATION.—Immediately after denying a grant to a law enforcement agency, the Administrator shall provide written notice 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 reasons for such denial.

''(f) REPORT.—For each of the fiscal years 2024 through 2028 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 that contains—

''(1) information regarding the expenditures of grant funding under this section by each grant recipient; and

''(2) recommendations for other uses of such grant funding to further support eligible law enforcement agencies.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $110,000,000 for each of the fiscal years 2024 through 2028 for grants under this section.''.

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

''(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under sections 2003, 2004, 2009, and 2010 to State, local, and Tribal governments, as appropriate.''.

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 2009 the following:

''Sec. 2010. Operation Stonegarden.''.

SEC. 511. AIR AND MARINE OPERATIONS FLIGHT HOURS.

(a) DEFINITIONS.—In this section:

(1) GOT AWAY.—The term ''got away'' has the meaning given such term in section 1092(a)(3) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(3)).

(2) 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)(8)).

(b) AIR AND MARINE OPERATIONS FLIGHT HOURS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall ensure that not fewer than 110,000 annual flight hours are carried out by CBP Air and Marine Operations.

(c) UNMANNED AIRCRAFT SYSTEMS.—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that Air and Marine Operations continuously operate unmanned aircraft systems along the southern border of the United States.

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

(1) the primary missions for Air and Marine Operations are to directly support—

(A) U.S. Border Patrol activities along the borders of the United States; and

(B) Joint Interagency Task Force South and Joint Interagency Task Force East operations in the transit zone; and

(2) the Executive Assistant Commissioner, Air and Marine Operations assigns the greatest priority to support missions specified in paragraph (1).

(e) HIGH DEMAND FLIGHT HOUR REQUIREMENTS.—The Commissioner shall—

(1) ensure that U.S. Border Patrol Sector Chiefs identify air support mission-critical hours; and

(2) direct Air and Marine Operations to support requests from such Sector Chiefs as a component of the primary mission of Air and Marine Operations in accordance with subsection (d)(1)(A).

(f) CONTRACT AIR SUPPORT AUTHORIZATIONS.—The Commissioner shall contract for air support mission-critical hours to meet the requests for such hours, as identified pursuant to subsection (e).

(g) SMALL UNMANNED AIRCRAFT SYSTEMS.—

(1) IN GENERAL.—The Chief, U.S. Border Patrol shall be the executive agent with respect to the use of small unmanned aircraft by CBP for the purposes of—

(A) meeting the unmet flight hour operational requirements of U.S. Border Patrol; and

(B) achieving situational awareness and operational control of the borders of the United States.

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

(A) flight operations with the Administrator of the Federal Aviation Administration to ensure the safe and efficient operation of the national airspace system; and

(B) with the Executive Assistant Commissioner for CBP Air and Marine Operations—

(i) to ensure the safety of other CBP aircraft flying in the vicinity of small unmanned aircraft operated by U.S. Border Patrol; and

(ii) to establish a process to include data from flight hours in the calculation of got away statistics.

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

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

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

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

''(C) carry out the small unmanned aircraft (as such term is defined in section 44801 of title 49, United States Code) requirements pursuant to section 511(g) of the Secure the Border Act of 2023; and''.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed as conferring, transferring, or delegating to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations, or the Chief, U.S. Border Patrol any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration relating to the use of airspace or aviation safety.

SEC. 512. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary, in coordination with the heads of relevant Federal, State, and local agencies, shall hire contractors to begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River that impedes border security operations. Such eradication shall be completed—

(1) by not later than September 30, 2027, except for required maintenance; and

(2) in the most expeditious and cost-effective manner possible to maintain clear fields of view.

(b) APPLICATION.—The waiver authority under section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by section 503, shall apply to activities carried out pursuant to subsection (a).

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a strategic plan to eradicate all carrizo cane plant and salt cedar along the Rio Grande River that impedes border security operations by not later than September 30, 2027.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $7,000,000 to the Secretary for each of the fiscal years 2024 through 2028 to carry out this section.

SEC. 513. BORDER PATROL STRATEGIC PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act and biennially thereafter, the Commissioner, acting through the Chief, U.S. Border Patrol, shall issue a Border Patrol Strategic Plan (referred to in this section as the ''Plan'') to enhance the security of the borders of the United States.

(b) ELEMENTS.—The Plan shall include—

(1) the consideration of Border Patrol Capability Gap Analysis reporting, Border Security Improvement Plans, and any other strategic document authored by U.S. Border Patrol to address security gaps between ports of entry, including efforts to mitigate threats identified in such analyses, plans, and documents;

(2) information relating to the dissemination of information relating to border security or border threats with respect to the efforts of the Department and other appropriate Federal agencies;

(3) information relating to efforts by U.S. Border Patrol—

(A) to increase situational awareness, including—

(i) surveillance capabilities, such as 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 aircraft;

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

(C) to detect, interdict, and disrupt between ports of entry aliens unlawfully present in the United States;

(D) to detect, interdict, and disrupt human smuggling, human trafficking, drug trafficking, and other illicit cross-border activity;

(E) to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States; and

(F) to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department;

(4) information relating to initiatives of the Department with respect to operational coordination, including any relevant task forces of the Department;

(5) information gathered from the lessons learned by the deployments of the National Guard to the southern border of the United States;

(6) a description of cooperative agreements relating to information sharing with State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the borders of the United States;

(7) information relating to border security information received from—

(A) State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the borders of the United States or in the maritime environment;

(B) border community stakeholders, including representatives from—

(i) border agricultural and ranching organizations;

(ii) business and civic organizations;
(iii) hospitals and rural clinics within 150 miles of a United States border;
(iv) victims of crime committed by aliens unlawfully present in the United States;
(v) victims impacted by drugs, transnational criminal organizations, cartels, gangs, or other criminal activity;
(vi) farmers, ranchers, and property owners along the border; and
(vii) other individuals negatively impacted by illegal immigration;
(8) information relating to the staffing requirements with respect to border security for the Department;
(9) a prioritized list of Department research and development objectives to enhance the security of the borders of the United States; and
(10) an assessment of training programs, including programs relating to—
(A) identifying and detecting fraudulent documents;
(B) understanding the scope of CBP enforcement authorities and appropriate use of force policies; and
(C) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking.

SEC. 514. U.S. CUSTOMS AND BORDER PROTECTION SPIRITUAL READINESS.

Not later than 1 year after the date of the enactment of this Act and annually thereafter for the following 5 years, the Commissioner 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 regarding—
(1) the availability and usage of the assistance of chaplains, prayer groups, houses of worship, and other spiritual resources for members of CBP who identify as religiously affiliated and have attempted suicide, have suicidal ideation, or are at risk of suicide; and
(2) metrics on the impact such resources have in assisting religiously affiliated members who have access to and utilize such resources compared to religiously affiliated members who do not have such access.

SEC. 515. RESTRICTIONS ON FUNDING.

(a) ARRIVING ALIENS.—No funds are authorized to be appropriated to the Department to process the entry into the United States of aliens arriving in between ports of entry.
(b) RESTRICTION ON NONGOVERNMENTAL ORGANIZATION SUPPORT FOR UNLAWFUL ACTIVITY.—No funds are authorized to be appropriated to the Department for disbursement to any nongovernmental organization that facilitates or encourages unlawful activity, including unlawful entry, human trafficking, human smuggling, drug trafficking, and drug smuggling.
(c) RESTRICTION ON NONGOVERNMENTAL ORGANIZATION FACILITATION OF ILLEGAL IMMIGRATION.—No funds are authorized to be appropriated to the Department for disbursement to any nongovernmental organization to provide, or facilitate the provision of, transportation, lodging, or immigration legal services to inadmissible aliens who enter the United States after the date of the enactment of this Act.

SEC. 516. COLLECTION OF DNA AND BIOMETRIC INFORMATION AT THE BORDER.

Not later than 14 days after the date of the enactment of this Act, the Secretary shall ensure and certify to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that CBP is fully compliant with Federal DNA and biometric collection requirements at United States land borders.

SEC. 517. ERADICATION OF NARCOTIC DRUGS AND FORMULATING EFFECTIVE NEW TOOLS TO ADDRESS YEARLY LOSSES OF LIFE; ENSURING TIMELY UPDATES TO U.S. CUSTOMS AND BORDER PROTECTION FIELD MANUALS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and not less frequently than triennially thereafter, the Commissioner of U.S. Customs and Border Protection shall review and update, as necessary, the current policies and manuals of the Office of Field Operations related to inspections at ports of entry, and of U.S. Border Patrol related to inspections between ports of entry, to ensure the uniform implementation of inspection practices that will effectively respond to technological and methodological changes designed to disguise unlawful activity, such as the smuggling of drugs and humans, along the border.
(b) REPORTING REQUIREMENT.—Not later than 90 days after each update required 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 and the Committee on Homeland Security of the House of Representatives that summarizes any policy and manual changes pursuant to subsection (a).

SEC. 518. PUBLICATION OF OPERATIONAL STATISTICS BY U.S. CUSTOMS AND BORDER PROTECTION.

(a) DEFINITIONS.—In this section:
(1) ALIEN ENCOUNTERS.—The term ''alien encounters'' means aliens apprehended, determined inadmissible, or processed for removal by U.S. Customs and Border Protection.
(2) GOT AWAY.—The term ''got away'' has the meaning given such term in section 1092(a) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)).
(3) TERRORIST SCREENING DATABASE.—The term ''terrorist screening database'' has the meaning given such term in section 2101 of the Homeland Security Act of 2002 (6 U.S.C. 621).
(4) UNACCOMPANIED ALIEN CHILD.—The term ''unaccompanied alien child'' has the meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).
(b) IN GENERAL.—Not later than the seventh day of each month beginning with the second full month after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall publish on a publicly available website of the Department of Homeland Security information for the immediately preceding month relating to—
(1) the total number of alien encounters and nationalities;
(2) unique alien encounters and nationalities;
(3) gang affiliated apprehensions and nationalities;
(4) drug seizures;
(5) alien encounters included in the terrorist screening database and nationalities;
(6) arrests of criminal aliens or individuals wanted by law enforcement and nationalities;
(7) known got aways;
(8) encounters with deceased aliens; and
(9) all other related or associated statistics recorded by U.S. Customs and Border Protection.
(c) CONTENTS.—Each monthly publication required under subsection (b) shall include—
(1) the aggregate such number, and such number disaggregated by geographic regions, of such recordings and encounters, including specifications relating to whether such recordings and encounters were at the southwest, northern, or maritime border;
(2) the identification of the Office of Field Operations field office, U.S. Border Patrol sector, or Air and Marine Operations branch making each recording or encounter;
(3) information relating to whether each recording or encounter of an alien was of a single adult, an unaccompanied alien child, or an individual in a family unit;
(4) information relating to the processing disposition of each alien recording or encounter;
(5) information relating to the nationality of each alien who is the subject of each recording or encounter;
(6) the total number of individuals included in the terrorist screening database (as such term is defined in section 2101 of the Homeland Security Act of 2002 (6 U.S.C. 621)) who have repeatedly attempted to cross unlawfully into the United States; and
(7) the total number of individuals included in the terrorist screening database who have been apprehended, including information relating to whether such individuals were released into the United States or removed.
(d) EXCEPTIONS.—If the Commissioner of U.S. Customs and Border Protection does not publish the information required under subsections (a) and (b) in any month by the date specified in subsection (a), the Commissioner shall brief the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the reason for such nonpublication by not later than the date that is 2 business days after the tenth day of such month.

SEC. 519. ALIEN CRIMINAL BACKGROUND CHECKS.

(a) IN GENERAL.—Not later than 7 days after the date of the enactment of this Act, the Commissioner shall submit a certification 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 CBP has real-time access to the criminal history databases of all countries of origin and transit for aliens encountered by CBP to perform criminal history background checks for such aliens.
(b) STANDARDS.—The certification required under subsection (a) shall include a determination whether the criminal history databases of a country are accurate, up to date, digitized, searchable, and otherwise meet the standards of the Federal Bureau of Investigation for criminal history databases maintained by State and local governments.
(c) CERTIFICATION.—The Secretary shall annually submit a certification to the congressional committees listed in subsection (a) that each database referred to in subsection (b) that the Secretary accessed or sought to access pursuant to this section met the standards described in subsection (b).

SEC. 520. PROHIBITED IDENTIFICATION DOCUMENTS AT AIRPORT SECURITY CHECKPOINTS; NOTIFICATION TO IMMIGRATION AGENCIES.

(a) DEFINITIONS.—In this section:
(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Transportation Security Administration.
(2) BIOMETRIC INFORMATION.—The term ''biometric information'' means—
(A) a fingerprint;
(B) a palm print;
(C) a photograph, including—
(i) a photograph of an individual's face for use with facial recognition technology; and
(ii) a photograph of any physical or anatomical feature, such as a scar, skin mark, or tattoo;
(D) a signature;

(E) a voice print; and
(F) an iris image.
(3) COVERED IDENTIFICATION DOCUMENT.—The term ''covered identification document'' means a valid and unexpired—
(A) United States passport or passport card;
(B) biometrically secure card issued by a trusted traveler program of the Department, including—
(i) Global Entry;
(ii) Nexus;
(iii) Secure Electronic Network for Travelers Rapid Inspection (SENTRI); and
(iv) Free and Secure Trade (FAST);
(C) identification card issued by the Department of Defense, including such a card issued to a dependent;
(D) document required for admission to the United States under section 211(a) of the Immigration and Nationality Act (8 U.S.C. 1181(a));
(E) enhanced driver's license issued by a State;
(F) photo identification card issued by a federally recognized Indian Tribe;
(G) personal identity verification credential issued in accordance with Homeland Security Presidential Directive 12;
(H) driver's license issued by a province of Canada;
(I) Secure Certificate of Indian Status issued by the Government of Canada;
(J) Transportation Worker Identification Credential (TWIC);
(K) Merchant Mariner Credential (MMC) issued by the Coast Guard;
(L) Veteran Health Identification Card (VHIC) issued by the Department of Veterans Affairs; and
(M) document that the Administrator determines, pursuant to a rulemaking in accordance with section 553 of title 5, United States Code, will satisfy the identity verification procedures of the Transportation Security Administration.
(4) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given such term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).
(5) PROHIBITED IDENTIFICATION DOCUMENT.—The term ''prohibited identification document'' means—
(A) a U.S. Immigration and Customs Enforcement Form I–200, Warrant for Arrest of Alien;
(B) a U.S. Immigration and Customs Enforcement Form I–205, Warrant of Removal/Deportation;
(C) a U.S. Immigration and Customs Enforcement Form I–220A, Order of Release on Recognizance;
(D) a U.S. Immigration and Customs Enforcement Form I–220B, Order of Supervision;
(E) a Department of Homeland Security Form I–862, Notice to Appear;
(F) a U.S. Customs and Border Protection Form I–94, Arrival/Departure Record (including a print-out of an electronic record);
(G) a Department of Homeland Security Form I–385, Notice to Report;
(H) any document that directs an individual to report to the Department of Homeland Security;
(I) any Department of Homeland Security work authorization or employment verification document; and
(J) any applicable successor form to any form listed in subparagraphs (A) through (I).
(6) STERILE AREA.—The term ''sterile area'' has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations, or in any successor regulation.
(b) IN GENERAL.—The Administrator may not accept as valid proof of identification a prohibited identification document at an airport security checkpoint.
(c) NOTIFICATION TO IMMIGRATION AGENCIES.—If an individual presents a prohibited identification document to a Transportation Security Administration officer at an airport security checkpoint, the Administrator shall promptly notify the Director of U.S. Immigration and Customs Enforcement, the Director of U.S. Customs and Border Protection, and the head of the appropriate local law enforcement agency to determine whether the individual is in violation of any term of release from the custody of any such agency.
(d) ENTRY INTO STERILE AREAS.—
(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is found to be in violation of any term of release under subsection (c), the Administrator may not permit such individual to enter a sterile area.
(2) EXCEPTION.—An individual presenting a prohibited identification document under this section may enter a sterile area if the individual—
(A) is leaving the United States for the purposes of removal or deportation; or
(B) presents a covered identification document.
(e) COLLECTION OF BIOMETRIC INFORMATION FROM CERTAIN INDIVIDUALS SEEKING ENTRY INTO THE STERILE AREA OF AN AIRPORT.—
(1) IN GENERAL.—Beginning not later than 120 days after the date of the enactment of this Act, the Administrator shall collect biometric information from an individual described in paragraph (2) before authorizing such individual to enter into a sterile area.
(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who—
(A) is seeking entry into the sterile area of an airport;
(B) does not present a covered identification document; and
(C) the Administrator cannot verify is a national of the United States.
(f) PARTICIPATION IN IDENT.—Beginning not later than 120 days after the date of the enactment of this Act, the Administrator, in coordination with the Secretary, shall submit biometric data collected under this section to the Automated Biometric Identification System (IDENT).

SEC. 521. PROHIBITION AGAINST ANY COVID–19 VACCINE MANDATE OR ADVERSE ACTION AGAINST DEPARTMENT OF HOMELAND SECURITY EMPLOYEES.

(a) LIMITATION ON IMPOSITION OF NEW MANDATE.—The Secretary may not issue any COVID–19 vaccine mandate unless Congress expressly authorizes such a mandate.
(b) PROHIBITION ON ADVERSE ACTION.—The Secretary may not take any adverse action against a Department employee based solely on the refusal of such employee to receive a vaccine for COVID–19.
(c) REPORT.—Not later than 90 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 and the Committee on Homeland Security of the House of Representatives regarding—
(1) the number of Department employees who were terminated or resigned due to the COVID–19 vaccine mandate;
(2) an estimate of the cost to reinstate such employees; and
(3) how the Department would effectuate reinstatement of such employees.
(d) RETENTION AND DEVELOPMENT OF UNVACCINATED EMPLOYEES.—The Secretary shall make every effort—
(1) to retain Department employees who are not vaccinated against COVID–19; and
(2) to provide such employees with professional development, promotion, leadership opportunities, and consideration equal to that of their peers.

SEC. 522. U.S. CUSTOMS AND BORDER PROTECTION ONE MOBILE APPLICATION LIMITATION.

(a) LIMITATION.—The Department may use the CBP One Mobile Application or any other similar program, application, internet-based portal, website, device, or initiative only for the inspection of perishable cargo.
(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Commissioner 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 regarding—
(1) the date on which CBP began using CBP One to allow aliens to schedule interviews at land ports of entry;
(2) how many aliens have scheduled interviews at land ports of entry using CBP One;
(3) the nationalities of such aliens; and
(4) the stated final destinations of such aliens within the United States, if applicable.

SEC. 523. REPORT ON MEXICAN DRUG CARTELS.

Not later than 60 days after the date of the enactment of this Act, Congress shall commission a report that contains—
(1) a national strategy to address Mexican drug cartels;
(2) a determination regarding whether there should be a designation established to address such cartels; and
(3) information relating to actions by such cartels that causes harm to the United States.

SEC. 524. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON COSTS INCURRED BY STATES TO SECURE THE SOUTHWEST BORDER.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to examine—
(1) the costs incurred by individual States as a result of actions taken by such States in support of the Federal mission to secure the southwest border; and
(2) the feasibility of a program to reimburse such States for such costs.
(b) CONTENTS.—The study required under subsection (a) shall consider—
(1) actions taken by the Department that have contributed to costs described in such subsection incurred by States to secure the border in the absence of Federal action, including the termination of the Migrant Protection Protocols and cancellation of border wall construction;
(2) actions taken by individual States along the southwest border to secure their respective borders, and the costs associated with such actions; and
(3) the feasibility of a program within the Department to reimburse States for the costs incurred in support of the Federal mission to secure the southwest border.

SEC. 525. REPORT BY INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this Act and annually thereafter for the following 5 years, the Inspector General of the Department 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 examines the economic and security impact of mass migration to municipalities and States along the southwest border.
(b) CONTENTS.—Each report required under subsection (a) shall include information regarding costs incurred by—
(1) State and local law enforcement to secure the southwest border;

(2) public school districts to educate students who are aliens unlawfully present in the United States;

(3) healthcare providers to provide care to aliens unlawfully present in the United States who have not paid for such care; and

(4) farmers and ranchers due to migration impacts to their properties.

(c) CONSULTATION.—In compiling the report required under subsection (a), the Inspector General of the Department shall consult with the individuals and representatives of the entities described in paragraphs (1) through (4) of subsection (b).

SEC. 526. OFFSETTING AUTHORIZATIONS OF APPROPRIATIONS.

(a) INTELLIGENCE, ANALYSIS, AND SITUATIONAL AWARENESS.—There is authorized to be appropriated $216,000,000 for Intelligence, Analysis, and Situational Awareness of the Department.

(b) OFFICE OF THE SECRETARY AND EMERGENCY MANAGEMENT.—No funds are authorized to be appropriated—

(1) to U.S. Immigration and Customs Enforcement for the Alternatives to Detention Case Management Pilot Program; or

(2) to the Office of the Secretary of the Department for the Immigration Detention Ombudsman.

(c) MANAGEMENT DIRECTORATE.—No funds are authorized to be appropriated to the Management Directorate of the Department for electric vehicles or the construction of the St. Elizabeths Campus.

(d) U.S. CUSTOMS AND BORDER PROTECTION.—No funds are authorized to be appropriated for the Shelter Services Program for U.S. Customs and Border Protection.

SEC. 527. REPORT TO CONGRESS ON FOREIGN TERRORIST ORGANIZATIONS.

(a) DEFINED TERM.—In this section, the term ''foreign terrorist organization'' means an organization described in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(b) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter for the following 5 years, the Secretary 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 assesses attempts by foreign terrorist organizations to move their members or affiliates into the United States through the southern, northern, or maritime border.

SEC. 528. ASSESSMENT BY INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY REGARDING THE MITIGATION OF UNMANNED AIRCRAFT SYSTEMS AT THE SOUTHWEST BORDER.

Not later than 90 days after the date of the enactment of this Act, the Inspector General of the Department 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 assesses the ability of U.S. Customs and Border Protection to mitigate unmanned aircraft systems at the southwest border, including information regarding any intervention between January 1, 2021 and the date of the enactment of this Act by any Federal agency affecting U.S. Customs and Border Protection's authority to so mitigate such systems.

TITLE II—ASYLUM REFORM AND BORDER PROTECTION

SEC. 531. SAFE THIRD COUNTRY.

Section 208(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

(1) by striking ''if the Attorney General determines that'' and inserting ''if the Attorney General or the Secretary of Homeland Security determines that—'';

(2) by striking ''the alien may be removed, pursuant to a bilateral or multilateral agreement,'' and inserting the following:

''(i) the alien may be removed'';

(3) by inserting ''or the Secretary, on a case by case basis,'' before ''finds that'';

(4) by striking the period at the end and inserting ''; or''; and

(5) by adding at the end the following:

''(ii) the alien entered, attempted to enter, or arrived in the United States after transiting through at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence en route to the United States, unless—

''(I) the alien demonstrates that he or she applied for protection from persecution or torture in at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence through which the alien transited en route to the United States, and the alien received a final judgment denying the alien protection in each country;

''(II) the alien demonstrates that he or she was—

''(aa) a victim of a severe form of trafficking in which—

''(AA) a commercial sex act was induced by force, fraud, or coercion;

''(BB) the person induced to perform such act was younger than 18 years of age; or

''(CC) the trafficking included the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; and

''(bb) unable to apply for protection from persecution in each country through which the alien transited en route to the United States as a result of such severe form of trafficking; or

''(III) the only countries through which the alien transited en route to the United States were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.''.

SEC. 532. 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 ''there is a significant possibility'' and all that follows, and inserting '', taking into account the credibility of the statements made by the alien in support of the alien's claim, as determined pursuant to section 208(b)(1)(B)(iii), and such other facts as are known to the officer, the alien more likely than not could establish eligibility for asylum under section 208, and it is more likely than not that the statements made by, and on behalf of, the alien in support of the alien's claim are true.''.

SEC. 533. CLARIFICATION OF ASYLUM ELIGIBILITY.

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended—

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

''(1) IN GENERAL.—Any alien who is physically present in the United States and has arrived in the United States at a port of entry (including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section or, where applicable, section 235(b).''; and

(2) in subsection (b)(1)(A), by inserting ''(in accordance with the rules under this section), and is eligible to apply for asylum under subsection (a)'' after ''section 101(a)(42)(A)''.

SEC. 534. EXCEPTIONS.

Section 208(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)) is amended to read as follows:

''(2) EXCEPTIONS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) BATTERY OR EXTREME CRUELTY.—The term 'battery or extreme cruelty' includes—

''(I) any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury;

''(II) psychological or sexual abuse or exploitation, including rape, molestation, incest, or forced prostitution, shall be considered acts of violence; and

''(III) other abusive acts, including acts that, in and of themselves, may not initially appear violent, but that are a part of an overall pattern of violence.

''(ii) FELONY.—The term 'felony' means—

''(I) any crime defined as a felony by the relevant jurisdiction (Federal, State, tribal, or local) of conviction; or

''(II) any crime punishable by more than one year of imprisonment.

''(iii) MISDEMEANOR.—The term 'misdemeanor' means—

''(I) any crime defined as a misdemeanor by the relevant jurisdiction (Federal, State, tribal, or local) of conviction; or

''(II) any crime not punishable by more than 1 year of imprisonment.

''(B) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Secretary of Homeland Security or the Attorney General determines that—

''(i) the alien 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;

''(ii) the alien has been convicted of any felony under Federal, State, tribal, or local law;

''(iii) the alien has been convicted of any misdemeanor offense under Federal, State, tribal, or local law involving—

''(I) the unlawful possession or use of an identification document, authentication feature, or false identification document (as those terms and phrases are defined in the jurisdiction where the conviction occurred), unless the alien can establish that the conviction resulted from circumstances showing that—

''(aa) the document or feature was presented before boarding a common carrier;

''(bb) the document or feature related to the alien's eligibility to enter the United States;

''(cc) the alien used the document or feature to depart a country wherein the alien has claimed a fear of persecution; and

''(dd) the alien claimed a fear of persecution without delay upon presenting himself or herself to an immigration officer upon arrival at a United States port of entry;

''(II) the unlawful receipt of a Federal public benefit (as defined in section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c))), from a Federal entity, or the unlawful receipt of similar public benefits from a State, tribal, or local entity; or

''(III) possession or trafficking of a controlled substance or controlled substance paraphernalia, as such terms are defined under the law of the jurisdiction where the conviction occurred, other than a single offense involving possession for one's own use of 30 grams or less of marijuana (as marijuana is defined under the law of the jurisdiction where the conviction occurred);

''(iv) the alien has been convicted of an offense arising under section 274(a)(1)(A), 274(a)(2), or 276;

''(v) the alien has been convicted of a Federal, State, tribal, or local crime that the Attorney General or Secretary of Homeland Security knows, or has reason to believe, was committed in support, promotion, or furtherance of the activity of a criminal street gang (as defined under the law of the jurisdiction where the conviction occurred or in section 521(a) of title 18, United States Code);

''(vi) the alien has been convicted of an offense for driving while intoxicated or impaired, as such terms are defined under the law of the jurisdiction where 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 Federal, State, tribal, or local law, in which such intoxicated or impaired driving was a cause of serious bodily injury or death of another person;

''(vii) the alien has been convicted of more than 1 offense for driving while intoxicated or impaired, as those terms are defined under the law of the jurisdiction where 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 Federal, State, tribal, or local law;

''(viii) the alien has been convicted of a crime—

''(I) that involves conduct amounting to a crime of stalking;

''(II) of child abuse, child neglect, or child abandonment; or

''(III) that involves conduct amounting to a domestic assault or battery offense, including—

''(aa) a misdemeanor crime of domestic violence, as described in section 921(a)(33) of title 18, United States Code;

''(bb) a crime of domestic violence, as described in section 40002(a)(12) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)(12)); or

''(cc) any crime based on conduct in which the alien harassed, coerced, intimidated, voluntarily or recklessly used (or threatened to use) force or violence against, or inflicted physical injury or physical pain, however slight, upon a person—

''(AA) who is a current or former spouse of the alien;

''(BB) with whom the alien shares a child;

''(CC) who is cohabitating with, or who has cohabitated with, the alien as a spouse;

''(DD) who is similarly situated to a spouse of the alien under the domestic or family violence laws of the jurisdiction where the offense occurred; or

''(EE) who is protected from that alien's acts under the domestic or family violence laws of the United States or of any State, tribal government, or unit of local government;

''(ix) the alien has engaged in acts of battery or extreme cruelty upon a person and the person—

''(I) is a current or former spouse of the alien;

''(II) shares a child with the alien;

''(III) cohabitates or has cohabitated with the alien as a spouse;

''(IV) is similarly situated to a spouse of the alien under the domestic or family violence laws of the jurisdiction where the offense occurred; or

''(V) is protected from that alien's acts under the domestic or family violence laws of the United States or of any State, tribal government, or unit of local government;

''(x) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

''(xi) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside of the United States before arriving in the United States;

''(xii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(xiii) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in the Secretary's or the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States;

''(xiv) the alien was firmly resettled in another country before arriving in the United States; or

''(xv) there are reasonable grounds for concluding the alien could avoid persecution by relocating to another part of the alien's country of nationality or, in the case of an alien having no nationality, another part of the alien's country of last habitual residence.

''(C) SPECIAL RULES.—

''(i) PARTICULARLY SERIOUS CRIME; SERIOUS NONPOLITICAL CRIME OUTSIDE THE UNITED STATES.—

''(I) IN GENERAL.—For purposes of subparagraph (B)(x), the Attorney General or Secretary of Homeland Security may determine that a conviction constitutes a particularly serious crime based on—

''(aa) the nature of the conviction;

''(bb) the type of sentence imposed; or

''(cc) the circumstances and underlying facts of the conviction.

''(II) DETERMINATION.—In making a determination under subclause (I), the Attorney General or Secretary of Homeland Security may consider all reliable information and are not limited to facts found by the criminal court or provided in the underlying record of conviction.

''(III) TREATMENT OF FELONIES.—In making a determination under subclause (I), an alien who has been convicted of a felony or an aggravated felony (as defined in section 101(a)(43)), shall be considered to have been convicted of a particularly serious crime.

''(IV) INTERPOL RED NOTICE.—In making a determination under subparagraph (B)(xi), an Interpol Red Notice may constitute reliable evidence that the alien has committed a serious nonpolitical crime outside the United States.

''(ii) CRIMES AND EXCEPTIONS.—

''(I) DRIVING WHILE INTOXICATED OR IMPAIRED.—A finding under subparagraph (B)(vi) does not require the Attorney General or Secretary of Homeland Security to find the first conviction for driving while intoxicated or impaired (including a conviction for driving while under the influence of or impaired by alcohol or drugs) as a predicate offense. The Attorney General or Secretary of Homeland Security need only make a factual determination that the alien previously was convicted for driving while intoxicated or impaired as those terms are defined under the jurisdiction where the conviction occurred (including a conviction for driving while under the influence of or impaired by alcohol or drugs).

''(II) STALKING AND OTHER CRIMES.—In making a determination under subparagraph (B)(viii), including determining the existence of a domestic relationship between the alien and the victim, the underlying conduct of the crime may be considered, and the Attorney General or Secretary of Homeland Security is not limited to facts found by the criminal court or provided in the underlying record of conviction.

''(III) EXCEPTION FOR VICTIMS OF DOMESTIC VIOLENCE.—An alien who was convicted of an offense described in clause (viii) or (ix) of subparagraph (B) is not ineligible for asylum on that basis if the alien satisfies the criteria under section 237(a)(7)(A).

''(D) SPECIFIC CIRCUMSTANCES.—Paragraph (1) shall not apply to an alien whose claim is based on—

''(i) personal animus or retribution, including personal animus in which the alleged persecutor has not targeted, or manifested an animus against, other members of an alleged particular social group in addition to the member who has raised the claim at issue;

''(ii) the applicant's generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a discrete cause against such organizations related to control of a State or expressive behavior that is antithetical to the State or a legal unit of the State;

''(iii) the applicant's resistance to recruitment or coercion by guerrilla, criminal, gang, terrorist, or other non-state organizations;

''(iv) the targeting of the applicant for criminal activity for financial gain based on wealth or affluence or perceptions of wealth or affluence;

''(v) the applicant's criminal activity; or

''(vi) the applicant's perceived, past or present, gang affiliation.

''(E) CLARIFICATIONS.—

''(i) CONSTRUCTION.—For purposes of this paragraph, whether any activity or conviction also may constitute a basis for removal is immaterial to a determination of asylum eligibility.

''(ii) ATTEMPT, CONSPIRACY, OR SOLICITATION.—For purposes of this paragraph, all references to a criminal offense or criminal conviction shall be deemed to include any attempt, conspiracy, or solicitation to commit the offense or any other inchoate form of the offense.

''(iii) EFFECT OF CERTAIN ORDERS.—

''(I) IN GENERAL.—No order vacating a conviction, modifying a sentence, clarifying a sentence, or otherwise altering a conviction or sentence shall have any effect under this paragraph unless the Attorney General or Secretary of Homeland Security determines that—

''(aa) the court issuing the order had jurisdiction and authority to do so; and

''(bb) the order was not entered for rehabilitative purposes or for purposes of ameliorating the immigration consequences of the conviction or sentence.

''(II) AMELIORATING IMMIGRATION CONSEQUENCES.—For purposes of subclause (I)(bb), the order shall be presumed to be for the purpose of ameliorating immigration consequences if—

''(aa) the order was entered after the initiation of any proceeding to remove the alien from the United States; or

''(bb) the alien moved for the order more than 1 year after the later of—

''(AA) the date of the original order of conviction; or

''(BB) the date of the original order of sentencing.

''(III) AUTHORITY OF IMMIGRATION JUDGE.—An immigration judge is not limited to consideration only of material included in any order vacating a conviction, modifying a sentence, or clarifying a sentence to determine whether such order should be given any

effect under this paragraph, but may consider such additional information as the immigration judge determines appropriate.

''(F) ADDITIONAL LIMITATIONS.—The Secretary of Homeland Security or the Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum under paragraph (1).

''(G) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Secretary of Homeland Security or the Attorney General under subparagraph (B)(xiii).''.

SEC. 535. EMPLOYMENT AUTHORIZATION.

Section 208(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(2)) is amended to read as follows:

''(2) EMPLOYMENT AUTHORIZATION.—

''(A) AUTHORIZATION PERMITTED.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Secretary of Homeland Security. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization before the date that is 180 days after the date on which the alien filed an application for asylum.

''(B) TERMINATION.—Each employment authorization granted pursuant to subparagraph (A), and any renewal or extension of such authorization, shall be valid until the earlier of—

''(i) the date that is 6 months after such authorization, renewal, or extension;

''(ii) the date on which the asylum application is denied by an asylum officer, unless the case is referred to an immigration judge;

''(iii) the date that is 30 days after the date on which an immigration judge denies an asylum application, unless the alien timely appeals to the Board of Immigration Appeals; or

''(iv) the date on which the Board of Immigration Appeals denies an appeal of a denial of an asylum application.

''(C) RENEWAL.—The Secretary of Homeland Security may not grant, renew, or extend employment authorization to an alien if the alien was previously granted employment authorization under subparagraph (A), and the employment authorization was terminated pursuant to a circumstance described in clause (ii), (iii), or (iv) of subparagraph (B) unless a Federal court of appeals remands the alien's case to the Board of Immigration Appeals.

''(D) INELIGIBILITY.—The Secretary of Homeland Security may not grant employment authorization to an alien under this paragraph if the alien—

''(i) is ineligible for asylum under subsection (b)(2)(A); or

''(ii) entered or attempted to enter the United States at a place and time other than lawfully through a United States port of entry.''.

SEC. 536. ASYLUM FEES.

Section 208(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(3)) is amended to read as follows:

''(3) FEES.—

''(A) APPLICATION FEE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary of Homeland Security shall impose a fee for each application for asylum that—

''(I) except as provided in subclause (II), is not less than $50; and

''(II) does not exceed the cost of adjudicating the application.

''(ii) WAIVER.—The fee under clause (i) shall be waived for an application filed on behalf of an unaccompanied alien child in proceedings under section 240.

''(B) EMPLOYMENT AUTHORIZATION.—Separate fees may be imposed for an application for employment authorization under this section and for an application for adjustment of status under section 209(b). Such fees may not exceed the costs of processing and adjudicating such applications.

''(C) PAYMENT.—Fees under this paragraph may be assessed and paid by installments.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to limit the authority of the Attorney General or the Secretary of Homeland Security to set adjudication and naturalization fees in accordance with section 286(m).''.

SEC. 537. RULES FOR DETERMINING ASYLUM ELIGIBILITY.

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), as amended by section 531 and sections 533 through 536, is further amended by adding at the end the following:

''(f) RULES FOR DETERMINING ASYLUM ELIGIBILITY.—

''(1) DEFINITIONS.—In this subsection:

''(A) MEMBERSHIP IN A PARTICULAR SOCIAL GROUP.—The term 'membership in a particular social group' means membership in a group that is—

''(i) composed of members who share a common immutable characteristic;

''(ii) defined with particularity; and

''(iii) socially distinct within the society in question.

''(B) PERSECUTION.—The term 'persecution'—

''(i) means the infliction of a severe level of harm constituting an exigent threat by the government of a country or by persons or an organization that the government was unable or unwilling to control; and

''(ii) does not include—

''(I) generalized harm or violence that arises out of civil, criminal, or military strife in a country;

''(II) all treatment that the United States regards as unfair, offensive, unjust, unlawful, or unconstitutional;

''(III) intermittent harassment, including brief detentions;

''(IV) threats with no actual effort to carry out the threats, except that particularized threats of severe harm of an immediate and menacing nature made by an identified entity may constitute persecution; or

''(V) nonsevere economic harm or property damage.

''(C) POLITICAL OPINION.—The term 'political opinion' means an ideal or conviction in support of the furtherance of a discrete cause related to political control of a state or a unit thereof.

''(2) PARTICULAR SOCIAL GROUP.—In making a determination under subsection (b)(1)(A) with respect to whether an alien is a refugee within the meaning of section 101(a)(42)(A), the Secretary of Homeland Security or the Attorney General may not determine that an alien is a member of a particular social group unless the alien articulates on the record, or provides a basis on the record for determining, the definition and boundaries of the alleged particular social group, establishes that the particular social group exists independently from the alleged persecution, and establishes that the alien's claim of membership in a particular social group does not involve—

''(A) past or present criminal activity or association (including gang membership);

''(B) presence in a country with generalized violence or a high crime rate;

''(C) being the subject of a recruitment effort by criminal, terrorist, or persecutory groups;

''(D) the targeting of the applicant for criminal activity for financial gain based on perceptions of wealth or affluence;

''(E) interpersonal disputes of which governmental authorities in the relevant society or region were unaware or uninvolved;

''(F) private criminal acts of which governmental authorities in the relevant society or region were unaware or uninvolved;

''(G) past or present terrorist activity or association;

''(H) past or present persecutory activity or association; or

''(I) status as an alien returning from the United States.

''(3) POLITICAL OPINION.—The Secretary of Homeland Security or the Attorney General may not determine that an alien holds a political opinion with respect to which the alien is subject to persecution if the political opinion is constituted solely by generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations and does not include expressive behavior in furtherance of a cause against such organizations related to efforts by the State to control such organizations or behavior that is antithetical to or otherwise opposes the ruling legal entity of the State or a unit of such State.

''(4) PERSECUTION.—The Secretary of Homeland Security or the Attorney General may not determine that an alien has been subject to persecution or has a well-founded fear of persecution based only on—

''(A) the existence of laws or government policies that are unenforced or infrequently enforced, unless there is credible evidence that such a law or policy has been or would be applied to the applicant personally; or

''(B) the conduct of rogue foreign government officials acting outside the scope of their official capacity.

''(5) DISCRETIONARY DETERMINATION.—

''(A) ADVERSE DISCRETIONARY FACTORS.—The Secretary of Homeland Security or the Attorney General may only grant asylum to an alien if the alien establishes that he or she warrants a favorable exercise of discretion. In making such a determination, the Attorney General or the Secretary of Homeland Security shall consider, if applicable, an alien's use of fraudulent documents to enter the United States, unless the alien arrived in the United States by air, sea, or land directly from the applicant's home country without transiting through any other country.

''(B) FAVORABLE EXERCISE OF DISCRETION NOT PERMITTED.—Except as provided in subparagraph (C), the Attorney General or the Secretary of Homeland Security may not favorably exercise discretion under this section for any alien who—

''(i) has accrued more than 1 year of unlawful presence in the United States (as defined in clauses (ii) and (iii) of section 212(a)(9)(B)), before filing an application for asylum;

''(ii) at the time the asylum application is filed with the immigration court or is referred from the Department of Homeland Security—

''(I) has failed to timely file (or timely file a request for an extension of time to file) any required Federal, State, or local income tax returns;

''(II) has failed to satisfy any outstanding Federal, State, or local tax obligations; or

''(III) earned 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;

''(iii) has had 2 or more prior asylum applications denied for any reason;

''(iv) has withdrawn a prior asylum application with prejudice or been found to have abandoned a prior asylum application;

''(v) failed to attend an interview regarding his or her asylum application with the Department of Homeland Security, unless the

alien shows by a preponderance of the evidence that—

''(I) exceptional circumstances prevented the alien from attending the interview; or

''(II) the interview notice was not mailed to the last address provided by the alien or the alien's representative and neither the alien nor the alien's representative received notice of the interview; or

''(vi) was subject to a final order of removal, deportation, or exclusion and did not file a motion to reopen to seek asylum based on changed country conditions within one year of the change in country conditions.

''(C) EXCEPTIONS.—Notwithstanding subparagraph (B), if there are 1 or more of the adverse discretionary factors described in such subparagraph (B), the Attorney General or the Secretary of Homeland Security, may favorably exercise discretion under section 208—

''(i) in extraordinary circumstances, such as those involving national security or foreign policy considerations; or

''(ii) if the alien, by clear and convincing evidence, demonstrates that the denial of the application for asylum would result in exceptional and extremely unusual hardship to the alien.

''(6) LIMITATION.—

''(A) IN GENERAL.—If the Secretary of Homeland Security or the Attorney General determines that an alien fails to satisfy the requirement under paragraph (2), the alien may not—

''(i) be granted asylum based on membership in a particular social group or

''(ii) appeal the determination of the Secretary or the Attorney General, as applicable.

''(B) NO BASIS FOR MOTION TO REOPEN OR RECONSIDER.—A determination under this paragraph shall not serve as the basis for any motion to reopen or reconsider an application for asylum or withholding of removal for any reason, including a claim of ineffective assistance of counsel, unless the alien—

''(i) complies with the procedural requirements for such a motion; and

''(ii) demonstrates that counsel's failure to define, or provide a basis for defining, a formulation of a particular social group was not a strategic choice and constituted egregious conduct.

''(7) STEREOTYPES.—Evidence offered in support of an application for asylum that promotes cultural stereotypes about a country, its inhabitants, or an alleged persecutor, including stereotypes based on race, religion, nationality, or gender, shall not be admissible in adjudicating that application, except that evidence that an alleged persecutor holds stereotypical views of the applicant shall be admissible.''.

SEC. 538. FIRM RESETTLEMENT.

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), as amended by section 531 and sections 533 through 537, is further amended by adding at the end the following:

''(g) FIRM RESETTLEMENT.—

''(1) IN GENERAL.—In determining whether an alien was firmly resettled in another country before arriving in the United States under subsection (b)(2)(B)(xiv), the alien shall be considered to have firmly resettled in another country if, after the events giving rise to the alien's asylum claim—

''(A) the alien—

''(i) resided in a country through which the alien transited before arriving in or entering the United States; and

''(ii)(I) received or was eligible for any permanent legal immigration status in that country;

''(II) resided in such a country with any nonpermanent, but indefinitely renewable, legal immigration status (including asylee, refugee, or similar status, but excluding the status of a tourist); or

''(III) resided in such a country and could have applied for and obtained an immigration status described in subclause (II);

''(B) the alien physically resided voluntarily, and without continuing to suffer persecution or torture, in any country for 1 year or more after departing his or her country of nationality or last habitual residence and before arriving in or entering into the United States, except for any time spent in Mexico by an alien who is not a native or citizen of Mexico solely as a direct result of being returned to Mexico pursuant to section 235(b)(3) or of being subject to metering; or

''(C) the alien—

''(i) is a citizen of a country other than the country in which the alien alleges a fear of persecution, or was a citizen of such a country in the case of an alien who renounces such citizenship; and

''(ii) was present in such country after departing his or her country of nationality or last habitual residence and before arriving in or entering into the United States.

''(2) BURDEN OF PROOF.—If an immigration judge determines pursuant to paragraph (1) that an alien has firmly resettled in another country, the alien shall bear the burden of proving the bar does not apply.

''(3) FIRM RESETTLEMENT OF PARENT.—An alien shall be presumed to have been firmly resettled in another country if—

''(A) the alien's parent was firmly resettled in another country;

''(B) the parent's resettlement occurred before the alien attained 18 years of age; and

''(C) the alien resided with such parent at the time of the firm resettlement, unless the alien establishes that he or she could not have derived any permanent legal immigration status or any nonpermanent, but indefinitely renewable, legal immigration status (including asylum, refugee, or similar status, but excluding the status of a tourist) from the alien's parent.''.

SEC. 539. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLICATIONS.

(a) IN GENERAL.—Section 208(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General'';

(2) in subparagraph (A), by striking ''and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and'' and inserting a semicolon;

(3) in subparagraph (B), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) ensure that a written warning appears on the asylum application advising the alien of the consequences of filing a frivolous application and serving as notice to the alien of the consequence of filing a frivolous application.''.

(b) CONFORMING AMENDMENT.—Section 208(d)(6) of such Act (8 U.S.C. 1158(d)(6)) is amended to read as follows:

''(6) FRIVOLOUS APPLICATIONS.—

''(A) IN GENERAL.—If the Secretary of Homeland Security or the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice described in paragraph (4)(C), the alien shall be permanently ineligible for any benefits under this chapter, effective as the date of the final determination of such an application.

''(B) CRITERIA.—An application is frivolous if the Secretary of Homeland Security or the Attorney General determines, consistent with subparagraph (C), that—

''(i) the application is so insufficient in substance that it is clear that the applicant knowingly filed the application solely or in part—

''(I) to delay removal from the United States;

''(II) to seek employment authorization as an applicant for asylum pursuant to regulations issued pursuant to paragraph (2); or

''(III) to seek issuance of a Notice to Appear in order to pursue Cancellation of Removal under section 240A(b); or

''(ii) any of the material elements in the application are knowingly fabricated.

''(C) SUFFICIENT OPPORTUNITY TO CLARIFY.—An application may not be determined to be frivolous unless the Secretary of Homeland Security or the Attorney General is satisfied that the applicant, during the course of the proceedings, has had sufficient opportunity to clarify any discrepancies or implausible aspects of his or her claim.

''(D) WITHHOLDING OF REMOVAL NOT PRECLUDED.—For purposes of this section, a finding that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3) or protection under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.''.

SEC. 540. TECHNICAL AMENDMENTS.

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), as amended by section 531 and sections 533 through 539, is further amended—

(1) in subsection (a)—

(A) in paragraph (2)(D), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General''; and

(B) in paragraph (3), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(B) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General''; and

(C) in paragraph (3), by inserting ''the Secretary of Homeland Security or'' before ''the Attorney General''; and

(3) in subsection (d)—

(A) in paragraph (1), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General'' each place such term appears; and

(B) in paragraph (5)—

(i) in subparagraph (A)(i), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(ii) in subparagraph (B), by inserting ''Secretary of Homeland Security or the'' before ''Attorney General''.

SEC. 541. REQUIREMENT FOR PROCEDURES RELATING TO CERTAIN ASYLUM APPLICATIONS.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens—

(1) who are subject to removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a); and

(2) who are nationals of a Western Hemisphere country sanctioned by the United States, as described in subsection (b), as of January 1, 2023.

(b) WESTERN HEMISPHERE COUNTRY SANCTIONED BY THE UNITED STATES.—Subsection (a) shall only apply to an asylum application filed by an alien who is a national of a Western Hemisphere country subject to sanctions pursuant to—

(1) the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 note);

(2) section 5 of the Reinforcing Nicaragua's Adherence to Conditions for Electoral Reform Act of 2021 (50 U.S.C. 1701 note); or

(3) Executive Order 13692 (80 Fed. Reg. 12747; declaring a national emergency with respect to the situation in Venezuela).

(c) APPLICABILITY.—This section shall only apply to an alien who files an application for asylum after the date of the enactment of this Act.

TITLE III—BORDER SAFETY AND MIGRANT PROTECTION

SEC. 546. INSPECTION OF APPLICANTS FOR ADMISSION.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clauses (i) and (ii), by striking ''section 212(a)(6)(C) or 212(a)(7)'' and inserting ''paragraph (6)(A), (6)(C) or (7) of section 212(a)''; and

(II) by adding at the end the following:

''(iv) INELIGIBILITY FOR PAROLE.—An alien described in clause (i) or (ii) is not eligible for parole except as expressly authorized under section 212(d)(5), or for parole or release under section 236(a).''; and

(ii) in subparagraph (B)—

(I) in clause (ii), by inserting ''and may not be released (including parole or release pursuant to section 236(a), but excluding as expressly authorized under section 212(d)(5)) other than to be removed or returned to a country in accordance with paragraph (3).''; and

(II) in clause (iii)(IV)—

(aa) in the clause header by inserting '', RETURN, OR REMOVAL'' after ''DETENTION''; and

(bb) by adding at the end the following: ''The alien may not be released (including parole or release pursuant to section 236(a), but excluding as expressly authorized pursuant to section 212(d)(5)) other than to be removed or returned to a country in accordance with paragraph (3).'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''Subject to subparagraphs (B) and (C),'' and inserting ''Subject to subparagraph (B) and paragraph (3),''; and

(II) by adding at the end the following: ''The alien may not be released (including parole or release pursuant to section 236(a), but excluding as expressly authorized pursuant to section 212(d)(5)) other than to be removed or returned to a country in accordance with paragraph (3).''; and

(ii) by striking subparagraph (C);

(C) by redesignating paragraph (3) as paragraph (5); and

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

''(3) RETURN TO FOREIGN TERRITORY CONTIGUOUS TO THE UNITED STATES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may return any alien arriving on land from a foreign territory contiguous to the United States (whether or not at a designated port of entry) to such territory pending a proceeding under section 240 or a review of a determination under subsection (b)(1)(B)(iii)(III).

''(B) MANDATORY RETURN.—If the Secretary of Homeland Security is unable—

''(i) to comply with statutory obligations to detain an alien in accordance with clauses (ii) and (iii)(IV) of subsection (b)(1)(B) and subsection (b)(2)(A); or

''(ii) remove an alien to a country described in section 208(a)(2)(A),

the Secretary of Homeland Security shall, without exception, including pursuant to parole or release pursuant to section 236(a), but excluding as expressly authorized pursuant to section 212(d)(5), return any alien arriving on land from a foreign territory contiguous to the United States (whether or not at a designated port of entry) to such territory pending a proceeding under section 240 or a review of a determination under subsection (b)(1)(B)(iii)(III).

''(4) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—The attorney general of a State, or other authorized State officer, alleging a violation of the detention, return, or removal requirements under paragraph (1), (2), or (3) that affects such State or its residents, may bring an action against the Secretary of Homeland Security on behalf of the residents of the State in an appropriate United States district court to obtain appropriate injunctive relief.''; and

(2) by adding at the end the following:

''(e) AUTHORITY TO PROHIBIT INTRODUCTION OF CERTAIN ALIENS.—If the Secretary of Homeland Security determines, in the discretion of the Secretary, that prohibiting the introduction of aliens who are inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a) at an international land or maritime border of the United States is necessary to achieve operational control (as defined in section 2 of the Secure Fence Act of 2006 (8 U.S.C. 1701 note)) of such border, the Secretary may prohibit, in whole or in part, the introduction of such aliens at such border for such period as the Secretary determines is necessary for such purpose.''.

SEC. 547. OPERATIONAL DETENTION FACILITIES.

(a) DEFINED TERM.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on the Judiciary of the Senate;

(2) the Committee on Appropriations of the Senate;

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

(4) the Committee on Appropriations of the House of Representatives.

(b) IN GENERAL.—Not later than September 30, 2023, the Secretary of Homeland Security, using the authority granted under section 103(a)(11) of the Immigration and Nationality Act (8 U.S.C. 1103(a)(11)), shall take all necessary actions to reopen or restore all U.S. Immigration and Customs Enforcement detention facilities that were in operation on January 20, 2021, and subsequently closed or with respect to which the use was altered, reduced, or discontinued after January 20, 2021.

(c) SPECIFIC FACILITIES.—The requirement under subsection (b) shall include, at a minimum, reopening or restoring—

(1) Irwin County Detention Center in Georgia;

(2) C. Carlos Carreiro Immigration Detention Center in Bristol County, Massachusetts;

(3) Etowah County Detention Center in Gadsden, Alabama;

(4) Glades County Detention Center in Moore Haven, Florida; and

(5) South Texas Family Residential Center.

(d) EXCEPTION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary of Homeland Security may obtain equivalent capacity for detention facilities at locations other than those listed in subsection (c).

(2) LIMITATION.—The Secretary may not take action under paragraph (1) unless the capacity obtained would result in a reduction of time and cost relative to the cost and time otherwise required to obtain such capacity.

(3) SOUTH TEXAS FAMILY RESIDENTIAL CENTER.—The exception under paragraph (1) shall not apply to the South Texas Family Residential Center. The Secretary shall take all necessary steps to modify and operate the South Texas Family Residential Center in the same manner and capability it was operating on January 20, 2021.

(e) PERIODIC REPORT.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter until September 30, 2027, the Secretary of Homeland Security shall submit to the appropriate congressional committees a detailed plan for and a status report regarding—

(1) compliance with the deadline under subsection (b);

(2) the increase in detention capabilities required under this section—

(A) for the 90-day period immediately preceding the date on which such report is submitted; and

(B) for the period beginning on the first day of the fiscal year during which the report is submitted, and ending on the date on which such report is submitted;

(3) the number of detention beds that were used and the number of available detention beds that were not used during—

(A) the 90-day period immediately preceding the date on which such report is submitted; and

(B) the period beginning on the first day of the fiscal year during which the report is submitted, and ending on the date on which such report is submitted;

(4) the number of aliens released due to a lack of available detention beds; and

(5) the resources that the Department of Homeland Security needs in order to comply with the requirements under this section.

(f) NOTIFICATION.—The Secretary of Homeland Security shall submit to Congress a detailed description of the resources the Department of Homeland Security needs in order to detain all aliens whose detention is mandatory or nondiscretionary under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)—

(1) not later than 5 days after all U.S. Immigration and Customs Enforcement detention facilities reach 90 percent of capacity;

(2) not later than 5 days after all U.S. Immigration and Customs Enforcement detention facilities reach 95 percent of capacity; and

(3) not later than 5 days after all U.S. Immigration and Customs Enforcement detention facilities reach full capacity.

TITLE IV—PREVENTING UNCONTROLLED MIGRATION FLOWS IN THE WESTERN HEMISPHERE

SEC. 551. UNITED STATES POLICY REGARDING WESTERN HEMISPHERE COOPERATION ON IMMIGRATION AND ASYLUM.

It is the policy of the United States—

(1) to enter into agreements, accords, and memoranda of understanding with countries in the Western Hemisphere—

(A) to advance the interests of the United States by reducing costs associated with illegal immigration; and

(B) to protect the human capital, societal traditions, and economic growth of other countries in the Western Hemisphere; and

(2) to ensure that humanitarian and development assistance funding aimed at reducing illegal immigration is not expended on programs that have not proven to reduce illegal immigrant flows in the aggregate.

SEC. 552. NEGOTIATIONS BY SECRETARY OF STATE.

(a) ALIEN DEFINED.—In this section, the term ''alien'' has the meaning given such term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(b) AUTHORIZATION TO NEGOTIATE.—

(1) IN GENERAL.—The Secretary of State shall seek to negotiate agreements, accords,

and memoranda of understanding between the United States, Mexico, Honduras, El Salvador, Guatemala, and other countries in the Western Hemisphere—

(A) to enhance the cooperation and burden sharing required for effective regional immigration enforcement; and

(B) to expedite legal claims by aliens for asylum and the processing, detention, and repatriation of foreign nationals seeking to enter the United States unlawfully.

(2) ELEMENTS.—Agreements negotiated pursuant to paragraph (1) shall—

(A) be designed to facilitate a regional approach to immigration enforcement;

(B) provide that the Government of Mexico—

(i) authorize and accept the rapid entrance into Mexico of nationals of countries other than Mexico who seek asylum in Mexico; and

(ii) process the asylum claims of such nationals inside Mexico, in accordance with domestic law and international treaties and conventions governing the processing of asylum claims;

(C) provide that the Government of Mexico authorize and accept—

(i) the rapid entrance into Mexico of all nationals of countries other than Mexico who are ineligible for asylum in Mexico and wish to apply for asylum in the United States, whether or not at a port of entry; and

(ii) the continued presence of such nationals in Mexico while they wait for the adjudication of their asylum claims to conclude in the United States;

(D) provide that the Government of Mexico commit to provide the individuals described in subparagraphs (B) and (C) with appropriate humanitarian protections;

(E) provide that the Government of Honduras, the Government of El Salvador, and the Government of Guatemala—

(i) authorize and accept the entrance into their respective countries of nationals of other countries seeking asylum in the applicable country; and

(ii) process such claims in accordance with applicable domestic law and international treaties and conventions governing the processing of asylum claims;

(F) provide that the Government of the United States commit to work—

(i) to accelerate the adjudication of asylum claims; and

(ii) to conclude removal proceedings in the wake of asylum adjudications as expeditiously as possible; and

(G) provide that the Government of the United States commit—

(i) to continue to assist the governments of countries in the Western Hemisphere, including Honduras, El Salvador, and Guatemala, by supporting the enhancement of asylum capacity in those countries; and

(ii) to monitoring developments in hemispheric immigration trends and regional asylum capabilities to determine whether additional asylum cooperation agreements are warranted.

(c) NOTIFICATION IN ACCORDANCE WITH CASE-ZABLOCKI ACT.—The Secretary of State, in accordance with section 112b of title 1, United States Code (commonly known as the ''Case-Zablocki Act''), shall inform the relevant congressional committees of each agreement entered into pursuant to subsection (b) not later than 48 hours after each such agreement is signed.

SEC. 553. MANDATORY BRIEFINGS ON UNITED STATES EFFORTS TO ADDRESS THE BORDER CRISIS.

(a) DEFINED TERM.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Foreign Relations of the Senate; and

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

(b) BRIEFING REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and not less frequently than once every 90 days thereafter until the date described in subsection (c), the Secretary of State, or the designee of the Secretary of State, shall provide an in-person briefing to the appropriate congressional committees regarding efforts undertaken pursuant to the negotiation authority provided under section 552 to monitor, deter, and prevent illegal immigration to the United States, including by—

(1) entering into agreements, accords, and memoranda of understanding with foreign countries; and

(2) using United States foreign assistance to stem the root causes of migration in the Western Hemisphere.

(c) TERMINATION OF MANDATORY BRIEFING.—The date described in this subsection is the date on which the Secretary of State, in consultation with the heads of other relevant Federal departments and agencies, determines and certifies to the appropriate congressional committees that illegal immigration flows have subsided to a manageable rate.

TITLE V—ENSURING UNITED FAMILIES AT THE BORDER

SEC. 561. CLARIFICATION OF STANDARDS FOR FAMILY DETENTION.

(a) IN GENERAL.—

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

''(j) RULE OF CONSTRUCTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement—

''(A) the detention of any alien child who is not an unaccompanied alien child shall be governed by sections 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231); and

''(B) there is no presumption that an alien child who is not an unaccompanied alien child should not be detained.

''(2) FAMILY DETENTION.—The Secretary of Homeland Security shall—

''(A) maintain the care and custody of any alien who is charged only with a misdemeanor offense under section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)) while such charge is pending if such alien entered the United States with the alien's child who has not attained 18 years of age; and

''(B) detain such alien with the alien's child.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to all actions occurring before, on, or after such date.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the amendment in subsection (a)(1) is intended to satisfy the requirements of the Settlement Agreement in Flores v. Meese, No. 85–4544 (C.D. Cal), as approved by the court on January 28, 1997, with respect to its interpretation in Flores v. Johnson, 212 F. Supp. 3d 864 (C.D. Cal. 2015), that the agreement applies to accompanied minors.

(c) PREEMPTION OF STATE LICENSING REQUIREMENTS.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement, no State may require that an immigration detention facility used to detain children who have not attained 18 years of age, or families consisting of 1 or more such children and the parents or legal guardians of such children, that is located in that State, be licensed by the State or any political subdivision of the State.

TITLE VI—PROTECTION OF CHILDREN

SEC. 566. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Implementation of the provisions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457) that govern unaccompanied alien children has incentivized multiple surges of unaccompanied alien children arriving at the southwest border since its enactment.

(2) The provisions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 that govern unaccompanied alien children—

(A) treat unaccompanied alien children from countries that are contiguous to the United States disparately by swiftly returning them to their home country absent indications of trafficking or a credible fear of return; and

(B) allow for the release of unaccompanied alien children from noncontiguous countries into the interior of the United States, often in the custody of the individuals who paid to smuggle them into the country.

(3) The provisions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 governing unaccompanied alien children have enriched Mexican drug cartels, which—

(A) receive hundreds of millions of dollars annually from smuggling unaccompanied alien children to the southwest border; and

(B) often exploit and sexually abuse many such unaccompanied alien children during the perilous journey.

(4) The number of unaccompanied alien children encountered at the southwest border never exceeded 1,000 in a single year before 2008.

(5) The United States is in the midst of the worst crisis of unaccompanied alien children in our Nation's history, with more than 350,000 unaccompanied alien children encountered at the southwest border during the administration of President Biden.

(6) During 2022, 152,057 unaccompanied alien children were encountered by U.S. Border Patrol, which represents the most encounters in a single year and an increase of more than 400 percent compared to the last full fiscal year of the Trump Administration in which [33,239] unaccompanied alien children were so encountered.

(7) The Biden Administration has lost contact with at least 85,000 unaccompanied alien children who entered the United States since President Biden assumed the presidency.

(8) The Biden Administration dismantled effective safeguards put in place by the Trump Administration that protected unaccompanied alien children from being abused by criminals or exploited for illegal and dangerous child labor.

(9) A New York Times investigation discovered that unaccompanied alien children—

(A) are being exploited in the labor market;

(B) ''are ending up in some of the most punishing jobs in the country''; and

(C) ''under intense pressure to earn money'' in order to ''send cash back to their families while often being in debt to their sponsors for smuggling fees, rent, and living expenses'', fear ''that they had become trapped in circumstances they never could have imagined.''.

(10) Department of Health and Human Services Secretary Xavier Becerra compared placing unaccompanied alien children with sponsors, to widgets in an assembly line,

stating that, ''If Henry Ford had seen this in his plant, he would have never become famous and rich. This is not the way you do an assembly line.''.

(11) Department of Health and Human Services employees working under Secretary Xavier Becerra's leadership penned a July 2021 memorandum expressing serious concern that ''labor trafficking was increasing'' and that the agency had become ''one that rewards individuals for making quick releases, and not one that rewards individuals for preventing unsafe releases.''.

(12) Despite these concerns, Secretary Xavier Becerra pressured Director of the Office of Refugee Resettlement Cindy Huang to prioritize releases of unaccompanied alien children over ensuring their safety, telling her ''if she could not increase the number of discharges he would find someone who could'' and Director Huang resigned one month later.

(13) In June 2014, the Obama Administration requested legal authority to exercise discretion in returning and removing unaccompanied alien children from noncontiguous countries back to their home countries.

(b) PURPOSE.—The purpose of this title is to end the disparate policies of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 by ensuring the swift return of all unaccompanied alien children to their country of origin who—

(1) are not victims of trafficking; and

(2) do not have a fear of returning to their country of origin.

SEC. 567. REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by amending the paragraph heading to read as follows: ''RULES FOR UNACCOMPANIED ALIEN CHILDREN.—'';

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''who is a national or habitual resident of a country that is contiguous with the United States'';

(II) in clause (i), by adding ''and'' at the end;

(III) in clause (ii), by striking ''; and'' and inserting a period; and

(IV) by striking clause (iii); and

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''(8 U.S.C. 1101 et seq.) may—'' and inserting ''(8 U.S.C. 1101 et seq.)—'';

(II) in clause (i), by inserting ''may'' before ''permit such child to withdraw''; and

(III) in clause (ii), by inserting ''shall'' before ''return such child''; and

(B) in paragraph (5)(D)—

(i) in the matter preceding clause (i), by striking '', except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2),'' and inserting ''who does not meet the criteria under paragraph (2)(A)''; and

(ii) in clause (i), by inserting '', which shall include a hearing before an immigration judge not later than 14 days after being screened under paragraph (4)'' before the semicolon at the end;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''Human services'' and inserting ''Human Services'';

(ii) in subparagraph (A), by inserting ''who does not to meet the criteria under subsection (a)(2)(A)'' before the semicolon; and

(iii) in subparagraph (B), by striking ''under 18 years of age'' and inserting ''younger than 18 years of age and does not meet the criteria under subsection (a)(2)(A)''; and

(B) in paragraph (3), by striking ''child in custody shall'' and all that follows, and inserting the following: ''child in custody—

''(A) in the case of a child who does not meet the criteria under subsection (a)(2)(A), shall transfer the custody of such child to the Secretary of Health and Human Services not later than 30 days after determining that such child is an unaccompanied alien child who does not meet such criteria; or

''(B) in the case of a child who meets the criteria under subsection (a)(2)(A), may transfer the custody of such child to the Secretary of Health and Human Services after determining that such child is an unaccompanied alien child who meets such criteria.''; and

(3) in subsection (c)—

(A) in paragraph (3), by adding at the end the following:

''(D) INFORMATION ABOUT INDIVIDUALS WITH WHOM CHILDREN ARE PLACED.—

''(i) INFORMATION TO BE PROVIDED TO DEPARTMENT OF HOMELAND SECURITY.—Before placing a child with an individual, the Secretary of Health and Human Services shall submit to the Secretary of Homeland Security, with respect to the individual with whom the child will be placed, information regarding—

''(I) the name of such individual;

''(II) the Social Security number of such individual;

''(III) the date of birth of such individual;

''(IV) the location of such individual's residence where the child will be placed;

''(V) the immigration status of such individual, if known; and

''(VI) contact information for such individual.

''(ii) ACTIVITIES OF SECRETARY OF HOMELAND SECURITY.—Not later than 30 days after receiving the information listed in clause (i), the Secretary of Homeland Security, upon determining that an individual with whom a child is placed is unlawfully present in the United States and not in removal proceedings pursuant to chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), shall initiate such removal proceedings.''; and

(B) in paragraph (5)—

(i) by inserting ''(at no expense to the Government)'' after ''to the greatest extent practicable''; and

(ii) by striking ''have counsel to represent them'' and inserting ''have access to counsel to represent them''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any unaccompanied alien child (as such term is defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))) apprehended on or after the date that is 30 days after the date of the enactment of this Act.

SEC. 568. SPECIAL IMMIGRANT JUVENILE STATUS FOR IMMIGRANTS UNABLE TO REUNITE WITH EITHER PARENT.

Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

(1) in clause (i), by striking '', and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law''; and

(2) in clause (iii)—

(A) in subclause (I), by striking ''and'' at the end;

(B) in subclause (II), by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(III) an alien may not be granted special immigrant status under this subparagraph if the alien's reunification with any parent or legal guardian is not precluded by abuse, neglect, abandonment, or any similar cause under State law;''.

SEC. 569. RULE OF CONSTRUCTION.

Nothing in this title may be construed to limit, with respect to procedures or practices relating to an unaccompanied alien child (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)))—

(1) the screening of such a child for a credible fear of return to his or her country of origin;

(2) the screening of such a child to determine whether he or she was a victim of trafficking; or

(3) Department of Health and Human Services policy in effect on the date of the enactment of this Act requiring a home study for such a child if he or she is younger than 12 years of age.

TITLE VII—VISA OVERSTAYS PENALTIES

SEC. 571. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.

Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended—

(1) in subsection (a), by inserting ''or if the alien was previously convicted of an offense under subsection (e)(2)(A)'' after ''for a subsequent commission of any such offense'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''at least $50 and not more than $250'' and inserting ''not less than $500 and not more than $1,000''; and

(B) in paragraph (2), by inserting ''or subsection (e)(2)(B)'' after ''in the case of an alien who has been previously subject to a civil penalty under this subsection''; and

(3) by adding at the end the following:

''(e) VISA OVERSTAYS.—

''(1) IN GENERAL.—An alien admitted as a nonimmigrant violates this paragraph if the alien, for an aggregate of 10 days or more, fails—

''(A) to maintain the nonimmigrant status in which the alien was admitted, or to which it was changed under section 248, including complying with the period of stay authorized by the Secretary of Homeland Security in connection with such status; or

''(B) to comply otherwise with the conditions of such nonimmigrant status.

''(2) PENALTIES.—An alien who violates paragraph (1)—

''(A) shall—

''(i) for the first commission of such a violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both; and

''(ii) for a subsequent commission of such a violation, or if the alien was previously convicted of an offense under subsection (a), be fined under such title 18, imprisoned not more than 2 years, or both; and

''(B) in addition to any penalty under subparagraph (A) and any other criminal or civil penalties that may be imposed for such a violation, shall be subject to a civil penalty of—

''(i) not less than $500 and not more than $1,000 for each such violation; or

''(ii) twice the amount specified in clause (i) if the alien was previously subject to a civil penalty under this subparagraph or subsection (b).''.

TITLE VIII—IMMIGRATION PAROLE REFORM

SEC. 576. IMMIGRATION PAROLE REFORM.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

''(5)(A) Subject to subparagraphs (B) through (H) and section 214(f), the Secretary of Homeland Security, in the discretion of the Secretary, may temporarily parole into the United States any alien applying for admission to the United States who is not

present in the United States, under such conditions as the Secretary may prescribe, on a case-by-case basis, and not according to eligibility criteria describing an entire class of potential parole recipients, for urgent humanitarian reasons or significant public benefit.

''(B) Parole granted under subparagraph (A) may not be regarded as an admission of the alien. When the Secretary of Homeland Security determines that the purposes of such parole have been served, the alien shall immediately return or be returned to the custody from which the alien was paroled. After such return, the case of the alien shall be dealt with in the same manner as the case of any other applicant for admission to the United States.

''(C) The Secretary of Homeland Security may grant parole to any alien who—

''(i) is present in the United States without lawful immigration status;

''(ii) is the beneficiary of an approved petition under section 203(a);

''(iii) is not otherwise inadmissible or removable; and

''(iv) is the spouse or child of a member of the Armed Forces serving on active duty.

''(D) The Secretary of Homeland Security may grant parole to any alien—

''(i) who is a national of the Republic of Cuba and is living in the Republic of Cuba;

''(ii) who is the beneficiary of an approved petition under section 203(a);

''(iii) for whom an immigrant visa is not immediately available;

''(iv) who meets all eligibility requirements for an immigrant visa;

''(v) who is not otherwise inadmissible; and

''(vi) who is receiving a grant of parole in furtherance of the commitment of the United States to the minimum level of annual legal migration of Cuban nationals to the United States specified in the U.S.-Cuba Joint Communiqué on Migration, done at New York September 9, 1994, and reaffirmed in the Cuba-United States: Joint Statement on Normalization of Migration, Building on the Agreement of September 9, 1994, done at New York May 2, 1995.

''(E) In determining an alien's eligibility for parole under subparagraph (A), an urgent humanitarian reason shall be limited to circumstances in which the alien establishes that the alien—

''(i)(I) has a medical emergency; and

''(II)(aa) cannot obtain necessary treatment in the foreign state in which the alien is residing; or

''(bb) the medical emergency is life-threatening and there is insufficient time for the alien to be admitted to the United States through the normal visa process;

''(ii) is the parent or legal guardian of an alien described in clause (i) and the alien described in clause (i) is a minor;

''(iii) is needed in the United States in order to donate an organ or other tissue for transplant and there is insufficient time for the alien to be admitted to the United States through the normal visa process;

''(iv) has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted to the United States through the normal visa process;

''(v) is seeking to attend the funeral of a close family member and the alien could not arrive in the United States in time to attend such funeral if the alien were to be admitted to the United States through the normal visa process;

''(vi) is an adopted child with an urgent medical condition who is in the legal custody of the petitioner for a final adoption-related visa and whose medical treatment is required before the expected award of a final adoption-related visa; or

''(vii) is a lawful applicant for adjustment of status under section 245 and is returning to the United States after temporary travel abroad.

''(F) In determining an alien's eligibility for parole under subparagraph (A), a significant public benefit may be determined to result from the parole of an alien only if—

''(i) the alien has assisted (or will assist, whether knowingly or not) the United States Government in a law enforcement matter;

''(ii) the alien's presence is required by the Government in furtherance of such law enforcement matter; and

''(iii) the alien is inadmissible, does not satisfy the eligibility requirements for admission as a nonimmigrant, or there is insufficient time for the alien to be admitted to the United States through the normal visa process.

''(G) In determining an alien's eligibility for parole under subparagraph (A), the term 'case-by-case basis' means that the facts in each individual case are considered and parole is not granted based on membership in a defined class of aliens to be granted parole. The fact that aliens are considered for or granted parole one-by-one and not as a group is not sufficient to establish that the parole decision is made on a 'case-by-case basis'.

''(H) The Secretary of Homeland Security may grant parole to an alien who is returned to a contiguous country pursuant to section 235(b)(3) to allow the alien to attend the alien's immigration hearing. The grant of parole shall not exceed the time required for the alien to be escorted to, and attend, the alien's immigration hearing scheduled on the same day as the grant, and to immediately thereafter be escorted back to the contiguous country. A grant of parole under this subparagraph shall not be considered for purposes of determining whether the alien is inadmissible under this Act.

''(I) The Secretary of Homeland Security may not use the parole authority under this paragraph to parole an alien into the United States for any reason or purpose other than those described in subparagraphs (C), (D), (E), (F), and (H).

''(J) An alien granted parole may not accept employment, except that an alien granted parole pursuant to subparagraph (C) or (D) is authorized to accept employment for the duration of the parole, as evidenced by an employment authorization document issued by the Secretary of Homeland Security.

''(K) Parole granted after a departure from the United States shall not be regarded as an admission of the alien. An alien granted parole, whether as an initial grant of parole or parole upon reentry into the United States, is not eligible to adjust status to lawful permanent residence or for any other immigration benefit if the immigration status the alien had at the time of departure did not authorize the alien to adjust status or to be eligible for such benefit.

''(L)(i) Except as provided in clauses (ii) and (iii), parole shall be granted to an alien under this paragraph for the shorter of—

''(I) a period of sufficient length to accomplish the activity described in subparagraph (E), (F), or (H) for which the alien was granted parole; or

''(II) 1 year.

''(ii) Grants of parole pursuant to subparagraph (A) may be extended once, in the discretion of the Secretary, for an additional period that is the shorter of—

''(I) the period that is necessary to accomplish the activity described in subparagraph (E) or (F) for which the alien was granted parole; or

''(II) 1 year.

''(iii) Aliens who have a pending application to adjust status to permanent residence under section 245 may request extensions of parole under this paragraph, in 1-year increments, until the application for adjustment has been adjudicated. Such parole shall terminate immediately upon the denial of such adjustment application.

''(M) Not later than 90 days after the last day of each fiscal year, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives and make available to the public, a report—

''(i) identifying the total number of aliens paroled into the United States under this paragraph during the previous fiscal year; and

''(ii) containing information and data regarding all aliens paroled during such fiscal year, including—

''(I) the duration of parole;

''(II) the type of parole; and

''(III) the current status of the aliens so paroled.''.

SEC. 577. IMPLEMENTATION.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act.

(b) EXCEPTIONS.—Notwithstanding subsection (a)—

(1) any application for parole or advance parole filed by an alien before the date of the enactment of this Act shall be adjudicated under the law that was in effect on the date on which the application was properly filed;

(2) any approved advance parole shall remain valid under the law that was in effect on the date on which the advance parole was approved;

(3) section 212(d)(5)(K) of the Immigration and Nationality Act, as added by section 576, shall take effect on the date of the enactment of this Act; and

(4) aliens who were paroled into the United States pursuant to section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) before January 1, 2023, shall continue to be subject to the terms of parole that were in effect on the date on which their respective parole was approved.

SEC. 578. CAUSE OF ACTION.

Any person, State, or local government that experiences financial harm in excess of $1,000 due to a failure of the Federal Government to lawfully apply the provisions of this title or the amendments made by this title shall have standing to bring a civil action against the Federal Government in an appropriate district court of the United States for appropriate relief.

SEC. 579. SEVERABILITY.

If any provision of this title or any amendment by this title, or the application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of such provision or amendment to any other person or circumstance shall not be affected.

TITLE IX—LEGAL WORKFORCE

SEC. 581. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended to read as follows:

''(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

''(1) NEW HIRES, RECRUITMENT, AND REFERRAL.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a), with respect to a person or other entity hiring, recruiting, or referring an individual for employment in the United States, are the following:

''(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(i) ATTESTATION.—During the verification period, the person or entity shall attest, under penalty of perjury and on a form, including electronic format, designated or established by the Secretary of Homeland Security by regulation not later than 6 months after the date of the enactment of the Secure the Border Act of 2023, that it has verified that the individual is not an unauthorized alien by—

''(I) obtaining from the individual the individual's Social Security account number or United States passport number and recording the number on the form (if the individual claims to have been issued such a number) and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify, and recording such number on the form; and

''(II) examining—

''(aa) a document relating to the individual presenting it described in clause (ii); or

''(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).

''(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this clause is an individual's—

''(I) unexpired United States passport or passport card;

''(II) unexpired permanent resident card that contains a photograph;

''(III) unexpired employment authorization card that contains a photograph;

''(IV) in the case of a nonimmigrant alien authorized to work for a specific employer incident to his or her nonimmigrant status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien's nonimmigrant status if—

''(aa) the period of such status has not expired; and

''(bb) the proposed employment is not in conflict with any restrictions or limitations identified in the document;

''(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation designated by the Secretary of Homeland Security, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or the RMI; or

''(VI) other document designated by the Secretary of Homeland Security that—

''(aa) contains a photograph of the individual and biometric identification data from the individual and such other personal identifying information relating to the individual as the Secretary specifies, by regulation, to be sufficient for purposes of this clause;

''(bb) is evidence of authorization of employment in the United States; and

''(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

''(iii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this clause is an individual's Social Security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

''(iv) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this clause is—

''(I) an individual's unexpired State issued driver's license or identification card if it contains a photograph and personal information about the holder, such as name, date of birth, gender, height, eye color, and address;

''(II) an individual's unexpired United States military identification card;

''(III) an individual's unexpired Native American tribal identification document issued by a tribal entity recognized by the Bureau of Indian Affairs; or

''(IV) in the case of an individual who is younger than 18 years of age, a parent or legal guardian's attestation under penalty of law as to the identity and age of the individual.

''(v) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary of Homeland Security determines, by regulation, that any document described in clause (i), (ii), or (iii) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Secretary may prohibit or place conditions on its use for purposes of this subparagraph.

''(vi) SIGNATURE.—An attestation required under clause (i) may be manifested by a handwritten or electronic signature.

''(B) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—

''(i) IN GENERAL.—During the verification period, the individual shall attest, under penalty of perjury on the form designated or established for purposes of subparagraph (A), that the individual is—

''(I) a citizen or national of the United States;

''(II) an alien lawfully admitted for permanent residence; or

''(III) an alien who is authorized under this Act or by the Secretary of Homeland Security to be hired, recruited, or referred for such employment.

''(ii) IDENTIFICATION NUMBER.—The individual shall submit to the Secretary of Homeland Security—

''(I) the individual's Social Security account number or United States passport number (if the individual claims to have been issued such a number); or

''(II) if the individual does not attest to United States nationality under this subparagraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.

''(iii) SIGNATURE.—An attestation required under clause (i) may be manifested by a handwritten or electronic signature.

''(C) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

''(i) IN GENERAL.—After submitting a form to the Secretary of Homeland Security in accordance with subparagraphs (A) and (B), the person or entity shall—

''(I) retain a paper or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during a period beginning on the date of the recruiting or referral of the individual, or, in the case of the hiring of an individual, the date on which the verification is completed, and ending—

''(aa) in the case of the recruiting or referral of an individual, that date that is 3 years after the date of the recruiting or referral; and

''(bb) in the case of the hiring of an individual, the later of—

''(AA) the date that is 3 years after the date on which the verification is completed; or

''(BB) the date that is 1 year after the date on which the individual's employment is terminated; and

''(II) during the verification period, make an inquiry, in accordance with subsection (d), using the verification system to seek verification of the identity and employment eligibility of an individual.

''(ii) CONFIRMATION.—

''(I) CONFIRMATION RECEIVED.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the verification system within the period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

''(II) TENTATIVE NONCONFIRMATION RECEIVED.—

''(aa) IN GENERAL.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the verification system within the specified period, the person or entity shall so inform the individual for whom the verification is sought.

''(bb) NO CONTEST.—If the individual does not contest a tentative nonconfirmation within the period specified—

''(AA) the nonconfirmation shall be considered final; and

''(BB) the person or entity shall record on the form an appropriate code that has been provided under the system to indicate a final nonconfirmation.

''(cc) SECONDARY VERIFICATION.—If the individual contests a tentative nonconfirmation—

''(AA) the individual shall utilize the process for secondary verification provided under subsection (d); and

''(BB) the nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the verification system within the specified period.

''(dd) LIMITATION ON TERMINATION.—An employer may not terminate the employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this subclause shall apply to a termination of employment for any reason other than because of such a failure.

''(ee) LIMITATION ON RESCISSION.—An employer may not rescind an offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a recission of the offer of employment for any reason other than because of such a failure.

''(III) FINAL CONFIRMATION OR NONCONFIRMATION RECEIVED.—If a final confirmation or nonconfirmation is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

''(IV) EXTENSION OF TIME.—If the person or other entity in good faith attempts to make an inquiry during the specified period and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

''(V) CONSEQUENCES OF NONCONFIRMATION.—

''(aa) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation

regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

''(bb) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to such individual.

''(VI) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

''(D) EFFECTIVE DATES OF NEW PROCEDURES.—

''(i) HIRING.—Except as provided in clause (iii), this paragraph shall apply to—

''(I) employers having at least 10,000 employees in the United States as of the date of the enactment of the Secure the Border Act of 2023 beginning on the date that is 6 months after such date of enactment;

''(II) employers having at least 500 employees and fewer than 10,000 employees in the United States as of the date of the enactment of such Act beginning on the date that is 1 year after such date of enactment;

''(III) employers having at least 20 employees and fewer than 500 employees in the United States as of the date of the enactment of such Act beginning on the date that is 18 months year after such date of enactment; and

''(IV) employers having at least 1 employee and fewer than 20 employees in the United States as of the date of the enactment of such Act beginning on the date that is 2 years after such date of enactment.

''(ii) RECRUITING AND REFERRING.—Except as provided in clause (iii), this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States beginning on the date that is 1 year after the date of the enactment of the Secure the Border Act of 2023.

''(iii) AGRICULTURAL LABOR OR SERVICES.—

''(I) DEFINED TERM.—In this clause, the term 'agricultural labor or services'—

''(aa) has the meaning given such term by the Secretary of Agriculture in regulations; and

''(bb) includes—

''(AA) agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986);

''(BB) agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)));

''(CC) the handling, planting, drying, packing, packaging, processing, freezing, or grading before delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

''(DD) all activities required for the preparation, processing, or manufacturing of a product of agriculture (as defined in such section 3(f)) for further distribution; and

''(EE) activities similar to the activities referred to in subitems (AA) through (DD) as they relate to fish or shellfish facilities.

''(II) IN GENERAL.—With respect to an employee performing agricultural labor or services, this paragraph shall not apply with respect to the verification of the employee until the date that is 3 years after the date of the enactment of the Secure the Border Act of 2023.

''(III) EXCLUSION.—An employee described in this clause may not be counted for purposes of clause (i).

''(iv) EXTENSIONS.—

''(I) UPON REQUEST.—The Secretary of Homeland Security shall allow an employer having 50 or fewer employees to submit a request to the Secretary before the effective date under this subparagraph applicable to such employer, a 1-time, 6-month extension of such effective date.

''(II) FOLLOWING REPORT.—If the study conducted pursuant to section 494 of the Secure the Border Act of 2023 has been submitted in accordance with such section, the Secretary of Homeland Security may extend the effective date under this subparagraph on a 1-time basis for 12 months.

''(v) TRANSITION RULE.—Subject to paragraph (4), a person or other entity hiring, recruiting, or referring an individual for employment in the United States, until the effective date or dates applicable under clauses (i) through (iii), shall be subject to—

''(I) this subsection, as in effect before the date of the enactment of the Secure the Border Act of 2023;

''(II) subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date set forth in section 803(c)(1) of the Secure the Border Act of 2023; and

''(III) any other provision of Federal law requiring the person or entity to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date set forth in section 803(c)(1) of the Secure the Border Act of 2023, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

''(E) DEFINED TERM.—

''(i) IN GENERAL.—In this paragraph, the term 'verification period' means—

''(I) in the case of recruitment or referral, the period ending on the date on which recruiting or referring commences; and

''(II) in the case of hiring, the period beginning on the date on which an offer of employment is extended and ending on—

''(aa) the date that is 3 business days after the date of hire; or

''(bb) in the case of an alien who is authorized for employment and provides evidence from the Social Security Administration that the alien has applied for a Social Security account number, the date that is 3 business days after the alien receives the Social Security account number.

''(ii) JOB OFFER MAY BE CONDITIONAL.—A person or other entity may offer a prospective employee an employment position that is conditioned on final verification of the identity and employment eligibility of the employee using the procedures established under this paragraph.

''(2) REVERIFICATION FOR INDIVIDUALS WITH LIMITED WORK AUTHORIZATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a person or entity shall make an inquiry in accordance with subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the 3 business days after the date on which the employee's work authorization expires.

''(B) HIRING.—Except as provided in subparagraph (C), subparagraph (A) shall apply to—

''(i) employers having at least 10,000 employees in the United States as of the date of the enactment of the Secure the Border Act of 2023 beginning on the date that is 6 months after such date of enactment;

''(ii) employers having at least 500 employees and fewer than 10,000 employees in the United States as of the date of the enactment of such Act beginning on the date that is 1 year after such date of enactment;

''(iii) employers having at least 20 employees and fewer than 500 employees in the United States as of the date of the enactment of such Act beginning on the date that is 18 months year after such date of enactment; and

''(iv) employers having at least 1 employee and fewer than 20 employees in the United States as of the date of the enactment of such Act beginning on the date that is 2 years after such date of enactment.

''(C) AGRICULTURAL LABOR OR SERVICES.—

''(i) DEFINED TERM.—In this clause, the term 'agricultural labor or services'—

''(I) has the meaning given such term by the Secretary of Agriculture in regulations; and

''(II) includes—

''(aa) agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986);

''(bb) agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)));

''(cc) the handling, planting, drying, packing, packaging, processing, freezing, or grading before delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

''(dd) all activities required for the preparation, processing, or manufacturing of a product of agriculture (as defined in such section 3(f)) for further distribution; and

''(ee) activities similar to the activities referred to in subitems (AA) through (DD) as they relate to fish or shellfish facilities.

''(ii) IN GENERAL.—With respect to an employee performing agricultural labor or services, or an employee recruited or referred by a farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801)), subparagraph (A) shall not apply with respect to the reverification of the employee until the date that is 3 years after the date of the enactment of the Secure the Border Act of 2023.

''(iii) EXCLUSION.—An employee described in this subparagraph may not be counted for purposes of subparagraph (A).

''(D) REVERIFICATION.—Paragraph (1)(C)(ii) shall apply to reverifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

''(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

''(ii) retain a paper or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification or 1 year after the date the individual's employment is terminated.

''(3) PREVIOUSLY HIRED INDIVIDUALS.—

''(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

''(i) IN GENERAL.—Not later than the date that is 6 months after the date of the enactment of the Secure the Border Act of 2023, an employer shall make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of any individual described in clause (ii) employed by the employer whose employment eligibility has not been verified under the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

''(ii) INDIVIDUALS DESCRIBED.—An individual described in this clause is—

''(I) an employee of any unit of a Federal, State, or local government;

''(II) an employee who requires a Federal security clearance working in a Federal, State, or local government building, a military base, a nuclear energy site, a weapons site, or an airport or other facility that requires workers to carry a Transportation Worker Identification Credential (TWIC); or

''(III) an employee assigned to perform work in the United States under a Federal contract, except that this subclause—

''(aa) is not applicable to individuals who have a clearance under Homeland Security Presidential Directive 12 (HSPD 12 clearance), are administrative or overhead personnel, or are working solely on contracts that provide Commercial Off The Shelf goods or services as set forth by the Federal Acquisition Regulatory Council, unless they are subject to verification under subclause (II); and

''(bb) only applies to contracts over the simple acquisition threshold as defined in section 2.101 of title 48, Code of Federal Regulations.

''(B) ON A MANDATORY BASIS FOR MULTIPLE USERS OF SAME SOCIAL SECURITY ACCOUNT NUMBER.—

''(i) IN GENERAL.—An employer that is required under this subsection to use the verification system described in subsection (d), or has elected voluntarily to use such system, shall make inquiries to the system in accordance with clauses (ii) through (iv).

''(ii) NOTIFICATION.—The Commissioner of Social Security shall annually notify employees (at the employee address listed on the Wage and Tax Statement) who submit a Social Security account number to which more than 1 employer reports income and for which there is a pattern of unusual multiple use. The notification letter shall identify the number of employers to which income is being reported and provide sufficient information regarding the process to contact the Social Security Administration Fraud Hotline if the employee believes the employee's identity may have been stolen. The notice shall not share information protected as private, in order to avoid any recipient of the notice from being in the position to further commit or begin committing identity theft.

''(iii) EFFECT OF FRAUDULENT USE.—If the person to whom the Social Security account number was issued by the Social Security Administration has been identified and confirmed by the Commissioner, and indicates that the Social Security account number was used without the person's knowledge, the Secretary of Homeland Security and the Commissioner shall—

''(I) lock the Social Security account number for employment eligibility verification purposes; and

''(II) notify the employers of any individuals who wrongfully submitted the Social Security account number that such individuals may not be authorized to work in the United States.

''(iv) USE OF VERIFICATION SYSTEM.—Each employer receiving such notification of an incorrect Social Security account number under clause (iii) shall use the verification system described in subsection (d) to check the work eligibility status of the applicable employee not later than 10 business days after receiving such notification.

''(C) ON A VOLUNTARY BASIS.—

''(i) IN GENERAL.—Subject to subparagraphs (A) and (B) and paragraph (2), beginning on the date that is 30 days after the date of the enactment of the Secure the Border Act of 2023, an employer may make an inquiry pursuant to subsection (d), using the verification system to seek verification of the identity and employment eligibility of any individual employed by the employer.

''(ii) SCOPE OF VERIFICATION.—If an employer voluntarily chooses to seek verification of any individual employed by the employer, the employer shall seek verification of all individuals employed at the same geographic location or, at the option of the employer, all individuals employed within the same job category, as the employee with respect to whom the employer seeks voluntarily to use the verification system.

''(iii) LIMITATION.—An employer's decision about whether or not voluntarily to seek verification of its current workforce under this subparagraph may not be considered by any government agency in any proceeding, investigation, or review under this Act.

''(D) VERIFICATION.—Paragraph (1)(C)(ii) shall apply to verifications under this paragraph on the same basis as it applies to verifications under paragraph (1), except that employers shall—

''(i) use a form designated or established by the Secretary of Homeland Security, by regulation, for purposes of this paragraph; and

''(ii) retain a paper or electronic version of the form and make the form available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date on which the verification commences and ending on the date that is the later of—

''(I) 3 years after such verification commencement date; or

''(II) 1 year after the date on which the individual's employment is terminated.

''(4) EARLY COMPLIANCE.—

''(A) FORMER E-VERIFY REQUIRED USERS, INCLUDING FEDERAL CONTRACTORS.—Notwithstanding the deadlines under paragraphs (1) and (2), beginning on the date of the enactment of the Secure the Border Act of 2023, the Secretary of Homeland Security is authorized to commence requiring employers required to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws, including the Federal Acquisition Regulation), to commence compliance with the requirements under this subsection (and any additional requirements of such Federal acquisition laws and regulation) in lieu of any requirement to participate in the E-Verify Program.

''(B) FORMER E-VERIFY VOLUNTARY USERS AND OTHERS DESIRING EARLY COMPLIANCE.—Notwithstanding the deadlines under paragraphs (1) and (2), beginning on the date of the enactment of the Secure the Border Act of 2023, the Secretary of Homeland Security shall provide for the voluntary compliance with the requirements under this subsection by—

''(i) employers voluntarily electing to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) before such date; and

''(ii) other employers seeking voluntary early compliance.

''(5) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain such copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements under this subsection.

''(6) LIMITATION ON USE OF FORMS.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

''(7) GOOD FAITH COMPLIANCE.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement under this subsection, notwithstanding a technical or procedural failure to meet such requirement, if there was a good faith attempt to comply with such requirement.

''(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

''(i) the failure is not de minimus;

''(ii) the Secretary of Homeland Security has explained to the person or entity the basis for the failure and why it is not de minimus;

''(iii) the person or entity has been provided a period of not less than 30 days, beginning on the date of the explanation described in clause (ii), within which to correct the failure; and

''(iv) the person or entity has not corrected the failure within such period.

''(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has engaged or is engaging in a pattern or practice of violations of paragraph (1)(A) or (2) of subsection (a).

''(8) SINGLE EXTENSION OF DEADLINES UPON CERTIFICATION.—If the Secretary of Homeland Security certifies to Congress that the employment eligibility verification system required under subsection (d) will not be fully operational by the date that is 6 months after the date of the enactment of the Secure the Border Act of 2023, each deadline established under this subsection for an employer to make an inquiry using such system shall be extended by 6 months. No other extension of such a deadline shall be made except as authorized under paragraph (1)(D)(iv).''.

(b) DATE OF HIRE.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following:

''(4) DEFINITION OF DATE OF HIRE.—In this section, the term 'date of hire' means the date of commencement of employment for wages or other remuneration, unless otherwise specified.''.

SEC. 582. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

Section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) is amended to read as follows:

''(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

''(1) IN GENERAL.—Patterned on the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Secretary of Homeland Security shall establish and administer an employment eligibility verification system (referred to in this subsection as the 'System') through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

''(A) responds to inquiries made by persons at any time through a toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed in the United States; and

''(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to

inquirers as evidence of their compliance with their obligations under this section.

''(2) INITIAL RESPONSE.—Not later than 3 business days after the receipt of an initial inquiry described in paragraph (1)(A), the System shall provide—

''(A) confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility; and

''(B) an appropriate code indicating such confirmation or such nonconfirmation.

''(3) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 10 business days after the date on which a notice of tentative nonconfirmation is received by an employee, the Secretary, in consultation with the Commissioner of Social Security, shall specify an available secondary verification process—

''(i) to confirm the validity of the information provided; and

''(ii) to provide a final confirmation or nonconfirmation.

''(B) EXTENSION.—The Secretary, in consultation with the Commissioner—

''(i) may extend the deadline set forth in subparagraph (A), on a case-by-case basis, for a period of 10 business days; and

''(ii) if such deadline is extended—

''(I) shall document such extension within the System; and

''(II) shall notify the employee and employer of such extension.

''(C) EXTENSION PROCESS.—The Secretary, in consultation with the Commissioner, shall—

''(i) establish a standard process for—

''(I) considering extensions authorized under subparagraph (B)(i); and

''(II) notifying employees and employers of such extension pursuant to subparagraph (B)(ii)(II); and

''(ii) make a description of such process available to the public.

''(D) CODE.—The System shall provide an appropriate code indicating confirmation or nonconfirmation.

''(4) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

''(A) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

''(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

''(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(D) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

''(i) the selective or unauthorized use of the system to verify eligibility; or

''(ii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

''(E) to maximize the prevention of identity theft use in the system; and

''(F) to limit the subjects of verification to—

''(i) individuals hired, referred, or recruited, in accordance with paragraph (1) or (4) of subsection (b);

''(ii) employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b); and

''(iii) individuals seeking to confirm their own employment eligibility on a voluntary basis.

''(5) RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—

''(A) IN GENERAL.—As part of the System, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the System), shall establish a reliable, secure method, which, within the time periods specified in paragraphs (2) and (3), compares the name and Social Security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate)—

''(i) the information provided regarding an individual whose identity and employment eligibility is being confirmed;

''(ii) the correspondence of the name and number; and

''(iii) whether the individual has presented a Social Security account number that is not valid for employment.

''(B) LIMITATION ON DISCLOSURE.—The Commissioner may not disclose or release Social Security information (other than such confirmation or nonconfirmation) under the System except as provided for in this section or section 205(c)(2)(I) of the Social Security Act (42 U.S.C. 405(c)(2)(I)).

''(6) RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.—As part of the System, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the System), shall establish a reliable, secure method, which, within the time periods specified in paragraphs (2) and (3), compares the name and alien identification or authorization number (or any other information as determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate)—

''(A) the information provided;

''(B) the correspondence of the name and number;

''(C) whether the alien is authorized to be employed in the United States; or

''(D) to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States.

''(7) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall—

''(A) update information in the System in a manner that promotes the maximum accuracy; and

''(B) provide a process for the prompt correction of erroneous information, including instances in which errors are brought to their attention in the secondary verification process described in paragraph (3).

''(8) LIMITATION ON USE OF THE SYSTEM AND ANY RELATED SYSTEMS.—

''(A) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section may be construed to authorize (directly or indirectly) the issuance or use of national identification cards or the establishment of a national identification card.

''(B) CRITICAL INFRASTRUCTURE.—The Secretary of Homeland Security 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 use the System to the extent the Secretary determines that such use will assist in the protection of the critical infrastructure.

''(9) REMEDIES.—If an individual alleges that the individual would not have been dismissed from a job or would have been hired for a job but for an error of the System, the individual may seek compensation only in accordance with chapter 171 of title 28, United States Code (commonly known as the 'Federal Tort Claims Act', and injunctive relief to correct such error. No class action may be brought under this paragraph.''.

SEC. 583. RECRUITMENT, REFERRAL, AND CONTINUATION OF EMPLOYMENT.

(a) ADDITIONAL CHANGES TO RULES FOR RECRUITMENT, REFERRAL, AND CONTINUATION OF EMPLOYMENT.—Section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or to recruit or refer for a fee,'' and inserting ''recruit, or refer''; and

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

''(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements under subsection (b).''; and

(2) in paragraph (2), by striking ''after hiring an alien for employment in accordance with paragraph (1),'' and inserting ''after complying with paragraph (1),''.

(b) DEFINED TERM.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by section 581(b), is further amended by adding at the end the following:

''(5) DEFINITIONS OF RECRUIT AND REFER.—

''(A) RECRUIT.—In this section, the term 'recruit'—

''(i) means the act of soliciting a person who is in the United States, directly or indirectly, and referring the person to another with the intent of obtaining employment for that person;

''(ii) except as provided in clause (iii), only includes persons or entities referring for remuneration (whether on a retainer or contingency basis); and

''(iii) includes—

''(I) union hiring halls that refer union members or nonunion individuals who pay union membership dues, whether or not such halls receive remuneration; and

''(II) labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that recruit, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party.

''(B) REFER.—In this section, the term 'refer'—

''(i) means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person;

''(ii) except as provided in clause (iii), only includes persons or entities referring for remuneration (whether on a retainer or contingency basis); and

''(iii) includes—

''(I) union hiring halls that refer union members or nonunion individuals who pay union membership dues, whether or not such halls receive remuneration; and

''(II) labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by subsection (a) shall take effect on the date that is 6 months after the date of the enactment of this Act to the extent such amendments relate to continuation of employment.

SEC. 584. GOOD FAITH DEFENSE.

Section 274A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

''(3) GOOD FAITH DEFENSE.—

''(A) DEFENSE.—An employer (or a person or entity that hires, employs, recruits, refers, or is otherwise obligated to comply with this section) that establishes good faith compliance with the requirements under subsection (b)—

''(i) shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good-faith reliance on information provided through the verification system established pursuant to subsection (d); and

''(ii) has established compliance with the employer's obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

''(B) MITIGATION ELEMENT.—For purposes of subparagraph (A)(i), if an employer proves, by a preponderance of the evidence, that the employer used a reasonable, secure, and established technology to authenticate the identity of the new employee, that fact shall be taken into account for purposes of determining good faith use of the verification system established pursuant to subsection (d).

''(C) FAILURE TO SEEK AND OBTAIN VERIFICATION.—

''(i) IN GENERAL.—Subject to the effective dates and other deadlines applicable under subsection (b), a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, shall be subject to the requirements set forth in clauses (ii) and (iii).

''(ii) FAILURE TO SEEK VERIFICATION.—

''(I) IN GENERAL.—If the person or entity has not made an inquiry through the verification system established pursuant subsection (d) and in accordance with the timeframes established under subsection (b), seeking verification of the identity and work eligibility of the individual, the defense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

''(II) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If the person or entity attempts to make an inquiry in good faith in order to qualify for the defense under subparagraph (A) and the verification system registers that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent business day in which the verification mechanism registers no nonresponses and qualify for such defense.

''(iii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity made the inquiry described in clause (i)(I), but did not receive an appropriate verification of such identity and work eligibility from the verification system within the time period specified in subsection (d)(2) after the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such period.''.

SEC. 585. PREEMPTION AND STATES' RIGHTS.

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

''(2) PREEMPTION.—

''(A) SINGLE, NATIONAL POLICY.—The provisions under this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, to the extent they may relate to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens.

''(B) STATE ENFORCEMENT OF FEDERAL LAW.—

''(i) BUSINESS LICENSING.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification system described in subsection (d) to verify employment eligibility in accordance with subsection (b).

''(ii) GENERAL RULES.—

''(I) STATE ENFORCEMENT.—A State, at its own cost, may enforce the provisions of this section if such State—

''(aa) complies with any Federal regulations, rules, and guidance implementing this section; and

''(bb) applies the Federal penalty structure required under this section.

''(II) FINES.—A State described in subclause (I) may collect any fines assessed under this section.

''(III) DOUBLE JEOPARDY.—An employer may not be subject to enforcement, including audit and investigation, by a Federal agency and a State for the same violation under this section. The government entity that first initiates such an enforcement action has the right of first refusal to proceed with the enforcement action.

''(IV) GUIDANCE, TRAINING, AND FIELD INSTRUCTIONS.—The Secretary of Homeland Security shall provide copies of all guidance, training, and field instructions that are available to Federal officials enforcing the provisions of this section to each State.''.

SEC. 586. REPEAL.

(a) IN GENERAL.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(b) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act, as amended by section 582.

(c) EFFECTIVE DATE.—This section shall take effect on the date that is 30 months after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The table of contents in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 587. PENALTIES.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(ii) in subparagraph (D), by striking ''Service'' and inserting ''Department of Homeland Security'';

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) in the matter before clause (i), by inserting '', subject to paragraph (10),'' after ''in an amount'';

(II) in clause (i), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $2,500 and not more than $5,000'';

(III) in clause (ii), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $5,000 and not more than $10,000'';

(IV) in clause (iii), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $10,000 and not more than $25,000''; and

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

''(B) may require the person or entity to take such other remedial action as is appropriate.'';

(C) in paragraph (5)—

(i) in the paragraph heading, by striking ''PAPERWORK'';

(ii) by inserting '', subject to paragraphs (10) through (12),'' after ''in an amount'';

(iii) by striking ''$100 and not more than $1,000'' and inserting ''$1,000 and not more than $25,000''; and

(iv) by adding at the end the following: ''Failure by a person or entity to utilize the employment eligibility verification system in accordance with this section, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).''; and

(D) by adding at the end the following:

''(10) WAIVER OR REDUCTION OF PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a civil penalty under paragraph (4)(A) with respect to a violation of paragraph (1)(A) or (2) of subsection (a) for hiring or continuation of employment or recruitment or referral by person or entity and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed may be waived or reduced if the violator establishes that the violator acted in good faith.

''(11) MITIGATION ELEMENT.—For purposes of paragraph (4), the size of the business shall be taken into account when assessing the level of civil money penalty.

''(12) AUTHORITY TO DEBAR EMPLOYERS FOR CERTAIN VIOLATIONS.—

''(A) IN GENERAL.—If a person or entity is determined by the Secretary of Homeland Security to be a repeat violator of paragraph (1)(A) or (2) of subsection (a), or is convicted of a crime under this section, such person or entity may be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the debarment standards and pursuant to the debarment procedures set forth in the Federal Acquisition Regulation.

''(B) DOES NOT HAVE CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General determines that a person or entity should be considered for debarment under subparagraph (A), and such a person or entity does not hold a Federal contract, grant, or cooperative agreement, the Secretary or the Attorney General shall refer the matter to the Administrator of General Services to determine—

''(i) whether to list the person or entity on the List of Parties Excluded from Federal Procurement; and

''(ii) if so listed, the duration and scope of such exclusion.

''(C) HAS CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General determines that a person or entity should be considered for debarment under subparagraph (A), and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or the Attorney General—

''(i) shall advise all Federal agencies or departments holding a contract, grant, or cooperative agreement with such person or entity of the Government's interest in having the person or entity considered for debarment; and

''(ii) after soliciting and considering the views of all such agencies and departments, may refer the matter to any appropriate lead agency to determine—

''(I) whether to list the person or entity on the List of Parties Excluded from Federal Procurement; and

''(II) if so listed, the duration and scope of such exclusion.

''(D) REVIEW.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable under part 9.4 of the Federal Acquisition Regulation.

''(13) OFFICE FOR STATE AND LOCAL GOVERNMENT COMPLAINTS.—The Secretary of Homeland Security shall establish an office—

''(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality; and

''(B) that is required—

''(i) to indicate to the complaining State or local agency not later than 5 business days after such a complaint is filed by identifying whether the Secretary will further investigate the information provided;

''(ii) to investigate complaints filed by State or local government agencies that, on their face, have a substantial probability of validity;

''(iii) to notify the complaining State or local agency of the results of any such investigation conducted; and

''(iv) to submit an annual report to Congress that identifies—

''(I) the number of complaints received under this paragraph during the reporting period;

''(II) the States and localities that filed such complaints; and

''(III) the resolution of any complaints that were investigated by the Secretary.''; and

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

''(1) CRIMINAL PENALTY.—Notwithstanding any other Federal law relating to fine levels, any person or entity that engages in a pattern or practice of violations of paragraph (1) or (2) of subsection (a) shall be fined not more than $5,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not more than 18 months, or both.''.

SEC. 588. FRAUD AND MISUSE OF DOCUMENTS.

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''or document meant to establish work authorization (including any document described in section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b))),'' after ''identification document''; and

(2) in paragraph (2), by inserting ''or document meant to establish work authorization (including any document described in section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b))),'' after ''identification document''.

SEC. 589. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—The Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain annual agreements, for fiscal year 2024 and each subsequent fiscal year, which—

(1) provides funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 582, including—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 274A(d), but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the employment eligibility verification system established under such section;

(2) provides the funds described in paragraph (1) annually in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except when the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) requires an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspector General of the Social Security Administration and the Inspector General of the Department of Homeland Security.

(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) IN GENERAL.—If an agreement required under subsection (a) for any fiscal year does not take effect by the first day of such fiscal year—

(A) the Commissioner of Social Security and the Secretary of Homeland Security shall immediately notify the Committee on Finance of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on the Judiciary of the House of Representatives, and the Committee on Appropriations of the House of Representatives of the failure to reach the agreement required under subsection (a) for such fiscal year; and

(B) the most recent agreement between the Commissioner and the Secretary of Homeland Security providing funding for the costs incurred by the Commissioner to implement section 274A(d) of the Immigration and Nationality Act, as amended by section 582, shall be deemed in effect on an interim basis for such fiscal year until the new agreement required under subsection (a) takes effect, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the employment eligibility verification system.

(2) STATUS REPORTS.—Not less frequently than quarterly while an interim agreement described in paragraph (1)(B) is in effect, the Commissioner and the Secretary shall notify the congressional committees listed in paragraph (1)(A) of the status of negotiations between the Commissioner and the Secretary in order to reach a new agreement for the current fiscal year.

SEC. 590. 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 subject to unusual multiple use in the employment eligibility verification system established pursuant to section 274A(d) of the Immigration and Nationality Act, as amended by section 582, 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 such number.

(b) ALLOWING SUSPENSION OF USE OF CERTAIN SOCIAL SECURITY ACCOUNT NUMBERS.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a reliable, secure method by which victims of identity fraud and other individuals may suspend or limit the use of their Social Security account number or other identifying information for purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act, as amended by section 582. The Secretary may implement such program on a limited pilot program basis before making it fully available to all individuals.

(c) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILDREN'S IDENTITY.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the Social Security account number or other identifying information of a minor under their care for the purposes of the employment eligibility verification system established under 274A(d) of the Immigration and Nationality Act, as amended by section 582. The Secretary may implement such program on a limited pilot program basis before making it fully available to all individuals.

SEC. 591. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION PHOTO TOOL.

An employer who uses the photo matching tool used as part of the E-Verify System shall match the photo tool photograph to—

(1) the photograph on the identity or employment eligibility document provided by the employee; and

(2) the face of the employee submitting the document for employment verification purposes.

SEC. 592. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish, by regulation, not less than 2 identity authentication employment eligibility verification pilot programs (referred to in this section as ''Authentication Pilots''), each of which shall use a separate and distinct technology.

(b) PURPOSE.—The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees. Such services shall be available to any employer that elects to participate in any of the Authentication Pilots. Any participating employer may cancel the employer's participation in an Authentication Pilot on or after the date that is 1 year after electing to participate without prejudice to future participation.

(c) REPORT.—Not later than 1 year after the commencement of the Authentication Pilots under this section, the Secretary of Homeland Security 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—

(1) the Secretary's assessment of the effectiveness of the Authentication Pilots; and

(2) the authentication technology chosen for each Authentication Pilot.

SEC. 593. INSPECTOR GENERAL AUDITS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Social Security Administration shall seek to uncover evidence of individuals who are not authorized to work in the United States by completing audits of—

(1) workers who dispute wages reported on their Social Security account number when they believe someone else has used such number and name to report wages;

(2) minor's Social Security account numbers used for work purposes; and

(3) employers whose workers present significant numbers of mismatched Social Security account numbers or names for wage reporting.

(b) SUBMISSION OF FINDING.—The Inspector General of the Social Security Administration shall submit the findings of the audits completed pursuant to subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for review of the evidence of individuals who are not authorized to work in the United States.

(c) INVESTIGATION.—The Chair of each of the congressional committees referred to in subsection (b) shall determine whether the evidence received from the Inspector General pursuant to subsection (b) should be shared with the Secretary of Homeland Security to enable the Secretary to investigate the unauthorized employment demonstrated by such evidence.

SEC. 594. AGRICULTURE WORKFORCE STUDY.

Not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, 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—

(1) the number of individuals in the agricultural workforce;

(2) the number of United States citizens in the agricultural workforce;

(3) the number of aliens in the agricultural workforce who are authorized to work in the United States;

(4) the number of aliens in the agricultural workforce who are not authorized to work in the United States;

(5) wage growth in each of the previous ten years, disaggregated by agricultural sector;

(6) the percentage of total agricultural industry costs represented by agricultural labor during each of the last 10 years;

(7) the percentage of agricultural costs invested in mechanization during each of the last 10 years; and

(8) recommendations (other than a path to legal status for aliens not authorized to work in the United States) for ensuring that United States agricultural employers have a workforce sufficient to cover industry needs, including recommendations—

(A) to increase investments in mechanization;

(B) to increase the domestic workforce; and

(C) to reform the H–2A nonimmigrant visa program.

SEC. 595. SENSE OF CONGRESS ON FURTHER IMPLEMENTATION.

It is the sense of Congress that in implementing the E-Verify Program, the Secretary of Homeland Security should ensure that any adverse impact on the Nation's agricultural workforce, operations, and food security are considered and addressed.

SEC. 596. REPEALING REGULATIONS.

(a) IN GENERAL.—Congress disapproves the final rules relating to ''Temporary Agricultural Employment of H–2A Nonimmigrants in the United States'' (87 Fed. Reg. 61660 (Oct. 12, 2022)) and to ''Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States'' (88 Fed. Reg. 12760 (Feb. 28, 2023)) and such rules shall have no force or effect.

(b) REISSUANCE PROHIBITED.—The rules referred to in subsection (a) may not be reissued in substantially the same form. Any new rules that are substantially the same as such rules may not be issued.

SA 111. Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

Beginning on page 9, strike line 22 and all that follows through page 11, line 17, and insert the following:

(e) ADDITIONAL SPENDING LIMITS.—For purposes

SA 112. Mr. BUDD submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

Strike title I of division B and insert the following:

TITLE I—RESCISSION OF UNOBLIGATED FUNDS

SEC. 201. RESCISSION OF UNOBLIGATED CORONAVIRUS FUNDS.

The unobligated balances of amounts appropriated or otherwise made available by the American Rescue Plan Act of 2021 (Public Law 117–2), and by each of Public Laws 116–123, 116–127, 116–136, and 116–139 and divisions M and N of Public Law 116–260, are hereby permanently rescinded.

SA 113. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

Strike section 265.

SA 114. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. HOSPITAL PRICE TRANSPARENCY REQUIREMENTS.

Section 2718(e) of the Public Health Service Act (42 U.S.C. 300gg–18(e)) is amended—

(1) by striking ''Each hospital'' and inserting the following:

''(1) IN GENERAL.—Each hospital'';

(2) by inserting '', in accordance with paragraph (2)'', after ''for each year''; and

(3) by adding at the end the following:

''(2) TIMING REQUIREMENTS.—

''(A) IN GENERAL.—Each hospital operating in the United States on the date of enactment of the Fiscal Responsibility Act of 2023 shall, not later than 6 months after such date of enactment and every year thereafter, establish (and update) and make public the list under paragraph (1).

''(B) NEWLY OPERATING HOSPITALS.—In the case of a hospital that begins operating in the United States after the date of enactment of the Fiscal Responsibility Act of 2023, the hospital shall comply with the requirements described in subparagraph (A) not later than 6 months after the date on which the hospital begins such operation and every year thereafter.

''(3) PROHIBITION ON SHIELDING INFORMATION.—No hospital may shield the information required under paragraph (1) from online search results through webpage coding.

''(4) CIVIL MONETARY PENALTIES.—

''(A) IN GENERAL.—A hospital that fails to comply with the requirements of this subsection for a year shall be subject to a civil monetary penalty of an amount not to exceed—

''(i) in the case of a hospital with a bed count of 30 or fewer, $600 for each day in which the hospital fails to comply with such requirements;

''(ii) in the case of a hospital with a bed count that is greater than 30 and equal to or fewer than 550, $20 per bed for each day in which the hospital fails to comply with such requirements; or

''(iii) in the case of a hospital with a bed count that is greater than 550, $11,000 for each day in which the hospital fails to comply with such requirements.

''(B) PROCEDURES.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection, a civil monetary penalty under subparagraph (A) shall be imposed and collected in accordance with part 180 of title 45, Code of Federal Regulations (or successor regulations).

''(ii) TIMING.—A hospital shall pay in full a civil monetary penalty imposed on the hospital under subparagraph (A) not later than—

''(I) 60 calendar days after the date on which the Secretary issues a notice of the imposition of such penalty; or

''(II) in the event the hospital requests a hearing pursuant to subpart D of part 180 of title 45, Code of Federal Regulations (or successor regulations), 60 calendar days after the date of a final and binding decision in accordance with such subpart, to uphold, in whole or in part, the civil monetary penalty.

''(5) LIST OF HOSPITALS NOT IN COMPLIANCE.—The Secretary shall publish a list of the name of each hospital that is not in compliance with the requirements under this subsection. Such list shall be published 280 days after the date of enactment of the Fiscal Responsibility Act of 2023 and every 180 days thereafter.''.

SA 115. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3746, to provide for a responsible increase to the debt ceiling; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. IMPROVING COORDINATION BETWEEN FEDERAL AND STATE AGENCIES AND THE DO NOT PAY WORKING SYSTEM.

(a) IN GENERAL.—Section 205(r) of the Social Security Act (42 U.S.C. 405(r)), as amended by section 801(a) of title VIII of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260), is amended by adding at the end the following new paragraph:

''(12) Beginning December 28, 2026, the Commissioner of Social Security shall, to the extent feasible, provide information furnished to the Commissioner under paragraph (1) to the agency operating the Do Not Pay working system described in section 3354(c) of title 31, United States Code, or an agent thereof, to prevent improper payments to deceased individuals through a cooperative arrangement with such agency, provided that the requirements of subparagraphs (A) and (B) of paragraph (3) are met with respect to