

115TH CONGRESS
2D SESSION

H. R. 6136

To amend the immigration laws and provide for border security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2018

Mr. GOODLATTE (for himself, Mr. CURBELO of Florida, Mr. MCCAUL, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Agriculture, Natural Resources, Transportation and Infrastructure, Ways and Means, Energy and Commerce, Armed Services, Foreign Affairs, the Budget, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the immigration laws and provide for border security, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Border Security and Immigration Reform Act of 2018”.

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

Sec. 1. Short title; table of contents.

DIVISION A—BORDER ENFORCEMENT

Sec. 1100. Short title.

TITLE I—BORDER SECURITY

Sec. 1101. Definitions.

Subtitle A—Infrastructure and Equipment

Sec. 1111. Strengthening the requirements for barriers along the southern border.

Sec. 1112. Air and Marine Operations flight hours.

Sec. 1113. Capability deployment to specific sectors and transit zone.

Sec. 1114. U.S. Border Patrol activities.

Sec. 1115. Border security technology program management.

Sec. 1116. National Guard support to secure the southern border.

Sec. 1117. Prohibitions on actions that impede border security on certain Federal land.

Sec. 1118. Landowner and rancher security enhancement.

Sec. 1119. Eradication of carrizo cane and salt cedar.

Sec. 1120. Southern border threat analysis.

Sec. 1121. Amendments to U.S. Customs and Border Protection.

Sec. 1122. Agent and officer technology use.

Sec. 1123. Integrated Border Enforcement Teams.

Sec. 1124. Tunnel Task Forces.

Sec. 1125. Pilot program on use of electromagnetic spectrum in support of border security operations.

Sec. 1126. Foreign migration assistance.

Sec. 1127. Biometric Identification Transnational Migration Alert Program.

Subtitle B—Personnel

Sec. 1131. Additional U.S. Customs and Border Protection agents and officers.

Sec. 1132. U.S. Customs and Border Protection retention incentives.

Sec. 1133. Anti-Border Corruption Reauthorization Act.

Sec. 1134. Training for officers and agents of U.S. Customs and Border Protection.

Subtitle C—Grants

Sec. 1141. Operation Stonegarden.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

Sec. 2101. Ports of entry infrastructure.

Sec. 2102. Secure communications.

Sec. 2103. Border security deployment program.

Sec. 2104. Pilot and upgrade of license plate readers at ports of entry.

Sec. 2105. Non-intrusive inspection operational demonstration.

Sec. 2106. Biometric exit data system.

Sec. 2107. Sense of Congress on cooperation between agencies.

Sec. 2108. Authorization of appropriations.

Sec. 2109. Definition.

TITLE III—VISA SECURITY AND INTEGRITY

- Sec. 3101. Visa security.
- Sec. 3102. Electronic passport screening and biometric matching.
- Sec. 3103. Reporting of visa overstays.
- Sec. 3104. Student and exchange visitor information system verification.
- Sec. 3105. Social media review of visa applicants.
- Sec. 3106. Cancellation of additional visas.
- Sec. 3107. Visa information sharing.
- Sec. 3108. Restricting waiver of visa interviews.
- Sec. 3109. Authorizing the Department of State to not interview certain ineligible visa applicants.
- Sec. 3110. Petition and application processing for visas and immigration benefits.
- Sec. 3111. Fraud prevention.
- Sec. 3112. Visa ineligibility for spouses and children of drug traffickers.
- Sec. 3113. DNA testing.
- Sec. 3114. Access to NCIC criminal history database for diplomatic visas.
- Sec. 3115. Elimination of signed photograph requirement for visa applications.
- Sec. 3116. Additional fraud detection and prevention.

TITLE IV—TRANSNATIONAL CRIMINAL ORGANIZATION ILLICIT SPOTTER PREVENTION AND ELIMINATION

- Sec. 4101. Short title.
- Sec. 4102. Illicit spotting.
- Sec. 4103. Unlawfully hindering immigration, border, and customs controls.

TITLE V—BORDER SECURITY FUNDING

- Sec. 5101. Border Security Funding.
- Sec. 5102. Limitation on adjustment of status.
- Sec. 5103. Exclusion from PAYGO scorecards.

DIVISION B—IMMIGRATION REFORM

TITLE I—LAWFUL STATUS FOR CERTAIN CHILDHOOD ARRIVALS

- Sec. 1101. Definitions.
- Sec. 1102. Contingent nonimmigrant status eligibility and application.
- Sec. 1103. Terms and conditions of conditional nonimmigrant status.
- Sec. 1104. Adjustment of status.
- Sec. 1105. Administrative and judicial review.
- Sec. 1106. Penalties and signature requirements.
- Sec. 1107. Rulemaking.
- Sec. 1108. Statutory construction.
- Sec. 1109. Addition of definition.

TITLE II—IMMIGRANT VISA ALLOCATIONS AND PRIORITIES

- Sec. 2101. Elimination of diversity visa program.
- Sec. 2102. Numerical limitation to any single foreign state.
- Sec. 2103. Family-sponsored immigration priorities.
- Sec. 2104. Allocation of immigrant visas for contingent nonimmigrants and children of certain nonimmigrants.
- Sec. 2105. Sunset of adjustment visas for conditional nonimmigrants and children of certain nonimmigrants.

- Sec. 2106. Implementation.
- Sec. 2107. Repeal of suspension of deportation and adjustment of status for certain aliens.

TITLE III—UNACCOMPANIED ALIEN CHILDREN; INTERIOR
IMMIGRATION ENFORCEMENT

- Sec. 3101. Repatriation of unaccompanied alien children.
- Sec. 3102. Clarification of standards for family detention.
- Sec. 3103. Detention of dangerous aliens.
- Sec. 3104. Definition of aggravated felony.
- Sec. 3105. Crime of violence.
- Sec. 3106. Grounds of inadmissibility and deportability for alien gang members.
- Sec. 3107. Special immigrant juvenile status for immigrants unable to reunite with either parent.
- Sec. 3108. Clarification of authority regarding determinations of convictions.
- Sec. 3109. Adding attempt and conspiracy to commit terrorism-related inadmissibility grounds acts to the definition of engaging in terrorist activity.
- Sec. 3110. Clarifying the authority of ICE detainers.
- Sec. 3111. Department of Homeland Security access to crime information databases.

TITLE IV—ASYLUM REFORM

- Sec. 4101. Credible fear interviews.
- Sec. 4102. Jurisdiction of asylum applications.
- Sec. 4103. Recording expedited removal and credible fear interviews.
- Sec. 4104. Safe third country.
- Sec. 4105. Renunciation of asylum status pursuant to return to home country.
- Sec. 4106. Notice concerning frivolous asylum applications.
- Sec. 4107. Anti-fraud investigative work product.
- Sec. 4108. Penalties for asylum fraud.
- Sec. 4109. Statute of limitations for asylum fraud.
- Sec. 4110. Technical amendments.

TITLE V—USCIS WAIVERS

- Sec. 5101. Exemption from Administrative Procedure Act.
- Sec. 5102. Exemption from Paperwork Reduction Act.
- Sec. 5103. Sunset.

1 **DIVISION A—BORDER**
2 **ENFORCEMENT**

3 **SEC. 1100. SHORT TITLE.**

4 This division may be cited as the “Border Security
5 for America Act of 2018”.

1 **TITLE I—BORDER SECURITY**

2 **SEC. 1101. DEFINITIONS.**

3 In this title:

4 (1) **ADVANCED UNATTENDED SURVEILLANCE**
5 **SENSORS.**—The term “advanced unattended surveil-
6 lance sensors” means sensors that utilize an onboard
7 computer to analyze detections in an effort to dis-
8 cern between vehicles, humans, and animals, and ul-
9 timately filter false positives prior to transmission.

10 (2) **COMMISSIONER.**—The term “Commis-
11 sioner” means the Commissioner of U.S. Customs
12 and Border Protection.

13 (3) **HIGH TRAFFIC AREAS.**—The term “high
14 traffic areas” has the meaning given such term in
15 section 102(e)(1) of the Illegal Immigration Reform
16 and Immigrant Responsibility Act of 1996, as
17 amended by section 1111 of this division.

18 (4) **OPERATIONAL CONTROL.**—The term “oper-
19 ational control” has the meaning given such term in
20 section 2(b) of the Secure Fence Act of 2006 (8
21 U.S.C. 1701 note; Public Law 109–367).

22 (5) **SECRETARY.**—The term “Secretary” means
23 the Secretary of Homeland Security.

24 (6) **SITUATIONAL AWARENESS.**—The term “sit-
25 uational awareness” has the meaning given such

1 term in section 1092(a)(7) of the National Defense
2 Authorization Act for Fiscal Year 2017 (Public Law
3 114–328; 6 U.S.C. 223(a)(7)).

4 (7) SMALL UNMANNED AERIAL VEHICLE.—The
5 term “small unmanned aerial vehicle” has the mean-
6 ing given the term “small unmanned aircraft” in
7 section 331 of the FAA Modernization and Reform
8 Act of 2012 (Public Law 112–95; 49 U.S.C. 40101
9 note).

10 (8) TRANSIT ZONE.—The term “transit zone”
11 has the meaning given such term in section
12 1092(a)(8) of the National Defense Authorization
13 Act for Fiscal Year 2017 (Public Law 114–328; 6
14 U.S.C. 223(a)(7)).

15 (9) UNMANNED AERIAL SYSTEM.—The term
16 “unmanned aerial system” has the meaning given
17 the term “unmanned aircraft system” in section 331
18 of the FAA Modernization and Reform Act of 2012
19 (Public Law 112–95; 49 U.S.C. 40101 note).

20 (10) UNMANNED AERIAL VEHICLE.—The term
21 “unmanned aerial vehicle” has the meaning given
22 the term “unmanned aircraft” in section 331 of the
23 FAA Modernization and Reform Act of 2012 (Public
24 Law 112–95; 49 U.S.C. 40101 note).

1 **Subtitle A—Infrastructure and**
2 **Equipment**

3 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-**
4 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

10 “(a) IN GENERAL.—The Secretary of Homeland Se-
11 curity shall take such actions as may be necessary (includ-
12 ing the removal of obstacles to detection of illegal en-
13 trants) to design, test, construct, install, deploy, integrate,
14 and operate physical barriers, tactical infrastructure, and
15 technology in the vicinity of the United States border to
16 achieve situational awareness and operational control of
17 the border and deter, impede, and detect illegal activity
18 in high traffic areas.”;

19 (2) in subsection (b)—

20 (A) in the subsection heading, by striking
21 “FENCING AND ROAD IMPROVEMENTS” and in-
22 serting “PHYSICAL BARRIERS”;

23 (B) in paragraph (1)—

24 (i) in subparagraph (A)—

1 (I) by striking “subsection (a)”
2 and inserting “this section”;

3 (II) by striking “roads, lighting,
4 cameras, and sensors” and inserting
5 “tactical infrastructure, and tech-
6 nology”; and

7 (III) by striking “gain” inserting
8 “achieve situational awareness and”;
9 and

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

12 “(B) PHYSICAL BARRIERS AND TACTICAL
13 INFRASTRUCTURE.—

14 “(i) IN GENERAL.—Not later than
15 September 30, 2023, the Secretary of
16 Homeland Security, in carrying out this
17 section, shall deploy along the United
18 States border the most practical and effec-
19 tive physical barriers and tactical infra-
20 structure available for achieving situational
21 awareness and operational control of the
22 border.

23 “(ii) CONSIDERATION FOR CERTAIN
24 PHYSICAL BARRIERS AND TACTICAL INFRA-
25 STRUCTURE.—The deployment of physical

1 barriers and tactical infrastructure under
2 this subparagraph shall not apply in any
3 area or region along the border where nat-
4 ural terrain features, natural barriers, or
5 the remoteness of such area or region
6 would make any such deployment ineffec-
7 tive, as determined by the Secretary, for
8 the purposes of achieving situational
9 awareness or operational control of such
10 area or region.”;

11 (iii) in subparagraph (C)—

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

14 “(i) IN GENERAL.—In carrying out
15 this section, the Secretary of Homeland
16 Security shall consult with the Secretary of
17 the Interior, the Secretary of Agriculture,
18 appropriate representatives of Federal,
19 State, local, and tribal governments, and
20 appropriate private property owners in the
21 United States to minimize the impact on
22 the environment, culture, commerce, and
23 quality of life for the communities and
24 residents located near the sites at which

1 such physical barriers are to be con-
2 structed.”;

3 (II) by redesignating clause (ii)
4 as clause (iii);

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

7 “(ii) NOTIFICATION.—Not later than
8 60 days after the consultation required
9 under clause (i), the Secretary of Home-
10 land Security shall notify the Committee
11 on Homeland Security of the House of
12 Representatives and the Committee on
13 Homeland Security and Governmental Af-
14 fairs of the Senate of the type of physical
15 barriers, tactical infrastructure, or tech-
16 nology the Secretary has determined is
17 most practical and effective to achieve situ-
18 ational awareness and operational control
19 in a specific area or region and the other
20 alternatives the Secretary considered be-
21 fore making such a determination.”; and

22 (IV) in clause (iii), as so redesi-
23 gnated—

1 (aa) in subclause (I), by
2 striking “or” after the semicolon
3 at the end;

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

6 “(II) delay the transfer of the
7 possession of property to the United
8 States or affect the validity of any
9 property acquisition by purchase or
10 eminent domain, or to otherwise affect
11 the eminent domain laws of the
12 United States or of any State; or”;
13 and

14 (cc) by adding at the end
15 the following new subclause:

16 “(III) create any right or liability
17 for any party.”; and

18 (iv) by striking subparagraph (D);

19 (C) in paragraph (2)—

20 (i) by striking “Attorney General”
21 and inserting “Secretary of Homeland Se-
22 curity”;

23 (ii) by striking “this subsection” and
24 inserting “this section”; and

1 (iii) by striking “construction of
2 fences” and inserting “the construction of
3 physical barriers”;

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

6 “(3) AGENT SAFETY.—In carrying out this sec-
7 tion, the Secretary of Homeland Security, when de-
8 signing, constructing, and deploying physical bar-
9 riers, tactical infrastructure, or technology, shall in-
10 corporate such safety features into such design, con-
11 struction, or deployment of such physical barriers,
12 tactical infrastructure, or technology, as the case
13 may be, that the Secretary determines, in the Sec-
14 retary’s sole discretion, are necessary to maximize
15 the safety and effectiveness of officers or agents of
16 the Department of Homeland Security or of any
17 other Federal agency deployed in the vicinity of such
18 physical barriers, tactical infrastructure, or tech-
19 nology.”; and

20 (E) in paragraph (4), by striking “this
21 subsection” and inserting “this section”;

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

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law, the Secretary of Homeland Security

1 shall have the authority to waive all legal require-
2 ments the Secretary, in the Secretary’s sole discre-
3 tion, determines necessary to ensure the expeditious
4 design, testing, construction, installation, deploy-
5 ment, integration, and operation of the physical bar-
6 riers, tactical infrastructure, and technology under
7 this section. Such waiver authority shall also apply
8 with respect to any maintenance carried out on such
9 physical barriers, tactical infrastructure, or tech-
10 nology. Any such decision by the Secretary shall be
11 effective upon publication in the Federal Register.”;
12 and

13 (4) by adding after subsection (d) the following
14 new subsections:

15 “(e) TECHNOLOGY.—Not later than September 30,
16 2023, the Secretary of Homeland Security, in carrying out
17 this section, shall deploy along the United States border
18 the most practical and effective technology available for
19 achieving situational awareness and operational control of
20 the border.

21 “(f) LIMITATION ON REQUIREMENTS.—Nothing in
22 this section may be construed as requiring the Secretary
23 of Homeland Security to install tactical infrastructure,
24 technology, and physical barriers in a particular location
25 along an international border of the United States, if the

1 Secretary determines that the use or placement of such
2 resources is not the most appropriate means to achieve
3 and maintain situational awareness and operational con-
4 trol over the international border at such location.

5 “(g) DEFINITIONS.—In this section:

6 “(1) HIGH TRAFFIC AREAS.—The term ‘high
7 traffic areas’ means areas in the vicinity of the
8 United States border that—

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

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

14 “(2) OPERATIONAL CONTROL.—The term ‘oper-
15 ational control’ has the meaning given such term in
16 section 2(b) of the Secure Fence Act of 2006 (8
17 U.S.C. 1701 note; Public Law 109–367).

18 “(3) PHYSICAL BARRIERS.—The term ‘physical
19 barriers’ includes reinforced fencing, border wall sys-
20 tem, and levee walls.

21 “(4) SITUATIONAL AWARENESS.—The term ‘sit-
22 uational awareness’ has the meaning given such
23 term in section 1092(a)(7) of the National Defense
24 Authorization Act for Fiscal Year 2017 (6 U.S.C.
25 223(a)(7); Public Law 114–328).

1 “(5) TACTICAL INFRASTRUCTURE.—The term
2 ‘tactical infrastructure’ includes boat ramps, access
3 gates, checkpoints, lighting, and roads.

4 “(6) TECHNOLOGY.—The term ‘technology’ in-
5 cludes border surveillance and detection technology,
6 including the following:

7 “(A) Tower-based surveillance technology.

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

10 “(C) Vehicle and Dismount Exploitation
11 Radars (VADER).

12 “(D) 3-dimensional, seismic acoustic detec-
13 tion and ranging border tunneling detection
14 technology.

15 “(E) Advanced unattended surveillance
16 sensors.

17 “(F) Mobile vehicle-mounted and man-
18 portable surveillance capabilities.

19 “(G) Unmanned aerial vehicles.

20 “(H) Other border detection, communica-
21 tion, and surveillance technology.

22 “(7) UNMANNED AERIAL VEHICLES.—The term
23 ‘unmanned aerial vehicle’ has the meaning given the
24 term ‘unmanned aircraft’ in section 331 of the FAA

1 Modernization and Reform Act of 2012 (Public Law
2 112–95; 49 U.S.C. 40101 note).”.

3 **SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

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

8 (b) UNMANNED AERIAL SYSTEM.—The Secretary,
9 after coordination with the Administrator of the Federal
10 Aviation Administration, shall ensure that Air and Marine
11 Operations operate unmanned aerial systems on the south-
12 ern border of the United States for not less than 24 hours
13 per day for five days per week.

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

18 (d) PRIMARY MISSION.—The Commissioner shall en-
19 sure that—

20 (1) the primary missions for Air and Marine
21 Operations are to directly support U.S. Border Pa-
22 trol activities along the southern border of the
23 United States and Joint Interagency Task Force
24 South operations in the transit zone; and

1 (2) the Executive Assistant Commissioner of
2 Air and Marine Operations assigns the greatest pri-
3 ority to support missions established by the Commis-
4 sioner to carry out the requirements under this Act.

5 (e) HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.—

6 In accordance with subsection (d), the Commissioner shall
7 ensure that U.S. Border Patrol Sector Chiefs—

8 (1) identify critical flight hour requirements;
9 and

10 (2) direct Air and Marine Operations to sup-
11 port requests from Sector Chiefs as their primary
12 mission.

13 (f) SMALL UNMANNED AERIAL VEHICLES.—

14 (1) IN GENERAL.—The Chief of the U.S. Bor-
15 der Patrol shall be the executive agent for U.S. Cus-
16 toms and Border Protection’s use of small un-
17 manned aerial vehicles for the purpose of meeting
18 the U.S. Border Patrol’s unmet flight hour oper-
19 ational requirements and to achieve situational
20 awareness and operational control.

21 (2) COORDINATION.—In carrying out para-
22 graph (1), the Chief of the U.S. Border Patrol
23 shall—

24 (A) coordinate flight operations with the
25 Administrator of the Federal Aviation Adminis-

1 tration to ensure the safe and efficient oper-
2 ation of the National Airspace System; and

3 (B) coordinate with the Executive Assist-
4 ant Commissioner for Air and Marine Oper-
5 ations of U.S. Customs and Border Protection
6 to ensure the safety of other U.S. Customs and
7 Border Protection aircraft flying in the vicinity
8 of small unmanned aerial vehicles operated by
9 the U.S. Border Patrol.

10 (3) CONFORMING AMENDMENT.—Paragraph (3)
11 of section 411(e) of the Homeland Security Act of
12 2002 (6 U.S.C. 211(e)) is amended—

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

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

17 (C) by inserting after subparagraph (B)
18 the following new subparagraph:

19 “(C) carry out the small unmanned aerial
20 vehicle requirements pursuant to subsection (f)
21 of section 1112 of the Border Security for
22 America Act of 2018; and”.

23 (g) SAVING CLAUSE.—Nothing in this section shall
24 confer, transfer, or delegate to the Secretary, the Commis-
25 sioner, the Executive Assistant Commissioner for Air and

1 Marine Operations of U.S. Customs and Border Protec-
2 tion, or the Chief of the U.S. Border Patrol any authority
3 of the Secretary of Transportation or the Administrator
4 of the Federal Aviation Administration relating to the use
5 of airspace or aviation safety.

6 **SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
7 **TORS AND TRANSIT ZONE.**

8 (a) IN GENERAL.—Not later than September 30,
9 2023, the Secretary, in implementing section 102 of the
10 Illegal Immigration Reform and Immigrant Responsibility
11 Act of 1996 (as amended by section 1111 of this division),
12 and acting through the appropriate component of the De-
13 partment of Homeland Security, shall deploy to each sec-
14 tor or region of the southern border and the northern bor-
15 der, in a prioritized manner to achieve situational aware-
16 ness and operational control of such borders, the following
17 additional capabilities:

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

20 (A) Tower-based surveillance technology.

21 (B) Subterranean surveillance and detec-
22 tion technologies.

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

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

3 (ii) Unmanned aerial vehicles with
4 maritime surveillance capability.

5 (iii) U.S. Customs and Border Protec-
6 tion maritime patrol aircraft.

7 (iv) Coastal radar surveillance sys-
8 tems.

9 (v) Maritime signals intelligence capa-
10 bilities.

11 (D) Ultralight aircraft detection capabili-
12 ties.

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

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

17 (G) Mobile vehicle-mounted and man-port-
18 able surveillance capabilities.

19 (H) Man-portable unmanned aerial vehi-
20 cles.

21 (I) Improved agent communications capa-
22 bilities.

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

25 (A) Tower-based surveillance technology.

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

3 (C) Man-portable unmanned aerial vehi-
4 cles.

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

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

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

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

13 (H) Improved agent communications capa-
14 bilities.

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

17 (A) Tower-based surveillance technology.

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

20 (C) Ultralight aircraft detection capabili-
21 ties.

22 (D) Advanced unattended surveillance sen-
23 sors.

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

1 (F) Mobile vehicle-mounted and man-port-
2 able surveillance systems.

3 (G) Man-portable unmanned aerial vehi-
4 cles.

5 (H) Improved agent communications capa-
6 bilities.

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

9 (A) Tower-based surveillance technology.

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

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

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

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

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

21 (G) Man-portable unmanned aerial vehi-
22 cles.

23 (H) Improved agent communications capa-
24 bilities.

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

3 (A) Tower-based surveillance technology.

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

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

8 (D) Advanced unattended surveillance sen-
9 sors.

10 (E) Mobile vehicle-mounted and man-port-
11 able surveillance systems.

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

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

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

18 (I) Improved agent communications capa-
19 bilities.

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

22 (A) Tower-based surveillance technology.

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

1 (C) Improved agent communications capa-
2 bilities.

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

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

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

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

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

13 (I) Improved agent communications capa-
14 bilities.

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

17 (A) Tower-based surveillance technology.

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

20 (C) Improved agent communications capa-
21 bilities.

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

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

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

3 (G) Mobile vehicle-mounted and man-port-
4 able surveillance capabilities.

5 (H) Man-portable unmanned aerial vehi-
6 cles.

7 (I) Improved agent communications capa-
8 bilities.

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

11 (A) Tower-based surveillance technology.

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

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

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

19 (E) Ultralight aircraft detection capability.

20 (F) Advanced unattended surveillance sen-
21 sors.

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

24 (H) Man-portable unmanned aerial vehi-
25 cles.

1 (I) Improved agent communications capa-
2 bilities.

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

5 (A) Tower-based surveillance technology.

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

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

11 (D) Ultralight aircraft detection capability.

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

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

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

18 (H) Increased maritime interdiction capa-
19 bilities.

20 (I) Mobile vehicle-mounted and man-port-
21 able surveillance capabilities.

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

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

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

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

6 (B) Coastal radar surveillance systems.

7 (C) Increased maritime interdiction capa-
8 bilities.

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

11 (E) Advanced unattended surveillance sen-
12 sors.

13 (F) Ultralight aircraft detection capabili-
14 ties.

15 (G) Man-portable unmanned aerial vehi-
16 cles.

17 (H) Improved agent communications capa-
18 bilities.

19 (11) SPOKANE SECTOR.—For the Spokane sec-
20 tor, the following:

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

24 (B) Increased maritime interdiction capa-
25 bilities.

1 (C) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

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

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

7 (F) Completion of six miles of the Bog
8 Creek road.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (D) Ultralight aircraft detection capabili-
13 ties.

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

16 (F) Improved agent communications sys-
17 tems.

18 (14) DETROIT SECTOR.—For the Detroit sec-
19 tor, the following:

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

23 (B) Coastal radar surveillance systems.

24 (C) Increased maritime interdiction capa-
25 bilities.

1 (D) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

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

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

7 (G) Man-portable unmanned aerial vehi-
8 cles.

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

11 (15) BUFFALO SECTOR.—For the Buffalo sec-
12 tor, the following:

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

16 (B) Coastal radar surveillance systems.

17 (C) Increased maritime interdiction capa-
18 bilities.

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

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

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

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

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

5 (16) SWANTON SECTOR.—For the Swanton sec-
6 tor, the following:

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

10 (B) Mobile vehicle-mounted and man-port-
11 able surveillance capabilities.

12 (C) Advanced unattended surveillance sen-
13 sors.

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

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

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

20 (17) HOULTON SECTOR.—For the Houlton sec-
21 tor, the following:

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

1 (B) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

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

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

7 (E) Man-portable unmanned aerial vehi-
8 cles.

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

11 (18) TRANSIT ZONE.—For the transit zone, the
12 following:

13 (A) Not later than two years after the date
14 of the enactment of this Act, an increase in the
15 number of overall cutter, boat, and aircraft
16 hours spent conducting interdiction operations
17 over the average number of such hours during
18 the preceding three fiscal years.

19 (B) Increased maritime signals intelligence
20 capabilities.

21 (C) To increase maritime domain aware-
22 ness, the following:

23 (i) Unmanned aerial vehicles with
24 maritime surveillance capability.

1 (ii) Increased maritime aviation patrol
2 hours.

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

9 (E) Coastal radar surveillance systems
10 with long range day and night cameras capable
11 of providing full maritime domain awareness of
12 the United States territorial waters surrounding
13 Puerto Rico, Mona Island, Desecheo Island,
14 Vieques Island, Culebra Island, Saint Thomas,
15 Saint John, and Saint Croix.

16 (b) TACTICAL FLEXIBILITY.—

17 (1) SOUTHERN AND NORTHERN LAND BOR-
18 DERS.—

19 (A) IN GENERAL.—Beginning on Sep-
20 tember 30, 2022, or after the Secretary has de-
21 ployed at least 25 percent of the capabilities re-
22 quired in each sector specified in subsection (a),
23 whichever comes later, the Secretary may devi-
24 ate from such capability deployments if the Sec-
25 retary determines that such deviation is re-

1 required to achieve situational awareness or oper-
2 ational control.

3 (B) NOTIFICATION.—If the Secretary exer-
4 cises the authority described in subparagraph
5 (A), the Secretary shall, not later than 90 days
6 after such exercise, notify the Committee on
7 Homeland Security and Governmental Affairs
8 of the Senate and the Committee on Homeland
9 Security of the House of Representatives re-
10 garding the deviation under such subparagraph
11 that is the subject of such exercise. If the Sec-
12 retary makes any changes to such deviation, the
13 Secretary shall, not later than 90 days after
14 any such change, notify such committees re-
15 garding such change.

16 (2) TRANSIT ZONE.—

17 (A) NOTIFICATION.—The Secretary shall
18 notify the Committee on Homeland Security
19 and Governmental Affairs of the Senate, the
20 Committee on Commerce, Science, and Trans-
21 portation of the Senate, the Committee on
22 Homeland Security of the House of Representa-
23 tives, and the Committee on Transportation
24 and Infrastructure of the House of Representa-
25 tives regarding the capability deployments for

1 the transit zone specified in paragraph (18) of
2 subsection (a), including information relating
3 to—

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

6 (ii) the impact such deployments have
7 on the capability of the Coast Guard to
8 conduct its mission in the transit zone re-
9 ferred to in paragraph (18) of subsection
10 (a).

11 (B) ALTERATION.—The Secretary may
12 alter the capability deployments referred to in
13 this section if the Secretary—

14 (i) determines, after consultation with
15 the committees referred to in subpara-
16 graph (A), that such alteration is nec-
17 essary; and

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

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

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

6 (c) EXIGENT CIRCUMSTANCES.—

7 (1) IN GENERAL.—Notwithstanding subsection
8 (b), the Secretary may deploy the capabilities re-
9 ferred to in subsection (a) in a manner that is incon-
10 sistent with the requirements specified in such sub-
11 section if, after the Secretary has deployed at least
12 25 percent of such capabilities, the Secretary deter-
13 mines that exigent circumstances demand such an
14 inconsistent deployment or that such an inconsistent
15 deployment is vital to the national security interests
16 of the United States.

17 (2) NOTIFICATION.—The Secretary shall notify
18 the Committee on Homeland Security of the House
19 of Representatives and the Committee on Homeland
20 Security and Governmental Affairs of the Senate not
21 later than 30 days after making a determination
22 under paragraph (1). Such notification shall include
23 a detailed justification regarding such determination.

24 (d) INTEGRATION.—In carrying out subsection (a),
25 the Secretary shall, to the greatest extent practicable, inte-

1 grate, within each sector or region of the southern border
2 and northern border, as the case may be, the deployed ca-
3 pabilities specified in such subsection as necessary to
4 achieve situational awareness and operational control of
5 such borders.

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

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

12 **SEC. 1115. BORDER SECURITY TECHNOLOGY PROGRAM**
13 **MANAGEMENT.**

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

17 **“SEC. 435. BORDER SECURITY TECHNOLOGY PROGRAM**
18 **MANAGEMENT.**

19 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
20 this section, the term ‘major acquisition program’ means
21 an acquisition program of the Department that is esti-
22 mated by the Secretary to require an eventual total ex-
23 penditure of at least \$300,000,000 (based on fiscal year
24 2018 constant dollars) over its life cycle cost.

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

5 “(1) ensure that each such program has a writ-
6 ten acquisition program baseline approved by the
7 relevant acquisition decision authority;

8 “(2) document that each such program is meet-
9 ing cost, schedule, and performance thresholds as
10 specified in such baseline, in compliance with rel-
11 evant departmental acquisition policies and the Fed-
12 eral Acquisition Regulation; and

13 “(3) have a plan for meeting program imple-
14 mentation objectives by managing contractor per-
15 formance.

16 “(c) ADHERENCE TO STANDARDS.—The Secretary,
17 acting through the Under Secretary for Management and
18 the Commissioner of U.S. Customs and Border Protection,
19 shall ensure border security technology acquisition pro-
20 gram managers who are responsible for carrying out this
21 section adhere to relevant internal control standards iden-
22 tified by the Comptroller General of the United States.
23 The Commissioner shall provide information, as needed,
24 to assist the Under Secretary in monitoring management

1 of border security technology acquisition programs under
2 this section.

3 “(d) PLAN.—The Secretary, acting through the
4 Under Secretary for Management, in coordination with
5 the Under Secretary for Science and Technology and the
6 Commissioner of U.S. Customs and Border Protection,
7 shall submit to the appropriate congressional committees
8 a plan for testing, evaluating, and using independent
9 verification and validation resources for border security
10 technology. Under the plan, new border security tech-
11 nologies shall be evaluated through a series of assess-
12 ments, processes, and audits to ensure—

13 “(1) compliance with relevant departmental ac-
14 quisition policies and the Federal Acquisition Regu-
15 lation; and

16 “(2) the effective use of taxpayer dollars.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by inserting after the item relating to section
20 433 the following new item:

“Sec. 435. Border security technology program management.”.

21 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
22 OF APPROPRIATIONS.—No additional funds are author-
23 ized to be appropriated to carry out section 435 of the
24 Homeland Security Act of 2002, as added by subsection

1 (a). Such section shall be carried out using amounts other-
2 wise authorized for such purposes.

3 **SEC. 1116. NATIONAL GUARD SUPPORT TO SECURE THE**
4 **SOUTHERN BORDER.**

5 (a) NATIONAL GUARD SUPPORT.—

6 (1) AUTHORITY TO REQUEST.—The Secretary
7 may, pursuant to chapter 15 of title 10, United
8 States Code, request that the Secretary of Defense
9 support the Secretary's efforts to secure the south-
10 ern border of the United States. The Secretary of
11 Defense may authorize the provision of such support
12 under section 502(f) of title 32, United States Code.

13 (2) APPROVAL AND ORDER.—With the approval
14 of the Secretary and the Secretary of Defense, the
15 Governor of a State may order any units or per-
16 sonnel of the National Guard of such State to per-
17 form operations and missions under section 502(f)
18 of title 32, United States Code, for the purpose of
19 securing the southern border of the United States.

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

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

24 (2) operation of ground-based surveillance sys-
25 tems;

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

5 (4) intelligence analysis support.

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

11 (d) READINESS.—To ensure that the use of units and
12 personnel of the National Guard of a State authorized
13 pursuant to this section does not degrade the training and
14 readiness of such units and personnel, the Secretary of
15 Defense shall consider the following requirements when
16 authorizing or approving support under subsection (a):

17 (1) The performance of such support may not
18 affect adversely the quality of such training or readi-
19 ness or otherwise interfere with the ability of a unit
20 or personnel of the National Guard of a State to
21 perform the military functions of such member or
22 unit.

23 (2) The performance of such support may not
24 degrade the military skills of the units or personnel

1 of the National Guard of a State performing such
2 support.

3 (e) REPORT ON READINESS.—Upon the request of
4 the Secretary, the Secretary of Defense shall provide to
5 the Secretary a report on the readiness of units and per-
6 sonnel of the National Guard that the Secretary of De-
7 fense determines are capable of providing such support.

8 (f) REIMBURSEMENT NOTIFICATION.—Prior to pro-
9 viding any support under subsection (a), the Secretary of
10 Defense shall notify the Secretary whether the requested
11 support will be reimbursed under section 277 of title 10,
12 United States Code.

13 (g) REIMBURSEMENT TO STATES.—The Secretary of
14 Defense may reimburse a State for costs incurred in the
15 deployment of any units or personnel of the National
16 Guard pursuant to subsection (a).

17 (h) RELATIONSHIP TO OTHER LAWS.—Nothing in
18 this section may be construed as affecting the authorities
19 under chapter 9 of title 32, United States Code.

20 (i) REPORTS.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of the enactment of this Act and bian-
23 nually thereafter through December 31, 2021, the
24 Secretary of Defense shall submit to the appropriate
25 congressional defense committees (as defined in sec-

1 tion 101(a)(16) of title 10, United States Code) a
2 report regarding any support provided pursuant to
3 subsection (a) for the six month period preceding
4 each such report.

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

7 (A) the support provided; and

8 (B) the sources and amounts of funds obli-
9 gated and expended to provide such support.

10 **SEC. 1117. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
11 **DER SECURITY ON CERTAIN FEDERAL LAND.**

12 (a) PROHIBITION ON INTERFERENCE WITH U.S.
13 CUSTOMS AND BORDER PROTECTION.—

14 (1) IN GENERAL.—The Secretary concerned
15 may not impede, prohibit, or restrict activities of
16 U.S. Customs and Border Protection on covered
17 Federal land to carry out the activities described in
18 subsection (b).

19 (2) APPLICABILITY.—The authority of U.S.
20 Customs and Border Protection to conduct activities
21 described in subsection (b) on covered Federal land
22 applies without regard to whether a state of emer-
23 gency exists.

24 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
25 BORDER PROTECTION.—

1 (1) IN GENERAL.—U.S. Customs and Border
2 Protection shall have immediate access to covered
3 Federal land to conduct the activities described in
4 paragraph (2) on such land to prevent all unlawful
5 entries into the United States, including entries by
6 terrorists, unlawful aliens, instruments of terrorism,
7 narcotics, and other contraband through the south-
8 ern border or the northern border.

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

11 (A) carrying out section 102 of the Illegal
12 Immigration Reform and Immigrant Responsi-
13 bility Act of 1996 (Division C of Public Law
14 104–208; 8 U.S.C. 1103 note), as amended by
15 section 1111 of this division;

16 (B) the execution of search and rescue op-
17 erations;

18 (C) the use of motorized vehicles, foot pa-
19 trols, and horseback to patrol the border area,
20 apprehend illegal entrants, and rescue individ-
21 uals; and

22 (D) the remediation of tunnels used to fa-
23 cilitate unlawful immigration or other illicit ac-
24 tivities.

1 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
2 ITY.—

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

7 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
8 visions of law specified in this section are all Fed-
9 eral, State, or other laws, regulations, and legal re-
10 quirements of, deriving from, or related to the sub-
11 ject of, the following laws:

12 (A) The National Environmental Policy
13 Act of 1969 (42 U.S.C. 4321 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (R) The Wilderness Act (16 U.S.C. 1131
4 et seq.).

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

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

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

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

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

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

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

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

1 (AA) The National Park Service General
2 Authorities Act (Public Law 91–383, 16 U.S.C.
3 1a–1 et seq.).

4 (BB) Sections 401(7), 403, and 404 of the
5 National Parks and Recreation Act of 1978
6 (Public Law 95–625).

7 (CC) Sections 301(a) through (f) of the
8 Arizona Desert Wilderness Act (Public Law
9 101–628).

10 (DD) The Rivers and Harbors Act of 1899
11 (33 U.S.C. 403).

12 (EE) The Eagle Protection Act (16 U.S.C.
13 668 et seq.).

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

17 (GG) The American Indian Religious Free-
18 dom Act (42 U.S.C. 1996).

19 (HH) The National Forest Management
20 Act of 1976 (16 U.S.C. 1600 et seq.).

21 (II) The Multiple Use and Sustained Yield
22 Act of 1960 (16 U.S.C. 528 et seq.).

23 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
24 LAWS.—If a provision of law specified in paragraph
25 (2) was repealed and incorporated into title 54,

1 United States Code, after April 1, 2008, and before
2 the date of the enactment of this Act, the waiver de-
3 scribed in paragraph (1) shall apply to the provision
4 of such title that corresponds to the provision of law
5 specified in paragraph (2) to the same extent the
6 waiver applied to that provision of law.

7 (4) SAVINGS CLAUSE.—The waiver authority
8 under this subsection may not be construed as af-
9 fecting, negating, or diminishing in any manner the
10 applicability of section 552 of title 5, United States
11 Code (commonly referred to as the “Freedom of In-
12 formation Act”), in any relevant matter.

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

15 (1) authority to restrict legal uses, such as
16 grazing, hunting, mining, or recreation or the use of
17 backcountry airstrips, on land under the jurisdiction
18 of the Secretary of the Interior or the Secretary of
19 Agriculture; or

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

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

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

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

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

7 (g) MEMORANDA OF UNDERSTANDING.—The re-
8 quirements of this section shall not apply to the extent
9 that such requirements are incompatible with any memo-
10 randum of understanding or similar agreement entered
11 into between the Commissioner and a National Park Unit
12 before the date of the enactment of this Act.

13 (h) DEFINITIONS.—In this section:

14 (1) COVERED FEDERAL LAND.—The term “cov-
15 ered Federal land” includes all land under the con-
16 trol of the Secretary concerned that is located within
17 100 miles of the southern border or the northern
18 border.

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

21 (A) with respect to land under the jurisdic-
22 tion of the Department of Agriculture, the Sec-
23 retary of Agriculture; and

1 (B) with respect to land under the jurisdic-
2 tion of the Department of the Interior, the Sec-
3 retary of the Interior.

4 **SEC. 1118. LANDOWNER AND RANCHER SECURITY EN-**
5 **HANCEMENT.**

6 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
7 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
8 lish a National Border Security Advisory Committee,
9 which—

10 (1) may advise, consult with, report to, and
11 make recommendations to the Secretary on matters
12 relating to border security matters, including—

13 (A) verifying security claims and the bor-
14 der security metrics established by the Depart-
15 ment of Homeland Security under section 1092
16 of the National Defense Authorization Act for
17 Fiscal Year 2017 (Public Law 114–328; 6
18 U.S.C. 223); and

19 (B) discussing ways to improve the secu-
20 rity of high traffic areas along the northern
21 border and the southern border; and

22 (2) may provide, through the Secretary, rec-
23 ommendations to Congress.

24 (b) CONSIDERATION OF VIEWS.—The Secretary shall
25 consider the information, advice, and recommendations of

1 the National Border Security Advisory Committee in for-
2 mulating policy regarding matters affecting border secu-
3 rity.

4 (c) MEMBERSHIP.—The National Border Security
5 Advisory Committee shall consist of at least one member
6 from each State who—

7 (1) has at least five years practical experience
8 in border security operations; or

9 (2) lives and works in the United States within
10 80 miles from the southern border or the northern
11 border.

12 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
13 COMMITTEE ACT.—The Federal Advisory Committee Act
14 (5 U.S.C. App.) shall not apply to the National Border
15 Security Advisory Committee.

16 **SEC. 1119. ERADICATION OF CARRIZO CANE AND SALT**
17 **CEDAR.**

18 (a) IN GENERAL.—Not later than September 30,
19 2023, the Secretary, after coordinating with the heads of
20 the relevant Federal, State, and local agencies, shall begin
21 eradicating the carrizo cane plant and any salt cedar along
22 the Rio Grande River that impedes border security oper-
23 ations.

24 (b) EXTENT.—The waiver authority under subsection
25 (c) of section 102 of the Illegal Immigration Reform and

1 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103
2 note), as amended by section 1111 of this division, shall
3 extend to activities carried out pursuant to this section.

4 **SEC. 1120. SOUTHERN BORDER THREAT ANALYSIS.**

5 (a) THREAT ANALYSIS.—

6 (1) REQUIREMENT.—Not later than 180 days
7 after the date of the enactment of this Act, the Sec-
8 retary shall submit to the Committee on Homeland
9 Security of the House of Representatives and the
10 Committee on Homeland Security and Governmental
11 Affairs of the Senate a Southern border threat anal-
12 ysis.

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

15 (A) current and potential terrorism and
16 criminal threats posed by individuals and orga-
17 nized groups seeking—

18 (i) to unlawfully enter the United
19 States through the Southern border; or

20 (ii) to exploit security vulnerabilities
21 along the Southern border;

22 (B) improvements needed at and between
23 ports of entry along the Southern border to pre-
24 vent terrorists and instruments of terror from
25 entering the United States;

1 (C) gaps in law, policy, and coordination
2 between State, local, or tribal law enforcement,
3 international agreements, or tribal agreements
4 that hinder effective and efficient border secu-
5 rity, counterterrorism, and anti-human smug-
6 gling and trafficking efforts;

7 (D) the current percentage of situational
8 awareness achieved by the Department along
9 the Southern border;

10 (E) the current percentage of operational
11 control achieved by the Department on the
12 Southern border; and

13 (F) traveler crossing times and any poten-
14 tial security vulnerability associated with pro-
15 longed wait times.

16 (3) ANALYSIS REQUIREMENTS.—In compiling
17 the Southern border threat analysis required under
18 this subsection, the Secretary shall consider and ex-
19 amine—

20 (A) the technology needs and challenges,
21 including such needs and challenges identified
22 as a result of previous investments that have
23 not fully realized the security and operational
24 benefits that were sought;

1 (B) the personnel needs and challenges, in-
2 cluding such needs and challenges associated
3 with recruitment and hiring;

4 (C) the infrastructure needs and chal-
5 lenges;

6 (D) the roles and authorities of State,
7 local, and tribal law enforcement in general bor-
8 der security activities;

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

12 (F) the terrain, population density, and cli-
13 mate along the Southern border; and

14 (G) the international agreements between
15 the United States and Mexico related to border
16 security.

17 (4) CLASSIFIED FORM.—To the extent possible,
18 the Secretary shall submit the Southern border
19 threat analysis required under this subsection in un-
20 classified form, but may submit a portion of the
21 threat analysis in classified form if the Secretary de-
22 termines such action is appropriate.

23 (b) U.S. BORDER PATROL STRATEGIC PLAN.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the submission of the threat analysis required

1 under subsection (a) or June 30, 2019, and every
2 five years thereafter, the Secretary, acting through
3 the Chief of the U.S. Border Patrol, shall issue a
4 Border Patrol Strategic Plan.

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

8 (A) the Southern border threat analysis re-
9 quired under subsection (a), with an emphasis
10 on efforts to mitigate threats identified in such
11 threat analysis;

12 (B) efforts to analyze and disseminate bor-
13 der security and border threat information be-
14 tween border security components of the De-
15 partment and other appropriate Federal depart-
16 ments and agencies with missions associated
17 with the Southern border;

18 (C) efforts to increase situational aware-
19 ness, including—

20 (i) surveillance capabilities, including
21 capabilities developed or utilized by the
22 Department of Defense, and any appro-
23 priate technology determined to be excess
24 by the Department of Defense; and

1 (ii) the use of manned aircraft and
2 unmanned aerial systems, including cam-
3 era and sensor technology deployed on
4 such assets;

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

8 (E) efforts to detect, interdict, and disrupt
9 aliens and illicit drugs at the earliest possible
10 point;

11 (F) efforts to focus intelligence collection
12 to disrupt transnational criminal organizations
13 outside of the international and maritime bor-
14 ders of the United States;

15 (G) efforts to ensure that any new border
16 security technology can be operationally inte-
17 grated with existing technologies in use by the
18 Department;

19 (H) any technology required to maintain,
20 support, and enhance security and facilitate
21 trade at ports of entry, including nonintrusive
22 detection equipment, radiation detection equip-
23 ment, biometric technology, surveillance sys-
24 tems, and other sensors and technology that the
25 Secretary determines to be necessary;

1 (I) operational coordination unity of effort
2 initiatives of the border security components of
3 the Department, including any relevant task
4 forces of the Department;

5 (J) lessons learned from Operation
6 Jumpstart and Operation Phalanx;

7 (K) cooperative agreements and informa-
8 tion sharing with State, local, tribal, territorial,
9 and other Federal law enforcement agencies
10 that have jurisdiction on the Northern border
11 or the Southern border;

12 (L) border security information received
13 from consultation with State, local, tribal, terri-
14 torial, and Federal law enforcement agencies
15 that have jurisdiction on the Northern border
16 or the Southern border, or in the maritime en-
17 vironment, and from border community stake-
18 holders (including through public meetings with
19 such stakeholders), including representatives
20 from border agricultural and ranching organiza-
21 tions and representatives from business and
22 civic organizations along the Northern border
23 or the Southern border;

24 (M) staffing requirements for all depart-
25 mental border security functions;

1 (N) a prioritized list of departmental re-
2 search and development objectives to enhance
3 the security of the Southern border;

4 (O) an assessment of training programs,
5 including training programs for—

6 (i) identifying and detecting fraudu-
7 lent documents;

8 (ii) understanding the scope of en-
9 forcement authorities and the use of force
10 policies; and

11 (iii) screening, identifying, and ad-
12 dressing vulnerable populations, such as
13 children and victims of human trafficking;
14 and

15 (P) an assessment of how border security
16 operations affect border crossing times.

17 **SEC. 1121. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
18 **PROTECTION.**

19 (a) DUTIES.—Subsection (c) of section 411 of the
20 Homeland Security Act of 2002 (6 U.S.C. 211) is amend-
21 ed—

22 (1) in paragraph (18), by striking “and” after
23 the semicolon at the end;

24 (2) by redesignating paragraph (19) as para-
25 graph (21); and

1 (3) by inserting after paragraph (18) the fol-
2 lowing new paragraphs:

3 “(19) administer the U.S. Customs and Border
4 Protection public private partnerships under subtitle
5 G;

6 “(20) administer preclearance operations under
7 the Preclearance Authorization Act of 2015 (19
8 U.S.C. 4431 et seq.; enacted as subtitle B of title
9 VIII of the Trade Facilitation and Trade Enforce-
10 ment Act of 2015; 19 U.S.C. 4301 et seq.); and”.

11 (b) OFFICE OF FIELD OPERATIONS STAFFING.—
12 Subparagraph (A) of section 411(g)(5) of the Homeland
13 Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by
14 inserting before the period at the end the following: “com-
15 pared to the number indicated by the current fiscal year
16 work flow staffing model”.

17 (c) IMPLEMENTATION PLAN.—Subparagraph (B) of
18 section 814(e)(1) of the Preclearance Authorization Act
19 of 2015 (19 U.S.C. 4433(e)(1); enacted as subtitle B of
20 title VIII of the Trade Facilitation and Trade Enforce-
21 ment Act of 2015; 19 U.S.C. 4301 et seq.) is amended
22 to read as follows:

23 “(B) a port of entry vacancy rate which
24 compares the number of officers identified in
25 subparagraph (A) with the number of officers

1 at the port at which such officer is currently as-
2 signed.”.

3 (d) DEFINITION.—Subsection (r) of section 411 of
4 the Homeland Security Act of 2002 (6 U.S.C. 211) is
5 amended—

6 (1) by striking “this section, the terms” and in-
7 serting the following: “this section:

8 “(1) the terms”;

9 (2) in paragraph (1), as added by subparagraph
10 (A), by striking the period at the end and inserting
11 “; and”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(2) the term ‘unmanned aerial systems’ has
15 the meaning given the term ‘unmanned aircraft sys-
16 tem’ in section 331 of the FAA Modernization and
17 Reform Act of 2012 (Public Law 112–95; 49 U.S.C.
18 40101 note).”.

19 **SEC. 1122. AGENT AND OFFICER TECHNOLOGY USE.**

20 In carrying out section 102 of the Illegal Immigration
21 Reform and Immigrant Responsibility Act of 1996 (as
22 amended by section 1111 of this division) and section
23 1113 of this division, the Secretary shall, to the greatest
24 extent practicable, ensure that technology deployed to gain
25 situational awareness and operational control of the bor-

1 der be provided to front-line officers and agents of the De-
2 partment of Homeland Security.

3 **SEC. 1123. INTEGRATED BORDER ENFORCEMENT TEAMS.**

4 (a) IN GENERAL.—Subtitle C of title IV of the
5 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
6 as amended by section 1115 of this division, is further
7 amended by adding at the end the following new section:

8 **“SEC. 436. INTEGRATED BORDER ENFORCEMENT TEAMS.**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-
10 lish within the Department a program to be known as the
11 Integrated Border Enforcement Team program (referred
12 to in this section as ‘IBET’).

13 “(b) PURPOSE.—The Secretary shall administer the
14 IBET program in a manner that results in a cooperative
15 approach between the United States and Canada to—

16 “(1) strengthen security between designated
17 ports of entry;

18 “(2) detect, prevent, investigate, and respond to
19 terrorism and violations of law related to border se-
20 curity;

21 “(3) facilitate collaboration among components
22 and offices within the Department and international
23 partners;

24 “(4) execute coordinated activities in further-
25 ance of border security and homeland security; and

1 “(5) enhance information-sharing, including the
2 dissemination of homeland security information
3 among such components and offices.

4 “(c) COMPOSITION AND LOCATION OF IBETS.—

5 “(1) COMPOSITION.—IBETs shall be led by the
6 United States Border Patrol and may be comprised
7 of personnel from the following:

8 “(A) Other subcomponents of U.S. Customs and Border Protection.

10 “(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.

13 “(C) The Coast Guard, for the purpose of securing the maritime borders of the United States.

16 “(D) Other Department personnel, as appropriate.

18 “(E) Other Federal departments and agencies, as appropriate.

20 “(F) Appropriate State law enforcement agencies.

22 “(G) Foreign law enforcement partners.

23 “(H) Local law enforcement agencies from
24 affected border cities and communities.

1 “(I) Appropriate tribal law enforcement
2 agencies.

3 “(2) LOCATION.—The Secretary is authorized
4 to establish IBETs in regions in which such teams
5 can contribute to IBET missions, as appropriate.
6 When establishing an IBET, the Secretary shall con-
7 sider the following:

8 “(A) Whether the region in which the
9 IBET would be established is significantly im-
10 pacted by cross-border threats.

11 “(B) The availability of Federal, State,
12 local, tribal, and foreign law enforcement re-
13 sources to participate in an IBET.

14 “(C) Whether, in accordance with para-
15 graph (3), other joint cross-border initiatives al-
16 ready take place within the region in which the
17 IBET would be established, including other De-
18 partment cross-border programs such as the In-
19 tegrated Cross-Border Maritime Law Enforce-
20 ment Operation Program established under sec-
21 tion 711 of the Coast Guard and Maritime
22 Transportation Act of 2012 (46 U.S.C. 70101
23 note) or the Border Enforcement Security Task
24 Force established under section 432.

1 “(3) DUPLICATION OF EFFORTS.—In deter-
2 mining whether to establish a new IBET or to ex-
3 pand an existing IBET in a given region, the Sec-
4 retary shall ensure that the IBET under consider-
5 ation does not duplicate the efforts of other existing
6 interagency task forces or centers within such re-
7 gion, including the Integrated Cross-Border Mari-
8 time Law Enforcement Operation Program estab-
9 lished under section 711 of the Coast Guard and
10 Maritime Transportation Act of 2012 (46 U.S.C.
11 70101 note) or the Border Enforcement Security
12 Task Force established under section 432.

13 “(d) OPERATION.—

14 “(1) IN GENERAL.—After determining the re-
15 gions in which to establish IBETs, the Secretary
16 may—

17 “(A) direct the assignment of Federal per-
18 sonnel to such IBETs; and

19 “(B) take other actions to assist Federal,
20 State, local, and tribal entities to participate in
21 such IBETs, including providing financial as-
22 sistance, as appropriate, for operational, admin-
23 istrative, and technological costs associated with
24 such participation.

1 “(2) LIMITATION.—Coast Guard personnel as-
2 signed under paragraph (1) may be assigned only
3 for the purposes of securing the maritime borders of
4 the United States, in accordance with subsection
5 (c)(1)(C).

6 “(e) COORDINATION.—The Secretary shall coordinate
7 the IBET program with other similar border security and
8 antiterrorism programs within the Department in accord-
9 ance with the strategic objectives of the Cross-Border Law
10 Enforcement Advisory Committee.

11 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
12 retary may enter into memoranda of understanding with
13 appropriate representatives of the entities specified in sub-
14 section (c)(1) necessary to carry out the IBET program.
15 Such memoranda with entities specified in subparagraph
16 (G) of such subsection shall be entered into with the con-
17 currence of the Secretary of State.

18 “(g) REPORT.—Not later than 180 days after the
19 date on which an IBET is established and biannually
20 thereafter for the following six years, the Secretary shall
21 submit to the Committee on Homeland Security of the
22 House of Representatives and the Committee on Home-
23 land Security and Governmental Affairs of the Senate,
24 and in the case of Coast Guard personnel used to secure
25 the maritime borders of the United States, additionally to

1 the Committee on Transportation and Infrastructure of
2 the House of Representatives, a report that—

3 “(1) describes the effectiveness of IBETs in ful-
4 filling the purposes specified in subsection (b);

5 “(2) assess the impact of certain challenges on
6 the sustainment of cross-border IBET operations,
7 including challenges faced by international partners;

8 “(3) addresses ways to support joint training
9 for IBET stakeholder agencies and radio interoper-
10 ability to allow for secure cross-border radio commu-
11 nications; and

12 “(4) assesses how IBETs, Border Enforcement
13 Security Task Forces, and the Integrated Cross-Bor-
14 der Maritime Law Enforcement Operation Program
15 can better align operations, including interdiction
16 and investigation activities.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by adding after the item relating to section 435
20 the following new item:

“Sec. 436. Integrated Border Enforcement Teams.”.

21 **SEC. 1124. TUNNEL TASK FORCES.**

22 The Secretary is authorized to establish Tunnel Task
23 Forces for the purposes of detecting and remediating tun-
24 nels that breach the international border of the United
25 States.

1 **SEC. 1125. PILOT PROGRAM ON USE OF ELECTRO-**
2 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
3 **DER SECURITY OPERATIONS.**

4 (a) IN GENERAL.—The Commissioner, in consulta-
5 tion with the Assistant Secretary of Commerce for Com-
6 munications and Information, shall conduct a pilot pro-
7 gram to test and evaluate the use of electromagnetic spec-
8 trum by U.S. Customs and Border Protection in support
9 of border security operations through—

10 (1) ongoing management and monitoring of
11 spectrum to identify threats such as unauthorized
12 spectrum use, and the jamming and hacking of
13 United States communications assets, by persons en-
14 gaged in criminal enterprises;

15 (2) automated spectrum management to enable
16 greater efficiency and speed for U.S. Customs and
17 Border Protection in addressing emerging challenges
18 in overall spectrum use on the United States border;
19 and

20 (3) coordinated use of spectrum resources to
21 better facilitate interoperability and interagency co-
22 operation and interdiction efforts at or near the
23 United States border.

24 (b) REPORT TO CONGRESS.—Not later than 180 days
25 after the conclusion of the pilot program conducted under
26 subsection (a), the Commissioner shall submit to the Com-

1 mittee on Homeland Security and the Committee on En-
2 ergy and Commerce of the House of Representatives and
3 the Committee on Homeland Security and Governmental
4 Affairs and the Committee on Commerce, Science, and
5 Transportation of the Senate a report on the findings and
6 data derived from such program.

7 **SEC. 1126. FOREIGN MIGRATION ASSISTANCE.**

8 (a) IN GENERAL.—Subtitle C of title IV of the
9 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
10 as amended by sections 1115 and 1123 of this division,
11 is further amended by adding at the end the following new
12 section:

13 **“SEC. 437. FOREIGN MIGRATION ASSISTANCE.**

14 “(a) IN GENERAL.—The Secretary, with the concur-
15 rence of the Secretary of State, may provide to a foreign
16 government financial assistance for foreign country oper-
17 ations to address migration flows that may affect the
18 United States.

19 “(b) DETERMINATION.—Assistance provided under
20 subsection (a) may be provided only if such assistance
21 would enhance the recipient government’s capacity to ad-
22 dress irregular migration flows that may affect the United
23 States, including through related detention or removal op-
24 erations by the recipient government, including procedures
25 to screen and provide protection for certain individuals.

1 “(c) REIMBURSEMENT OF EXPENSES.—The Sec-
2 retary may, if appropriate, seek reimbursement from the
3 receiving foreign government for the provision of financial
4 assistance under this section.

5 “(d) RECEIPTS CREDITED AS OFFSETTING COLLEC-
6 TIONS.—Notwithstanding section 3302 of title 31, United
7 States Code, any reimbursement collected pursuant to
8 subsection (c) shall—

9 “(1) be credited as offsetting collections to the
10 account that finances the financial assistance under
11 this section for which such reimbursement is re-
12 ceived; and

13 “(2) remain available until expended for the
14 purpose of carrying out this section.

15 “(e) EFFECTIVE PERIOD.—The authority provided
16 under this section shall remain in effect until September
17 30, 2023.

18 “(f) DEVELOPMENT AND PROGRAM EXECUTION.—
19 The Secretary and the Secretary of State shall jointly de-
20 velop and implement any financial assistance under this
21 section.

22 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion may be construed as affecting, augmenting, or dimin-
24 ishing the authority of the Secretary of State.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—In ad-
2 dition to amounts otherwise authorized to be appropriated
3 for such purpose, there is authorized to be appropriated
4 \$50,000,000 for fiscal years 2019 through 2023 to carry
5 out this section.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 in section 1(b) of the Homeland Security Act of 2002 is
8 amended by inserting after the item relating to section
9 436 the following new item:

“Sec. 437. Foreign migration assistance.”.

10 **SEC. 1127. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
11 **MIGRATION ALERT PROGRAM.**

12 (a) IN GENERAL.—Subtitle D of title IV of the
13 Homeland Security Act of 2002 (6 U.S.C. 251 et seq.)
14 is amended by adding at the end the following new section:

15 **“SEC. 447. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
16 **MIGRATION ALERT PROGRAM.**

17 “(a) ESTABLISHMENT.—There is established in the
18 Department a program to be known as the Biometric
19 Identification Transnational Migration Alert Program (re-
20 ferred to in this section as ‘BITMAP’) to address and re-
21 duce national security, border security, and public safety
22 threats before such threats reach the international border
23 of the United States.

1 “(b) DUTIES.—In carrying out BITMAP operations,
2 the Secretary, acting through the Director of U.S. Immi-
3 gration and Customs Enforcement, shall—

4 “(1) provide, when necessary, capabilities,
5 training, and equipment, to the government of a for-
6 eign country to collect biometric and biographic
7 identification data from individuals to identify, pre-
8 vent, detect, and interdict high risk individuals iden-
9 tified as national security, border security, or public
10 safety threats who may attempt to enter the United
11 States utilizing illicit pathways;

12 “(2) provide capabilities to the government of a
13 foreign country to compare foreign data against ap-
14 propriate United States national security, border se-
15 curity, public safety, immigration, and counter-ter-
16 rorism data, including—

17 “(A) the Federal Bureau of Investigation’s
18 Terrorist Screening Database, or successor
19 database;

20 “(B) the Federal Bureau of Investigation’s
21 Next Generation Identification database, or suc-
22 cessor database;

23 “(C) the Department of Defense Auto-
24 mated Biometric Identification System (com-
25 monly known as ‘ABIS’), or successor database;

1 “(D) the Department’s Automated Biomet-
2 ric Identification System (commonly known as
3 ‘IDENT’), or successor database; and

4 “(E) any other database, notice, or means
5 that the Secretary, in consultation with the
6 heads of other Federal departments and agen-
7 cies responsible for such databases, notices, or
8 means, designates; and

9 “(3) ensure biometric and biographic identifica-
10 tion data collected pursuant to BITMAP are incor-
11 porated into appropriate United States Government
12 databases, in compliance with the policies and proce-
13 dures established by the Privacy Officer appointed
14 under section 222.

15 “(c) COLLABORATION.—The Secretary shall ensure
16 that BITMAP operations include participation from rel-
17 evant components of the Department, and, as appropriate,
18 request participation from other Federal agencies.

19 “(d) COORDINATION.—The Secretary shall coordi-
20 nate with the Secretary of State, appropriate representa-
21 tives of foreign governments, and the heads of other Fed-
22 eral agencies, as appropriate, to carry out paragraph (1)
23 of subsection (b).

24 “(e) AGREEMENTS.—Before carrying out BITMAP
25 operations in a foreign country that, as of the date of the

1 enactment of this section, was not a partner country de-
2 scribed in this section, the Secretary, with the concurrence
3 of the Secretary of State, shall enter into an agreement
4 or arrangement with the government of such country that
5 outlines such operations in such country, including related
6 departmental operations. Such country shall be a partner
7 country described in this section pursuant to and for pur-
8 poses of such agreement or arrangement.

9 “(f) NOTIFICATION TO CONGRESS.—Not later than
10 60 days before an agreement with the government of a
11 foreign country to carry out BITMAP operations in such
12 foreign country enters into force, the Secretary shall pro-
13 vide the Committee on Homeland Security of the House
14 of Representatives and the Committee on Homeland Secu-
15 rity and Governmental Affairs of the Senate with a copy
16 of the agreement to establish such operations, which shall
17 include—

18 “(1) the identification of the foreign country
19 with which the Secretary intends to enter into such
20 an agreement;

21 “(2) the location at which such operations will
22 be conducted; and

23 “(3) the terms and conditions for Department
24 personnel operating at such location.”.

1 (b) REPORT.—Not later than 180 days after the date
2 on which the Biometric Identification Transnational Mi-
3 gration Alert Program (BITMAP) is established under
4 section 447 of the Homeland Security Act of 2002 (as
5 added by subsection (a) of this section) and annually
6 thereafter for the following five years, the Secretary of
7 Homeland Security shall submit to the Committee on
8 Homeland Security of the House of Representatives and
9 the Committee on Homeland Security and Governmental
10 Affairs of the Senate a report that details the effectiveness
11 of BITMAP operations in enhancing national security,
12 border security, and public safety.

13 (c) CLERICAL AMENDMENT.—The table of contents
14 in section 1(b) of the Homeland Security Act of 2002 is
15 amended by inserting after the item relating to section
16 446 the following new item:

“Sec. 447. Biometric Identification Transnational Migration Alert Program.”.

17 **Subtitle B—Personnel**

18 **SEC. 1131. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 19 **TECTION AGENTS AND OFFICERS.**

20 (a) BORDER PATROL AGENTS.—Not later than Sep-
21 tember 30, 2023, the Commissioner shall hire, train, and
22 assign sufficient agents to maintain an active duty pres-
23 ence of not fewer than 26,370 full-time equivalent agents.

24 (b) CBP OFFICERS.—In addition to positions author-
25 ized before the date of the enactment of this Act and any

1 existing officer vacancies within U.S. Customs and Border
2 Protection as of such date, the Commissioner shall hire,
3 train, and assign to duty, not later than September 30,
4 2023—

5 (1) sufficient U.S. Customs and Border Protec-
6 tion officers to maintain an active duty presence of
7 not fewer than 27,725 full-time equivalent officers;
8 and

9 (2) 350 full-time support staff distributed
10 among all United States ports of entry.

11 (c) AIR AND MARINE OPERATIONS.—Not later than
12 September 30, 2023, the Commissioner shall hire, train,
13 and assign sufficient agents for Air and Marine Oper-
14 ations of U.S. Customs and Border Protection to maintain
15 not fewer than 1,675 full-time equivalent agents and not
16 fewer than 264 Marine and Air Interdiction Agents for
17 southern border air and maritime operations.

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

20 (1) K–9 UNITS.—Not later than September 30,
21 2023, the Commissioner shall deploy not fewer than
22 300 new K–9 units, with supporting officers of U.S.
23 Customs and Border Protection and other required
24 staff, at land ports of entry and checkpoints, on the
25 southern border and the northern border.

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

4 (e) U.S. CUSTOMS AND BORDER PROTECTION
5 HORSEBACK UNITS.—

6 (1) INCREASE.—Not later than September 30,
7 2023, the Commissioner shall increase the number
8 of horseback units, with supporting officers of U.S.
9 Customs and Border Protection and other required
10 staff, by not fewer than 100 officers and 50 horses
11 for security patrol along the Southern border.

12 (2) HORSEBACK UNIT SUPPORT.—The Commis-
13 sioner shall construct new stables, maintain and im-
14 prove existing stables, and provide other resources
15 needed to maintain the health and well-being of the
16 horses that serve in the horseback units of U.S. Cus-
17 toms and Border Protection.

18 (f) U.S. CUSTOMS AND BORDER PROTECTION
19 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
20 September 30, 2023, the Commissioner shall increase by
21 not fewer than 50 the number of officers engaged in
22 search and rescue activities along the southern border.

23 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
24 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
25 later than September 30, 2023, the Commissioner shall

1 increase by not fewer than 50 the number of officers as-
2 sisting task forces and activities related to deployment and
3 operation of border tunnel detection technology and appre-
4 hensions of individuals using such tunnels for crossing
5 into the United States, drug trafficking, or human smug-
6 gling.

7 (h) AGRICULTURAL SPECIALISTS.—Not later than
8 September 30, 2023, the Secretary shall hire, train, and
9 assign to duty, in addition to the officers and agents au-
10 thorized under subsections (a) through (g), 631 U.S. Cus-
11 toms and Border Protection agricultural specialists to
12 ports of entry along the southern border and the northern
13 border.

14 (i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
15 Not later than September 30, 2023, the Commissioner
16 shall hire, train, and assign sufficient Office of Profes-
17 sional Responsibility special agents to maintain an active
18 duty presence of not fewer than 550 full-time equivalent
19 special agents.

20 (j) U.S. CUSTOMS AND BORDER PROTECTION OF-
21 FICE OF INTELLIGENCE.—Not later than September 30,
22 2023, the Commissioner shall hire, train, and assign suffi-
23 cient Office of Intelligence personnel to maintain not fewer
24 than 700 full-time equivalent employees.

1 (k) GAO REPORT.—If the staffing levels required
2 under this section are not achieved by September 30,
3 2023, the Comptroller General of the United States shall
4 conduct a review of the reasons why such levels were not
5 achieved.

6 **SEC. 1132. U.S. CUSTOMS AND BORDER PROTECTION RE-**
7 **TENTION INCENTIVES.**

8 (a) IN GENERAL.—Chapter 97 of title 5, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“§ 9702. U.S. Customs and Border Protection tem-**
12 **porary employment authorities**

13 “(a) DEFINITIONS.—In this section—

14 “(1) the term ‘CBP employee’ means an em-
15 ployee of U.S. Customs and Border Protection de-
16 scribed under any of subsections (a) through (h) of
17 section 1131 of the Border Security for America Act
18 of 2018;

19 “(2) the term ‘Commissioner’ means the Com-
20 missioner of U.S. Customs and Border Protection;

21 “(3) the term ‘Director’ means the Director of
22 the Office of Personnel Management;

23 “(4) the term ‘Secretary’ means the Secretary
24 of Homeland Security; and

1 “(5) the term ‘appropriate congressional com-
2 mittees’ means the Committee on Oversight and
3 Government Reform, the Committee on Homeland
4 Security, and the Committee on Ways and Means of
5 the House of Representatives and the Committee on
6 Homeland Security and Governmental Affairs and
7 the Committee on Finance of the Senate.

8 “(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND
9 RELOCATION BONUSES; RETENTION BONUSES.—

10 “(1) STATEMENT OF PURPOSE AND LIMITA-
11 TION.—The purpose of this subsection is to allow
12 U.S. Customs and Border Protection to expedi-
13 tiously meet the hiring goals and staffing levels re-
14 quired by section 1131 of the Border Security for
15 America Act of 2018. The Secretary shall not use
16 this authority beyond meeting the requirements of
17 such section.

18 “(2) DIRECT HIRE AUTHORITY.—The Secretary
19 may appoint, without regard to any provision of sec-
20 tions 3309 through 3319, candidates to positions in
21 the competitive service as CBP employees if the Sec-
22 retary has given public notice for the positions.

23 “(3) RECRUITMENT AND RELOCATION BO-
24 NUSES.—The Secretary may pay a recruitment or
25 relocation bonus of up to 50 percent of the annual

1 rate of basic pay to an individual CBP employee at
2 the beginning of the service period multiplied by the
3 number of years (including a fractional part of a
4 year) in the required service period to an individual
5 (other than an individual described in subsection
6 (a)(2) of section 5753) if—

7 “(A) the Secretary determines that condi-
8 tions consistent with the conditions described in
9 paragraphs (1) and (2) of subsection (b) of
10 such section 5753 are satisfied with respect to
11 the individual (without regard to the regula-
12 tions referenced in subsection (b)(2)(B(ii)(I) of
13 such section or to any other provision of that
14 section); and

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

17 “(i) under which the individual is re-
18 quired to complete a period of employment
19 as a CBP employee of not less than 2
20 years; and

21 “(ii) that includes—

22 “(I) the commencement and ter-
23 mination dates of the required service
24 period (or provisions for the deter-
25 mination thereof);

1 “(II) the amount of the bonus;
2 and

3 “(III) other terms and conditions
4 under which the bonus is payable,
5 subject to the requirements of this
6 subsection, including—

7 “(aa) the conditions under
8 which the agreement may be ter-
9 minated before the agreed-upon
10 service period has been com-
11 pleted; and

12 “(bb) the effect of a termi-
13 nation described in item (aa).

14 “(4) RETENTION BONUSES.—The Secretary
15 may pay a retention bonus of up to 50 percent of
16 basic pay to an individual CBP employee (other than
17 an individual described in subsection (a)(2) of sec-
18 tion 5754) if—

19 “(A) the Secretary determines that—

20 “(i) a condition consistent with the
21 condition described in subsection (b)(1) of
22 such section 5754 is satisfied with respect
23 to the CBP employee (without regard to
24 any other provision of that section); and

1 “(ii) in the absence of a retention
2 bonus, the CBP employee would be likely
3 to leave—

4 “(I) the Federal service; or

5 “(II) for a different position in
6 the Federal service, including a posi-
7 tion in another agency or component
8 of the Department of Homeland Secu-
9 rity; and

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

12 “(i) under which the individual is re-
13 quired to complete a period of employment
14 as a CBP employee of not less than 2
15 years; and

16 “(ii) that includes—

17 “(I) the commencement and ter-
18 mination dates of the required service
19 period (or provisions for the deter-
20 mination thereof);

21 “(II) the amount of the bonus;
22 and

23 “(III) other terms and conditions
24 under which the bonus is payable,

1 subject to the requirements of this
2 subsection, including—

3 “(aa) the conditions under
4 which the agreement may be ter-
5 minated before the agreed-upon
6 service period has been com-
7 pleted; and

8 “(bb) the effect of a termi-
9 nation described in item (aa).

10 “(5) RULES FOR BONUSES.—

11 “(A) MAXIMUM BONUS.—A bonus paid to
12 an employee under—

13 “(i) paragraph (3) may not exceed
14 100 percent of the annual rate of basic pay
15 of the employee as of the commencement
16 date of the applicable service period; and

17 “(ii) paragraph (4) may not exceed 50
18 percent of the annual rate of basic pay of
19 the employee.

20 “(B) RELATIONSHIP TO BASIC PAY.—A
21 bonus paid to an employee under paragraph (3)
22 or (4) shall not be considered part of the basic
23 pay of the employee for any purpose, including
24 for retirement or in computing a lump-sum pay-
25 ment to the covered employee for accumulated

1 and accrued annual leave under section 5551 or
2 section 5552.

3 “(C) PERIOD OF SERVICE FOR RECRUIT-
4 MENT, RELOCATION, AND RETENTION BO-
5 NUSES.—

6 “(i) A bonus paid to an employee
7 under paragraph (4) may not be based on
8 any period of such service which is the
9 basis for a recruitment or relocation bonus
10 under paragraph (3).

11 “(ii) A bonus paid to an employee
12 under paragraph (3) or (4) may not be
13 based on any period of service which is the
14 basis for a recruitment or relocation bonus
15 under section 5753 or a retention bonus
16 under section 5754.

17 “(c) SPECIAL RATES OF PAY.—In addition to the cir-
18 cumstances described in subsection (b) of section 5305,
19 the Director may establish special rates of pay in accord-
20 ance with that section to assist the Secretary in meeting
21 the requirements of section 1131 of the Border Security
22 for America Act of 2018. The Director shall prioritize the
23 consideration of requests from the Secretary for such spe-
24 cial rates of pay and issue a decision as soon as prac-
25 ticable. The Secretary shall provide such information to

1 the Director as the Director deems necessary to evaluate
2 special rates of pay under this subsection.

3 “(d) OPM OVERSIGHT.—

4 “(1) Not later than September 30 of each year,
5 the Secretary shall provide a report to the Director
6 on U.S. Custom and Border Protection’s use of au-
7 thorities provided under subsections (b) and (c). In
8 each report, the Secretary shall provide such infor-
9 mation as the Director determines is appropriate to
10 ensure appropriate use of authorities under such
11 subsections. Each report shall also include an assess-
12 ment of—

13 “(A) the impact of the use of authorities
14 under subsections (b) and (c) on implementa-
15 tion of section 1131 of the Border Security for
16 America Act of 2018;

17 “(B) solving hiring and retention chal-
18 lenges at the agency, including at specific loca-
19 tions;

20 “(C) whether hiring and retention chal-
21 lenges still exist at the agency or specific loca-
22 tions; and

23 “(D) whether the Secretary needs to con-
24 tinue to use authorities provided under this sec-
25 tion at the agency or at specific locations.

1 “(2) CONSIDERATION.—In compiling a report
2 under paragraph (1), the Secretary shall consider—

3 “(A) whether any CBP employee accepted
4 an employment incentive under subsection (b)
5 and (c) and then transferred to a new location
6 or left U.S. Customs and Border Protection;
7 and

8 “(B) the length of time that each employee
9 identified under subparagraph (A) stayed at the
10 original location before transferring to a new lo-
11 cation or leaving U.S. Customs and Border
12 Protection.

13 “(3) DISTRIBUTION.—In addition to the Direc-
14 tor, the Secretary shall submit each report required
15 under this subsection to the appropriate congress-
16 sional committees.

17 “(e) OPM ACTION.—If the Director determines the
18 Secretary has inappropriately used authorities under sub-
19 section (b) or a special rate of pay provided under sub-
20 section (c), the Director shall notify the Secretary and the
21 appropriate congressional committees in writing. Upon re-
22 ceipt of the notification, the Secretary may not make any
23 new appointments or issue any new bonuses under sub-
24 section (b), nor provide CBP employees with further spe-
25 cial rates of pay, until the Director has provided the Sec-

1 retary and the appropriate congressional committees a
2 written notice stating the Director is satisfied safeguards
3 are in place to prevent further inappropriate use.

4 “(f) IMPROVING CBP HIRING AND RETENTION.—

5 “(1) EDUCATION OF CBP HIRING OFFICIALS.—

6 Not later than 180 days after the date of the enact-
7 ment of this section, and in conjunction with the
8 Chief Human Capital Officer of the Department of
9 Homeland Security, the Secretary shall develop and
10 implement a strategy to improve the education re-
11 garding hiring and human resources flexibilities (in-
12 cluding hiring and human resources flexibilities for
13 locations in rural or remote areas) for all employees,
14 serving in agency headquarters or field offices, who
15 are involved in the recruitment, hiring, assessment,
16 or selection of candidates for locations in a rural or
17 remote area, as well as the retention of current em-
18 ployees.

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

21 “(A) Developing or updating training and
22 educational materials on hiring and human re-
23 sources flexibilities for employees who are in-
24 volved in the recruitment, hiring, assessment, or

1 selection of candidates, as well as the retention
2 of current employees.

3 “(B) Regular training sessions for per-
4 sonnel who are critical to filling open positions
5 in rural or remote areas.

6 “(C) The development of pilot programs or
7 other programs, as appropriate, consistent with
8 authorities provided to the Secretary to address
9 identified hiring challenges, including in rural
10 or remote areas.

11 “(D) Developing and enhancing strategic
12 recruiting efforts through the relationships with
13 institutions of higher education, as defined in
14 section 102 of the Higher Education Act of
15 1965 (20 U.S.C. 1002), veterans transition and
16 employment centers, and job placement pro-
17 gram in regions that could assist in filling posi-
18 tions in rural or remote areas.

19 “(E) Examination of existing agency pro-
20 grams on how to most effectively aid spouses
21 and families of individuals who are candidates
22 or new hires in a rural or remote area.

23 “(F) Feedback from individuals who are
24 candidates or new hires at locations in a rural
25 or remote area, including feedback on the qual-

1 ity of life in rural or remote areas for new hires
2 and their families.

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

8 “(H) Evaluation of Department of Home-
9 land Security internship programs and the use-
10 fulness of those programs in improving hiring
11 by the Secretary in rural or remote areas.

12 “(3) EVALUATION.—

13 “(A) IN GENERAL.—Each year, the Sec-
14 retary shall—

15 “(i) evaluate the extent to which the
16 strategy developed and implemented under
17 paragraph (1) has improved the hiring and
18 retention ability of the Secretary; and

19 “(ii) make any appropriate updates to
20 the strategy under paragraph (1).

21 “(B) INFORMATION.—The evaluation con-
22 ducted under subparagraph (A) shall include—

23 “(i) any reduction in the time taken
24 by the Secretary to fill mission-critical po-
25 sitions, including in rural or remote areas;

1 “(ii) a general assessment of the im-
2 pact of the strategy implemented under
3 paragraph (1) on hiring challenges, includ-
4 ing in rural or remote areas; and

5 “(iii) other information the Secretary
6 determines relevant.

7 “(g) INSPECTOR GENERAL REVIEW.—Not later than
8 two years after the date of the enactment of this section,
9 the Inspector General of the Department of Homeland Se-
10 curity shall review the use of hiring and pay flexibilities
11 under subsections (b) and (c) to determine whether the
12 use of such flexibilities is helping the Secretary meet hir-
13 ing and retention needs, including in rural and remote
14 areas.

15 “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-
16 retary shall report to the appropriate congressional com-
17 mittees on the number of requests the Secretary receives
18 from any other Federal agency for the file of an applicant
19 for a position in U.S. Customs and Border Protection that
20 includes the results of a polygraph examination.

21 “(i) EXERCISE OF AUTHORITY.—

22 “(1) SOLE DISCRETION.—The exercise of au-
23 thority under subsection (b) shall be subject to the
24 sole and exclusive discretion of the Secretary (or the
25 Commissioner, as applicable under paragraph (2) of

1 this subsection), notwithstanding chapter 71 and
2 any collective bargaining agreement.

3 “(2) DELEGATION.—The Secretary may dele-
4 gate any authority under this section to the Com-
5 missioner.

6 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed to exempt the Secretary or the Di-
8 rector from applicability of the merit system principles
9 under section 2301.

10 “(k) SUNSET.—The authorities under subsections (b)
11 and (c) shall terminate on September 30, 2023. Any bonus
12 to be paid pursuant to subsection (b) that is approved be-
13 fore such date may continue until such bonus has been
14 paid, subject to the conditions specified in this section.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 The table of sections for chapter 97 of title 5, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

“9702. U.S. Customs and Border Protection temporary employment authori-
ties.”.

19 **SEC. 1133. ANTI-BORDER CORRUPTION REAUTHORIZATION**
20 **ACT.**

21 (a) SHORT TITLE.—This section may be cited as the
22 “Anti-Border Corruption Reauthorization Act of 2018”.

23 (b) HIRING FLEXIBILITY.—Section 3 of the Anti-
24 Border Corruption Act of 2010 (6 U.S.C. 221) is amended

1 by striking subsection (b) and inserting the following new
2 subsections:

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

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

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

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

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

24 “(D) has, within the past ten years, suc-
25 cessfully completed a polygraph examination as

1 a condition of employment with such officer's
2 current law enforcement agency;

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

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

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

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

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

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

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

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

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

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

16 “(E) was not granted any waivers to ob-
17 tain the clearance referred to subparagraph
18 (B).

19 “(c) TERMINATION OF WAIVER AUTHORITY.—The
20 authority to issue a waiver under subsection (b) shall ter-
21minate on the date that is four years after the date of
22 the enactment of the Border Security for America Act of
23 2018.”.

24 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
25 DEFINITIONS.—

1 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
2 ITY.—Section 4 of the Anti-Border Corruption Act
3 of 2010 is amended to read as follows:

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

5 “(a) NON-EXEMPTION.—An individual who receives a
6 waiver under section 3(b) is not exempt from other hiring
7 requirements relating to suitability for employment and
8 eligibility to hold a national security designated position,
9 as determined by the Commissioner of U.S. Customs and
10 Border Protection.

11 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
12 vidual who receives a waiver under section 3(b) who holds
13 a current Tier 4 background investigation shall be subject
14 to a Tier 5 background investigation.

15 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
16 TION.—The Commissioner of U.S. Customs and Border
17 Protection is authorized to administer a polygraph exam-
18 ination to an applicant or employee who is eligible for or
19 receives a waiver under section 3(b) if information is dis-
20 covered before the completion of a background investiga-
21 tion that results in a determination that a polygraph ex-
22 amination is necessary to make a final determination re-
23 garding suitability for employment or continued employ-
24 ment, as the case may be.”.

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

5 **“SEC. 5. REPORTING.**

6 “(a) ANNUAL REPORT.—Not later than one year
7 after the date of the enactment of this section and annu-
8 ally thereafter while the waiver authority under section
9 3(b) is in effect, the Commissioner of U.S. Customs and
10 Border Protection shall submit to Congress a report that
11 includes, with respect to each such reporting period—

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

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

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

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

20 “(5) an assessment of the current impact of the
21 polygraph waiver program on filling law enforcement
22 positions at U.S. Customs and Border Protection;
23 and

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

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

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

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

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

20 **“SEC. 6. DEFINITIONS.**

21 “In this Act:

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

1 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—
2 The term ‘serious military or civil offense’ means an
3 offense for which—

4 “(A) a member of the Armed Forces may
5 be discharged or separated from service in the
6 Armed Forces; and

7 “(B) a punitive discharge is, or would be,
8 authorized for the same or a closely related of-
9 fense under the Manual for Court-Martial, as
10 pursuant to Army Regulation 635–200 chapter
11 14–12.

12 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
13 ‘Tier 5’ with respect to background investigations
14 have the meaning given such terms under the 2012
15 Federal Investigative Standards.

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

19 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
20 tember 30, 2022, the Secretary shall increase to not fewer
21 than 150 the number of trained full-time equivalent poly-
22 graph examiners for administering polygraphs under the
23 Anti-Border Corruption Act of 2010, as amended by this
24 subtitle.

1 **SEC. 1134. TRAINING FOR OFFICERS AND AGENTS OF U.S.**
2 **CUSTOMS AND BORDER PROTECTION.**

3 (a) IN GENERAL.—Subsection (l) of section 411 of
4 the Homeland Security Act of 2002 (6 U.S.C. 211) is
5 amended to read as follows:

6 “(l) TRAINING AND CONTINUING EDUCATION.—

7 “(1) MANDATORY TRAINING.—The Commis-
8 sioner shall ensure that every agent and officer of
9 U.S. Customs and Border Protection receives a min-
10 imum of 21 weeks of training that are directly re-
11 lated to the mission of the U.S. Border Patrol, Air
12 and Marine, and the Office of Field Operations be-
13 fore the initial assignment of such agents and offi-
14 cers.

15 “(2) FLETC.—The Commissioner shall work
16 in consultation with the Director of the Federal Law
17 Enforcement Training Centers to establish guide-
18 lines and curriculum for the training of agents and
19 officers of U.S. Customs and Border Protection
20 under subsection (a).

21 “(3) CONTINUING EDUCATION.—The Commis-
22 sioner shall annually require all agents and officers
23 of U.S. Customs and Border Protection who are re-
24 quired to undergo training under subsection (a) to
25 participate in not fewer than eight hours of con-
26 tinuing education annually to maintain and update

1 understanding of Federal legal rulings, court deci-
2 sions, and Department policies, procedures, and
3 guidelines related to relevant subject matters.

4 “(4) LEADERSHIP TRAINING.—Not later than
5 one year after the date of the enactment of this sub-
6 section, the Commissioner shall develop and require
7 training courses geared towards the development of
8 leadership skills for mid- and senior-level career em-
9 ployees not later than one year after such employees
10 assume duties in supervisory roles.”.

11 (b) REPORT.—Not later than 180 days after the date
12 of the enactment of this Act, the Commissioner shall sub-
13 mit to the Committee on Homeland Security and the Com-
14 mittee on Ways and Means of the House of Representa-
15 tives and the Committee on Homeland Security and Gov-
16 ernmental Affairs and the Committee on Finance of the
17 Senate a report identifying the guidelines and curriculum
18 established to carry out subsection (l) of section 411 of
19 the Homeland Security Act of 2002, as amended by sub-
20 section (a) of this section.

21 (c) ASSESSMENT.—Not later than four years after
22 the date of the enactment of this Act, the Comptroller
23 General of the United States shall submit to the Com-
24 mittee on Homeland Security and the Committee on Ways
25 and Means of the House of Representatives and the Com-

1 mittee on Homeland Security and Governmental Affairs
 2 and the Committee on Finance of the Senate a report that
 3 assesses the training and education, including continuing
 4 education, required under subsection (l) of section 411 of
 5 the Homeland Security Act of 2002, as amended by sub-
 6 section (a) of this section.

7 **Subtitle C—Grants**

8 **SEC. 1141. OPERATION STONEGARDEN.**

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

12 **“SEC. 2009. OPERATION STONEGARDEN.**

13 “(a) ESTABLISHMENT.—There is established in the
 14 Department a program to be known as ‘Operation
 15 Stonegarden’, under which the Secretary, acting through
 16 the Administrator, shall make grants to eligible law en-
 17 forcement agencies, through the State administrative
 18 agency, to enhance border security in accordance with this
 19 section.

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

23 “(1) shall be located in—

24 “(A) a State bordering Canada or Mexico;

25 or

1 “(B) a State or territory with a maritime
2 border; and

3 “(2) shall be involved in an active, ongoing,
4 U.S. Customs and Border Protection operation co-
5 ordinated through a U.S. Border Patrol sector of-
6 fice.

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

9 “(1) equipment, including maintenance and
10 sustainment costs;

11 “(2) personnel, including overtime and backfill,
12 in support of enhanced border law enforcement ac-
13 tivities;

14 “(3) any activity permitted for Operation
15 Stonegarden under the Department of Homeland
16 Security’s Fiscal Year 2018 Homeland Security
17 Grant Program Notice of Funding Opportunity; and

18 “(4) any other appropriate activity, as deter-
19 mined by the Administrator, in consultation with the
20 Commissioner of U.S. Customs and Border Protec-
21 tion.

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

1 “(e) REPORT.—For each of fiscal years 2019 through
2 2023, the Administrator shall submit to the Committee
3 on Homeland Security and Governmental Affairs of the
4 Senate and the Committee on Homeland Security of the
5 House of Representatives a report that contains informa-
6 tion on the expenditure of grants made under this section
7 by each grant recipient.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
9 is authorized to be appropriated \$110,000,000 for each
10 of fiscal years 2019 through 2023 for grants under this
11 section.”.

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

15 “(a) GRANTS AUTHORIZED.—The Secretary, through
16 the Administrator, may award grants under sections 2003,
17 2004, and 2009 to State, local, and tribal governments,
18 as appropriate.”.

19 (c) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of the Homeland Security Act of 2002 is
21 amended by inserting after the item relating to section
22 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

1 **TITLE II—EMERGENCY PORT OF**
2 **ENTRY PERSONNEL AND IN-**
3 **FRAStructure FUNDING**

4 **SEC. 2101. PORTS OF ENTRY INFRASTRUCTURE.**

5 (a) ADDITIONAL PORTS OF ENTRY.—

6 (1) AUTHORITY.—The Administrator of Gen-
7 eral Services may, subject to section 3307 of title
8 40, United States Code, construct new ports of entry
9 along the northern border and southern border at lo-
10 cations determined by the Secretary.

11 (2) CONSULTATION.—

12 (A) REQUIREMENT TO CONSULT.—The
13 Secretary and the Administrator of General
14 Services shall consult with the Secretary of
15 State, the Secretary of the Interior, the Sec-
16 retary of Agriculture, the Secretary of Trans-
17 portation, and appropriate representatives of
18 State and local governments, and Indian tribes,
19 and property owners in the United States prior
20 to determining a location for any new port of
21 entry constructed pursuant to paragraph (1).

22 (B) CONSIDERATIONS.—The purpose of
23 the consultations required by subparagraph (A)
24 shall be to minimize any negative impacts of
25 constructing a new port of entry on the environ-

1 ment, culture, commerce, and quality of life of
2 the communities and residents located near
3 such new port.

4 (b) EXPANSION AND MODERNIZATION OF HIGH-PRI-
5 ORITY SOUTHERN BORDER PORTS OF ENTRY.—Not later
6 than September 30, 2023, the Administrator of General
7 Services, subject to section 3307 of title 40, United States
8 Code, and in coordination with the Secretary, shall expand
9 or modernize high-priority ports of entry on the southern
10 border, as determined by the Secretary, for the purposes
11 of reducing wait times and enhancing security.

12 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
13 structing any new ports of entry pursuant to subsection
14 (a), the Administrator of General Services shall complete
15 the expansion and modernization of ports of entry pursu-
16 ant to subsection (b) to the extent practicable.

17 (d) NOTIFICATIONS.—

18 (1) RELATING TO NEW PORTS OF ENTRY.—Not
19 later than 15 days after determining the location of
20 any new port of entry for construction pursuant to
21 subsection (a), the Secretary and the Administrator
22 of General Services shall jointly notify the Members
23 of Congress who represent the State or congressional
24 district in which such new port of entry will be lo-
25 cated, as well as the Committee on Homeland Secu-

1 rity and Governmental Affairs, the Committee on
2 Finance, the Committee on Commerce, Science, and
3 Transportation, and the Committee on the Judiciary
4 of the Senate, and the Committee on Homeland Se-
5 curity, the Committee on Ways and Means, the
6 Committee on Transportation and Infrastructure,
7 and the Committee on the Judiciary of the House of
8 Representatives. Such notification shall include in-
9 formation relating to the location of such new port
10 of entry, a description of the need for such new port
11 of entry and associated anticipated benefits, a de-
12 scription of the consultations undertaken by the Sec-
13 retary and the Administrator pursuant to paragraph
14 (2) of such subsection, any actions that will be taken
15 to minimize negative impacts of such new port of
16 entry, and the anticipated time-line for construction
17 and completion of such new port of entry.

18 (2) RELATING TO EXPANSION AND MODERNIZA-
19 TION OF PORTS OF ENTRY.—Not later than 180
20 days after enactment of this Act, the Secretary and
21 the Administrator of General Services shall jointly
22 notify the Committee on Homeland Security and
23 Governmental Affairs, the Committee on Finance,
24 the Committee on Commerce, Science, and Trans-
25 portation, and the Committee on the Judiciary of

1 the Senate, and the Committee on Homeland Secu-
2 rity, the Committee on Ways and Means, the Com-
3 mittee on Transportation and Infrastructure, and
4 the Committee on the Judiciary of the House of
5 Representatives of the ports of entry on the south-
6 ern border that are the subject of expansion or mod-
7 ernization pursuant to subsection (b) and the Sec-
8 retary's and Administrator's plan for expanding or
9 modernizing each such port of entry.

10 (e) SAVINGS PROVISION.—Nothing in this section
11 may be construed to—

12 (1) create or negate any right of action for a
13 State, local government, or other person or entity af-
14 fected by this section;

15 (2) delay the transfer of the possession of prop-
16 erty to the United States or affect the validity of
17 any property acquisitions by purchase or eminent
18 domain, or to otherwise affect the eminent domain
19 laws of the United States or of any State; or

20 (3) create any right or liability for any party.

21 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion may be construed as providing the Secretary new au-
23 thority related to the construction, acquisition, or renova-
24 tion of real property.

1 **SEC. 2102. SECURE COMMUNICATIONS.**

2 (a) IN GENERAL.—The Secretary shall ensure that
3 each U.S. Customs and Border Protection and U.S. Immi-
4 gration and Customs Enforcement officer or agent, if ap-
5 propriate, is equipped with a secure radio or other two-
6 way communication device, supported by system interoper-
7 ability, that allows each such officer to communicate—

8 (1) between ports of entry and inspection sta-
9 tions; and

10 (2) with other Federal, State, tribal, and local
11 law enforcement entities.

12 (b) U.S. BORDER PATROL AGENTS.—The Secretary
13 shall ensure that each U.S. Border Patrol agent or officer
14 assigned or required to patrol on foot, by horseback, or
15 with a canine unit, in remote mission critical locations,
16 and at border checkpoints, has a multi- or dual-band
17 encrypted portable radio.

18 (c) LTE CAPABILITY.—In carrying out subsection
19 (b), the Secretary shall acquire radios or other devices
20 with the option to be LTE-capable for deployment in areas
21 where LTE enhances operations and is cost effective.

22 **SEC. 2103. BORDER SECURITY DEPLOYMENT PROGRAM.**

23 (a) EXPANSION.—Not later than September 30,
24 2023, the Secretary shall fully implement the Border Se-
25 curity Deployment Program of the U.S. Customs and Bor-
26 der Protection and expand the integrated surveillance and

1 intrusion detection system at land ports of entry along the
2 southern border and the northern border.

3 (b) **AUTHORIZATION OF APPROPRIATIONS.**—In addi-
4 tion to amounts otherwise authorized to be appropriated
5 for such purpose, there is authorized to be appropriated
6 \$33,000,000 for fiscal years 2019 through 2023 to carry
7 out subsection (a).

8 **SEC. 2104. PILOT AND UPGRADE OF LICENSE PLATE READ-**
9 **ERS AT PORTS OF ENTRY.**

10 (a) **UPGRADE.**—Not later than two years after the
11 date of the enactment of this Act, the Commissioner shall
12 upgrade all existing license plate readers in need of up-
13 grade, as determined by the Commissioner, on the north-
14 ern and southern borders on incoming and outgoing vehi-
15 cle lanes.

16 (b) **PILOT PROGRAM.**—Not later than 90 days after
17 the date of the enactment of this Act, the Commissioner
18 shall conduct a one-month pilot program on the southern
19 border using license plate readers for one to two cargo
20 lanes at the top three high-volume land ports of entry or
21 checkpoints to determine their effectiveness in reducing
22 cross-border wait times for commercial traffic and tractor-
23 trailers.

24 (c) **REPORT.**—Not later than 180 days after the date
25 of the enactment of this Act, the Secretary shall report

1 to the Committee on Homeland Security and Govern-
2 mental Affairs, the Committee on the Judiciary, and the
3 Committee on Finance of the Senate, and the Committee
4 on Homeland Security, and Committee on the Judiciary,
5 and the Committee on Ways and Means of the House of
6 Representatives the results of the pilot program under
7 subsection (b) and make recommendations for imple-
8 menting use of such technology on the southern border.

9 (d) **AUTHORIZATION OF APPROPRIATIONS.**—In addi-
10 tion to amounts otherwise authorized to be appropriated
11 for such purpose, there is authorized to be appropriated
12 \$125,000,000 for fiscal years 2019 through 2020 to carry
13 out subsection (a).

14 **SEC. 2105. NON-INTRUSIVE INSPECTION OPERATIONAL**
15 **DEMONSTRATION.**

16 (a) **IN GENERAL.**—Not later than six months after
17 the date of the enactment of this Act, the Commissioner
18 shall establish a six-month operational demonstration to
19 deploy a high-throughput non-intrusive passenger vehicle
20 inspection system at not fewer than three land ports of
21 entry along the United States-Mexico border with signifi-
22 cant cross-border traffic. Such demonstration shall be lo-
23 cated within the pre-primary traffic flow and should be
24 scalable to span up to 26 contiguous in-bound traffic lanes
25 without re-configuration of existing lanes.

1 (b) REPORT.—Not later than 90 days after the con-
2 clusion of the operational demonstration under subsection
3 (a), the Commissioner shall submit to the Committee on
4 Homeland Security and the Committee on Ways and
5 Means of the House of Representatives and the Committee
6 on Homeland Security and Governmental Affairs and the
7 Committee on Finance of the Senate a report that de-
8 scribes the following:

9 (1) The effects of such demonstration on legiti-
10 mate travel and trade.

11 (2) The effects of such demonstration on wait
12 times, including processing times, for non-pedestrian
13 traffic.

14 (3) The effectiveness of such demonstration in
15 combating terrorism and smuggling.

16 **SEC. 2106. BIOMETRIC EXIT DATA SYSTEM.**

17 (a) IN GENERAL.—Subtitle B of title IV of the
18 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
19 is amended by inserting after section 415 the following
20 new section:

21 **“SEC. 416. BIOMETRIC ENTRY-EXIT.**

22 “(a) ESTABLISHMENT.—The Secretary shall—

23 “(1) not later than 180 days after the date of
24 the enactment of this section, submit to the Com-
25 mittee on Homeland Security and Governmental Af-

1 fairs and the Committee on the Judiciary of the
2 Senate and the Committee on Homeland Security
3 and the Committee on the Judiciary of the House of
4 Representatives an implementation plan to establish
5 a biometric exit data system to complete the inte-
6 grated biometric entry and exit data system required
7 under section 7208 of the Intelligence Reform and
8 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
9 including—

10 “(A) an integrated master schedule and
11 cost estimate, including requirements and de-
12 sign, development, operational, and mainte-
13 nance costs of such a system, that takes into
14 account prior reports on such matters issued by
15 the Government Accountability Office and the
16 Department;

17 “(B) cost-effective staffing and personnel
18 requirements of such a system that leverages
19 existing resources of the Department that takes
20 into account prior reports on such matters
21 issued by the Government Accountability Office
22 and the Department;

23 “(C) a consideration of training programs
24 necessary to establish such a system that takes
25 into account prior reports on such matters

1 issued by the Government Accountability Office
2 and the Department;

3 “(D) a consideration of how such a system
4 will affect arrival and departure wait times that
5 takes into account prior reports on such matter
6 issued by the Government Accountability Office
7 and the Department;

8 “(E) information received after consulta-
9 tion with private sector stakeholders, including
10 the—

11 “(i) trucking industry;

12 “(ii) airport industry;

13 “(iii) airline industry;

14 “(iv) seaport industry;

15 “(v) travel industry; and

16 “(vi) biometric technology industry;

17 “(F) a consideration of how trusted trav-
18 eler programs in existence as of the date of the
19 enactment of this section may be impacted by,
20 or incorporated into, such a system;

21 “(G) defined metrics of success and mile-
22 stones;

23 “(H) identified risks and mitigation strate-
24 gies to address such risks;

1 “(I) a consideration of how other countries
2 have implemented a biometric exit data system;
3 and

4 “(J) a list of statutory, regulatory, or ad-
5 ministrative authorities, if any, needed to inte-
6 grate such a system into the operations of the
7 Transportation Security Administration; and

8 “(2) not later than two years after the date of
9 the enactment of this section, establish a biometric
10 exit data system at the—

11 “(A) 15 United States airports that sup-
12 port the highest volume of international air
13 travel, as determined by available Federal flight
14 data;

15 “(B) 10 United States seaports that sup-
16 port the highest volume of international sea
17 travel, as determined by available Federal travel
18 data; and

19 “(C) 15 United States land ports of entry
20 that support the highest volume of vehicle, pe-
21 destrian, and cargo crossings, as determined by
22 available Federal border crossing data.

23 “(b) IMPLEMENTATION.—

24 “(1) PILOT PROGRAM AT LAND PORTS OF
25 ENTRY.—Not later than six months after the date of

1 the enactment of this section, the Secretary, in col-
2 laboration with industry stakeholders, shall establish
3 a six-month pilot program to test the biometric exit
4 data system referred to in subsection (a)(2) on non-
5 pedestrian outbound traffic at not fewer than three
6 land ports of entry with significant cross-border traf-
7 fic, including at not fewer than two land ports of
8 entry on the southern land border and at least one
9 land port of entry on the northern land border. Such
10 pilot program may include a consideration of more
11 than one biometric mode, and shall be implemented
12 to determine the following:

13 “(A) How a nationwide implementation of
14 such biometric exit data system at land ports of
15 entry shall be carried out.

16 “(B) The infrastructure required to carry
17 out subparagraph (A).

18 “(C) The effects of such pilot program on
19 legitimate travel and trade.

20 “(D) The effects of such pilot program on
21 wait times, including processing times, for such
22 non-pedestrian traffic.

23 “(E) The effects of such pilot program on
24 combating terrorism.

1 “(F) The effects of such pilot program on
2 identifying visa holders who violate the terms of
3 their visas.

4 “(2) AT LAND PORTS OF ENTRY.—

5 “(A) IN GENERAL.—Not later than five
6 years after the date of the enactment of this
7 section, the Secretary shall expand the biomet-
8 ric exit data system referred to in subsection
9 (a)(2) to all land ports of entry.

10 “(B) EXTENSION.—The Secretary may ex-
11 tend for a single two-year period the date speci-
12 fied in subparagraph (A) if the Secretary cer-
13 tifies to the Committee on Homeland Security
14 and Governmental Affairs and the Committee
15 on the Judiciary of the Senate and the Com-
16 mittee on Homeland Security and the Com-
17 mittee on the Judiciary of the House of Rep-
18 resentatives that the 15 land ports of entry that
19 support the highest volume of passenger vehi-
20 cles, as determined by available Federal data,
21 do not have the physical infrastructure or char-
22 acteristics to install the systems necessary to
23 implement a biometric exit data system. Such
24 extension shall apply only in the case of non-pe-

1 destrian outbound traffic at such land ports of
2 entry.

3 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
4 later than five years after the date of the enactment
5 of this section, the Secretary shall expand the bio-
6 metric exit data system referred to in subsection
7 (a)(2) to all air and sea ports of entry.

8 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
9 TATION.—The Secretary, in consultation with appropriate
10 private sector stakeholders, shall ensure that the collection
11 of biometric data under this section causes the least pos-
12 sible disruption to the movement of people or cargo in air,
13 sea, or land transportation, while fulfilling the goals of im-
14 proving counterterrorism efforts and identifying visa hold-
15 ers who violate the terms of their visas.

16 “(d) TERMINATION OF PROCEEDING.—Notwith-
17 standing any other provision of law, the Secretary shall,
18 on the date of the enactment of this section, terminate
19 the proceeding entitled ‘Collection of Alien Biometric Data
20 Upon Exit From the United States at Air and Sea Ports
21 of Departure; United States Visitor and Immigrant Status
22 Indicator Technology Program (“US-VISIT”)', issued on
23 April 24, 2008 (73 Fed. Reg. 22065).

24 “(e) DATA-MATCHING.—The biometric exit data sys-
25 tem established under this section shall—

1 “(1) match biometric information for an indi-
2 vidual, regardless of nationality, citizenship, or im-
3 migration status, who is departing the United States
4 against biometric data previously provided to the
5 United States Government by such individual for the
6 purposes of international travel;

7 “(2) leverage the infrastructure and databases
8 of the current biometric entry and exit system estab-
9 lished pursuant to section 7208 of the Intelligence
10 Reform and Terrorism Prevention Act of 2004 (8
11 U.S.C. 1365b) for the purpose described in para-
12 graph (1); and

13 “(3) be interoperable with, and allow matching
14 against, other Federal databases that—

15 “(A) store biometrics of known or sus-
16 pected terrorists; and

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

19 “(f) SCOPE.—

20 “(1) IN GENERAL.—The biometric exit data
21 system established under this section shall include a
22 requirement for the collection of biometric exit data
23 at the time of departure for all categories of individ-
24 uals who are required by the Secretary to provide bi-
25 ometric entry data.

1 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
2 UALS.—This section shall not apply in the case of an
3 individual who exits and then enters the United
4 States on a passenger vessel (as such term is defined
5 in section 2101 of title 46, United States Code) the
6 itinerary of which originates and terminates in the
7 United States.

8 “(3) EXCEPTION FOR LAND PORTS OF
9 ENTRY.—This section shall not apply in the case of
10 a United States or Canadian citizen who exits the
11 United States through a land port of entry.

12 “(g) COLLECTION OF DATA.—The Secretary may not
13 require any non-Federal person to collect biometric data,
14 or contribute to the costs of collecting or administering
15 the biometric exit data system established under this sec-
16 tion, except through a mutual agreement.

17 “(h) MULTI-MODAL COLLECTION.—In carrying out
18 subsections (a)(1) and (b), the Secretary shall make every
19 effort to collect biometric data using multiple modes of
20 biometrics.

21 “(i) FACILITIES.—All facilities at which the biometric
22 exit data system established under this section is imple-
23 mented shall provide and maintain space for Federal use
24 that is adequate to support biometric data collection and
25 other inspection-related activity. For non-federally owned

1 facilities, such space shall be provided and maintained at
2 no cost to the Government. For all facilities at land ports
3 of entry, such space requirements shall be coordinated
4 with the Administrator of General Services.

5 “(j) NORTHERN LAND BORDER.—In the case of the
6 northern land border, the requirements under subsections
7 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through
8 the sharing of biometric data provided to the Department
9 by the Canadian Border Services Agency pursuant to the
10 2011 Beyond the Border agreement.

11 “(k) FULL AND OPEN COMPETITION.—The Sec-
12 retary shall procure goods and services to implement this
13 section via full and open competition in accordance with
14 the Federal Acquisition Regulations.

15 “(l) OTHER BIOMETRIC INITIATIVES.—Nothing in
16 this section may be construed as limiting the authority of
17 the Secretary to collect biometric information in cir-
18 cumstances other than as specified in this section.

19 “(m) CONGRESSIONAL REVIEW.—Not later than 90
20 days after the date of the enactment of this section, the
21 Secretary shall submit to the Committee on Homeland Se-
22 curity and Governmental Affairs of the Senate, the Com-
23 mittee on the Judiciary of the Senate, the Committee on
24 Homeland Security of the House of Representatives, and
25 Committee on the Judiciary of the House of Representa-

1 tives reports and recommendations regarding the Science
2 and Technology Directorate’s Air Entry and Exit Re-En-
3 gineering Program of the Department and the U.S. Cus-
4 toms and Border Protection entry and exit mobility pro-
5 gram demonstrations.

6 “(n) SAVINGS CLAUSE.—Nothing in this section shall
7 prohibit the collection of user fees permitted by section
8 13031 of the Consolidated Omnibus Budget Reconciliation
9 Act of 1985 (19 U.S.C. 58c).”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 in section 1(b) of the Homeland Security Act of 2002 is
12 amended by inserting after the item relating to section
13 415 the following new item:

“Sec. 416. Biometric entry-exit.”.

14 **SEC. 2107. SENSE OF CONGRESS ON COOPERATION BE-**
15 **TWEEN AGENCIES.**

16 (a) FINDING.—Congress finds that personnel con-
17 straints exist at land ports of entry with regard to sanitary
18 and phytosanitary inspections for exported goods.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that, in the best interest of cross-border trade and
21 the agricultural community—

22 (1) any lack of certified personnel for inspection
23 purposes at ports of entry should be addressed by
24 seeking cooperation between agencies and depart-
25 ments of the United States, whether in the form of

1 a memorandum of understanding or through a cer-
2 tification process, whereby additional existing agents
3 are authorized for additional hours to facilitate and
4 expedite the flow of legitimate trade and commerce
5 of perishable goods in a manner consistent with
6 rules of the Department of Agriculture; and

7 (2) cross designation should be available for
8 personnel who will assist more than one agency or
9 department of the United States at land ports of
10 entry to facilitate and expedite the flow of increased
11 legitimate trade and commerce.

12 **SEC. 2108. AUTHORIZATION OF APPROPRIATIONS.**

13 In addition to any amounts otherwise authorized to
14 be appropriated for such purpose, there is authorized to
15 be appropriated \$4,250,000,000 for each of fiscal years
16 2019 through 2023 to carry out this title, of which
17 \$250,000,000 in each such fiscal year is authorized to be
18 made available to implement the biometric exit data sys-
19 tem described in section 416 of the Homeland Security
20 Act of 2002, as added by section 2106 of this division.

21 **SEC. 2109. DEFINITION.**

22 In this title, the term “Secretary” means the Sec-
23 retary of Homeland Security.

1 **TITLE III—VISA SECURITY AND**
2 **INTEGRITY**

3 **SEC. 3101. VISA SECURITY.**

4 (a) VISA SECURITY UNITS AT HIGH RISK POSTS.—
5 Paragraph (1) of section 428(e) of the Homeland Security
6 Act of 2002 (6 U.S.C. 236(e)) is amended—

7 (1) by striking “The Secretary” and inserting
8 the following:

9 “(A) AUTHORIZATION.—Subject to the
10 minimum number specified in subparagraph
11 (B), the Secretary”; and

12 (2) by adding at the end the following new sub-
13 paragraph:

14 “(B) RISK-BASED ASSIGNMENTS.—

15 “(i) IN GENERAL.—In carrying out
16 subparagraph (A), the Secretary shall as-
17 sign employees of the Department to not
18 fewer than 75 diplomatic and consular
19 posts at which visas are issued. Such as-
20 signments shall be made—

21 “(I) in a risk-based manner;

22 “(II) considering the criteria de-
23 scribed in clause (iii); and

24 “(III) in accordance with Na-
25 tional Security Decision Directive 38

1 of June 2, 1982, or any superseding
2 presidential directive concerning staff-
3 ing at diplomatic and consular posts.

4 “(ii) PRIORITY CONSIDERATION.—In
5 carrying out National Security Decision
6 Directive 38 of June 2, 1982, the Sec-
7 retary of State shall ensure priority consid-
8 eration of any staffing assignment pursu-
9 ant to this subparagraph.

10 “(iii) CRITERIA DESCRIBED.—The cri-
11 teria referred to in clause (i) are the fol-
12 lowing:

13 “(I) The number of nationals of
14 a country in which any of the diplo-
15 matic and consular posts referred to
16 in clause (i) are located who were
17 identified in United States Govern-
18 ment databases related to the identi-
19 ties of known or suspected terrorists
20 during the previous year.

21 “(II) Information on the coopera-
22 tion of such country with the counter-
23 terrorism efforts of the United States.

24 “(III) Information analyzing the
25 presence, activity, or movement of ter-

1 rorist organizations (as such term is
2 defined in section 212(a)(3)(B)(vi) of
3 the Immigration and Nationality Act
4 (8 U.S.C. 1182(a)(3)(B)(vi))) within
5 or through such country.

6 “(IV) The number of formal ob-
7 jections based on derogatory informa-
8 tion issued by the Visa Security Advi-
9 sory Opinion Unit pursuant to para-
10 graph (10) regarding nationals of a
11 country in which any of the diplomatic
12 and consular posts referred to in
13 clause (i) are located.

14 “(V) The adequacy of the border
15 and immigration control of such coun-
16 try.

17 “(VI) Any other criteria the Sec-
18 retary determines appropriate.”.

19 (b) COUNTERTERROR VETTING AND SCREENING.—
20 Paragraph (2) of section 428(e) of the Homeland Security
21 Act of 2002 is amended—

22 (1) by redesignating subparagraph (C) as sub-
23 paragraph (D); and

24 (2) by inserting after subparagraph (B) the fol-
25 lowing new subparagraph:

1 “(C) Screen any such applications against
2 the appropriate criminal, national security, and
3 terrorism databases maintained by the Federal
4 Government.”.

5 (c) TRAINING AND HIRING.—Subparagraph (A) of
6 section 428(e)(6) of the Homeland Security Act of 2002
7 is amended by—

8 (1) striking “The Secretary shall ensure, to the
9 extent possible, that any employees” and inserting
10 “The Secretary, acting through the Commissioner of
11 U.S. Customs and Border Protection and the Direc-
12 tor of U.S. Immigration and Customs Enforcement,
13 shall provide training to any employees”; and

14 (2) striking “shall be provided the necessary
15 training”.

16 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
17 AND VISA SECURITY ADVISORY OPINION UNIT.—Sub-
18 section (e) of section 428 of the Homeland Security Act
19 of 2002 is amended by adding at the end the following
20 new paragraphs:

21 “(9) REMOTE PRE-ADJUDICATED VISA SEC-
22 URITY ASSISTANCE.—At the visa-issuing posts at
23 which employees of the Department are not assigned
24 pursuant to paragraph (1), the Secretary shall, in a
25 risk-based manner, assign employees of the Depart-

1 ment to remotely perform the functions required
2 under paragraph (2) at not fewer than 50 of such
3 posts.

4 “(10) VISA SECURITY ADVISORY OPINION
5 UNIT.—The Secretary shall establish within U.S.
6 Immigration and Customs Enforcement a Visa Secu-
7 rity Advisory Opinion Unit to respond to requests
8 from the Secretary of State to conduct a visa secu-
9 rity review using information maintained by the De-
10 partment on visa applicants, including terrorism as-
11 sociation, criminal history, counter-proliferation, and
12 other relevant factors, as determined by the Sec-
13 retary.”.

14 (e) DEADLINES.—The requirements established
15 under paragraphs (1) and (9) of section 428(e) of the
16 Homeland Security Act of 2002 (6 U.S.C. 236(e)), as
17 amended and added by this section, shall be implemented
18 not later than three years after the date of the enactment
19 of this Act.

20 (f) FUNDING.—

21 (1) ADDITIONAL VISA FEE.—

22 (A) IN GENERAL.—The Secretary of State,
23 in consultation with the Secretary of Homeland
24 Security, shall charge a fee in support of visa
25 security, to be deposited in the U.S. Immigra-

1 tion and Customs Enforcement account. Fees
2 imposed pursuant to this subsection shall be
3 available only to the extent provided in advance
4 by appropriations Acts.

5 (B) AMOUNT OF FEE.—The total amount
6 of the additional fee charged pursuant to this
7 subsection shall be equal to an amount suffi-
8 cient to cover the annual costs of the visa secu-
9 rity program established by the Secretary of
10 Homeland Security under section 428(e) of the
11 Homeland Security Act of 2002 (6 U.S.C.
12 236(e)), as amended by this section.

13 (2) USE OF FEES.—Amounts deposited in the
14 U.S. Immigration and Customs Enforcement ac-
15 count pursuant to paragraph (1) are authorized to
16 be appropriated to the Secretary of Homeland Secu-
17 rity for the funding of the visa security program re-
18 ferred to in such paragraph.

19 **SEC. 3102. ELECTRONIC PASSPORT SCREENING AND BIO-**
20 **METRIC MATCHING.**

21 (a) IN GENERAL.—Subtitle B of title IV of the
22 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
23 as amended by section 2106 of this division, is further
24 amended by adding at the end the following new sections:

1 **“SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIO-**
2 **METRIC MATCHING.**

3 “(a) IN GENERAL.—Not later than one year after the
4 date of the enactment of this section, the Commissioner
5 of U.S. Customs and Border Protection shall—

6 “(1) screen electronic passports at airports of
7 entry by reading each such passport’s embedded
8 chip; and

9 “(2) to the greatest extent practicable, utilize
10 facial recognition technology or other biometric tech-
11 nology, as determined by the Commissioner, to in-
12 spect travelers at United States airports of entry.

13 “(b) APPLICABILITY.—

14 “(1) ELECTRONIC PASSPORT SCREENING.—
15 Paragraph (1) of subsection (a) shall apply to pass-
16 ports belonging to individuals who are United States
17 citizens, individuals who are nationals of a program
18 country pursuant to section 217 of the Immigration
19 and Nationality Act (8 U.S.C. 1187), and individ-
20 uals who are nationals of any other foreign country
21 that issues electronic passports.

22 “(2) FACIAL RECOGNITION MATCHING.—Para-
23 graph (2) of subsection (a) shall apply, at a min-
24 imum, to individuals who are nationals of a program
25 country pursuant to section 217 of the Immigration
26 and Nationality Act.

1 “(c) ANNUAL REPORT.—The Commissioner of U.S.
2 Customs and Border Protection, in collaboration with the
3 Chief Privacy Officer of the Department, shall issue to the
4 Committee on Homeland Security of the House of Rep-
5 resentatives and the Committee on Homeland Security
6 and Governmental Affairs of the Senate an annual report
7 through fiscal year 2022 on the utilization of facial rec-
8 ognition technology and other biometric technology pursu-
9 ant to subsection (a)(2). Each such report shall include
10 information on the type of technology used at each airport
11 of entry, the number of individuals who were subject to
12 inspection using either of such technologies at each airport
13 of entry, and within the group of individuals subject to
14 such inspection at each airport, the number of those indi-
15 viduals who were United States citizens and legal perma-
16 nent residents. Each such report shall provide information
17 on the disposition of data collected during the year covered
18 by such report, together with information on protocols for
19 the management of collected biometric data, including
20 timeframes and criteria for storing, erasing, destroying,
21 or otherwise removing such data from databases utilized
22 by the Department.

1 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
2 **AND BORDER PROTECTION.**

3 “The Commissioner of U.S. Customs and Border
4 Protection shall, in a risk based manner, continuously
5 screen individuals issued any visa, and individuals who are
6 nationals of a program country pursuant to section 217
7 of the Immigration and Nationality Act (8 U.S.C. 1187),
8 who are present, or are expected to arrive within 30 days,
9 in the United States, against the appropriate criminal, na-
10 tional security, and terrorism databases maintained by the
11 Federal Government.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 in section 1(b) of the Homeland Security Act of 2002 is
14 amended by inserting after the item relating to section
15 419 the following new items:

“Sec. 420. Electronic passport screening and biometric matching.

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

16 **SEC. 3103. REPORTING OF VISA OVERSTAYS.**

17 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
18 is amended—

19 (1) in subsection (a)—

20 (A) by striking “Attorney General” and in-
21 serting “Secretary of Homeland Security”; and

22 (B) by inserting before the period at the
23 end the following: “, and any additional infor-
24 mation that the Secretary determines necessary

1 for purposes of the report under subsection
2 (b)”; and

3 (2) by amending subsection (b) to read as fol-
4 lows:

5 “(b) ANNUAL REPORT.—Not later than September
6 30, 2019, and not later than September 30 of each year
7 thereafter, the Secretary of Homeland Security shall sub-
8 mit to the Committee on Homeland Security and the Com-
9 mittee on the Judiciary of the House of Representatives
10 and to the Committee on Homeland Security and Govern-
11 mental Affairs and the Committee on the Judiciary of the
12 Senate a report providing, for the preceding fiscal year,
13 numerical estimates (including information on the meth-
14 odology utilized to develop such numerical estimates) of—

15 “(1) for each country, the number of aliens
16 from the country who are described in subsection
17 (a), including—

18 “(A) the total number of such aliens within
19 all classes of nonimmigrant aliens described in
20 section 101(a)(15) of the Immigration and Na-
21 tionality Act (8 U.S.C. 1101(a)(15)); and

22 “(B) the number of such aliens within each
23 of the classes of nonimmigrant aliens, as well as
24 the number of such aliens within each of the

1 subclasses of such classes of nonimmigrant
2 aliens, as applicable;

3 “(2) for each country, the percentage of the
4 total number of aliens from the country who were
5 present in the United States and were admitted to
6 the United States as nonimmigrants who are de-
7 scribed in subsection (a);

8 “(3) the number of aliens described in sub-
9 section (a) who arrived by land at a port of entry
10 into the United States;

11 “(4) the number of aliens described in sub-
12 section (a) who entered the United States using a
13 border crossing identification card (as such term is
14 defined in section 101(a)(6) of the Immigration and
15 Nationality Act (8 U.S.C. 1101(a)(6))); and

16 “(5) the number of Canadian nationals who en-
17 tered the United States without a visa whose author-
18 ized period of stay in the United States terminated
19 during the previous fiscal year, but who remained in
20 the United States.”.

21 **SEC. 3104. STUDENT AND EXCHANGE VISITOR INFORMA-**
22 **TION SYSTEM VERIFICATION.**

23 Not later than 90 days after the date of the enact-
24 ment of this Act, the Secretary of Homeland Security shall
25 ensure that the information collected under the program

1 established under section 641 of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of 1996 (8
3 U.S.C. 1372) is available to officers of U.S. Customs and
4 Border Protection for the purpose of conducting primary
5 inspections of aliens seeking admission to the United
6 States at each port of entry of the United States.

7 **SEC. 3105. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

8 (a) IN GENERAL.—Subtitle C of title IV of the
9 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
10 as amended by sections 1115, 1123, and 1126 of this divi-
11 sion, is further amended by adding at the end the fol-
12 lowing new sections:

13 **“SEC. 438. SOCIAL MEDIA SCREENING.**

14 “(a) IN GENERAL.—Not later than 180 days after
15 the date of the enactment of this section, the Secretary
16 shall, to the greatest extent practicable, and in a risk
17 based manner and on an individualized basis, review the
18 social media accounts of certain visa applicants who are
19 citizens of, or who reside in, high-risk countries, as deter-
20 mined by the Secretary based on the criteria described in
21 subsection (b).

22 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
23 mining whether a country is high-risk pursuant to sub-
24 section (a), the Secretary, in consultation with the Sec-
25 retary of State, shall consider the following criteria:

1 “(1) The number of nationals of the country
2 who were identified in United States Government
3 databases related to the identities of known or sus-
4 pected terrorists during the previous year.

5 “(2) The level of cooperation of the country
6 with the counter-terrorism efforts of the United
7 States.

8 “(3) Any other criteria the Secretary deter-
9 mines appropriate.

10 “(c) COLLABORATION.—To carry out the require-
11 ments of subsection (a), the Secretary may collaborate
12 with—

13 “(1) the head of a national laboratory within
14 the Department’s laboratory network with relevant
15 expertise;

16 “(2) the head of a relevant university-based
17 center within the Department’s centers of excellence
18 network; and

19 “(3) the heads of other appropriate Federal
20 agencies.

21 “(d) WAIVER.—The Secretary, in collaboration with
22 the Secretary of State, is authorized to waive the require-
23 ments of subsection (a) as necessary to comply with inter-
24 national obligations of the United States.

1 **“SEC. 439. OPEN SOURCE SCREENING.**

2 “The Secretary shall, to the greatest extent prac-
3 ticable, and in a risk based manner, review open source
4 information of visa applicants.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002, as
7 amended by this division is further amended by inserting
8 after the item relating to section 437 the following new
9 items:

“Sec. 438. Social media screening.

“Sec. 439. Open source screening.”.

10 **SEC. 3106. CANCELLATION OF ADDITIONAL VISAS.**

11 (a) IN GENERAL.—Section 222(g) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

13 (1) in paragraph (1)—

14 (A) by striking “Attorney General” and in-
15 serting “Secretary”; and

16 (B) by inserting “and any other non-
17 immigrant visa issued by the United States that
18 is in the possession of the alien” after “such
19 visa”; and

20 (2) in paragraph (2)(A), by striking “(other
21 than the visa described in paragraph (1)) issued in
22 a consular office located in the country of the alien’s
23 nationality” and inserting “(other than a visa de-
24 scribed in paragraph (1)) issued in a consular office

1 located in the country of the alien’s nationality or
2 foreign residence”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to a visa issued before,
6 on, or after such date.

7 **SEC. 3107. VISA INFORMATION SHARING.**

8 (a) **IN GENERAL.**—Section 222(f) of the Immigration
9 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

10 (1) by striking “issuance or refusal” and insert-
11 ing “issuance, refusal, or revocation”;

12 (2) in paragraph (2), in the matter preceding
13 subparagraph (A), by striking “and on the basis of
14 reciprocity” and all that follows and inserting the
15 following “may provide to a foreign government in-
16 formation in a Department of State computerized
17 visa database and, when necessary and appropriate,
18 other records covered by this section related to infor-
19 mation in such database—”;

20 (3) in paragraph (2)(A)—

21 (A) by inserting at the beginning “on the
22 basis of reciprocity,”;

23 (B) by inserting “(i)” after “for the pur-
24 pose of”; and

1 (C) by striking “illicit weapons; or” and
2 inserting “illicit weapons, or (ii) determining a
3 person’s deportability or eligibility for a visa,
4 admission, or other immigration benefit;”;

5 (4) in paragraph (2)(B)—

6 (A) by inserting at the beginning “on the
7 basis of reciprocity,”;

8 (B) by striking “in the database” and in-
9 serting “such database”;

10 (C) by striking “for the purposes” and in-
11 serting “for one of the purposes”; and

12 (D) by striking “or to deny visas to per-
13 sons who would be inadmissible to the United
14 States.” and inserting “; or”; and

15 (5) in paragraph (2), by adding at the end the
16 following:

17 “(C) with regard to any or all aliens in the
18 database specified data elements from each
19 record, if the Secretary of State determines that
20 it is in the national interest to provide such in-
21 formation to a foreign government.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect 60 days after the date of
24 the enactment of this Act.

1 **SEC. 3108. RESTRICTING WAIVER OF VISA INTERVIEWS.**

2 Section 222(h) of the Immigration and Nationality
3 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

4 (1) in paragraph (1)(C), by inserting “, in con-
5 sultation with the Secretary of Homeland Security,”
6 after “if the Secretary”;

7 (2) in paragraph (1)(C)(i), by inserting “,
8 where such national interest shall not include facili-
9 tation of travel of foreign nationals to the United
10 States, reduction of visa application processing
11 times, or the allocation of consular resources” before
12 the semicolon at the end; and

13 (3) in paragraph (2)—

14 (A) by striking “or” at the end of subpara-
15 graph (E);

16 (B) by striking the period at the end of
17 subparagraph (F) and inserting “; or”; and

18 (C) by adding at the end the following:

19 “(G) is an individual—

20 “(i) determined to be in a class of
21 aliens determined by the Secretary of
22 Homeland Security to be threats to na-
23 tional security;

24 “(ii) identified by the Secretary of
25 Homeland Security as a person of concern;

26 or

1 “(iii) applying for a visa in a visa cat-
2 egory with respect to which the Secretary
3 of Homeland Security has determined that
4 a waiver of the visa interview would create
5 a high risk of degradation of visa program
6 integrity.”.

7 **SEC. 3109. AUTHORIZING THE DEPARTMENT OF STATE TO**
8 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
9 **APPLICANTS.**

10 (a) **IN GENERAL.**—Section 222(h)(1) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is
12 amended by inserting “the alien is determined by the Sec-
13 retary of State to be ineligible for a visa based upon review
14 of the application or” after “unless”.

15 (b) **GUIDANCE.**—Not later than 90 days after the
16 date of the enactment of this Act, the Secretary of State
17 shall issue guidance to consular officers on the standards
18 and processes for implementing the authority to deny visa
19 applications without interview in cases where the alien is
20 determined by the Secretary of State to be ineligible for
21 a visa based upon review of the application.

22 (c) **REPORTS.**—Not less frequently than once each
23 quarter, the Secretary of State shall submit to the Con-
24 gress a report on the denial of visa applications without
25 interview, including—

1 (1) the number of such denials; and

2 (2) a post-by-post breakdown of such denials.

3 **SEC. 3110. PETITION AND APPLICATION PROCESSING FOR**
4 **VISAS AND IMMIGRATION BENEFITS.**

5 (a) IN GENERAL.—Chapter 2 of title II of the Immi-
6 gration and Nationality Act (8 U.S.C. 1181 et seq.) is
7 amended by inserting after section 211 the following:

8 **“SEC. 211A. PETITION AND APPLICATION PROCESSING.**

9 **“(a) SIGNATURE REQUIREMENT.—**

10 **“(1) IN GENERAL.—**No petition or application
11 filed with the Secretary of Homeland Security or
12 with a consular officer relating to the issuance of a
13 visa or to the admission of an alien to the United
14 States as an immigrant or as a nonimmigrant may
15 be approved unless the petition or application is
16 signed by each party required to sign such petition
17 or application.

18 **“(2) APPLICATIONS FOR IMMIGRANT VISAS.—**
19 Except as may be otherwise prescribed by regula-
20 tions, each application for an immigrant visa shall
21 be signed by the applicant in the presence of the
22 consular officer, and verified by the oath of the ap-
23 plicant administered by the consular officer.

24 **“(b) COMPLETION REQUIREMENT.—**No petition or
25 application filed with the Secretary of Homeland Security

1 or with a consular officer relating to the issuance of a visa
2 or to the admission of an alien to the United States as
3 an immigrant or as a nonimmigrant may be approved un-
4 less each applicable portion of the petition or application
5 has been completed.

6 “(c) TRANSLATION REQUIREMENT.—No document
7 submitted in support of a petition or application for a non-
8 immigrant or immigrant visa may be accepted by a con-
9 sular officer if such document contains information in a
10 foreign language, unless such document is accompanied by
11 a full English translation, which the translator has cer-
12 tified as complete and accurate, and by the translator’s
13 certification that he or she is competent to translate from
14 the foreign language into English.

15 “(d) REQUESTS FOR ADDITIONAL INFORMATION.—
16 In the case that the Secretary of Homeland Security or
17 a consular officer requests any additional information re-
18 lating to a petition or application filed with the Secretary
19 or consular officer relating to the issuance of a visa or
20 to the admission of an alien to the United States as an
21 immigrant or as a nonimmigrant, such petition or applica-
22 tion may not be approved unless all of the additional infor-
23 mation requested is provided, or is shown to have been
24 previously provided, in complete form and is provided on

1 or before any reasonably established deadline included in
2 the request.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Immigration and Nationality Act (8 U.S.C. 1101
5 et seq.) is amended by inserting after the item relating
6 to section 211 the following:

“Sec. 211A. Petition and application processing.”.

7 (c) APPLICATION.—The amendments made by this
8 section shall apply with respect to applications and peti-
9 tions filed after the date of the enactment of this Act.

10 **SEC. 3111. FRAUD PREVENTION.**

11 (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

12 (1) PLAN FOR IMPLEMENTATION.—Not later
13 than 180 days after the date of the enactment of
14 this Act, the Secretary of Homeland Security shall
15 submit to the Committee on the Judiciary of the
16 House of Representatives and the Committee on the
17 Judiciary of the Senate a plan for the use of ad-
18 vanced analytics software to ensure the proactive de-
19 tection of fraud in immigration benefits applications
20 and petitions and to ensure that any such applicant
21 or petitioner does not pose a threat to national secu-
22 rity.

23 (2) IMPLEMENTATION OF PLAN.—Not later
24 than 1 year after the date of the submission of the

1 plan under paragraph (1), the Secretary of Home-
2 land Security shall begin implementation of the plan.

3 (b) BENEFITS FRAUD ASSESSMENT.—

4 (1) IN GENERAL.—The Secretary of Homeland
5 Security, acting through the Fraud Detection and
6 Nationality Security Directorate, shall complete a
7 benefit fraud assessment by fiscal year 2021 on each
8 of the following:

9 (A) Petitions by VAWA self-petitioners (as
10 such term is defined in section 101(a)(51) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(51)).

13 (B) Applications or petitions for visas or
14 status under section 101(a)(15)(K) of such Act
15 or under section 201(b)(2) of such Act, in the
16 case of spouses (8 U.S.C. 1101(a)(15)(K)).

17 (C) Applications for visas or status under
18 section 101(a)(27)(J) of such Act (8 U.S.C.
19 1101(a)(27)(J)).

20 (D) Applications for visas or status under
21 section 101(a)(15)(U) of such Act (8 U.S.C.
22 1101(a)(15)(U)).

23 (E) Petitions for visas or status under sec-
24 tion 101(a)(27)(C) of such Act (8 U.S.C.
25 1101(a)(27)(C)).

1 (F) Applications for asylum under section
2 208 of such Act (8 U.S.C. 1158).

3 (G) Applications for adjustment of status
4 under section 209 of such Act (8 U.S.C. 1159).

5 (H) Petitions for visas or status under sec-
6 tion 201(b) of such Act (8 U.S.C. 1151(b)).

7 (2) REPORTING ON FINDINGS.—Not later than
8 30 days after the completion of each benefit fraud
9 assessment under paragraph (1), the Secretary shall
10 submit to the Committee on the Judiciary of the
11 House of Representatives and the Committee on the
12 Judiciary of the Senate such assessment and rec-
13 ommendations on how to reduce the occurrence of
14 instances of fraud identified by the assessment.

15 **SEC. 3112. VISA INELIGIBILITY FOR SPOUSES AND CHIL-**
16 **DREN OF DRUG TRAFFICKERS.**

17 Section 212(a)(2) of the Immigration and Nationality
18 Act (8 U.S.C. 1182(a)(2)) is amended—

19 (1) in subparagraph (C)(ii), by striking “is the
20 spouse, son, or daughter” and inserting “is or has
21 been the spouse, son, or daughter”; and

22 (2) in subparagraph (H)(ii), by striking “is the
23 spouse, son, or daughter” and inserting “is or has
24 been the spouse, son, or daughter”.

1 **SEC. 3113. DNA TESTING.**

2 Section 222(b) of the Immigration and Nationality
3 Act (8 U.S.C. 1202(b)) is amended by inserting “Where
4 considered necessary, by the consular officer or immigra-
5 tion official, to establish family relationships, the immi-
6 grant shall provide DNA evidence of such a relationship
7 in accordance with procedures established for submitting
8 such evidence. The Secretary and the Secretary of State
9 may, in consultation, issue regulations to require DNA
10 evidence to establish family relationship, from applicants
11 for certain visa classifications.” after “and a certified copy
12 of all other records or documents concerning him or his
13 case which may be required by the consular officer.”.

14 **SEC. 3114. ACCESS TO NCIC CRIMINAL HISTORY DATABASE**
15 **FOR DIPLOMATIC VISAS.**

16 Subsection (a) of article V of section 217 of the Na-
17 tional Crime Prevention and Privacy Compact Act of 1998
18 (34 U.S.C. 40316(V)(a)) is amended by inserting “, ex-
19 cept for diplomatic visa applications for which only full
20 biographical information is required” before the period at
21 the end.

22 **SEC. 3115. ELIMINATION OF SIGNED PHOTOGRAPH RE-**
23 **QUIREMENT FOR VISA APPLICATIONS.**

24 Section 221(b) of the Immigration and Nationality
25 Act (8 U.S.C. 1201(b)) is amended by striking the first
26 sentence and insert the following: “Each alien who applies

1 for a visa shall be registered in connection with his or her
2 application and shall furnish copies of his or her photo-
3 graph for such use as may be required by regulation.”.

4 **SEC. 3116. ADDITIONAL FRAUD DETECTION AND PREVEN-**
5 **TION.**

6 Section 286(v)(2)(A) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

8 (1) in the matter preceding clause (i), by strik-
9 ing “at United States embassies and consulates
10 abroad”;

11 (2) by amending clause (i) to read as follows:

12 “(i) to increase the number of diplo-
13 matic security personnel assigned exclu-
14 sively or primarily to the function of pre-
15 venting and detecting visa fraud;” and

16 (3) in clause (ii), by striking “, including pri-
17 marily fraud by applicants for visas described in
18 subparagraph (H)(i), (H)(ii), or (L) of section
19 101(a)(15)”.

1 **TITLE** **IV—TRANSNATIONAL**
2 **CRIMINAL ORGANIZATION IL-**
3 **LICIT SPOTTER PREVENTION**
4 **AND ELIMINATION**

5 **SEC. 4101. SHORT TITLE.**

6 This title may be cited as the “Transnational Crimi-
7 nal Organization Illicit Spotter Prevention and Elimini-
8 nation Act”.

9 **SEC. 4102. ILLICIT SPOTTING.**

10 Section 1510 of title 18, United States Code, is
11 amended by adding at the end the following:

12 “(f) Any person who knowingly transmits, by any
13 means, to another person the location, movement, or ac-
14 tivities of any officer or agent of a Federal, State, local,
15 or tribal law enforcement agency with the intent to further
16 a criminal offense under the immigration laws (as such
17 term is defined in section 101 of the Immigration and Na-
18 tionality Act), the Controlled Substances Act, or the Con-
19 trolled Substances Import and Export Act, or that relates
20 to agriculture or monetary instruments shall be fined
21 under this title or imprisoned not more than 10 years, or
22 both.”.

1 **SEC. 4103. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
2 **DER, AND CUSTOMS CONTROLS.**

3 (a) BRINGING IN AND HARBORING OF CERTAIN
4 ALIENS.—Section 274(a) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1324(a)) is amended—

6 (1) in paragraph (2), by striking “brings to or
7 attempts to” and inserting the following: “brings to
8 or attempts or conspires to”; and

9 (2) by adding at the end the following:

10 “(5) In the case of a person who has brought
11 aliens into the United States in violation of this sub-
12 section, the sentence otherwise provided for may be
13 increased by up to 10 years if that person, at the
14 time of the offense, used or carried a firearm or
15 who, in furtherance of any such crime, possessed a
16 firearm.”.

17 (b) AIDING OR ASSISTING CERTAIN ALIENS TO
18 ENTER THE UNITED STATES.—Section 277 of the Immi-
19 gration and Nationality Act (8 U.S.C. 1327) is amend-
20 ed—

21 (1) by inserting after “knowingly aids or as-
22 sists” the following: “or attempts to aid or assist”;
23 and

24 (2) by adding at the end the following: “In the
25 case of a person convicted of an offense under this
26 section, the sentence otherwise provided for may be

1 increased by up to 10 years if that person, at the
2 time of the offense, used or carried a firearm or
3 who, in furtherance of any such crime, possessed a
4 firearm.”.

5 (c) DESTRUCTION OF UNITED STATES BORDER CON-
6 TROLS.—Section 1361 of title 18, United States Code, is
7 amended—

8 (1) by striking “If the damage” and inserting
9 the following:

10 “(1) Except as otherwise provided in this sec-
11 tion, if the damage”; and

12 (2) by adding at the end the following:

13 “(2) If the injury or depredation was made or
14 attempted against any fence, barrier, sensor, cam-
15 era, or other physical or electronic device deployed
16 by the Federal Government to control the border or
17 a port of entry or otherwise was intended to con-
18 struct, excavate, or make any structure intended to
19 defeat, circumvent, or evade any such fence, barrier,
20 sensor camera, or other physical or electronic device
21 deployed by the Federal Government to control the
22 border or a port of entry, by a fine under this title
23 or imprisonment for not more than 15 years, or
24 both.

1 “(3) If the injury or depredation was described
2 under paragraph (2) and, in the commission of the
3 offense, the offender used or carried a firearm or, in
4 furtherance of any such offense, possessed a firearm,
5 by a fine under this title or imprisonment for not
6 more than 20 years, or both.”.

7 **TITLE V—BORDER SECURITY** 8 **FUNDING**

9 **SEC. 5101. BORDER SECURITY FUNDING.**

10 (a) FUNDING.—In addition to amounts otherwise
11 made available by this Act or any other provision of law,
12 there is hereby appropriated to the “U.S. Customs and
13 Border Protection—Procurement, Construction, and Im-
14 provements” account, out of any amounts in the Treasury
15 not otherwise appropriated, \$23,400,000,000, to be avail-
16 able as described in subsections (b) and (c), of which—

17 (1) \$16,625,000,000 shall be for a border wall
18 system along the southern border of the United
19 States, including physical barriers and associated de-
20 tection technology, roads, and lighting; and

21 (2) \$6,775,000,000 shall be for infrastructure,
22 assets, operations, and technology to enhance border
23 security along the southern border of the United
24 States, including—

1 (A) border security technology, including
2 surveillance technology, at and between ports of
3 entry;

4 (B) new roads and improvements to exist-
5 ing roads;

6 (C) U.S. Border Patrol facilities and ports
7 of entry;

8 (D) aircraft, aircraft-based sensors and as-
9 sociated technology, vessels, spare parts, and
10 equipment to maintain such assets;

11 (E) a biometric entry and exit system; and

12 (F) family residential centers.

13 (b) AVAILABILITY OF BORDER WALL SYSTEM
14 FUNDS.—

15 (1) IN GENERAL.—Of the amount appropriated
16 in subsection (a)(1)—

17 (A) \$2,241,000,000 shall become available
18 October 1, 2018;

19 (B) \$1,808,000,000 shall become available
20 October 1, 2019;

21 (C) \$1,715,000,000 shall become available
22 October 1, 2020;

23 (D) \$2,140,000,000 shall become available
24 October 1, 2021;

1 (E) \$1,735,000,000 shall become available
2 October 1, 2022;

3 (F) \$1,746,000,000 shall become available
4 October 1, 2023;

5 (G) \$1,776,000,000 shall become available
6 October 1, 2024;

7 (H) \$1,746,000,000 shall become available
8 October 1, 2025; and

9 (I) \$1,718,000,000 shall become available
10 October 1, 2026.

11 (2) PERIOD OF AVAILABILITY.—An amount
12 made available under subparagraph (A), (B), (C),
13 (D), (E), (F), (G), (H), or (I) of paragraph (1) shall
14 remain available for five years after the date speci-
15 fied in that subparagraph.

16 (c) AVAILABILITY OF BORDER SECURITY INVEST-
17 MENT FUNDS.—

18 (1) IN GENERAL.—Of the amount appropriated
19 in subsection (a)(2)—

20 (A) \$500,000,000 shall become available
21 October 1, 2018;

22 (B) \$1,850,000,000 shall become available
23 October 1, 2019;

24 (C) \$1,950,000,000 shall become available
25 October 1, 2020;

1 (D) \$1,925,000,000 shall become available
2 October 1, 2021; and

3 (E) \$550,000,000 shall become available
4 October 1, 2022.

5 (2) PERIOD OF AVAILABILITY.—An amount
6 made available under subparagraph (A), (B), (C),
7 (D), or (E) of paragraph (1) shall remain available
8 for five years after the date specified in that sub-
9 paragraph.

10 (3) TRANSFER AUTHORITY.—

11 (A) IN GENERAL.—Notwithstanding any
12 limitation on transfer authority in any other
13 provision of law and subject to the notification
14 requirement in subparagraph (B), the Secretary
15 of Homeland Security may transfer any
16 amounts made available under paragraph (1) to
17 the “U.S. Customs and Border Protection—Op-
18 erations and Support” account only to the ex-
19 tent necessary to carry out the purposes de-
20 scribed in subsection (a)(2).

21 (B) NOTIFICATION REQUIRED.—The Sec-
22 retary shall notify the Committees on Appro-
23 priations of the Senate and the House of Rep-
24 resentatives not later than 30 days before each
25 such transfer.

1 (d) MULTI-YEAR SPENDING PLAN.—The Secretary
2 of Homeland Security shall include in the budget justifica-
3 tion materials submitted in support of the President’s an-
4 nual budget request for fiscal year 2020 (as submitted
5 under section 1105(a) of title 31, United States Code) a
6 multi-year spending plan for the amounts made available
7 under subsection (a).

8 (e) EXPENDITURE PLAN.—Each amount that be-
9 comes available in accordance with subsection (b) or (c)
10 may not be obligated until the date that is 30 days after
11 the date on which the Committees on Appropriations of
12 the Senate and the House of Representatives receive a de-
13 tailed plan, prepared by the Commissioner of U.S. Cus-
14 toms and Border Protection, for the expenditure of such
15 amount.

16 (f) QUARTERLY BRIEFING REQUIREMENT.—Begin-
17 ning not later than 180 days after the date of the enact-
18 ment of this Act, and quarterly thereafter, the Commis-
19 sioner of U.S. Customs and Border Protection shall brief
20 the Committees on Appropriations of the Senate and the
21 House of Representatives regarding activities under and
22 progress made in carrying out this section.

23 (g) RULES OF CONSTRUCTION.—Nothing in this sec-
24 tion may be construed to limit the availability of funds
25 made available by any other provision of law for carrying

1 out the requirements of this Act or the amendments made
2 by this Act. Any reference in this section to an appropria-
3 tion account shall be construed to include any successor
4 accounts.

5 (h) DISCRETIONARY AMOUNTS.—Notwithstanding
6 any other provision of law, the amounts appropriated
7 under subsection (a) are discretionary appropriations (as
8 that term is defined in section 250(c)(7) of the Balanced
9 Budget and Emergency Deficit Control Act of 1985 (2
10 U.S.C. 900(c)(7)).

11 **SEC. 5102. LIMITATION ON ADJUSTMENT OF STATUS.**

12 If any amount under section 5101 is rescinded or
13 transferred to another account for use beyond the pur-
14 poses specified in such section—

15 (1) a contingent nonimmigrant (as such term is
16 defined in section 1101 of division B) may not be
17 provided with an immigrant visa or adjust status to
18 that of a lawful permanent resident under this Act,
19 the Immigration and Nationality Act, or the immi-
20 gration laws (as such term is defined in section 101
21 of the Immigration and Nationality Act (8 U.S.C.
22 1101); and

23 (2) beginning on October 1, 2019, an alien de-
24 scribed in paragraph (2) of section 203(c) of the Im-
25 migration and Nationality Act (8 U.S.C. 1153(c)(2))

1 may not be provided with an immigrant visa or ad-
2 just status to that of a lawful permanent resident
3 under such section.

4 **SEC. 5103. EXCLUSION FROM PAYGO SCORECARDS.**

5 The budgetary effects of this Act shall not be entered
6 on either PAYGO scorecard maintained pursuant to sec-
7 tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

8 **DIVISION B—IMMIGRATION**
9 **REFORM**

10 **TITLE I—LAWFUL STATUS FOR**
11 **CERTAIN CHILDHOOD ARRIVALS**

12 **SEC. 1101. DEFINITIONS.**

13 In this division:

14 (1) **IN GENERAL.**—Except as otherwise specifi-
15 cally provided, the terms used in this division have
16 the meanings given such terms in subsections (a)
17 and (b) of section 101 of the Immigration and Na-
18 tionality Act (8 U.S.C. 1101).

19 (2) **CONTINGENT NONIMMIGRANT.**—The term
20 “contingent nonimmigrant” means an alien who is
21 granted nonimmigrant status under this division.

22 (3) **EDUCATIONAL INSTITUTION.**—The term
23 “educational institution” means—

24 (A) an institution that is described in sec-
25 tion 102(a)(1) of the Higher Education Act of

1 1965 (20 U.S.C. 1002(a)(1)) except an institu-
2 tion described in subparagraph (C) of such sec-
3 tion;

4 (B) an elementary, primary, or secondary
5 school within the United States; or

6 (C) an educational program assisting stu-
7 dents either in obtaining a high school equiva-
8 lency diploma, certificate, or its recognized
9 equivalent under State law, or in passing a
10 General Educational Development exam or
11 other equivalent State-authorized exam or other
12 applicable State requirements for high school
13 equivalency.

14 (4) SECRETARY.—Except as otherwise specifi-
15 cally provided, the term “Secretary” means the Sec-
16 retary of Homeland Security.

17 (5) SEXUAL ASSAULT.—The term “sexual as-
18 sault” means—

19 (A) conduct constituting a criminal offense
20 of rape, as described in section 101(a)(43)(A)
21 of the Immigration and Nationality Act (8
22 U.S.C. 1101(a)(43)(A)), or conduct punishable
23 under section 2241 (relating to aggravated sex-
24 ual abuse), section 2242 (relating to sexual
25 abuse), or section 2243 (relating to sexual

1 abuse of a minor or ward) of title 18, United
2 States Code;

3 (B) conduct constituting a criminal offense
4 of statutory rape, or any offense of a sexual na-
5 ture involving a victim under the age of 18
6 years, as described in section 101(a)(43)(A) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(43)(A));

9 (C) conduct punishable under section 2251
10 or 2251A (relating to the sexual exploitation of
11 children and the selling or buying of children),
12 or section 2252 or 2252A (relating to certain
13 activities relating to material involving the sex-
14 ual exploitation of minors or relating to mate-
15 rial constituting or containing child pornog-
16 raphy) of title 18, United States Code; or

17 (D) conduct constituting the elements of
18 any other Federal or State sexual offense re-
19 quiring a defendant, if convicted, to register on
20 a sexual offender registry (except that this pro-
21 vision shall not apply to convictions solely for
22 urinating or defecating in public).

23 (6) VICTIM.—The term “victim” has the mean-
24 ing given the term in section 503(e) of the Victims’

1 Rights and Restitution Act of 1990 (42 U.S.C.
2 10607(e)).

3 **SEC. 1102. CONTINGENT NONIMMIGRANT STATUS ELIGI-**
4 **BILITY AND APPLICATION.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, the Secretary may grant contingent non-
7 immigrant status to an alien who—

8 (1) meets the eligibility requirements set forth
9 in subsection (b);

10 (2) submits a completed application before the
11 end of the period set forth in subsection (c)(2); and

12 (3) has paid the fees required under subsection
13 (c)(5).

14 (b) ELIGIBILITY REQUIREMENTS.—

15 (1) IN GENERAL.—An alien is eligible for con-
16 tingent nonimmigrant status if the alien establishes
17 by clear and convincing evidence that the alien
18 meets the requirements set forth in this subsection.

19 (2) GENERAL REQUIREMENTS.—The require-
20 ments under this paragraph are that the alien—

21 (A) is physically present in the United
22 States on the date on which the alien submits
23 an application for contingent nonimmigrant sta-
24 tus;

1 (B) was physically present in the United
2 States on June 15, 2007;

3 (C) was younger than 16 years of age on
4 the date the alien initially entered the United
5 States;

6 (D) is a person of good moral character;

7 (E) was under 31 years of age on June 15,
8 2012;

9 (F) has maintained continuous physical
10 presence in the United States from June 15,
11 2012, until the date on which the alien is grant-
12 ed contingent nonimmigrant status under this
13 section;

14 (G) had no lawful immigration status on
15 June 15, 2012; and

16 (H) has requested the release to the De-
17 partment of Homeland Security of all records
18 regarding their being adjudicated delinquent in
19 State or local juvenile court proceedings, and
20 the Department has obtained all such records.

21 (3) EDUCATION REQUIREMENT.—

22 (A) IN GENERAL.—An alien may not be
23 granted contingent nonimmigrant status under
24 this section unless the alien establishes by clear
25 and convincing evidence that the alien—

1 (i) is enrolled in, and is in regular
2 full-time attendance at, an educational in-
3 stitution within the United States; or

4 (ii) has acquired a diploma or degree
5 from a high school in the United States or
6 the equivalent of such a diploma as recog-
7 nized under State law (such as a general
8 equivalency diploma, certificate of comple-
9 tion, or certificate of attendance).

10 (B) EVIDENCE.—An alien shall dem-
11 onstrate compliance with clause (i) or (ii) of
12 subparagraph (A) by providing a valid certified
13 transcript or diploma from the educational in-
14 stitution the alien is enrolled in or from which
15 the alien has acquired a diploma or certificate.

16 (C) DISABILITY WAIVER.—Subparagraph
17 (A) shall not apply in the case of an alien if the
18 Secretary determines on a case by case basis
19 that the alien is unable because of a physical or
20 developmental disability or mental impairment
21 to meet the requirement of such subparagraph.

22 (4) GROUNDS FOR INELIGIBILITY.—An alien is
23 ineligible for contingent nonimmigrant status if the
24 Secretary determines that the alien—

25 (A) has a conviction for—

1 (i) an offense classified as a felony in
2 the convicting jurisdiction;

3 (ii) an aggravated felony (except that
4 in applying such term for purposes of this
5 paragraph, subparagraph (N) of section
6 101(a)(43) does not apply);

7 (iii) an offense classified as a mis-
8 demeanor in the convicting jurisdiction
9 which involved—

10 (I) domestic violence (as such
11 term is defined in section 40002(a) of
12 the Violence Against Women Act of
13 1994 (34 U.S.C. 12291(a)));

14 (II) child abuse or neglect (as
15 such term is defined in section
16 40002(a) of the Violence Against
17 Women Act of 1994 (34 U.S.C.
18 12291(a)));

19 (III) assault resulting in bodily
20 injury (as such term is defined in sec-
21 tion 2266 of title 18, United States
22 Code); or

23 (IV) the violation of a protection
24 order (as such term is defined in sec-

1 tion 2266 of title 18, United States
2 Code);

3 (iv) one or more offenses classified as
4 a misdemeanor in the convicting jurisdic-
5 tion which involved driving while intoxi-
6 cated or driving under the influence (as
7 such terms are defined in section
8 164(a)(2) of title 23, United States Code);

9 (v) two or more misdemeanors (ex-
10 cluding minor traffic offenses that did not
11 involve driving while intoxicated or driving
12 under the influence, or that did not subject
13 any individual other than the alien to bod-
14 ily injury); or

15 (vi) any offense under foreign law, ex-
16 cept for a purely political offense, which, if
17 the offense had been committed in the
18 United States, would render the alien inad-
19 missible under section 212(a) of the Immi-
20 gration and Nationality Act (8 U.S.C.
21 1182(a)) or deportable under section
22 237(a) of such Act (8 U.S.C. 1227(a));

23 (B) has been adjudicated delinquent in a
24 State or local juvenile court proceeding for an
25 offense equivalent to—

1 (i) an offense relating to murder,
2 manslaughter, homicide, rape (whether the
3 victim was conscious or unconscious), stat-
4 utory rape, or any offense of a sexual na-
5 ture involving a victim under the age of 18
6 years, as described in section
7 101(a)(43)(A) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1101(a)(43)(A));

9 (ii) a crime of violence, as such term
10 is defined in section 16 of title 18, United
11 States Code; or

12 (iii) an offense punishable under sec-
13 tion 401 of the Controlled Substances Act
14 (21 U.S.C. 841);

15 (C) has a conviction for any other criminal
16 offense, with regard to which the alien has not
17 satisfied any requirement to pay restitution or
18 any civil legal judgements awarded to any vic-
19 tims (or family members of victims) of the
20 crime;

21 (D) is described in section 212(a)(2)(N) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1882(a)(2)) (relating to aliens associated with
24 criminal gangs);

1 (E) is inadmissible under section 212(a) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1182(a)), except that in determining an alien's
4 inadmissibility, paragraphs (5)(A), (6)(A),
5 (6)(D), (6)(G), (7), (9)(B), and (9)(C)(i)(I) of
6 such section shall not apply;

7 (F) is deportable under section 237(a) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1227(a)), except that in determining an alien's
10 deportability—

11 (i) subparagraph (A) of section
12 237(a)(1) of such Act shall not apply with
13 respect to grounds of inadmissibility that
14 do not apply pursuant to subparagraph (C)
15 of such section; and

16 (ii) subparagraphs (B) through (D) of
17 section 237(a)(1) and section 237(a)(3)(A)
18 of such Act shall not apply;

19 (G) was, on the date of the enactment of
20 this Act—

21 (i) an alien lawfully admitted for per-
22 manent residence;

23 (ii) an alien admitted as a refugee
24 under section 207 of the Immigration and
25 Nationality Act (8 U.S.C. 1157), or grant-

1 ed asylum under section 208 of the Immi-
2 gration and Nationality Act (8 U.S.C.
3 1157 and 1158); or

4 (iii) an alien who, according to the
5 records of the Secretary or the Secretary
6 of State, is lawfully present in the United
7 States in any nonimmigrant status, not-
8 withstanding any unauthorized employ-
9 ment or other violation of nonimmigrant
10 status;

11 (H) has failed to comply with the require-
12 ments of any removal order or voluntary depart-
13 ure agreement;

14 (I) has been ordered removed in absentia
15 pursuant to section 240(b)(5)(A) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1229a(b)(5)(A)), unless the case has been re-
18 opened;

19 (J) if over the age of 18, has failed to
20 demonstrate that he or she is able to maintain
21 himself or herself at an annual income that is
22 not less than 125 percent of the Federal pov-
23 erty level throughout the period of admission as
24 a contingent nonimmigrant, unless the alien has
25 demonstrated that the alien is enrolled in, and

1 is in regular full-time attendance at, an edu-
2 cational institution within the United States,
3 except that the requirement under this subpara-
4 graph shall not apply in the case of an alien if
5 the Secretary determines on a case by case
6 basis that the alien—

7 (i) is unable because of a physical or
8 developmental disability or mental impair-
9 ment to meet the requirement of such sub-
10 paragraph; or

11 (ii) is the primary caregiver of—

12 (I) a child under 18 years of age;

13 or

14 (II) a child 18 years of age or
15 over, spouse, parent, grandparent, or
16 sibling, who is incapable of self-care
17 because of a mental or physical dis-
18 ability or who has a serious injury or
19 illness (as such term is defined in sec-
20 tion 101(18) of the Family and Med-
21 ical Leave Act of 1993 (29 U.S.C.
22 2611(18)));

23 (K) has not attested that such alien is not
24 delinquent with respect to any Federal, State,
25 or local income or property tax liability, and

1 has not attested that such alien does not have
2 income that would result in tax liability under
3 section 1 of the Internal Revenue Code of 1986
4 and that was not reported to the Internal Rev-
5 enue Service; or

6 (L) has at any time been convicted of sex-
7 ual assault.

8 (5) TREATMENT OF CERTAIN BREAKS IN PRES-
9 ENCE.—For purposes of paragraph (2), any period
10 of travel outside the United States by an alien that
11 was authorized by the Secretary may not be consid-
12 ered to interrupt any period of continuous physical
13 presence.

14 (c) APPLICATION PROCEDURES.—

15 (1) IN GENERAL.—An alien may apply for con-
16 tingent nonimmigrant status by submitting a com-
17 pleted application form via electronic filing to the
18 Secretary during the application period set forth in
19 paragraph (2), in accordance with the interim final
20 rule made by the Secretary under section 1107.

21 (2) APPLICATION PERIOD.—The Secretary may
22 only accept applications for contingent non-
23 immigrant status from aliens in the United States
24 during the 1-year period beginning on the date on
25 which the interim final rule is published in the Fed-

1 eral Register pursuant to section 1107, except that
2 the Secretary may extend such period for not more
3 than one 90-day period.

4 (3) APPLICATION FORM.—

5 (A) REQUIRED INFORMATION.—The appli-
6 cation form referred to in paragraph (1) shall
7 collect such information as the Secretary deter-
8 mines to be necessary and appropriate in order
9 to determine whether an alien meets the eligi-
10 bility requirements set forth in subsection (b).
11 The Secretary shall by rule require applicants
12 to provide substantiating information necessary
13 to evaluate the attestation of the alien relevant
14 to the grounds of ineligibility under subsection
15 (b)(4)(K), including, as applicable, tax returns
16 and return information available to the appli-
17 cant under section 6103(e) of the Internal Rev-
18 enue Code of 1986 (26 U.S.C. 6103(e)), evi-
19 dence of tax refunds, and receipts of taxes paid.

20 (B) INTERVIEW.—The Secretary may con-
21 duct an in-person interview of each applicant
22 for contingent nonimmigrant status under this
23 section as part of the determination as to
24 whether the alien meets the eligibility require-
25 ments set forth in subsection (b).

1 (4) DOCUMENTARY REQUIREMENTS.—An appli-
2 cation filed by an alien under this section shall in-
3 clude the following:

4 (A) One or more of the following docu-
5 ments demonstrating the alien’s identity:

6 (i) A passport (or national identity
7 document) from the alien’s country of ori-
8 gin.

9 (ii) A certified birth certificate along
10 with photo identification.

11 (iii) A State-issued identification card
12 bearing the alien’s name and photograph.

13 (iv) An Armed Forces identification
14 card issued by the Department of Defense.

15 (v) A Coast Guard identification card
16 issued by the Department of Homeland Se-
17 curity.

18 (vi) A document issued by the Depart-
19 ment of Homeland Security.

20 (vii) A travel document issued by the
21 Department of State.

22 (B) A certified copy of the alien’s birth
23 certificate or certified school transcript dem-
24 onstrating that the alien satisfies the require-
25 ment of subsection (b)(2)(C) and (E).

1 (C) A certified school transcript dem-
2 onstrating that the alien satisfies the require-
3 ments of subsection (b)(3).

4 (5) FEES.—

5 (A) STANDARD PROCESSING FEE.—

6 (i) IN GENERAL.—Aliens applying for
7 contingent nonimmigrant status under this
8 section shall pay a processing fee to the
9 Department of Homeland Security in an
10 amount determined by the Secretary.

11 (ii) RECOVERY OF COSTS.—The proc-
12 essing fee authorized under clause (i) shall
13 be set at a level that is, at a minimum,
14 sufficient to recover the full costs of proc-
15 essing the application, including any costs
16 incurred—

17 (I) to adjudicate the application;

18 (II) to take and process bio-
19 metrics;

20 (III) to perform national security
21 and criminal checks;

22 (IV) to prevent and investigate
23 fraud; and

24 (V) to administer the collection
25 of such fee.

1 (iii) DEPOSIT AND USE OF PROC-
2 ESSING FEES.—Fees collected under clause
3 (i) shall be deposited into the Immigration
4 Examinations Fee Account pursuant to
5 section 286(m) of the Immigration and
6 Nationality Act (8 U.S.C. 1356(m)).

7 (B) BORDER SECURITY FEE.—

8 (i) IN GENERAL.—Aliens applying for
9 contingent nonimmigrant status under this
10 section shall pay a one-time border security
11 fee to the Department of Homeland Secu-
12 rity in an amount of \$1,000, which may be
13 paid in installments.

14 (ii) USE OF BORDER SECURITY
15 FEES.—Fees collected under clause (i)
16 shall be available, to the extent provided in
17 advance in appropriation Acts, to the Sec-
18 retary of Homeland Security for the pur-
19 poses of carrying out division A, and the
20 amendments made by that division.

21 (6) ALIENS APPREHENDED BEFORE OR DURING
22 THE APPLICATION PERIOD.—If an alien who is ap-
23 prehended during the period beginning on the date
24 of the enactment of this Act and ending on the last
25 day of the application period described in paragraph

1 (2) appears prima facie eligible for contingent non-
2 immigrant status, to the satisfaction of the Sec-
3 retary, the Secretary—

4 (A) shall provide the alien with a reason-
5 able opportunity to file an application under
6 this section during such application period; and

7 (B) may not remove the individual until
8 the Secretary has denied the application, unless
9 the Secretary, in the Secretary's sole and
10 unreviewable discretion, determines that expedi-
11 tious removal of the alien is in the national se-
12 curity, public safety, or foreign policy interests
13 of the United States, or the Secretary will be
14 required for constitutional reasons or court
15 order to release the alien from detention.

16 (7) SUSPENSION OF REMOVAL DURING APPLI-
17 CATION PERIOD.—

18 (A) ALIENS IN REMOVAL PROCEEDINGS.—

19 Notwithstanding any other provision of this di-
20 vision, if the Secretary determines that an
21 alien, during the period beginning on the date
22 of the enactment of this Act and ending on the
23 last day of the application period described in
24 subsection (c)(2), is in removal, deportation, or
25 exclusion proceedings before the Executive Of-

1 fice for Immigration Review and is prima facie
2 eligible for contingent nonimmigrant status
3 under this section—

4 (i) the Secretary shall provide the
5 alien with the opportunity to file an appli-
6 cation for such status; and

7 (ii) upon motion by the alien and with
8 the consent of the Secretary, the Executive
9 Office for Immigration Review shall—

10 (I) provide the alien a reasonable
11 opportunity to apply for such status;
12 and

13 (II) if the alien applies within the
14 time frame provided, suspend such
15 proceedings until the Secretary has
16 made a determination on the applica-
17 tion.

18 (B) ALIENS ORDERED REMOVED.—If an
19 alien who meets the eligibility requirements set
20 forth in subsection (b) is present in the United
21 States and has been ordered excluded, deported,
22 or removed, or ordered to depart voluntarily
23 from the United States pursuant to section
24 212(a)(6)(A)(i) or 237(a)(1)(B) or (C) of the
25 Immigration and Nationality Act (8 U.S.C.

1 1182(a)(6)(A)(i), 1227(a)(1)(B) or (C)), the
2 Secretary shall provide the alien with the oppor-
3 tunity to file an application for contingent non-
4 immigrant status provided that the alien has
5 not failed to comply with any order issued pur-
6 suant to section 239 or 240B of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1229,
8 1229e).

9 (C) PERIOD PENDING ADJUDICATION OF
10 APPLICATION.—During the period beginning on
11 the date on which an alien applies for contin-
12 gent nonimmigrant status under subsection (c)
13 and ending on the date on which the Secretary
14 makes a determination regarding such applica-
15 tion, an otherwise removable alien may not be
16 removed from the United States unless—

17 (i) the Secretary makes a prima facie
18 determination that such alien is, or has be-
19 come, ineligible for contingent non-
20 immigrant status under subsection (b); or

21 (ii) the Secretary, in the Secretary's
22 sole and unreviewable discretion, deter-
23 mines that removal of the alien is in the
24 national security, public safety, or foreign
25 policy interest of the United States.

1 (8) SECURITY AND LAW ENFORCEMENT CLEAR-
2 ANCES.—

3 (A) BIOMETRIC AND BIOGRAPHIC DATA.—

4 The Secretary may not grant contingent non-
5 immigrant status to an alien under this section
6 unless such alien submits biometric and bio-
7 graphic data in accordance with procedures es-
8 tablished by the Secretary.

9 (B) ALTERNATIVE PROCEDURES.—The
10 Secretary may provide an alternative procedure
11 for applicants who cannot provide the biometric
12 data required under subparagraph (A) due to a
13 physical impairment.

14 (C) CLEARANCES.—

15 (i) DATA COLLECTION.—The Sec-
16 retary shall collect, from each alien apply-
17 ing for status under this section, biometric,
18 biographic, and other data that the Sec-
19 retary determines to be appropriate—

20 (I) to conduct national security
21 and law enforcement checks; and

22 (II) to determine whether there
23 are any factors that would render an
24 alien ineligible for such status.

1 (ii) ADDITIONAL SECURITY SCREEN-
2 ING.—The Secretary, in consultation with
3 the Secretary of State and the heads of
4 other agencies as appropriate, shall con-
5 duct an additional security screening upon
6 determining, in the Secretary’s opinion
7 based upon information related to national
8 security, that an alien is or was a citizen
9 or resident of a region or country known to
10 pose a threat, or that contains groups or
11 organizations that pose a threat, to the na-
12 tional security of the United States.

13 (iii) PREREQUISITE.—The required
14 clearances and screenings described in
15 clauses (i)(I) and (ii) shall be completed
16 before the alien may be granted contingent
17 nonimmigrant status.

18 (9) CONFIDENTIALITY OF INFORMATION.—No
19 information provided in a nonfraudulent application
20 for contingent nonimmigrant status which is related
21 to the immigration status of the parent of an appli-
22 cant for such status, which is not otherwise available
23 to the Secretary of Homeland Security, may be used
24 for the purpose of initiating or proceeding with re-
25 moval proceedings with respect to such a parent.

1 (d) WORK AUTHORIZATION RENEWALS.—Beginning
2 on the date of the enactment of this Act and ending on
3 the date on which an alien’s application for contingent
4 nonimmigrant status has been finally adjudicated, the
5 Secretary shall, upon the application of an alien—

6 (1) renew the employment authorization for an
7 alien who possesses an Employment Authorization
8 Document that was valid on the date of the enact-
9 ment of this Act, and that was issued pursuant to
10 the June 15, 2012, U.S. Department of Homeland
11 Security Memorandum entitled, “Exercising Pros-
12 ecutorial Discretion With Respect to Individuals
13 Who Came to the United States as Children” who
14 demonstrates economic necessity; and

15 (2) grant employment authorization to an alien
16 who appears prima facie eligible for contingent non-
17 immigrant status, who attains the age of 15 after
18 the date of the enactment of this Act, and who dem-
19 onstrates economic necessity.

20 **SEC. 1103. TERMS AND CONDITIONS OF CONDITIONAL NON-**
21 **IMMIGRANT STATUS.**

22 (a) DURATION OF STATUS AND EXTENSION.—The
23 initial period of contingent nonimmigrant status—

24 (1) shall be 6 years unless revoked pursuant to
25 subsection (d); and

1 (2) may be extended for additional 6-year terms
2 if—

3 (A) the alien remains eligible for contin-
4 gent nonimmigrant status under paragraphs
5 (1), (2), and (4) of section 1102(b) (other than
6 with regard to the requirement under para-
7 graph (4)(J) of such subsection);

8 (B) the alien again passes background
9 checks equivalent to the background checks de-
10 scribed in section 1102(c)(9); and

11 (C) such status was not revoked by the
12 Secretary for any reason.

13 (b) TERMS AND CONDITIONS OF CONTINGENT NON-
14 IMMIGRANT STATUS.—

15 (1) WORK AUTHORIZATION.—The Secretary
16 shall grant employment authorization to an alien
17 granted contingent nonimmigrant status who dem-
18 onstrates economic necessity.

19 (2) TRAVEL OUTSIDE THE UNITED STATES.—

20 (A) IN GENERAL.—The status of a contin-
21 gent nonimmigrant who is absent from the
22 United States without authorization shall be
23 subject to revocation under subsection (d).

24 (B) AUTHORIZATION.—The Secretary may
25 authorize a contingent nonimmigrant to travel

1 outside the United States and shall grant the
2 contingent nonimmigrant reentry provided that
3 the contingent nonimmigrant—

4 (i) was not absent from the United
5 States for a continuous period in excess of
6 180 days during each 6-year period that
7 the alien is in contingent nonimmigrant
8 status, unless the contingent non-
9 immigrant's failure to return was due to
10 extenuating circumstances beyond the indi-
11 vidual's control or as part of the alien's ac-
12 tive duty service in the Armed Forces of
13 the United States; and

14 (ii) is otherwise admissible to the
15 United States, except as provided in sec-
16 tion 1102(b)(4)(E).

17 (C) STUDY ABROAD.—For purposes of
18 subparagraph (B)(i), in the case of a contingent
19 nonimmigrant who was absent from the United
20 States for participation in a study abroad pro-
21 gram offered by an institution of higher edu-
22 cation (as such term is defined in section 101
23 of the Higher Education Act of 1965 (20
24 U.S.C. 1001)), 60 of such days shall not be

1 counted towards the period described in such
2 subparagraph.

3 (3) INELIGIBILITY FOR COVERAGE THROUGH
4 HEALTH EXCHANGES.—In applying section
5 1312(f)(3) of the Patient Protection and Affordable
6 Care Act (42 U.S.C. 18032(f)(3)), a contingent non-
7 immigrant shall not be treated as an individual who
8 is, or is reasonably expected to be, a citizen or na-
9 tional of the United States or an alien lawfully
10 present in the United States.

11 (4) FEDERAL, STATE, AND LOCAL PUBLIC BEN-
12 EFITS.—For purposes of title IV of the Personal Re-
13 sponsibility and Work Opportunity Reconciliation
14 Act of 1996 (8 U.S.C. 1601 et seq.), a contingent
15 nonimmigrant shall not be considered a qualified
16 alien under the Immigration and Nationality Act (8
17 U.S.C. 1101 et seq.).

18 (5) AUTHORIZATION FOR ENLISTMENT.—Sec-
19 tion 504(b)(1) of title 10, United States Code, is
20 amended by adding at the end the following new
21 subparagraph:

22 “(D) A contingent nonimmigrant (as such
23 term is defined in section 1101 of division B of
24 the Border Security and Immigration Reform
25 Act of 2018).”.

1 (c) REVOCATION.—

2 (1) IN GENERAL.—The Secretary shall revoke
3 the status of a contingent nonimmigrant at any time
4 if the alien—

5 (A) no longer meets the eligibility require-
6 ments set forth in section 1102(b)(2)(D), (3),
7 (4)(A) through (D), (4)(E) through (I), and
8 (4)(N);

9 (B) knowingly uses documentation issued
10 under this section for an unlawful or fraudulent
11 purpose; or

12 (C) was absent from the United States at
13 any time without authorization after being
14 granted contingent nonimmigrant status.

15 (2) ADDITIONAL EVIDENCE.—In determining
16 whether to revoke an alien’s status under paragraph
17 (1), the Secretary may require the alien—

18 (A) to submit additional evidence; or

19 (B) to appear for an in-person interview.

20 (3) INVALIDATION OF DOCUMENTATION.—If an
21 alien’s contingent nonimmigrant status is revoked
22 under paragraph (1), any documentation issued by
23 the Secretary to such alien under this section shall
24 automatically be rendered invalid for any purpose
25 except for departure from the United States.

1 **SEC. 1104. ADJUSTMENT OF STATUS.**

2 Beginning on the date that is 5 years after an alien
3 becomes a contingent nonimmigrant, if that alien retains
4 status as a contingent nonimmigrant, then in applying
5 section 245 of the Immigration and Nationality Act (8
6 U.S.C. 1255(a)) to the alien—

7 (1) such alien shall be deemed to have been in-
8 spected and admitted into the United States; and

9 (2) in determining the alien's admissibility as
10 an immigrant, paragraphs (5)(A), (6)(A), (6)(D),
11 (6)(G), (7), (9)(B), and (9)(C)(i)(I) of section
12 212(a) of the Immigration and Nationality Act (8
13 U.S.C. 1182(a)) shall not apply.

14 **SEC. 1105. ADMINISTRATIVE AND JUDICIAL REVIEW.**

15 (a) **EXCLUSIVE ADMINISTRATIVE REVIEW.**—Admin-
16 istrative review of a determination of an application for
17 status, extension of status, or revocation of status under
18 this division shall be conducted solely in accordance with
19 this section.

20 (b) **ADMINISTRATIVE APPELLATE REVIEW.**—

21 (1) **ESTABLISHMENT OF ADMINISTRATIVE AP-**
22 **PELLATE AUTHORITY.**—The Secretary shall estab-
23 lish or designate an appellate authority to provide
24 for a single level of administrative appellate review
25 of a determination with respect to applications for

1 status, extension of status, or revocation of status
2 under this division.

3 (2) SINGLE APPEAL FOR EACH ADMINISTRA-
4 TIVE DECISION.—

5 (A) IN GENERAL.—An alien in the United
6 States whose application for status under this
7 division has been denied or revoked may file
8 with the Secretary not more than 1 appeal, pur-
9 suant to this subsection, of each decision to
10 deny or revoke such status.

11 (B) NOTICE OF APPEAL.—A notice of ap-
12 peal filed under this subparagraph shall be filed
13 not later than 30 calendar days after the date
14 of service of the decision of denial or revocation.

15 (3) RECORD FOR REVIEW.—Administrative ap-
16 pellate review under this subsection shall be de novo
17 and based only on—

18 (A) the administrative record established
19 at the time of the determination on the applica-
20 tion; and

21 (B) any additional newly discovered or pre-
22 viously unavailable evidence.

23 (c) JUDICIAL REVIEW.—

24 (1) APPLICABLE PROVISIONS.—Judicial review
25 of an administratively final denial or revocation of,

1 or failure to extend, an application for status under
2 this division shall be governed only by chapter 158
3 of title 28, except as provided in paragraphs (2) and
4 (3) of this subsection, and except that a court may
5 not order the taking of additional evidence under
6 section 2347(c) of such chapter.

7 (2) SINGLE APPEAL FOR EACH ADMINISTRA-
8 TIVE DECISION.—An alien in the United States
9 whose application for status under this division has
10 been denied, revoked, or failed to be extended, may
11 file not more than 1 appeal, pursuant to this sub-
12 section, of each decision to deny or revoke such sta-
13 tus.

14 (3) LIMITATION ON CIVIL ACTIONS.—

15 (A) CLASS ACTIONS.—No court may cer-
16 tify a class under Rule 23 of the Federal Rules
17 of Civil Procedure in any civil action filed after
18 the date of the enactment of this Act pertaining
19 to the administration or enforcement of the ap-
20 plication for status under this division.

21 (B) REQUIREMENTS FOR AN ORDER
22 GRANTING PROSPECTIVE RELIEF AGAINST THE
23 GOVERNMENT.—If a court determines that pro-
24 spective relief should be ordered against the
25 Government in any civil action pertaining to the

1 administration or enforcement of the applica-
2 tion for status under this division, the court
3 shall—

4 (i) limit the relief to the minimum
5 necessary to correct the violation of law;

6 (ii) adopt the least intrusive means to
7 correct the violation of law;

8 (iii) minimize, to the greatest extent
9 practicable, the adverse impact on national
10 security, border security, immigration ad-
11 ministration and enforcement, and public
12 safety;

13 (iv) provide for the expiration of the
14 relief on a specific date, which allows for
15 the minimum practical time needed to rem-
16 edy the violation; and

17 (v) limit the relief to the case at issue
18 and shall not extend any prospective relief
19 to include any other application for status
20 under this division pending before the Sec-
21 retary or in a Federal court (whether in
22 the same or another jurisdiction).

23 **SEC. 1106. PENALTIES AND SIGNATURE REQUIREMENTS.**

24 (a) **PENALTIES FOR FALSE STATEMENTS IN APPLI-**
25 **CATIONS.**—Whoever files an initial or renewal application

1 for contingent nonimmigrant status under this division
2 and knowingly and willfully falsifies, misrepresents, con-
3 ceals, or covers up a material fact or makes any false, ficti-
4 tious, or fraudulent statements or representations, or
5 makes or uses any false writing or document knowing the
6 same to contain any false, fictitious, or fraudulent state-
7 ment or entry, shall be fined in accordance with title 18,
8 United States Code, or imprisoned not more than 5 years,
9 or both.

10 (b) SIGNATURE REQUIREMENTS.—An applicant
11 under this division shall sign their application, and the sig-
12 nature shall be an original signature, including an elec-
13 tronically submitted signature. A parent or legal guardian
14 may sign for a child or for an applicant whose physical
15 or developmental disability or mental impairment prevents
16 the applicant from being competent to sign. In such a
17 case, the filing shall include evidence of parentage or legal
18 guardianship.

19 **SEC. 1107. RULEMAKING.**

20 Not later than June 1, 2019, the Secretary shall
21 make interim final rules to implement this title.

22 **SEC. 1108. STATUTORY CONSTRUCTION.**

23 Except as specifically provided, nothing in this divi-
24 sion may be construed to create any substantive or proce-
25 dural right or benefit that is legally enforceable by any

1 party against the United States or its agencies or officers
2 or any other person.

3 **SEC. 1109. ADDITION OF DEFINITION.**

4 Section 101(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1101(a)) is amended by adding at the end
6 the following:

7 “(54) The term ‘contingent nonimmigrant’ has
8 the meaning given that term in section 1101(b)(2)
9 of division B of the Border Security and Immigra-
10 tion Reform Act of 2018.”.

11 **TITLE II—IMMIGRANT VISA**
12 **ALLOCATIONS AND PRIORITIES**

13 **SEC. 2101. ELIMINATION OF DIVERSITY VISA PROGRAM.**

14 (a) **IN GENERAL.**—Section 203 of the Immigration
15 and Nationality Act (8 U.S.C. 1153) is amended by strik-
16 ing subsection (c).

17 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
18 The Immigration and Nationality Act (8 U.S.C. 1101 et
19 seq.) is amended—

20 (1) in section 201—

21 (A) in subsection (a), by striking para-
22 graph (3);

23 (B) by striking subsection (e);

24 (2) in section 203—

1 (A) in subsection (b)(2)(B)(ii)(IV), by
2 striking “section 203(b)(2)(B)” each place such
3 term appears and inserting “clause (i)”;

4 (B) in subsection (d), by striking “sub-
5 section (a), (b), or (c)” and inserting “sub-
6 section (a) or (b)”;

7 (C) in subsection (e), by striking para-
8 graph (2);

9 (D) in subsection (f), by striking “sub-
10 section (a), (b), or (c) of this section” and in-
11 serting “subsection (a) or (b)”;

12 (E) in subsection (g), by striking “sub-
13 sections (a), (b), and (c)” and inserting “sub-
14 sections (a) and (b)”;

15 (F) in subsection (h)(2)(B), by striking
16 “subsection (a), (b), or (c)” and inserting “sub-
17 section (a) or (b)”;

18 (3) in section 204(a)(1), by striking subpara-
19 graph (I).

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on October 1, 2019.

1 **SEC. 2102. NUMERICAL LIMITATION TO ANY SINGLE FOR-**
2 **EIGN STATE.**

3 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
5 amended—

6 (1) in the paragraph heading, by striking “AND
7 EMPLOYMENT-BASED”;

8 (2) by striking “(3), (4), and (5),” and insert-
9 ing “(3) and (4),”;

10 (3) by striking “subsections (a) and (b) of sec-
11 tion 203” and inserting “section 203(a)”;

12 (4) by striking “7” and inserting “15”; and

13 (5) by striking “such subsections” and inserting
14 “such section”.

15 (b) CONFORMING AMENDMENTS.—Section 202 of the
16 Immigration and Nationality Act (8 U.S.C. 1152) is
17 amended—

18 (1) in subsection (a)(3), by striking “both sub-
19 sections (a) and (b) of section 203” and inserting
20 “section 203(a)”;

21 (2) in subsection (a)(4), by striking subpara-
22 graph (D);

23 (3) by striking subsection (a)(5); and

24 (4) by amending subsection (e) to read as fol-
25 lows:

1 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
2 If it is determined that the total number of immigrant
3 visas made available under section 203(a) to natives of
4 any single foreign state or dependent area will exceed the
5 numerical limitation specified in subsection (a)(2) in any
6 fiscal year, in determining the allotment of immigrant visa
7 numbers to natives under section 203(a), visa numbers
8 with respect to natives of that state or area shall be allo-
9 cated (to the extent practicable and otherwise consistent
10 with this section and section 203) in a manner so that,
11 except as provided in subsection (a)(4), the proportion of
12 the visa numbers made available under each of paragraphs
13 (1) and (2) of section 203(a) is equal to the ratio of the
14 total number of visas made available under the respective
15 paragraph to the total number of visas made available
16 under section 203(a).”.

17 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
18 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
19 note) is amended—

20 (1) in subsection (a), by striking “subsection
21 (e))” and inserting “subsection (d))”; and

22 (2) by striking subsection (d) and redesignating
23 subsection (e) as subsection (d).

24 (d) TRANSITION RULES FOR EMPLOYMENT-BASED
25 IMMIGRANTS.—

1 (1) IN GENERAL.—Subject to the succeeding
2 paragraphs of this subsection and notwithstanding
3 title II of the Immigration and Nationality Act (8
4 U.S.C. 1151 et seq.), the following rules shall apply:

5 (A) For fiscal year 2019, 15 percent of the
6 immigrant visas made available under each of
7 paragraphs (2) and (3) of section 203(b) of
8 such Act (8 U.S.C. 1153(b)) shall be allotted to
9 immigrants who are natives of a foreign state
10 or dependent area that was not one of the two
11 states with the largest aggregate numbers of
12 natives obtaining immigrant visas during fiscal
13 year 2018 under such paragraphs.

14 (B) For fiscal year 2020, 10 percent of the
15 immigrant visas made available under each of
16 such paragraphs shall be allotted to immigrants
17 who are natives of a foreign state or dependent
18 area that was not one of the two states with the
19 largest aggregate numbers of natives obtaining
20 immigrant visas during fiscal year 2019 under
21 such paragraphs.

22 (C) For fiscal year 2021, 10 percent of the
23 immigrant visas made available under each of
24 such paragraphs shall be allotted to immigrants
25 who are natives of a foreign state or dependent

1 area that was not one of the two states with the
2 largest aggregate numbers of natives obtaining
3 immigrant visas during fiscal year 2020 under
4 such paragraphs.

5 (2) PER-COUNTRY LEVELS.—

6 (A) RESERVED VISAS.—With respect to
7 the visas reserved under each of subparagraphs
8 (A) through (C) of paragraph (1), the number
9 of such visas made available to natives of any
10 single foreign state or dependent area in the ap-
11 propriate fiscal year may not exceed 25 percent
12 (in the case of a single foreign state) or 2 per-
13 cent (in the case of a dependent area) of the
14 total number of such visas.

15 (B) UNRESERVED VISAS.—With respect to
16 the immigrant visas made available under each
17 of paragraphs (2) and (3) of section 203(b) of
18 such Act (8 U.S.C. 1153(b)) and not reserved
19 under paragraph (1), for each of fiscal years
20 2019, 2020, and 2021, not more than 85 per-
21 cent shall be allotted to immigrants who are na-
22 tives of any single foreign state.

23 (3) SPECIAL RULE TO PREVENT UNUSED
24 VISAS.—If, with respect to fiscal year 2019, 2020, or
25 2021, the operation of paragraphs (1) and (2) of

1 this subsection would prevent the total number of
2 immigrant visas made available under paragraph (2)
3 or (3) of section 203(b) of such Act (8 U.S.C.
4 1153(b)) from being issued, such visas may be
5 issued during the remainder of such fiscal year with-
6 out regard to paragraphs (1) and (2) of this sub-
7 section.

8 (4) RULES FOR CHARGEABILITY.—Section
9 202(b) of such Act (8 U.S.C. 1152(b)) shall apply
10 in determining the foreign state to which an alien is
11 chargeable for purposes of this subsection.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if enacted on September
14 30, 2018, and shall apply to fiscal years beginning with
15 fiscal year 2019.

16 **SEC. 2103. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

17 (a) IN GENERAL.—Section 203(a) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1153(a)) is amended—

19 (1) in paragraph (1), by striking “paragraph
20 (4)” and inserting “paragraph (2)”; and

21 (2) by striking paragraphs (3) and (4).

22 (b) CONFORMING AMENDMENTS.—

23 (1) PROCEDURE FOR GRANTING IMMIGRANT
24 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
25 is amended—

1 (A) in subsection (a)(1)—

2 (i) in subparagraph (A)(i), by striking
3 “paragraph (1), (3), or (4)” and inserting
4 “paragraph (1)”;

5 (ii) in subparagraph (B)(i), by redesi-
6 gnating the second subclause (I) as sub-
7 clause (II); and

8 (iii) in subparagraph (D)(i)(I), by
9 striking “paragraph (1), (2), or (3)” and
10 inserting “paragraph (1) or (2)”;

11 (B) in subsection (f)(1), by striking “,
12 203(a)(1), or 203(a)(3)” and inserting “or
13 203(a)(1)”.

14 (2) WAIVERS OF INADMISSIBILITY.—Section
15 212 of such Act (8 U.S.C. 1182) is amended in sub-
16 section (d)(11), by striking “(other than paragraph
17 (4) thereof)”.

18 (3) RULES FOR DETERMINING WHETHER CER-
19 TAIN ALIENS ARE IMMEDIATE RELATIVES.—Section
20 201(f) of such Act (8 U.S.C. 1151(f)) is amended—

21 (A) by striking paragraph (3);

22 (B) by redesignating paragraph (4) as
23 paragraph (3); and

1 (C) in paragraph (3), as redesignated, by
2 striking “(1) through (3)” and inserting “(1)
3 and (2)”.

4 (c) EFFECTIVE DATE; APPLICABILITY.—

5 (1) EFFECTIVE DATE.—The amendments made
6 by this section shall take effect on October 1, 2019.

7 (2) INVALIDITY OF CERTAIN PETITIONS AND
8 APPLICATIONS.—

9 (A) IN GENERAL.—No person may file,
10 and the Secretary of Homeland Security and
11 the Secretary of State may not accept, adju-
12 dicate, or approve any petition under section
13 204 of the Immigration and Nationality Act (8
14 U.S.C. 1154) filed on or after the date of enact-
15 ment of this Act seeking classification of an
16 alien under section 203(a)(3) or (4) of such Act
17 (8 U.S.C. 1153(a)). Any application for adjust-
18 ment of status or an immigrant visa based on
19 such a petition shall be invalid.

20 (B) PENDING PETITIONS.—Neither the
21 Secretary of Homeland Security nor the Sec-
22 retary of State may adjudicate or approve any
23 petition under section 204 of the Immigration
24 and Nationality Act (8 U.S.C. 1154) pending
25 as of the date of enactment of this Act seeking

1 “(1) IN GENERAL.—Aliens subject to the world-
2 wide level specified in section 201(e) for immigrants
3 who shall be allotted visas in accordance with section
4 204(a)(1)(I) are—

5 “(A) contingent nonimmigrants; and

6 “(B) aliens described in paragraph (2).

7 “(2) ALIENS DESCRIBED.—An alien described
8 in this paragraph is an alien who—

9 “(A) is the son or daughter of an alien ad-
10 mitted under—

11 “(i) section 101(a)(15)(E)(i) or
12 (E)(ii);

13 “(ii) section 101(a)(15)(H)(i)(b); or

14 “(iii) section 101(a)(15)(L);

15 “(B) initially entered the United States
16 aged less than 16 years as a dependent of the
17 parent described in subparagraph (A) while the
18 parent was in such status;

19 “(C) maintained—

20 “(i) lawful status for the 10-year pe-
21 riod prior to the date of the enactment of
22 the Border Security and Immigration Re-
23 form Act of 2018; and

24 “(ii) continuous physical presence in
25 the United States (except in accordance

1 with the terms of the alien’s visa or lawful
2 status) for the period described in clause
3 (i); and

4 “(D) was not in an unlawful immigration
5 status on the date on which the alien submits
6 a petition for an immigrant visa under section
7 204(a)(1)(I).

8 “(3) POINT SYSTEM.—An alien seeking to be
9 classified as an immigrant under this subsection
10 shall submit a petition, in such form and manner as
11 the Secretary of Homeland Security may require,
12 setting forth such information as the Secretary may
13 require in order to make awards of points for that
14 petitioner in each of the following categories:

15 “(A) EDUCATION.—A petitioner shall be
16 awarded points for a single degree, equal to the
17 highest point award of the following for which
18 the petitioner is eligible:

19 “(i) 4 points for a diploma or degree
20 from a foreign school that is comparable to
21 a high school in the United States.

22 “(ii) 6 points for a diploma or degree
23 from a high school in the United States, or
24 the equivalent of such a diploma as recog-
25 nized under State law (such as a general

1 equivalency diploma, certificate of comple-
2 tion, or certificate of attendance).

3 “(iii) 8 points for an associate’s de-
4 gree (or the equivalent) from a foreign in-
5 stitution that is comparable to an institu-
6 tion of higher education in the United
7 States.

8 “(iv) 10 points for an associate’s de-
9 gree from an institution of higher edu-
10 cation in the United States.

11 “(v) 12 points for a bachelor’s degree
12 (or the equivalent) from a foreign institu-
13 tion that is comparable to an institution of
14 higher education in the United States.

15 “(vi) 15 points for a degree from for
16 a recognized postsecondary credential (as
17 defined in section 3 of the Workforce Inno-
18 vation and Opportunity Act (29 U.S.C.
19 3102), including a certificate of completion
20 of an apprenticeship (including an appren-
21 ticeships registered under the Act of Au-
22 gust 16, 1937 (commonly known as the
23 ‘National Apprenticeship Act’; 50 Stat.
24 664, chapter 663; 29 U.S.C. 50 et seq.)),

1 except that such term does not include an
2 associate's or bachelor's degree).

3 “(vii) 15 points for a bachelor's de-
4 gree from an institution of higher edu-
5 cation in the United States.

6 “(viii) 15 points for a graduate or
7 professional degree (or the equivalent)
8 from a foreign institution that is com-
9 parable to an institution of higher edu-
10 cation in the United States.

11 “(ix) 17 points for a degree described
12 in clause (v), which is in a field of science,
13 technology, engineering, or mathematics.

14 “(x) 17 points for a graduate or pro-
15 fessional degree from an institution of
16 higher education in the United States.

17 “(xi) 22 points for a degree described
18 in clause (vii), which is in a field of
19 science, technology, engineering, or mathe-
20 matics.

21 “(xii) 24 points for a degree described
22 in clause (viii) or (x), which is in a field of
23 science, technology, engineering, or mathe-
24 matics.

1 “(xiii) 26 points for a doctoral degree
2 (or the equivalent) from a foreign institu-
3 tion that is comparable to an institution of
4 higher education in the United States.

5 “(xiv) 28 points for a doctoral degree
6 from an institution of higher education in
7 the United States.

8 “(xv) 30 points for a degree described
9 in clause (x), which is in a field of science,
10 technology, engineering, or mathematics
11 from a covered institution.

12 “(xvi) 30 points for a doctorate of
13 medicine (or the equivalent) from a foreign
14 graduate medical school that is comparable
15 to a graduate medical school at an institu-
16 tion of higher education in the United
17 States.

18 “(xvii) 34 points for a degree de-
19 scribed in clause (xiii) or (xiv), which is in
20 a field of science, technology, engineering,
21 or mathematics.

22 “(xviii) 34 points for a doctorate of
23 medicine from graduate medical school at
24 an institution of higher education in the
25 United States.

1 “(xix) 40 points for a degree de-
2 scribed in clause (xiv), which is in a field
3 of science, technology, engineering, or
4 mathematics from a covered institution.

5 “(B) EMPLOYMENT.—A petitioner shall be
6 awarded points for each 2-year period in which
7 the petitioner is employed on a full-time basis,
8 equal to $\frac{1}{3}$ of the points awarded under sub-
9 paragraph (A) for the lowest degree that is re-
10 quired for any position held during such period.
11 In the case of a position for which no degree is
12 required, the position shall be considered to re-
13 quire a diploma or degree described in subpara-
14 graph (A)(ii). A single period of not more than
15 2 weeks during which a petitioner is unem-
16 ployed, but is in receipt of a job offer, shall not
17 be considered to interrupt a period of employ-
18 ment.

19 “(C) MILITARY SERVICE.—A petitioner
20 shall be awarded points for service in the
21 Armed Forces equal to 30 points for any alien
22 who served as a member of a regular or reserve
23 component of the Armed Forces in an active
24 duty status for not less than 3 years, and, if

1 discharged, received a discharge other than dis-
2 honorable.

3 “(D) ENGLISH LANGUAGE PROFICIENCY.—

4 A petitioner shall be awarded points for English
5 proficiency equal to the highest of the following
6 for which the petitioner is eligible:

7 “(i) 2 points for a score in the 5th
8 decile on an English language proficiency
9 test.

10 “(ii) 6 points for a score in the 6th
11 decile on an English language proficiency
12 test.

13 “(iii) 7 points for a score in the 7th
14 decile on an English language proficiency
15 test.

16 “(iv) 8 points for a score in the 8th
17 decile on an English language proficiency
18 test.

19 “(v) 9 points for a score in the 9th
20 decile on an English language proficiency
21 test.

22 “(vi) 10 points for a score in the 10th
23 decile on an English language proficiency
24 test.

1 “(4) TOTAL POINT SCORE; SUBSEQUENT SUB-
2 MISSIONS; VERIFICATION.—

3 “(A) TOTAL POINT SCORE.—The total
4 point score for a petitioner is equal to sum of
5 the points awarded under each of subpara-
6 graphs (A), (B), (C), and (D) of paragraph (3).

7 “(B) SUBSEQUENT SUBMISSIONS.—The
8 alien may amend the petition under this sub-
9 section at any point after the initial filing to
10 provide information for purposes of new point
11 awards for which the alien may be eligible.

12 “(C) DURATION OF PETITION VALIDITY.—
13 A petition under this subsection shall be valid—

14 “(i) in the case of a petition that is
15 denied, the date of such denial; or

16 “(ii) in the case of a petition that is
17 granted, the date on which a visa has been
18 issued pursuant to such petition.

19 “(D) VERIFICATION.—Prior to the
20 issuance of any visa under this subsection, the
21 Secretary shall verify that the information in
22 the petition remains accurate as of the time of
23 the visa issuance.

24 “(E) CLARIFICATION.—A petition may not
25 be denied for the failure of a petitioner to at-

1 tain the minimum number of points required
2 under subsection (e)(2).

3 “(5) DEFINITIONS.—

4 “(A) ENGLISH LANGUAGE PROFICIENCY
5 TEST.—The term ‘English language proficiency
6 test’ means any test to measure English pro-
7 ficiency that has been approved by the Director
8 of U.S. Citizenship and Immigration Services,
9 in consultation with the Secretary of Education.

10 “(B) FIELD OF SCIENCE, TECHNOLOGY,
11 ENGINEERING, OR MATHEMATICS.—The term
12 ‘field of science, technology, engineering, or
13 mathematics’ means a field included in the De-
14 partment of Education’s Classification of In-
15 structional Programs taxonomy within the sum-
16 mary groups of computer and information
17 sciences and support services, engineering, bio-
18 logical and biomedical sciences, mathematics
19 and statistics, physical sciences, and the series
20 geography and cartography (series 45.07), ad-
21 vanced/graduate dentistry and oral sciences (se-
22 ries 51.05) and nursing (series 51.38).

23 “(C) HIGH SCHOOL.—The term ‘high
24 school’ has the meaning given such term in sec-

1 tion 8101 of the Elementary and Secondary
2 Education Act of 1965 (20 U.S.C. 7801).

3 “(D) INSTITUTION OF HIGHER EDU-
4 CATION.—The term ‘institution of higher edu-
5 cation’ has the meaning given that term in sec-
6 tion 102(a)(1) of the Higher Education Act of
7 1965 (20 U.S.C. 1002(a)(1)), except that such
8 term does not include an institution outside the
9 United States described in subparagraph (C) of
10 such section.

11 “(E) COVERED INSTITUTION.—The term
12 ‘covered institution’ means an institution that—

13 “(i) is an institution of higher edu-
14 cation;

15 “(ii) as classified by the Carnegie
16 Foundation for the Advancement of Teach-
17 ing on January 1, 2019, as a doctorate-
18 granting university with a very high or
19 high level of research activity or classified
20 by the National Science Foundation after
21 the date of enactment of this paragraph,
22 pursuant to an application by the institu-
23 tion, as having equivalent research activity
24 to those institutions that had been classi-
25 fied by the Carnegie Foundation as being

1 doctorate-granting universities with a very
2 high or high level of research activity; and

3 “(iii) has been in existence for at least
4 10 years.

5 “(F) FULL-TIME.—The term ‘full-time’
6 means—

7 “(i) in the case of an individual who
8 is not described in clause (ii), not less than
9 35 hours per week; or

10 “(ii) in the case of an individual who
11 is enrolled in and is in regular attendance
12 at a high school or institution of education
13 within the United States, or who is the pri-
14 mary caregiver of—

15 “(I) a child under 18 years of
16 age; or

17 “(II) a child 18 years of age or
18 over, spouse, parent, grandparent, or
19 sibling, who is incapable of self-care
20 because of a mental or physical dis-
21 ability or who has a serious injury or
22 illness (as such term is defined in sec-
23 tion 101(18) of the Family and Med-
24 ical Leave Act of 1993 (29 U.S.C.
25 2611(18))),

1 not less than 20 hours per week.”; and

2 (2) in subsection (e), by inserting after para-
3 graph (1), the following:

4 “(2) Immigrant visas made available under sub-
5 section (c) shall be issued in accordance with the fol-
6 lowing:

7 “(A) The Secretary of Homeland Security
8 shall, periodically but not less than once each
9 fiscal year, make final determinations with re-
10 gard to that period of the point values allocated
11 to applicants in accordance with subsection
12 (c)(3) through (5).

13 “(B) The Secretary shall first determine
14 the applicant who is described under subsection
15 (c)(2) who is the son or daughter of an alien
16 admitted under section 101(a)(15)(E)(i) or (ii)
17 and who has the highest total point score great-
18 er than 12 calculated for that period under sub-
19 section (c)(4)(A) of all such applicants, and
20 shall issue a visa to such applicant.

21 “(C) The Secretary shall next determine
22 the applicant who is described under subsection
23 (c)(2) who is the son or daughter of an alien
24 admitted under section 101(a)(15)(H)(i)(b) and
25 who has the highest total point score greater

1 than 12 calculated for that period under sub-
2 section (c)(4)(A) of all such applicants, and
3 shall issue a visa to such applicant.

4 “(D) The Secretary shall next determine
5 the applicant who is described under subsection
6 (c)(2) who is the son or daughter of an alien
7 admitted under section 101(a)(15)(L) and who
8 has the highest total point score greater than
9 12 calculated for that period under subsection
10 (c)(4)(A) of all such applicants, and shall issue
11 a visa to such applicant.

12 “(E) The Secretary shall next determine
13 the applicant who is described under subsection
14 (c)(2) who is a contingent nonimmigrant and
15 who has the highest total point score greater
16 than 12 calculated for that period under sub-
17 section (c)(4)(A) of all such applicants, and
18 shall issue a visa to such applicant.

19 “(F) The Secretary shall then repeat the
20 process specified in subparagraphs (B) through
21 (E) until all visas made available for that pe-
22 riod have been issued. If no applicants remain
23 for any such category, the Secretary shall ex-
24 clude that category from further consideration
25 for that period.

1 “(G) In any case in which more than one
2 petitioner in a category under this paragraph
3 has the same total point score, the Secretary
4 shall issue the visa to the applicant whose peti-
5 tion was filed earliest.

6 “(H) No petitioner with a total point score
7 which is less than 12 may be issued a visa
8 under this paragraph.”.

9 (b) WORLDWIDE LEVEL.—Section 201 of the Immi-
10 gration and Nationality Act (8 U.S.C. 1151), as amended
11 by this title, is further amended—

12 (1) in subsection (a), by inserting after para-
13 graph (2) the following:

14 “(3) for fiscal years beginning with fiscal year
15 2025, immigrants who are aliens described in section
16 203(c) in a number not to exceed in any fiscal year
17 the number specified in subsection (e) for that year,
18 and not to exceed in any of the first 3 quarters of
19 any fiscal year 27 percent of the worldwide level
20 under such subsection for all of such fiscal year.”.

21 (2) by inserting after subsection (d) the fol-
22 lowing:

23 “(e) WORLDWIDE LEVEL FOR CONTINGENT NON-
24 IMMIGRANTS AND CERTAIN CHILDREN OF NON-
25 IMMIGRANTS.—

1 “(1) IN GENERAL.—The worldwide level of im-
2 migrants who may receive a visa under section
3 203(c) is equal to—

4 “(A) 470,400 for fiscal year 2025; and

5 “(B) for each fiscal year thereafter, any
6 visas under this subsection for the prior fiscal
7 year that are unused, plus the lesser of—

8 “(i) 78,400; and

9 “(ii) the number calculated under
10 paragraph (3) for the fiscal year.

11 “(2) CALCULATION OF TOTAL ELIGIBLE
12 POOL.—The number calculated under this paragraph
13 is equal to—

14 “(A) the number of applications received
15 by the Secretary under section 1102(c) of divi-
16 sion B of the Border Security and Immigration
17 Reform Act of 2018 during the application pe-
18 riod set forth in such section, plus

19 “(B) the number of petitions filed by an
20 alien described in section 203(c)(2) during the
21 period set forth in section 204(a)(1)(I)(ii)(II).

22 “(3) NUMBER OF VISAS REMAINING TO BE
23 PLACE IN ESCROW.—The number calculated under
24 this paragraph for a fiscal year is equal to the num-
25 ber calculated under paragraph (2), less the total

1 number of visas issued under section 203(c) during
2 the period beginning on October 1, 2024 and ending
3 on the last day of the prior fiscal year.”.

4 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
5 TUS.—Section 204(a)(1) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1154(a)(1)), as amended by this title,
7 is further amended by inserting after subparagraph (H)
8 the following:

9 “(I)(i) A contingent nonimmigrant or an
10 alien described in section 203(c)(2) desiring to
11 be provided an immigrant visa under section
12 203(c) (including such an alien who is under 18
13 years of age) may file a petition during the pe-
14 riod described in clause (ii) at the place deter-
15 mined by the Secretary of Homeland Security
16 by regulation.

17 “(ii)(I) A contingent nonimmigrant may
18 file a petition for an immigrant visa under sec-
19 tion 203(c) during the period beginning on the
20 date on which the alien obtained contingent
21 nonimmigrant status under section 1103(a) of
22 the Border Security and Immigration Reform
23 Act of 2018, and ending on the date that is 5
24 years after such date.

1 “(II) An alien described in section
2 203(c)(2) may file a petition for an immigrant
3 visa under section 203(c) during the period be-
4 ginning on October 1, 2019, and ending on Oc-
5 tober 1, 2020. Such an alien may file such a
6 petition from outside the United States.”.

7 (d) EFFECTIVE DATE.—This section and the amend-
8 ments made by this section shall take effect on October
9 1, 2019.

10 **SEC. 2105. SUNSET OF ADJUSTMENT VISAS FOR CONDI-**
11 **TIONAL NONIMMIGRANTS AND CHILDREN OF**
12 **CERTAIN NONIMMIGRANTS.**

13 (a) SUNSET.—

14 (1) IN GENERAL.—Section 203 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1153) is amend-
16 ed by striking subsection (c).

17 (2) TECHNICAL AND CONFORMING AMEND-
18 MENTS.—The Immigration and Nationality Act (8
19 U.S.C. 1101 et seq.) is amended—

20 (A) in section 201—

21 (i) in subsection (a)—

22 (I) in paragraph (1), by adding
23 “and” at the end; and

24 (II) by striking paragraph (3);
25 and

1 (ii) by striking subsection (e);

2 (B) in section 203(e), by striking para-
3 graph (2) and redesignating paragraph (3) as
4 paragraph (2); and

5 (C) in section 204—

6 (i) in subsection (a)(1), by striking
7 subparagraph (I); and

8 (ii) in subsection (e), by striking “sub-
9 section (a), (b), or (c) of section 203” and
10 inserting “subsection (a) or (b) of section
11 203”.

12 (3) EFFECTIVE DATE.—This subsection and the
13 amendments made by this subsection shall take ef-
14 fect on the first day of the first full fiscal year be-
15 ginning after September 30, 2025 and after the date
16 on which no alien has a petition for an immigrant
17 visa or adjustment of status under section 203(e) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1153(e)), or any appeal pertaining to such petition,
20 pending.

21 (4) ESCROW FOR PENDING APPLICATIONS.—

22 (A) IN GENERAL.—On the date of the ef-
23 fective date of this subsection, a number of im-
24 migrant visas equal to any visas under section
25 203(c)(2) for the prior fiscal year that are un-

1 used shall be made available for award to cov-
2 ered aliens in accordance with section 203(c) of
3 the Immigration and Nationality Act, as in ef-
4 fect on the date that is 1 day prior to the effec-
5 tive date of this subsection.

6 (B) COVERED ALIEN.—For purposes of
7 this paragraph, the term “covered alien” means
8 an alien who—

9 (i) on the date on which the applica-
10 tion period under section 204(a)(1)(I) of
11 the Immigration and Nationality Act, as in
12 effect on the day prior to the effective date
13 of this subsection, ended had an applica-
14 tion pending for contingent nonimmigrant
15 status; and

16 (ii) was granted contingent non-
17 immigrant status on or after the effective
18 date of this subsection.

19 (b) REALLOCATION OF 4TH PRIORITY FAMILY VISAS
20 TO EMPLOYMENT CATEGORIES.—

21 (1) WORLDWIDE LEVEL OF EMPLOYMENT-
22 BASED IMMIGRANTS.—Section 201(d) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1151(d)) is
24 amended to read as follows:

1 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED
2 IMMIGRANTS.—The worldwide level of employment-based
3 immigrants under this subsection for a fiscal year is equal
4 to 205,000 (except that for fiscal year 2020, such level
5 is equal to 204,100).”.

6 (2) PREFERENCE ALLOCATION FOR EMPLOY-
7 MENT-BASED IMMIGRANTS.—Section 203(b) of the
8 Immigration and Nationality Act (8 U.S.C. 1153(b))
9 is amended—

10 (A) in paragraph (1), in the matter pre-
11 ceding subparagraph (A), by striking “28.6 per-
12 cent of such worldwide level” and inserting
13 “60,040 (except that for fiscal year 2020, such
14 number is equal to 59,740)”;

15 (B) in paragraph (2)(A), by striking “28.6
16 percent of such worldwide level” and inserting
17 “60,040 (except that for fiscal year 2020, such
18 number is equal to 59,740)”;

19 (C) in paragraph (3)(A), by striking “28.6
20 percent of such worldwide level” and inserting
21 “60,040 (except that for fiscal year 2020, such
22 number is equal to 59,740)”;

23 (D) in paragraph (4), by striking “7.1 per-
24 cent of such worldwide level” and inserting
25 “14,940”; and

1 (E) in paragraph (5)(A), by striking “7.1
2 percent of such worldwide level” and inserting
3 “9,940”.

4 (3) EFFECTIVE DATE.—This subsection and the
5 amendments made by this subsection shall take ef-
6 fect beginning on October 1, 2019.

7 **SEC. 2106. IMPLEMENTATION.**

8 Not later than September 30, 2019, the Secretary of
9 Homeland Security shall publish interim final rules imple-
10 menting this title and the amendments made by this title.

11 **SEC. 2107. REPEAL OF SUSPENSION OF DEPORTATION AND**

12 **ADJUSTMENT OF STATUS FOR CERTAIN**

13 **ALIENS.**

14 (a) REPEAL OF TEMPORARY REDUCTION OF
15 VISAS.—Section 203 of the Nicaraguan Adjustment and
16 Central American Relief Act is amended—

17 (1) by striking subsection (d) (8 U.S.C. 1151
18 note); and

19 (2) by striking subsection (e) (8 U.S.C. 1153
20 note).

21 (b) REPEAL OF CERTAIN TRANSITION RULE.—Sec-
22 tion 309 of the Illegal Immigration Reform and Immi-
23 grant Responsibility Act of 1996 (Public Law 104–208;
24 division C; 8 U.S.C. 1101 note) is amended—

1 (1) in subsection (c)(5), by striking subpara-
2 graph (C);

3 (2) by striking subsection (f);

4 (3) by striking subsection (g); and

5 (4) by striking subsection (h).

6 (c) REPEAL OF EXCEPTION FOR CERTAIN ALIENS
7 FROM ANNUAL LIMITATION ON CANCELLATION OF RE-
8 MOVALS.—Paragraph (3) of section 240A(e) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1229b(e)) is
10 amended to read as follows:

11 “(3) EXCEPTION FOR CERTAIN ALIENS.—Para-
12 graph (1) shall not apply to aliens in deportation
13 proceedings prior to April 1, 1997, who applied for
14 suspension of deportation under section 244(a)(3)
15 (as in effect before the date of the enactment of the
16 Illegal Immigration Reform and Immigrant Respon-
17 sibility Act of 1996).”.

18 (d) TRANSITION RULE.—The amendments made by
19 this section shall take effect on October 1, 2019.

1 **TITLE III—UNACCOMPANIED**
2 **ALIEN CHILDREN; INTERIOR**
3 **IMMIGRATION ENFORCE-**
4 **MENT**

5 **SEC. 3101. REPATRIATION OF UNACCOMPANIED ALIEN**
6 **CHILDREN.**

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

10 (1) in subsection (a)—

11 (A) in paragraph (2)—

12 (i) by amending the heading to read
13 as follows: “RULES FOR UNACCOMPANIED
14 ALIEN CHILDREN.—”;

15 (ii) in subparagraph (A)—

16 (I) in the matter preceding clause
17 (i), by striking “who is a national or
18 habitual resident of a country that is
19 contiguous with the United States”;

20 (II) in clause (i), by inserting
21 “and” at the end;

22 (III) in clause (ii), by striking “;
23 and” and inserting a period; and

24 (IV) by striking clause (iii);

25 (iii) in subparagraph (B)—

1 (I) in the matter preceding clause
2 (i), by striking “(8 U.S.C. 1101 et
3 seq.) may—” and inserting “(8
4 U.S.C. 1101 et seq.)—”;

5 (II) in clause (i), by inserting be-
6 fore “permit such child to withdraw”
7 the following: “may”; and

8 (III) in clause (ii), by inserting
9 before “return such child” the fol-
10 lowing: “shall”; and

11 (iv) in subparagraph (C)—

12 (I) by amending the heading to
13 read as follows: “AGREEMENTS WITH
14 FOREIGN COUNTRIES.—”; and

15 (II) in the matter preceding
16 clause (i), by striking “The Secretary
17 of State shall negotiate agreements
18 between the United States and coun-
19 tries contiguous to the United States”
20 and inserting “The Secretary of State
21 may negotiate agreements between the
22 United States and any foreign country
23 that the Secretary determines appro-
24 priate”;

1 (B) by redesignating paragraphs (3)
2 through (5) as paragraphs (4) through (6), re-
3 spectively, and inserting after paragraph (2) the
4 following:

5 “(3) SPECIAL RULES FOR INTERVIEWING UNAC-
6 COMPANIED ALIEN CHILDREN.—An unaccompanied
7 alien child shall be interviewed by a dedicated U.S.
8 Citizenship and Immigration Services immigration
9 officer with specialized training in interviewing child
10 trafficking victims. Such officer shall be in plain
11 clothes and shall not carry a weapon. The interview
12 shall occur in a private room.”; and

13 (C) in paragraph (6)(D) (as so redesign-
14 ated)—

15 (i) in the matter preceding clause (i),
16 by striking “, except for an unaccompanied
17 alien child from a contiguous country sub-
18 ject to exceptions under subsection (a)(2),”
19 and inserting “who does not meet the cri-
20 teria listed in paragraph (2)(A)”;

21 (ii) in clause (i), by inserting before
22 the semicolon at the end the following: “,
23 which shall include a hearing before an im-
24 migration judge not later than 14 days
25 after being screened under paragraph (4)”;

1 (2) in subsection (b)—

2 (A) in paragraph (2)—

3 (i) in subparagraph (A), by inserting
4 before the semicolon the following: “be-
5 lieved not to meet the criteria listed in sub-
6 section (a)(2)(A)”;

7 (ii) in subparagraph (B), by inserting
8 before the period the following: “and does
9 not meet the criteria listed in subsection
10 (a)(2)(A)”;

11 (B) in paragraph (3), by striking “an un-
12 accompanied alien child in custody shall” and
13 all that follows, and inserting the following: “an
14 unaccompanied alien child in custody—

15 “(A) in the case of a child who does not
16 meet the criteria listed in subsection (a)(2)(A),
17 shall transfer the custody of such child to the
18 Secretary of Health and Human Services not
19 later than 30 days after determining that such
20 child is an unaccompanied alien child who does
21 not meet such criteria; or

22 “(B) in the case of child who meets the
23 criteria listed in subsection (a)(2)(A), may
24 transfer the custody of such child to the Sec-
25 retary of Health and Human Services after de-

1 termining that such child is an unaccompanied
2 alien child who meets such criteria.”; and

3 (3) in subsection (c)—

4 (A) in paragraph (3), by inserting at the
5 end the following:

6 “(D) INFORMATION ABOUT INDIVIDUALS
7 WITH WHOM CHILDREN ARE PLACED.—

8 “(i) INFORMATION TO BE PROVIDED
9 TO HOMELAND SECURITY.—Before placing
10 a child with an individual, the Secretary of
11 Health and Human Services shall provide
12 to the Secretary of Homeland Security, re-
13 garding the individual with whom the child
14 will be placed, the following information:

15 “(I) The name of the individual.

16 “(II) The social security number
17 of the individual, if available.

18 “(III) The date of birth of the in-
19 dividual.

20 “(IV) The location of the individ-
21 ual’s residence where the child will be
22 placed.

23 “(V) The immigration status of
24 the individual, if known.

1 “(VI) Contact information for
2 the individual.

3 “(ii) SPECIAL RULE.—In the case of a
4 child who was apprehended on or after the
5 effective date of this clause, and before the
6 date of the enactment of this subpara-
7 graph, who the Secretary of Health and
8 Human Services placed with an individual,
9 the Secretary shall provide the information
10 listed in clause (i) to the Secretary of
11 Homeland Security not later than 90 days
12 after such date of enactment.”; and

13 (B) in paragraph (5)—

14 (i) by inserting after “to the greatest
15 extent practicable” the following: “(at no
16 expense to the Government)”; and

17 (ii) by striking “have counsel to rep-
18 resent them” and inserting “have access to
19 counsel to represent them”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to any unaccompanied alien child
22 apprehended on or after the date of enactment.

1 **SEC. 3102. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
2 **TENTION.**

3 (a) IN GENERAL.—Section 235 of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232) is amended by adding at
6 the end the following:

7 “(j) CONSTRUCTION.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, judicial determination, consent de-
10 cree, or settlement agreement, the detention of any
11 alien child who is not an unaccompanied alien child
12 shall be governed by sections 217, 235, 236, and
13 241 of the Immigration and Nationality Act (8
14 U.S.C. 1187, 1225, 1226, and 1231). There exists
15 no presumption that an alien child who is not an un-
16 accompanied alien child should not be detained, and
17 all such determinations shall be in the discretion of
18 the Secretary of Homeland Security.

19 “(2) RELEASE OF MINORS OTHER THAN UNAC-
20 COMPANIED ALIENS.—In no circumstances shall an
21 alien minor who is not an unaccompanied alien child
22 be released by the Secretary of Homeland Security
23 other than to a parent or legal guardian.

24 “(3) FAMILY DETENTION.—The Secretary of
25 Homeland Security shall—

1 “(A) maintain the care and custody of an
2 alien, during the period during which the
3 charges described in clause (i) are pending,
4 who—

5 “(i) is charged only with a mis-
6 demeanor offense under section 275(a) of
7 the Immigration and Nationality Act (8
8 U.S.C. 1325(a)); and

9 “(ii) entered the United States with
10 the alien’s child who has not attained 18
11 years of age; and

12 “(B) detain the alien with the alien’s
13 child.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on the date of the enact-
16 ment of this Act and shall apply to all actions that occur
17 before, on, or after the date of the enactment of this Act.

18 (c) PREEMPTION OF STATE LICENSING REQUIRE-
19 MENTS.—Notwithstanding any other provision of law, ju-
20 dicial determination, consent decree, or settlement agree-
21 ment, no State may require that an immigration detention
22 facility used to detain children who have not attained 18
23 years of age, or families consisting of one or more of such
24 children and the parents or legal guardians of such chil-

1 dren, that is located in that State, be licensed by the State
2 or any political subdivision thereof.

3 **SEC. 3103. DETENTION OF DANGEROUS ALIENS.**

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

6 (1) by striking “Attorney General” each place
7 it appears, except for the first reference in para-
8 graph (4)(B)(i), and inserting “Secretary of Home-
9 land Security”;

10 (2) in paragraph (1), by amending subpara-
11 graph (B) to read as follows:

12 “(B) BEGINNING OF PERIOD.—The re-
13 moval period begins on the latest of the fol-
14 lowing:

15 “(i) The date the order of removal be-
16 comes administratively final.

17 “(ii) If the alien is not in the custody
18 of the Secretary on the date the order of
19 removal becomes administratively final, the
20 date the alien is taken into such custody.

21 “(iii) If the alien is detained or con-
22 fined (except under an immigration proc-
23 ess) on the date the order of removal be-
24 comes administratively final, the date the
25 alien is taken into the custody of the Sec-

1 retary, after the alien is released from such
2 detention or confinement.”;

3 (3) in paragraph (1), by amending subpara-
4 graph (C) to read as follows:

5 “(C) SUSPENSION OF PERIOD.—

6 “(i) EXTENSION.—The removal period
7 shall be extended beyond a period of 90
8 days and the Secretary may, in the Sec-
9 retary’s sole discretion, keep the alien in
10 detention during such extended period if—

11 “(I) the alien fails or refuses to
12 make all reasonable efforts to comply
13 with the removal order, or to fully co-
14 operate with the Secretary’s efforts to
15 establish the alien’s identity and carry
16 out the removal order, including mak-
17 ing timely application in good faith
18 for travel or other documents nec-
19 essary to the alien’s departure or con-
20 spires or acts to prevent the alien’s
21 removal that is subject to an order of
22 removal;

23 “(II) a court, the Board of Immi-
24 gration Appeals, or an immigration
25 judge orders a stay of removal of an

1 alien who is subject to an administra-
2 tively final order of removal;

3 “(III) the Secretary transfers
4 custody of the alien pursuant to law
5 to another Federal agency or a State
6 or local government agency in connec-
7 tion with the official duties of such
8 agency; or

9 “(IV) a court or the Board of
10 Immigration Appeals orders a remand
11 to an immigration judge or the Board
12 of Immigration Appeals, during the
13 time period when the case is pending
14 a decision on remand (with the re-
15 moval period beginning anew on the
16 date that the alien is ordered removed
17 on remand).

18 “(ii) RENEWAL.—If the removal pe-
19 riod has been extended under subpara-
20 graph (C)(i), a new removal period shall be
21 deemed to have begun on the date—

22 “(I) the alien makes all reason-
23 able efforts to comply with the re-
24 moval order, or to fully cooperate with
25 the Secretary’s efforts to establish the

1 alien's identity and carry out the re-
2 moval order;

3 “(II) the stay of removal is no
4 longer in effect; or

5 “(III) the alien is returned to the
6 custody of the Secretary.

7 “(iii) MANDATORY DETENTION FOR
8 CERTAIN ALIENS.—In the case of an alien
9 described in subparagraphs (A) through
10 (D) of section 236(c)(1), the Secretary
11 shall keep that alien in detention during
12 the extended period described in clause (i).

13 “(iv) SOLE FORM OF RELIEF.—An
14 alien may seek relief from detention under
15 this subparagraph only by filing an appli-
16 cation for a writ of habeas corpus in ac-
17 cordance with chapter 153 of title 28,
18 United States Code. No alien whose period
19 of detention is extended under this sub-
20 paragraph shall have the right to seek re-
21 lease on bond.”;

22 (4) in paragraph (3)—

23 (A) by adding after “If the alien does not
24 leave or is not removed within the removal pe-

1 riod” the following: “or is not detained pursu-
2 ant to paragraph (6) of this subsection”; and

3 (B) by striking subparagraph (D) and in-
4 serting the following:

5 “(D) to obey reasonable restrictions on the
6 alien’s conduct or activities that the Secretary
7 prescribes for the alien, in order to prevent the
8 alien from absconding, for the protection of the
9 community, or for other purposes related to the
10 enforcement of the immigration laws.”;

11 (5) in paragraph (4)(A), by striking “paragraph
12 (2)” and inserting “subparagraph (B)”; and

13 (6) by striking paragraph (6) and inserting the
14 following:

15 “(6) ADDITIONAL RULES FOR DETENTION OR
16 RELEASE OF CERTAIN ALIENS.—

17 “(A) DETENTION REVIEW PROCESS FOR
18 COOPERATIVE ALIENS ESTABLISHED.—For an
19 alien who is not otherwise subject to mandatory
20 detention, who has made all reasonable efforts
21 to comply with a removal order and to cooper-
22 ate fully with the Secretary of Homeland Secu-
23 rity’s efforts to establish the alien’s identity and
24 carry out the removal order, including making
25 timely application in good faith for travel or

1 other documents necessary to the alien’s depar-
2 ture, and who has not conspired or acted to
3 prevent removal, the Secretary shall establish
4 an administrative review process to determine
5 whether the alien should be detained or released
6 on conditions. The Secretary shall make a de-
7 termination whether to release an alien after
8 the removal period in accordance with subpara-
9 graph (B). The determination shall include con-
10 sideration of any evidence submitted by the
11 alien, and may include consideration of any
12 other evidence, including any information or as-
13 sistance provided by the Secretary of State or
14 other Federal official and any other information
15 available to the Secretary of Homeland Security
16 pertaining to the ability to remove the alien.

17 “(B) AUTHORITY TO DETAIN BEYOND RE-
18 MOVAL PERIOD.—

19 “(i) IN GENERAL.—The Secretary of
20 Homeland Security, in the exercise of the
21 Secretary’s sole discretion, may continue to
22 detain an alien for 90 days beyond the re-
23 moval period (including any extension of
24 the removal period as provided in para-
25 graph (1)(C)). An alien whose detention is

1 extended under this subparagraph shall
2 have no right to seek release on bond.

3 “(ii) SPECIFIC CIRCUMSTANCES.—The
4 Secretary of Homeland Security, in the ex-
5 ercise of the Secretary’s sole discretion,
6 may continue to detain an alien beyond the
7 90 days authorized in clause (i)—

8 “(I) until the alien is removed, if
9 the Secretary, in the Secretary’s sole
10 discretion, determines that there is a
11 significant likelihood that the alien—

12 “(aa) will be removed in the
13 reasonably foreseeable future; or

14 “(bb) would be removed in
15 the reasonably foreseeable future,
16 or would have been removed, but
17 for the alien’s failure or refusal
18 to make all reasonable efforts to
19 comply with the removal order,
20 or to cooperate fully with the
21 Secretary’s efforts to establish
22 the alien’s identity and carry out
23 the removal order, including
24 making timely application in
25 good faith for travel or other doc-

1 uments necessary to the alien’s
2 departure, or conspires or acts to
3 prevent removal;

4 “(II) until the alien is removed,
5 if the Secretary of Homeland Security
6 certifies in writing—

7 “(aa) in consultation with
8 the Secretary of Health and
9 Human Services, that the alien
10 has a highly contagious disease
11 that poses a threat to public safe-
12 ty;

13 “(bb) after receipt of a writ-
14 ten recommendation from the
15 Secretary of State, that release
16 of the alien is likely to have seri-
17 ous adverse foreign policy con-
18 sequences for the United States;

19 “(cc) based on information
20 available to the Secretary of
21 Homeland Security (including
22 classified, sensitive, or national
23 security information, and without
24 regard to the grounds upon
25 which the alien was ordered re-

1 moved), that there is reason to
2 believe that the release of the
3 alien would threaten the national
4 security of the United States; or

5 “(dd) that the release of the
6 alien will threaten the safety of
7 the community or any person,
8 conditions of release cannot rea-
9 sonably be expected to ensure the
10 safety of the community or any
11 person, and either (AA)—

12 “(AA) the alien has
13 been convicted of (aaa) one
14 or more aggravated felonies
15 (as defined in section
16 101(a)(43)(A)), (bbb) one or
17 more crimes identified by
18 the Secretary of Homeland
19 Security by regulation, if the
20 aggregate term of imprison-
21 ment for such crimes is at
22 least 5 years, or (ccc) one or
23 more attempts or conspir-
24 acies to commit any such
25 aggravated felonies or such

1 identified crimes, if the ag-
2 gregate term of imprison-
3 ment for such attempts or
4 conspiracies is at least 5
5 years; or

6 “(BB) the alien has
7 committed one or more vio-
8 lent crimes (as referred to in
9 section 101(a)(43)(F), but
10 not including a purely polit-
11 ical offense) and, because of
12 a mental condition or per-
13 sonality disorder and behav-
14 ior associated with that con-
15 dition or disorder, the alien
16 is likely to engage in acts of
17 violence in the future; or

18 “(III) pending a certification
19 under subclause (II), so long as the
20 Secretary of Homeland Security has
21 initiated the administrative review
22 process not later than 30 days after
23 the expiration of the removal period
24 (including any extension of the re-

1 moval period, as provided in para-
2 graph (1)(C)).

3 “(iii) NO RIGHT TO BOND HEARING.—
4 An alien whose detention is extended under
5 this subparagraph shall have no right to
6 seek release on bond, including by reason
7 of a certification under clause (ii)(II).

8 “(C) RENEWAL AND DELEGATION OF CER-
9 TIFICATION.—

10 “(i) RENEWAL.—The Secretary of
11 Homeland Security may renew a certifi-
12 cation under subparagraph (B)(ii)(II)
13 every 6 months, after providing an oppor-
14 tunity for the alien to request reconsider-
15 ation of the certification and to submit
16 documents or other evidence in support of
17 that request. If the Secretary does not
18 renew a certification, the Secretary may
19 not continue to detain the alien under sub-
20 paragraph (B)(ii)(II).

21 “(ii) DELEGATION.—Notwithstanding
22 section 103, the Secretary of Homeland
23 Security may not delegate the authority to
24 make or renew a certification described in
25 item (bb), (cc), or (dd) of subparagraph

1 (B)(ii)(II) below the level of the Director
2 of Immigration and Customs Enforcement.

3 “(iii) HEARING.—The Secretary of
4 Homeland Security may request that the
5 Attorney General or the Attorney General’s
6 designee provide for a hearing to make the
7 determination described in item (dd)(BB)
8 of subparagraph (B)(ii)(II).

9 “(D) RELEASE ON CONDITIONS.—If it is
10 determined that an alien should be released
11 from detention by a Federal court, the Board of
12 Immigration Appeals, or if an immigration
13 judge orders a stay of removal, the Secretary of
14 Homeland Security, in the exercise of the Sec-
15 retary’s discretion, may impose conditions on
16 release as provided in paragraph (3).

17 “(E) REDETENTION.—The Secretary of
18 Homeland Security, in the exercise of the Sec-
19 retary’s discretion, without any limitations
20 other than those specified in this section, may
21 again detain any alien subject to a final re-
22 moval order who is released from custody, if re-
23 moval becomes likely in the reasonably foresee-
24 able future, the alien fails to comply with the
25 conditions of release, or to continue to satisfy

1 the conditions described in subparagraph (A),
2 or if, upon reconsideration, the Secretary, in
3 the Secretary's sole discretion, determines that
4 the alien can be detained under subparagraph
5 (B). This section shall apply to any alien re-
6 turned to custody pursuant to this subpara-
7 graph, as if the removal period terminated on
8 the day of the redetention.

9 “(F) REVIEW OF DETERMINATIONS BY
10 SECRETARY.—A determination by the Secretary
11 under this paragraph shall not be subject to re-
12 view by any other agency.”.

13 **SEC. 3104. DEFINITION OF AGGRAVATED FELONY.**

14 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1101(a)(43)) is
16 amended to read as follows:

17 “(43) Notwithstanding any other provision of
18 law, the term ‘aggravated felony’ means any offense,
19 whether in violation of Federal, State, or foreign
20 law, that is described in this paragraph. An offense
21 described in this paragraph is—

22 “(A) homicide (including murder in any
23 degree, manslaughter, and vehicular man-
24 slaughter), rape (whether the victim was con-
25 scious or unconscious), statutory rape, sexual

1 assault or battery, or any offense of a sexual
2 nature involving an intended victim under the
3 age of 18 years (including offenses in which the
4 intended victim was a law enforcement officer);

5 “(B)(i) illicit trafficking in a controlled
6 substance (as defined in section 102 of the Con-
7 trolled Substances Act), including a drug traf-
8 ficking crime (as defined in section 924(c) of
9 title 18, United States Code); or

10 “(ii) any offense under State law relating
11 to a controlled substance (as so classified under
12 State law) which is classified as a felony in that
13 State regardless of whether the substance is
14 classified as a controlled substance under sec-
15 tion 102 of the Controlled Substances Act (21
16 U.S.C. 802);

17 “(C) illicit trafficking in firearms or de-
18 structive devices (as defined in section 921 of
19 title 18, United States Code) or in explosive
20 materials (as defined in section 841(e) of that
21 title);

22 “(D) an offense described in section 1956
23 of title 18, United States Code (relating to
24 laundering of monetary instruments) or section
25 1957 of that title (relating to engaging in mon-

1 etary transactions in property derived from spe-
2 cific unlawful activity) if the amount of the
3 funds exceeded \$10,000;

4 “(E) an offense described in—

5 “(i) section 842 or 844 of title 18,
6 United States Code (relating to explosive
7 materials offenses);

8 “(ii) section 922 or 924 of title 18,
9 United States Code (relating to firearms
10 offenses); or

11 “(iii) section 5861 of the Internal
12 Revenue Code of 1986 (relating to fire-
13 arms offenses);

14 “(F) a violent crime for which the term of
15 imprisonment is at least 1 year, including—

16 “(i) any offense that has an element
17 the use, attempted use, or threatened use
18 of physical force against the person or
19 property of another; or

20 “(ii) any other offense in which the
21 record of conviction establishes that the of-
22 fender used physical force against the per-
23 son or property of another in the course of
24 committing the offense;

1 “(G)(i) theft (including theft by deceit,
2 theft by fraud, embezzlement, motor vehicle
3 theft, unauthorized use of a vehicle, or receipt
4 of stolen property), regardless of whether the
5 intended deprivation was temporary or perma-
6 nent, for which the term of imprisonment is at
7 least 1 year; or

8 “(ii) burglary for which the term of impris-
9 onment is at least 1 year;

10 “(H) an offense described in section 875,
11 876, 877, or 1202 of title 18, United States
12 Code (relating to the demand for or receipt of
13 ransom);

14 “(I) an offense involving child pornography
15 or sexual exploitation of a minor (including any
16 offense described in section 2251, 2251A, or
17 2252 of title 18, United States Code);

18 “(J) an offense described in section 1962
19 of title 18, United States Code (relating to
20 racketeer influenced corrupt organizations), or
21 an offense described in section 1084 (if it is a
22 second or subsequent offense) or 1955 of that
23 title (relating to gambling offenses);

24 “(K) an offense that—

1 “(i) relates to the owning, controlling,
2 managing, or supervising of a prostitution
3 business;

4 “(ii) is described in section 2421,
5 2422, or 2423 of title 18, United States
6 Code (relating to transportation for the
7 purpose of prostitution) if committed for
8 commercial advantage; or

9 “(iii) is described in any of sections
10 1581–1585 or 1588–1591 of title 18,
11 United States Code (relating to peonage,
12 slavery, involuntary servitude, and traf-
13 ficking in persons);

14 “(L) an offense described in—

15 “(i) section 793 (relating to gathering
16 or transmitting national defense informa-
17 tion), 798 (relating to disclosure of classi-
18 fied information), 2153 (relating to sabo-
19 tage) or 2381 or 2382 (relating to treason)
20 of title 18, United States Code;

21 “(ii) section 601 of the National Secu-
22 rity Act of 1947 (50 U.S.C. 421) (relating
23 to protecting the identity of undercover in-
24 telligence agents);

1 “(iii) section 601 of the National Se-
2 curity Act of 1947 (relating to protecting
3 the identity of undercover agents);

4 “(iv) section 175 (relating to biologi-
5 cal weapons) of title 18, United States
6 Code;

7 “(v) sections 792 (harboring or con-
8 cealing persons who violated sections 793
9 or 794 of title 18, United States Code),
10 794 (gathering or delivering defense infor-
11 mation to aid foreign government), 795
12 (photographing and sketching defense in-
13 stallations), 796 (use of aircraft for
14 photographing defense installations), 797
15 (publication and sale of photographs of de-
16 fense installations), 799 (violation of
17 NASA regulations for protection of facili-
18 ties) of title 18, United States Code;

19 “(vi) sections 831 (prohibited trans-
20 actions involving nuclear materials) and
21 832 (participation in nuclear and weapons
22 of mass destruction threats to the United
23 States) of title 18, United States Code;

1 “(vii) sections 2332a-d, f-h (relating
2 to terrorist activities) of title 18, United
3 States Code;

4 “(viii) sections 2339 (relating to har-
5 boring or concealing terrorists), 2339A (re-
6 lating to material support to terrorists),
7 2339B (relating to material support or re-
8 sources to designated foreign terrorist or-
9 ganizations), 2339C (relating to financing
10 of terrorism), 2339D (relating to receiving
11 military-type training from a terrorist or-
12 ganization) of title 18, United States Code;

13 “(ix) section 1705 of the International
14 Emergency Economic Powers Act (50
15 U.S.C. 1705); or

16 “(x) section 38 of the Arms Export
17 Control Act (22 U.S.C. 2778);

18 “(M) an offense that—

19 “(i) involves fraud or deceit in which
20 the loss to the victim or victims exceeds
21 \$10,000; or

22 “(ii) is described in section 7201 of
23 the Internal Revenue Code of 1986 (relat-
24 ing to tax evasion) in which the revenue
25 loss to the Government exceeds \$10,000;

1 “(N) an offense described in section 274(a)
2 (relating to alien smuggling), except in the case
3 of a first offense for which the alien has affirm-
4 atively shown that the alien committed the of-
5 fense for the purpose of assisting, abetting, or
6 aiding only the alien’s spouse, child, or parent
7 (and no other individual) to violate a provision
8 of this Act;

9 “(O) an offense described in section 275 or
10 276 for which the term of imprisonment is at
11 least 1 year;

12 “(P) an offense which is described in chap-
13 ter 75 of title 18, United States Code, and for
14 which the term of imprisonment is at least 1
15 year;

16 “(Q) an offense relating to a failure to ap-
17 pear by a defendant for service of sentence if
18 the underlying offense is punishable by impris-
19 onment for a term of 5 years or more;

20 “(R) an offense relating to commercial
21 bribery, counterfeiting, forgery, or trafficking in
22 vehicles the identification numbers of which
23 have been altered for which the term of impris-
24 onment is at least one year;

1 “(S) an offense relating to obstruction of
2 justice, perjury or subornation of perjury, or
3 bribery of a witness;

4 “(T) an offense relating to a failure to ap-
5 pear before a court pursuant to a court order
6 to answer to or dispose of a charge of a felony
7 for which a sentence of 2 years’ imprisonment
8 or more may be imposed;

9 “(U) any offense for which the term of im-
10 prisonment imposed was 2 years or more;

11 “(V) an offense relating to terrorism or
12 national security (including a conviction for a
13 violation of any provision of chapter 113B of
14 title 18, United States Code; or

15 “(W)(i) a single conviction for driving
16 while intoxicated (including a conviction for
17 driving while under the influence of or impair-
18 ment by alcohol or drugs), when such impaired
19 driving was a cause of the serious bodily injury
20 or death of another person; or

21 “(ii) a second or subsequent conviction for
22 driving while intoxicated (including a conviction
23 for driving under the influence of or impaired
24 by alcohol or drugs); or

1 “(X) an attempt or conspiracy to commit
2 an offense described in this paragraph or aid-
3 ing, abetting, counseling, procuring, com-
4 manding, inducing, facilitating, or soliciting the
5 commission of such an offense.

6 Any determinations under this paragraph shall be
7 made on the basis of the record of conviction. For
8 purposes of this paragraph, a person shall be consid-
9 ered to have committed an aggravated felony if that
10 person has been convicted for 3 or more mis-
11 demeanors not arising out the traffic laws (except
12 for any conviction for driving under the influence or
13 an offense that results in the death or serious bodily
14 injury of another person) or felonies for which the
15 aggregate term of imprisonment imposed was 3
16 years or more, regardless of whether the convictions
17 were all entered pursuant to a single trial or the of-
18 fenses arose from a single pattern or scheme of con-
19 duct.”.

20 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
21 MENTS.—

22 (1) IN GENERAL.—The amendments made by
23 subsection (a)—

24 (A) shall take effect on the date of the en-
25 actment of this Act; and

1 (B) shall apply to any act or conviction
2 that occurred before, on, or after such date.

3 (2) APPLICATION OF IIRIRA AMENDMENTS.—

4 The amendments to section 101(a)(43) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1101(a)(43))
6 made by section 321 of the Illegal Immigration Re-
7 form and Immigrant Responsibility Act of 1996 (di-
8 vision C of Public Law 104–208; 110 Stat. 3009–
9 627) shall continue to apply, whether the conviction
10 was entered before, on, or after September 30, 1996.

11 **SEC. 3105. CRIME OF VIOLENCE.**

12 Section 16 of title 18, United States Code, is amend-
13 ed to read as follows:

14 **“§ 16. Crime of violence defined**

15 “(a) The term ‘crime of violence’ means an offense
16 that—

17 “(1)(A) is murder, voluntary manslaughter, as-
18 sault, sexual abuse or aggravated sexual abuse, abu-
19 sive sexual contact, child abuse, kidnapping, robbery,
20 carjacking, firearms use, burglary, arson, extortion,
21 communication of threats, coercion, unauthorized
22 use of a vehicle, fleeing, interference with flight crew
23 members and attendants, domestic violence, hostage
24 taking, stalking, human trafficking, or using weap-
25 ons of mass destruction; or

1 “(B) involves use or unlawful possession of ex-
2 plosives or destructive devices described in 5845(f)
3 of the Internal Revenue Code of 1986;

4 “(2) has as an element the use, attempted use,
5 or threatened use of physical force against the per-
6 son or property of another; or

7 “(3) is an attempt to commit, conspiracy to
8 commit, solicitation to commit, or aiding and abet-
9 ting any of the offenses set forth in paragraphs (1)
10 and (2).

11 “(b) In this section:

12 “(1) The term ‘abusive sexual contact’ means
13 conduct described in section 2244(a)(1) and (a)(2).

14 “(2) The terms ‘aggravated sexual abuse’ and
15 ‘sexual abuse’ mean conduct described in sections
16 2241 and 2242. For purposes of such conduct, the
17 term ‘sexual act’ means conduct described in section
18 2246(2), or the knowing and lewd exposure of geni-
19 talia or masturbation, to any person, with an intent
20 to abuse, humiliate, harass, degrade, or arouse or
21 gratify the sexual desire of any person.

22 “(3) The term ‘assault’ means conduct de-
23 scribed in section 113(a), and includes conduct com-
24 mitted recklessly, knowingly, or intentionally.

1 “(4) The term ‘arson’ means conduct described
2 in section 844(i) or unlawfully or willfully damaging
3 or destroying any building, inhabited structure, vehi-
4 cle, vessel, or real property by means of fire or ex-
5 plosive.

6 “(5) The term ‘burglary’ means an unlawful or
7 unprivileged entry into, or remaining in, a building
8 or structure, including any nonpermanent or mobile
9 structure that is adapted or used for overnight ac-
10 commodation or for the ordinary carrying on of busi-
11 ness, and, either before or after entering, the per-
12 son—

13 “(A) forms the intent to commit a crime;

14 or

15 “(B) commits or attempts to commit a
16 crime.

17 “(6) The term ‘carjacking’ means conduct de-
18 scribed in section 2119, or the unlawful taking of a
19 motor vehicle from the immediate actual possession
20 of a person against his will, by means of actual or
21 threatened force, or violence or intimidation, or by
22 sudden or stealthy seizure or snatching, or fear of
23 injury.

24 “(7) The term ‘child abuse’ means the unlawful
25 infliction of physical injury or the commission of any

1 sexual act against a child under fourteen by any per-
2 son eighteen years of age or older.

3 “(8) The term ‘communication of threats’
4 means conduct described in section 844(e), or the
5 transmission of any communications containing any
6 threat of use of violence to—

7 “(A) demand or request for a ransom or
8 reward for the release of any kidnapped person;
9 or

10 “(B) threaten to kidnap or injure the per-
11 son of another.

12 “(9) The term ‘coercion’ means causing the
13 performance or non-performance of any act by an-
14 other person which under such other person has a
15 legal right to do or to abstain from doing, through
16 fraud or by the use of actual or threatened force, vi-
17 olence, or fear thereof, including the use, or an ex-
18 press or implicit threat of use, of violence to cause
19 harm, or threats to cause injury to the person, rep-
20 utation or property of any person.

21 “(10) The term ‘domestic violence’ means any
22 assault committed by a current or former spouse,
23 parent, or guardian of the victim, by a person with
24 whom the victim shares a child in common, by a per-
25 son who is cohabiting with or has cohabited with the

1 victim as a spouse, parent, or guardian, or by a per-
2 son similarly situated to a spouse, parent, or guard-
3 ian of the victim

4 “(11) The term ‘extortion’ means conduct de-
5 scribed in section 1951(b)(2)), but not extortion
6 under color of official right or fear of economic loss.

7 “(12) The term ‘firearms use’ means conduct
8 described in section 924(c) or 929(a), if the firearm
9 was brandished, discharged, or otherwise possessed,
10 carried, or used as a weapon and the crime of vio-
11 lence or drug trafficking crime during and in rela-
12 tion to which the firearm was possessed, carried, or
13 used was subject to prosecution in any court of the
14 United States, State court, military court or tri-
15 bunal, or tribal court. Such term also includes un-
16 lawfully possessing a firearm described in section
17 5845(a) of the Internal Revenue Code of 1986 (such
18 as a sawed-off shotgun or sawed-off rifle, silencer,
19 bomb, or machine gun), possession of a firearm de-
20 scribed in section 922(g)(1), 922(g)(2) and
21 922(g)(4), possession of a firearm with the intent to
22 use such firearm unlawfully, or reckless discharge of
23 a firearm at a dwelling.

24 “(13) The term ‘fleeing’ means knowingly oper-
25 ating a motor vehicle and, following a law enforce-

1 ment officer’s signal to bring the motor vehicle to a
2 stop—

3 “(A) failing or refusing to comply; or

4 “(B) fleeing or attempting to elude a law
5 enforcement officer.

6 “(14) The term ‘force’ means the level of force
7 needed or intended to overcome resistance.

8 “(15) The term ‘hostage taking’ means conduct
9 described in section 1203.

10 “(16) The term ‘human trafficking’ means con-
11 duct described in section 1589, 1590, and 1591.

12 “(17) The term ‘interference with flight crew
13 members and attendants’ means conduct described
14 in section 46504 of title 49, United States Code.

15 “(18) The term ‘kidnapping’ means conduct de-
16 scribed in section 1201(a)(1) or seizing, confining,
17 inveigling, decoying, abducting, or carrying away
18 and holding for ransom or reward or otherwise any
19 person.

20 “(19) The term ‘murder’ means conduct de-
21 scribed as murder in the first degree or murder in
22 the second degree described in section 1111.

23 “(20) the term ‘robbery’ means conduct de-
24 scribed in section 1951(b)(1), or the unlawful taking
25 or obtaining of personal property from the person or

1 in the presence of another, against his will, by
2 means of actual or threatened force, or violence or
3 intimidation, or by sudden or stealthy seizure or
4 snatching, or fear of injury, immediate or future, to
5 his person or property, or property in his custody or
6 possession, or the person or property of a relative or
7 member of his family or of anyone in his company
8 at the time of the taking or obtaining.

9 “(21) The term ‘stalking’ means conduct de-
10 scribed in section 2261A.

11 “(22) The term ‘unauthorized use of a motor
12 vehicle’ means the intentional or knowing operation
13 of another person’s boat, airplane, or motor vehicle
14 without the consent of the owner.

15 “(23) The term ‘using weapons of mass de-
16 struction’ means conduct described in section 2332a.

17 “(24) the term ‘voluntary manslaughter’ means
18 conduct described in section 1112(a).

19 “(c) For purposes of this section, in the case of any
20 reference in subsection (b) to an offense under this title,
21 such reference shall include conduct that constitutes an
22 offense under State or tribal law or under the Uniform
23 Code of Military Justice, if such conduct would be an of-
24 fense under this title if a circumstance giving rise to Fed-
25 eral jurisdiction had existed.”.

1 **SEC. 3106. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)) is amended by inserting after paragraph (52) the
6 following:

7 “(53)(A) The term ‘criminal gang’ means an ongoing
8 group, club, organization, or association of 5 or more per-
9 sons—

10 “(i) that has as one of its primary purposes the
11 commission of 1 or more of the criminal offenses de-
12 scribed in subparagraph (B) and the members of
13 which engage, or have engaged within the past 5
14 years, in a continuing series of such offenses; or

15 “(ii) that has been designated as a criminal
16 gang by the Secretary of Homeland Security, in con-
17 sultation with the Attorney General, as meeting
18 these criteria.

19 “(B) The offenses described, whether in violation of
20 Federal or State law or foreign law and regardless of
21 whether the offenses occurred before, on, or after the date
22 of the enactment of this paragraph, are the following:

23 “(i) A ‘felony drug offense’ (as defined in sec-
24 tion 102 of the Controlled Substances Act (21
25 U.S.C. 802)).

1 “(ii) A felony offense involving firearms or ex-
2 plosives or in violation of section 931 of title 18,
3 United States Code (relating to purchase, ownership,
4 or possession of body armor by violent felons).

5 “(iii) An offense under section 274 (relating to
6 bringing in and harboring certain aliens), section
7 277 (relating to aiding or assisting certain aliens to
8 enter the United States), or section 278 (relating to
9 importation of alien for immoral purpose), except
10 that this clause does not apply in the case of an or-
11 ganization described in section 501(c)(3) of the In-
12 ternal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
13 which is exempt from taxation under section 501(a)
14 of such Code.

15 “(iv) A violent crime described in section
16 101(a)(43)(F).

17 “(v) A crime involving obstruction of justice,
18 tampering with or retaliating against a witness, vic-
19 tim, or informant, or perjury or subornation of per-
20 jury.

21 “(vi) Any conduct punishable under sections
22 1028A and 1029 of title 18, United States Code (re-
23 lating to aggravated identity theft or fraud and re-
24 lated activity in connection with identification docu-
25 ments or access devices), sections 1581 through

1 1594 of such title (relating to peonage, slavery, and
2 trafficking in persons), section 1951 of such title
3 (relating to interference with commerce by threats or
4 violence), section 1952 of such title (relating to
5 interstate and foreign travel or transportation in aid
6 of racketeering enterprises), section 1956 of such
7 title (relating to the laundering of monetary instru-
8 ments), section 1957 of such title (relating to engag-
9 ing in monetary transactions in property derived
10 from specified unlawful activity), or sections 2312
11 through 2315 of such title (relating to interstate
12 transportation of stolen motor vehicles or stolen
13 property).

14 “(vii) An attempt or conspiracy to commit an
15 offense described in this paragraph or aiding, abet-
16 ting, counseling, procuring, commanding, inducing,
17 facilitating, or soliciting the commission of an of-
18 fense described in clauses (i) through (vi).”.

19 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
20 (8 U.S.C. 1182(a)(2)) is amended—

21 (1) in subparagraph (A)(i)—

22 (A) in subclause (I), by striking “or” at
23 the end; and

24 (B) by inserting after subclause (II) the
25 following:

1 “(III) a violation of (or a con-
2 spiracy or attempt to violate) any law
3 or regulation of a State, the United
4 States, or a foreign country relating
5 to participation or membership in a
6 criminal gang, or

7 “(IV) any felony or misdemeanor
8 offense for which the alien received a
9 sentencing enhancement predicated on
10 gang membership or conduct that pro-
11 moted, furthered, aided, or supported
12 the illegal activity of the criminal
13 gang,”.

14 (2) by adding at the end the following:

15 “(N) ALIENS ASSOCIATED WITH CRIMINAL
16 GANGS.—

17 “(i) ALIENS NOT PHYSICALLY
18 PRESENT IN THE UNITED STATES.—In the
19 case of an alien who is not physically
20 present in the United States:

21 “(I) That alien is inadmissible if
22 a consular officer, an immigration of-
23 ficer, the Secretary of Homeland Se-
24 curity, or the Attorney General knows
25 or has reason to believe—

1 “(aa) to be or to have been
2 a member of a criminal gang (as
3 defined in section 101(a)(53)); or

4 “(bb) to have participated in
5 the activities of a criminal gang
6 (as defined in section
7 101(a)(53)), knowing or having
8 reason to know that such activi-
9 ties will promote, further, aid, or
10 support the illegal activity of the
11 criminal gang.

12 “(II) That alien is inadmissible if
13 a consular officer, an immigration of-
14 ficer, the Secretary of Homeland Se-
15 curity, or the Attorney General has
16 reasonable grounds to believe the alien
17 has participated in, been a member of,
18 promoted, or conspired with a crimi-
19 nal gang, either inside or outside of
20 the United States.

21 “(III) That alien is inadmissible
22 if a consular officer, an immigration
23 officer, the Secretary of Homeland Se-
24 curity, or the Attorney General has
25 reasonable grounds to believe seeks to

1 enter the United States or has en-
2 tered the United States in furtherance
3 of the activities of a criminal gang, ei-
4 ther inside or outside of the United
5 States.

6 “(ii) ALIENS PHYSICALLY PRESENT IN THE
7 UNITED STATES.—In the case of an alien who
8 is physically present in the United States, that
9 alien is inadmissible if the alien—

10 “(I) is a member of a criminal gang
11 (as defined in section 101(a)(53)); or

12 “(II) has participated in the activities
13 of a criminal gang (as defined in section
14 101(a)(53)), knowing or having reason to
15 know that such activities will promote, fur-
16 ther, aid, or support the illegal activity of
17 the criminal gang.”.

18 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
19 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
20 amended by adding at the end the following:

21 “(H) ALIENS ASSOCIATED WITH CRIMINAL
22 GANGS.—Any alien is deportable who—

23 “(i) is or has been a member of a
24 criminal gang (as defined in section
25 101(a)(53));

1 “(ii) has participated in the activities
2 of a criminal gang (as so defined), knowing
3 or having reason to know that such activi-
4 ties will promote, further, aid, or support
5 the illegal activity of the criminal gang;

6 “(iii) has been convicted of a violation
7 of (or a conspiracy or attempt to violate)
8 any law or regulation of a State, the
9 United States, or a foreign country relat-
10 ing to participation or membership in a
11 criminal gang; or

12 “(iv) any felony or misdemeanor of-
13 fense for which the alien received a sen-
14 tencing enhancement predicated on gang
15 membership or conduct that promoted,
16 furthered, aided, or supported the illegal
17 activity of the criminal gang.”.

18 (d) DESIGNATION.—

19 (1) IN GENERAL.—Chapter 2 of title II of the
20 Immigration and Nationality Act (8 U.S.C. 1182) is
21 amended by inserting after section 219 the fol-
22 lowing:

23 “DESIGNATION OF CRIMINAL GANG

24 “SEC. 220.

25 “(a) DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary of Homeland Se-
2 curity, in consultation with the Attorney General, may
3 designate a group, club, organization, or association of 5
4 or more persons as a criminal gang if the Secretary finds
5 that their conduct is described in section 101(a)(53).

6 “(2) PROCEDURE.—

7 “(A) NOTIFICATION.—Seven days before mak-
8 ing a designation under this subsection, the Sec-
9 retary shall, by classified communication, notify the
10 Speaker and Minority Leader of the House of Rep-
11 resentatives, the President pro tempore, Majority
12 Leader, and Minority Leader of the Senate, and the
13 members of the relevant committees of the House of
14 Representatives and the Senate, in writing, of the
15 intent to designate a group, club, organization, or
16 association of 5 or more persons under this sub-
17 section and the factual basis therefor.

18 “(B) PUBLICATION IN THE FEDERAL REG-
19 ISTER.—The Secretary shall publish the designation
20 in the Federal Register seven days after providing
21 the notification under subparagraph (A).

22 “(3) RECORD.—

23 “(A) IN GENERAL.—In making a designation
24 under this subsection, the Secretary shall create an
25 administrative record.

1 “(B) CLASSIFIED INFORMATION.—The Sec-
2 retary may consider classified information in making
3 a designation under this subsection. Classified infor-
4 mation shall not be subject to disclosure for such
5 time as it remains classified, except that such infor-
6 mation may be disclosed to a court ex parte and in
7 camera for purposes of judicial review under sub-
8 section (c).

9 “(4) PERIOD OF DESIGNATION.—

10 “(A) IN GENERAL.—A designation under this
11 subsection shall be effective for all purposes until re-
12 voked under paragraph (5) or (6) or set aside pursu-
13 ant to subsection (c).

14 “(B) REVIEW OF DESIGNATION UPON PETI-
15 TION.—

16 “(i) IN GENERAL.—The Secretary shall re-
17 view the designation of a criminal gang under
18 the procedures set forth in clauses (iii) and (iv)
19 if the designated group, club, organization, or
20 association of 5 or more persons files a petition
21 for revocation within the petition period de-
22 scribed in clause (ii).

23 “(ii) PETITION PERIOD.—For purposes of
24 clause (i)—

1 “(I) if the designated group, club, or-
2 ganization, or association of 5 or more per-
3 sons has not previously filed a petition for
4 revocation under this subparagraph, the
5 petition period begins 2 years after the
6 date on which the designation was made;
7 or

8 “(II) if the designated group, club, or-
9 ganization, or association of 5 or more per-
10 sons has previously filed a petition for rev-
11 ocation under this subparagraph, the peti-
12 tion period begins 2 years after the date of
13 the determination made under clause (iv)
14 on that petition.

15 “(iii) PROCEDURES.—Any group, club, or-
16 ganization, or association of 5 or more persons
17 that submits a petition for revocation under
18 this subparagraph of its designation as a crimi-
19 nal gang must provide evidence in that petition
20 that it is not described in section 101(a)(53).

21 “(iv) DETERMINATION.—

22 “(I) IN GENERAL.—Not later than
23 180 days after receiving a petition for rev-
24 ocation submitted under this subpara-

1 graph, the Secretary shall make a deter-
2 mination as to such revocation.

3 “(II) CLASSIFIED INFORMATION.—

4 The Secretary may consider classified in-
5 formation in making a determination in re-
6 sponse to a petition for revocation. Classi-
7 fied information shall not be subject to dis-
8 closure for such time as it remains classi-
9 fied, except that such information may be
10 disclosed to a court ex parte and in camera
11 for purposes of judicial review under sub-
12 section (c).

13 “(III) PUBLICATION OF DETERMINA-

14 TION.—A determination made by the Sec-
15 retary under this clause shall be published
16 in the Federal Register.

17 “(IV) PROCEDURES.—Any revocation

18 by the Secretary shall be made in accord-
19 ance with paragraph (6).

20 “(C) OTHER REVIEW OF DESIGNATION.—

21 “(i) IN GENERAL.—If in a 5-year period no
22 review has taken place under subparagraph (B),
23 the Secretary shall review the designation of the
24 criminal gang in order to determine whether

1 such designation should be revoked pursuant to
2 paragraph (6).

3 “(ii) PROCEDURES.—If a review does not
4 take place pursuant to subparagraph (B) in re-
5 sponse to a petition for revocation that is filed
6 in accordance with that subparagraph, then the
7 review shall be conducted pursuant to proce-
8 dures established by the Secretary. The results
9 of such review and the applicable procedures
10 shall not be reviewable in any court.

11 “(iii) PUBLICATION OF RESULTS OF RE-
12 VIEW.—The Secretary shall publish any deter-
13 mination made pursuant to this subparagraph
14 in the Federal Register.

15 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
16 gress, by an Act of Congress, may block or revoke a des-
17 ignation made under paragraph (1).

18 “(6) REVOCATION BASED ON CHANGE IN CIR-
19 CUMSTANCES.—

20 “(A) IN GENERAL.—The Secretary may revoke
21 a designation made under paragraph (1) at any
22 time, and shall revoke a designation upon completion
23 of a review conducted pursuant to subparagraphs
24 (B) and (C) of paragraph (4) if the Secretary finds
25 that—

1 “(i) the group, club, organization, or asso-
2 ciation of 5 or more persons that has been des-
3 ignated as a criminal gang is no longer de-
4 scribed in section 101(a)(53); or

5 “(ii) the national security or the law en-
6 forcement interests of the United States war-
7 rants a revocation.

8 “(B) PROCEDURE.—The procedural require-
9 ments of paragraphs (2) and (3) shall apply to a
10 revocation under this paragraph. Any revocation
11 shall take effect on the date specified in the revoca-
12 tion or upon publication in the Federal Register if
13 no effective date is specified.

14 “(7) EFFECT OF REVOCATION.—The revocation of a
15 designation under paragraph (5) or (6) shall not affect
16 any action or proceeding based on conduct committed
17 prior to the effective date of such revocation.

18 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
19 ING.—If a designation under this subsection has become
20 effective under paragraph (2) an alien in a removal pro-
21 ceeding shall not be permitted to raise any question con-
22 cerning the validity of the issuance of such designation
23 as a defense or an objection.

24 “(b) AMENDMENTS TO A DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary may amend
2 a designation under this subsection if the Secretary
3 finds that the group, club, organization, or associa-
4 tion of 5 or more persons has changed its name,
5 adopted a new alias, dissolved and then reconsti-
6 tuted itself under a different name or names, or
7 merged with another group, club, organization, or
8 association of 5 or more persons.

9 “(2) PROCEDURE.—Amendments made to a
10 designation in accordance with paragraph (1) shall
11 be effective upon publication in the Federal Register.
12 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
13 section (a) shall also apply to an amended designa-
14 tion.

15 “(3) ADMINISTRATIVE RECORD.—The adminis-
16 trative record shall be corrected to include the
17 amendments as well as any additional relevant infor-
18 mation that supports those amendments.

19 “(4) CLASSIFIED INFORMATION.—The Sec-
20 retary may consider classified information in amend-
21 ing a designation in accordance with this subsection.
22 Classified information shall not be subject to disclo-
23 sure for such time as it remains classified, except
24 that such information may be disclosed to a court ex

1 parte and in camera for purposes of judicial review
2 under subsection (c) of this section.

3 “(c) JUDICIAL REVIEW OF DESIGNATION.—

4 “(1) IN GENERAL.—Not later than 30 days
5 after publication in the Federal Register of a des-
6 ignation, an amended designation, or a determina-
7 tion in response to a petition for revocation, the des-
8 ignated group, club, organization, or association of 5
9 or more persons may seek judicial review in the
10 United States Court of Appeals for the District of
11 Columbia Circuit.

12 “(2) BASIS OF REVIEW.—Review under this
13 subsection shall be based solely upon the administra-
14 tive record, except that the Government may submit,
15 for ex parte and in camera review, classified infor-
16 mation used in making the designation, amended
17 designation, or determination in response to a peti-
18 tion for revocation.

19 “(3) SCOPE OF REVIEW.—The Court shall hold
20 unlawful and set aside a designation, amended des-
21 ignation, or determination in response to a petition
22 for revocation the court finds to be—

23 “(A) arbitrary, capricious, an abuse of dis-
24 cretion, or otherwise not in accordance with
25 law;

1 “(B) contrary to constitutional right,
2 power, privilege, or immunity;

3 “(C) in excess of statutory jurisdiction, au-
4 thority, or limitation, or short of statutory
5 right;

6 “(D) lacking substantial support in the ad-
7 ministrative record taken as a whole or in clas-
8 sified information submitted to the court under
9 paragraph (2); or

10 “(E) not in accord with the procedures re-
11 quired by law.

12 “(4) JUDICIAL REVIEW INVOKED.—The pend-
13 ency of an action for judicial review of a designation,
14 amended designation, or determination in response
15 to a petition for revocation shall not affect the appli-
16 cation of this section, unless the court issues a final
17 order setting aside the designation, amended des-
18 ignation, or determination in response to a petition
19 for revocation.

20 “(d) DEFINITIONS.—As used in this section—

21 “(1) the term ‘classified information’ has the
22 meaning given that term in section 1(a) of the Clas-
23 sified Information Procedures Act (18 U.S.C. App.);

1 “(2) the term ‘national security’ means the na-
2 tional defense, foreign relations, or economic inter-
3 ests of the United States;

4 “(3) the term ‘relevant committees’ means the
5 Committees on the Judiciary of the Senate and of
6 the House of Representatives; and

7 “(4) the term ‘Secretary’ means the Secretary
8 of Homeland Security, in consultation with the At-
9 torney General.”.

10 (2) CLERICAL AMENDMENT.—The table of con-
11 tents for such Act is amended by inserting after the
12 item relating to section 219 the following:

“Sec. 220. Designation.”.

13 (e) MANDATORY DETENTION OF CRIMINAL GANG
14 MEMBERS.—

15 (1) IN GENERAL.—Section 236(c)(1) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1226(c)(1)), as amended by this division, is further
18 amended—

19 (A) in subparagraph (E), by striking “or”
20 at the end;

21 (B) in subparagraph (F), by inserting “or”
22 at the end; and

23 (C) by inserting after subparagraph (F)
24 the following:

1 “(G) is inadmissible under section
2 212(a)(2)(N) or deportable under section
3 237(a)(2)(H),”.

4 (2) ANNUAL REPORT.—Not later than March 1
5 of each year (beginning 1 year after the date of the
6 enactment of this Act), the Secretary of Homeland
7 Security, after consultation with the appropriate
8 Federal agencies, shall submit a report to the Com-
9 mittees on the Judiciary of the House of Represent-
10 atives and of the Senate on the number of aliens de-
11 tained under the amendments made by paragraph
12 (1).

13 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
14 ATION.—

15 (1) INAPPLICABILITY OF RESTRICTION ON RE-
16 MOVAL TO CERTAIN COUNTRIES.—Section
17 241(b)(3)(B) of the Immigration and Nationality
18 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
19 matter preceding clause (i), by inserting “who is de-
20 scribed in section 212(a)(2)(N)(i) or section
21 237(a)(2)(H)(i) or who is” after “to an alien”.

22 (2) INELIGIBILITY FOR ASYLUM.—Section
23 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
24 is amended—

1 (A) in clause (v), by striking “or” at the
2 end;

3 (B) by redesignating clause (vi) as clause
4 (vii); and

5 (C) by inserting after clause (v) the fol-
6 lowing:

7 “(vi) the alien is described in section
8 212(a)(2)(N)(i) or section 237(a)(2)(H)(i);
9 or”.

10 (g) TEMPORARY PROTECTED STATUS.—Section 244
11 of such Act (8 U.S.C. 1254a) is amended—

12 (1) by striking “Attorney General” each place
13 it appears and inserting “Secretary of Homeland Se-
14 curity”;

15 (2) in subparagraph (c)(2)(B)—

16 (A) in clause (i), by striking “or” at the
17 end;

18 (B) in clause (ii), by striking the period
19 and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) the alien is, or at any time has
22 been, described in section 212(a)(2)(N) or
23 section 237(a)(2)(H).”; and

24 (3) in subsection (d)—

25 (A) by striking paragraph (3); and

1 (B) in paragraph (4), by adding at the end
2 the following: “The Secretary of Homeland Se-
3 curity may detain an alien provided temporary
4 protected status under this section whenever
5 appropriate under any other provision of law.”.

6 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
7 101(a)(27)(J)(iii) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

9 (1) in subclause (I), by striking “and”;

10 (2) in subclause (II), by adding “and” at the
11 end; and

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

13 “(III) no alien who is, or at any
14 time has been, described in section
15 212(a)(2)(N) or section 237(a)(2)(H)
16 shall be eligible for any immigration
17 benefit under this subparagraph;”.

18 (i) PAROLE.—An alien described in section
19 212(a)(2)(N) of the Immigration and Nationality Act, as
20 added by subsection (b), shall not be eligible for parole
21 under section 212(d)(5)(A) of such Act unless—

22 (1) the alien is assisting or has assisted the
23 United States Government in a law enforcement
24 matter, including a criminal investigation; and

1 such determination shall be determined on the
2 basis of the record of conviction and any facts
3 established within the record of conviction.

4 “(D) Any reversal, vacatur, expungement,
5 or modification to a conviction, sentence, or
6 conviction record that was granted to amelio-
7 rate the immigration consequences of the con-
8 viction, sentence, or conviction record, or was
9 granted for rehabilitative purposes shall have no
10 effect on the immigration consequences result-
11 ing from the original conviction. The alien shall
12 have the burden of proving that the reversal,
13 vacatur, expungement, or modification was not
14 for such purposes. In no case in which a rever-
15 sal, vacatur, expungement, or modification was
16 granted for a procedural or substantive defect
17 in the criminal proceedings. Whether an alien
18 has been convicted of a crime for which a sen-
19 tence of one year or longer may be imposed or
20 whether the alien has been convicted for a
21 crime where the maximum penalty possible did
22 not exceed one year shall be determined based
23 on the maximum penalty allowed by the statute
24 of conviction as of the date the offense was
25 committed. Subsequent changes in State or

1 Federal law which increase or decrease the sen-
2 tence that may be imposed for a given crime
3 shall not be considered.”.

4 **SEC. 3109. ADDING ATTEMPT AND CONSPIRACY TO COMMIT**
5 **TERRORISM-RELATED INADMISSIBILITY**
6 **GROUNDS ACTS TO THE DEFINITION OF EN-**
7 **GAGING IN TERRORIST ACTIVITY.**

8 Section 212(a)(3)(B)(iv) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended—

10 (1) in subclause (VI), by striking the period
11 and inserting “; or”; and

12 (2) by adding at the end the following:

13 “(VII) an attempt or conspiracy
14 to do any of the foregoing.”.

15 **SEC. 3110. CLARIFYING THE AUTHORITY OF ICE DETAIN-**
16 **ERS.**

17 (a) IN GENERAL.—Section 287(d) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1357(d)) is amended
19 to read as follows:

20 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE
21 ALIENS.—

22 “(1) IN GENERAL.—In the case of an individual
23 who is arrested by any Federal, State, or local law
24 enforcement official or other personnel for the al-
25 leged violation of any criminal law or any motor ve-

1 hicle law relating to driving while intoxicated or
2 driving under the influence (including driving while
3 under the influence of or impairment by alcohol or
4 drugs), the Secretary may issue a detainer regarding
5 the individual to any Federal, State, or local law en-
6 forcement entity, official, or other personnel if the
7 Secretary has probable cause to believe that the indi-
8 vidual is an inadmissible or deportable alien.

9 “(2) PROBABLE CAUSE.—Probable cause is
10 deemed to be established if—

11 “(A) the individual who is the subject of
12 the detainer matches, pursuant to biometric
13 confirmation or other Federal database records,
14 the identity of an alien who the Secretary has
15 reasonable grounds to believe to be inadmissible
16 or deportable;

17 “(B) the individual who is the subject of
18 the detainer is the subject of ongoing removal
19 proceedings, including matters where a charg-
20 ing document has already been served;

21 “(C) the individual who is the subject of
22 the detainer has previously been ordered re-
23 moved from the United States and such an
24 order is administratively final;

1 “(D) the individual who is the subject of
2 the detainer has made voluntary statements or
3 provided reliable evidence that indicate that
4 they are an inadmissible or deportable alien; or

5 “(E) the Secretary otherwise has reason-
6 able grounds to believe that the individual who
7 is the subject of the detainer is an inadmissible
8 or deportable alien.

9 “(3) TRANSFER OF CUSTODY.—If the Federal,
10 State, or local law enforcement entity, official, or
11 other personnel to whom a detainer is issued com-
12 plies with the detainer and detains for purposes of
13 transfer of custody to the Department of Homeland
14 Security the individual who is the subject of the de-
15 tainer, the Department may take custody of the in-
16 dividual within 48 hours (excluding weekends and
17 holidays), but in no instance more than 96 hours,
18 following the date that the individual is otherwise to
19 be released from the custody of the relevant Federal,
20 State, or local law enforcement entity.”.

21 (b) IMMUNITY.—

22 (1) IN GENERAL.—A State or a political sub-
23 division of a State (and the officials and personnel
24 of the State or subdivision acting in their official ca-
25 pacities), and a nongovernmental entity (and its per-

1 sonnel) contracted by the State or political subdivi-
2 sion for the purpose of providing detention, acting in
3 compliance with a Department of Homeland Secu-
4 rity detainer issued pursuant to this section who
5 temporarily holds an alien in its custody pursuant to
6 the terms of a detainer so that the alien may be
7 taken into the custody of the Department of Home-
8 land Security, shall be considered to be acting under
9 color of Federal authority for purposes of deter-
10 mining their liability and shall be held harmless for
11 their compliance with the detainer in any suit seek-
12 ing any punitive, compensatory, or other monetary
13 damages.

14 (2) FEDERAL GOVERNMENT AS DEFENDANT.—
15 In any civil action arising out of the compliance with
16 a Department of Homeland Security detainer by a
17 State or a political subdivision of a State (and the
18 officials and personnel of the State or subdivision
19 acting in their official capacities), or a nongovern-
20 mental entity (and its personnel) contracted by the
21 State or political subdivision for the purpose of pro-
22 viding detention, the United States Government
23 shall be the proper party named as the defendant in
24 the suit in regard to the detention resulting from
25 compliance with the detainer.

1 (3) BAD FAITH EXCEPTION.—Paragraphs (1)
2 and (2) shall not apply to any mistreatment of an
3 individual by a State or a political subdivision of a
4 State (and the officials and personnel of the State
5 or subdivision acting in their official capacities), or
6 a nongovernmental entity (and its personnel) con-
7 tracted by the State or political subdivision for the
8 purpose of providing detention.

9 (c) PRIVATE RIGHT OF ACTION.—

10 (1) CAUSE OF ACTION.—Any individual, or a
11 spouse, parent, or child of that individual (if the in-
12 dividual is deceased), who is the victim of an offense
13 that is murder, rape, or sexual abuse of a minor, for
14 which an alien (as defined in section 101(a)(3) of
15 the Immigration and Nationality Act (8 U.S.C.
16 1101(a)(3))) has been convicted and sentenced to a
17 term of imprisonment of at least 1 year, may bring
18 an action against a State or political subdivision of
19 a State or public official acting in an official capac-
20 ity in the appropriate Federal court if the State or
21 political subdivision, except as provided in paragraph
22 (3)—

23 (A) released the alien from custody prior
24 to the commission of such crime as a con-
25 sequence of the State or political subdivision's

1 declining to honor a detainer issued pursuant to
2 section 287(d)(1) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1357(d)(1));

4 (B) has in effect a statute, policy, or prac-
5 tice not in compliance with section 642 of the
6 Illegal Immigration Reform and Immigrant Re-
7 sponsibility Act of 1996 (8 U.S.C. 1373) as
8 amended, and as a consequence of its statute,
9 policy, or practice, released the alien from cus-
10 tody prior to the commission of such crime; or

11 (C) has in effect a statute, policy, or prac-
12 tice requiring a subordinate political subdivision
13 to decline to honor any or all detainers issued
14 pursuant to section 287(d)(1) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1357(d)(1)),
16 and, as a consequence of its statute, policy or
17 practice, the subordinate political subdivision
18 declined to honor a detainer issued pursuant to
19 such section, and as a consequence released the
20 alien from custody prior to the commission of
21 such crime.

22 (2) LIMITATIONS ON BRINGING ACTION.—An
23 action may not be brought under this subsection
24 later than 10 years following the occurrence of the

1 crime, or death of a person as a result of such
2 crime, whichever occurs later.

3 (3) PROPER DEFENDANT.—If a political sub-
4 division of a State declines to honor a detainer
5 issued pursuant to section 287(d)(1) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1357(d)) as
7 a consequence of the State or another political sub-
8 division with jurisdiction over the subdivision prohib-
9 iting the subdivision through a statute or other legal
10 requirement of the State or other political subdivi-
11 sion—

12 (A) from honoring the detainer; or

13 (B) fully complying with section 642 of the

14 Illegal Immigration Reform and Immigrant Re-
15 sponsibility Act of 1996 (8 U.S.C. 1373),

16 and, as a consequence of the statute or other legal
17 requirement of the State or other political subdivi-
18 sion, the subdivision released the alien referred to in
19 paragraph (1) from custody prior to the commission
20 of the crime referred to in that paragraph, the State
21 or other political subdivision that enacted the statute
22 or other legal requirement, shall be deemed to be the
23 proper defendant in a cause of action under this
24 subsection, and no such cause of action may be

1 maintained against the political subdivision which
2 declined to honor the detainer.

3 (4) ATTORNEY'S FEE AND OTHER COSTS.—In
4 any action or proceeding under this subsection the
5 court shall allow a prevailing plaintiff a reasonable
6 attorneys fee as part of the costs, and include expert
7 fees as part of the attorneys fee.

8 **SEC. 3111. DEPARTMENT OF HOMELAND SECURITY ACCESS**
9 **TO CRIME INFORMATION DATABASES.**

10 Section 105(b) of the Immigration and Nationality
11 Act (8 U.S.C. 1105(b)) is amended—

12 (1) in paragraph (1)—

13 (A) by striking “the Service” and inserting
14 “the Department of Homeland Security”; and

15 (B) by striking “visa applicant or applicant
16 for admission” and inserting “visa applicant,
17 applicant for admission, applicant for adjust-
18 ment of status, or applicant for any other ben-
19 efit under the immigration laws”; and

20 (2) by inserting after paragraph (4) the fol-
21 lowing:

22 “(5) The Secretary of Homeland Security shall
23 receive, upon request, access to the information de-
24 scribed in paragraph (1) by means of extracts of the

1 records for placement in the appropriate database
2 without any fee or charge.”.

3 **TITLE IV—ASYLUM REFORM**

4 **SEC. 4101. CREDIBLE FEAR INTERVIEWS.**

5 Section 235(b)(1)(B)(v) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
7 striking “claim” and all that follows, and inserting “claim,
8 as determined pursuant to section 208(b)(1)(B)(iii), and
9 such other facts as are known to the officer, that the alien
10 could establish eligibility for asylum under section 208,
11 and it is more probable than not that the statements made
12 by, and on behalf of, the alien in support of the alien’s
13 claim are true.”.

14 **SEC. 4102. JURISDICTION OF ASYLUM APPLICATIONS.**

15 Section 208(b)(3) of the Immigration and Nationality
16 Act (8 U.S.C. 1158) is amended by striking subparagraph
17 (C).

18 **SEC. 4103. RECORDING EXPEDITED REMOVAL AND CRED-** 19 **IBLE FEAR INTERVIEWS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity shall establish quality assurance procedures and take
22 steps to effectively ensure that questions by employees of
23 the Department of Homeland Security exercising expe-
24 dited removal authority under section 235(b) of the Immi-
25 gration and Nationality Act (8 U.S.C. 1225(b)) are asked

1 in a uniform manner, to the extent possible, and that both
2 these questions and the answers provided in response to
3 them are recorded in a uniform fashion.

4 (b) FACTORS RELATING TO SWORN STATEMENTS.—

5 Where practicable, any sworn or signed written statement
6 taken of an alien as part of the record of a proceeding
7 under section 235(b)(1)(A) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
9 panied by a recording of the interview which served as the
10 basis for that sworn statement.

11 (c) INTERPRETERS.—The Secretary shall ensure that

12 a competent interpreter, not affiliated with the govern-
13 ment of the country from which the alien may claim asy-
14 lum, is used when the interviewing officer does not speak
15 a language understood by the alien.

16 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

17 There shall be an audio or audio visual recording of inter-
18 views of aliens subject to expedited removal. The recording
19 shall be included in the record of proceeding and shall be
20 considered as evidence in any further proceedings involv-
21 ing the alien.

22 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this

23 section shall be construed to create any right, benefit,
24 trust, or responsibility, whether substantive or procedural,
25 enforceable in law or equity by a party against the United

1 States, its departments, agencies, instrumentalities, enti-
2 ties, officers, employees, or agents, or any person, nor does
3 this section create any right of review in any administra-
4 tive, judicial, or other proceeding.

5 **SEC. 4104. SAFE THIRD COUNTRY.**

6 Section 208(a)(2)(A) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

8 (1) by striking “Attorney General” each place
9 it appears and inserting “Secretary of Homeland Se-
10 curity”; and

11 (2) by striking “removed, pursuant to a bilat-
12 eral or multilateral agreement, to” and inserting
13 “removed to”.

14 **SEC. 4105. RENUNCIATION OF ASYLUM STATUS PURSUANT**
15 **TO RETURN TO HOME COUNTRY.**

16 (a) IN GENERAL.—Section 208(c) of the Immigration
17 and Nationality Act (8 U.S.C. 1158(c)) is amended by
18 adding at the end the following new paragraph:

19 “(4) RENUNCIATION OF STATUS PURSUANT TO
20 RETURN TO HOME COUNTRY.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), any alien who is granted
23 asylum status under this Act, who, absent
24 changed country conditions, subsequently re-
25 turns to the country of such alien’s nationality

1 or, in the case of an alien having no nationality,
2 returns to any country in which such alien last
3 habitually resided, and who applied for such
4 status because of persecution or a well-founded
5 fear of persecution in that country on account
6 of race, religion, nationality, membership in a
7 particular social group, or political opinion,
8 shall have his or her status terminated.

9 “(B) WAIVER.—The Secretary has discre-
10 tion to waive subparagraph (A) if it is estab-
11 lished to the satisfaction of the Secretary that
12 the alien had a compelling reason for the re-
13 turn. The waiver may be sought prior to depar-
14 ture from the United States or upon return.”.

15 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1158(c)(3)) is amended by inserting after “paragraph
18 (2)” the following: “or (4)”.

19 **SEC. 4106. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
20 **PLICATIONS.**

21 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
23 amended—

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

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

8 (3) in subparagraph (B), by striking the period
9 and inserting “; and”; and

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

11 “(C) ensure that a written warning ap-
12 pears on the asylum application advising the
13 alien of the consequences of filing a frivolous
14 application and serving as notice to the alien of
15 the consequence of filing a frivolous applica-
16 tion.”.

17 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
18 of the Immigration and Nationality Act (8 U.S.C.
19 1158(d)(6)) is amended by striking “If the” and all that
20 follows and inserting:

21 “(A) If the Secretary of Homeland Secu-
22 rity or the Attorney General determines that an
23 alien has knowingly made a frivolous applica-
24 tion for asylum and the alien has received the
25 notice under paragraph (4)(C), the alien shall

1 be permanently ineligible for any benefits under
2 this chapter, effective as the date of the final
3 determination of such an application;

4 “(B) An application is frivolous if the Sec-
5 retary of Homeland Security or the Attorney
6 General determines, consistent with subpara-
7 graph (C), that—

8 “(i) it is so insufficient in substance
9 that it is clear that the applicant know-
10 ingly filed the application solely or in part
11 to delay removal from the United States,
12 to seek employment authorization as an
13 applicant for asylum pursuant to regula-
14 tions issued pursuant to paragraph (2), or
15 to seek issuance of a Notice to Appeal in
16 order to pursue Cancellation of Removal
17 under section 240A(b); or

18 “(ii) any of the material elements are
19 knowingly fabricated.

20 “(C) In determining that an application is
21 frivolous, the Secretary or the Attorney Gen-
22 eral, must be satisfied that the applicant, dur-
23 ing the course of the proceedings, has had suffi-
24 cient opportunity to clarify any discrepancies or
25 implausible aspects of the claim.

1 “(D) For purposes of this section, a find-
2 ing that an alien filed a frivolous asylum appli-
3 cation shall not preclude the alien from seeking
4 withholding of removal under section
5 241(b)(3).) or protection pursuant to the Con-
6 vention Against Torture.”.

7 **SEC. 4107. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

8 (a) **ASYLUM CREDIBILITY DETERMINATIONS.**—Sec-
9 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
10 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
11 after “all relevant factors” the following: “, including
12 statements made to, and investigative reports prepared by,
13 immigration authorities and other government officials”.

14 (b) **RELIEF FOR REMOVAL CREDIBILITY DETER-**
15 **MINATIONS.**—Section 240(c)(4)(C) of the Immigration
16 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
17 by inserting after “all relevant factors” the following: “,
18 including statements made to, and investigative reports
19 prepared by, immigration authorities and other govern-
20 ment officials”.

21 **SEC. 4108. PENALTIES FOR ASYLUM FRAUD.**

22 Section 1001 of title 18 is amended by inserting at
23 the end of the paragraph—

24 “(d) Whoever, in any matter before the Secretary of
25 Homeland Security or the Attorney General pertaining to

1 asylum under section 208 of the Immigration and Nation-
2 ality Act or withholding of removal under section
3 241(b)(3) of such Act, knowingly and willfully—

4 “(1) makes any materially false, fictitious, or
5 fraudulent statement or representation; or

6 “(2) makes or uses any false writings or docu-
7 ment knowing the same to contain any materially
8 false, fictitious, or fraudulent statement or entry;

9 shall be fined under this title or imprisoned not more than
10 10 years, or both.”.

11 **SEC. 4109. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

12 Section 3291 of title 18 is amended—

13 (1) by striking “1544,” and inserting “1544,
14 and section 1546,”;

15 (2) by striking “offense.” and inserting “of-
16 fense or within 10 years after the fraud is discov-
17 ered.”.

18 **SEC. 4110. TECHNICAL AMENDMENTS.**

19 Section 208 of the Immigration and Nationality Act
20 (8 U.S.C. 1158) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (2)(D), by inserting

23 “Secretary of Homeland Security or the” before

24 “Attorney General”; and

1 (B) in paragraph (3), by inserting “Sec-
2 retary of Homeland Security or the” before
3 “Attorney General”;

4 (2) in subsection (b)(2), by inserting “Secretary
5 of Homeland Security or the” before “Attorney Gen-
6 eral” each place such term appears;

7 (3) in subsection (c)—

8 (A) in paragraph (1), by striking “Attor-
9 ney General” each place such term appears and
10 inserting “Secretary of Homeland Security”;

11 (B) in paragraph (2), in the matter pre-
12 ceding subparagraph (A), by inserting “Sec-
13 retary of Homeland Security or the” before
14 “Attorney General”; and

15 (C) in paragraph (3), by inserting “Sec-
16 retary of Homeland Security or the” before
17 “Attorney General”; and

18 (4) in subsection (d)—

19 (A) in paragraph (1), by inserting “Sec-
20 retary of Homeland Security or the” before
21 “Attorney General” each place such term ap-
22 pears;

23 (B) in paragraph (2), by striking “Attor-
24 ney General” and inserting “Secretary of
25 Homeland Security”; and

- 1 (C) in paragraph (5)—
- 2 (i) in subparagraph (A), by striking
- 3 “Attorney General” and inserting “Sec-
- 4 retary of Homeland Security”; and
- 5 (ii) in subparagraph (B), by inserting
- 6 “Secretary of Homeland Security or the”
- 7 before “Attorney General”.

8 **TITLE V—USCIS WAIVERS**

9 **SEC. 5101. EXEMPTION FROM ADMINISTRATIVE PROCE-**

10 **DURE ACT.**

11 The requirements of subchapter II of chapter 5 of

12 title 5, United States Code, shall not apply to any rule

13 made in order to carry out this division or the amend-

14 ments made by this division, to the extent the Secretary

15 of Homeland Security determines that compliance with

16 any such requirement would impede the expeditious imple-

17 mentation of such division or the amendments made by

18 such division.

19 **SEC. 5102. EXEMPTION FROM PAPERWORK REDUCTION**

20 **ACT.**

21 The requirements of subchapter I of chapter 35 of

22 title 44, United States Code, shall not apply to any action

23 to implement this division or the amendments made by

24 this division to the extent the Secretary of Homeland Se-

25 curity, the Secretary of State, the Attorney General, or

1 the Secretary of Labor determines that compliance with
2 any such requirement would impede the expeditious imple-
3 mentation of such sections or the amendments made by
4 such sections.

5 **SEC. 5103. SUNSET.**

6 This title shall sunset on the date that is 3 years after
7 the date of enactment of this Act. Such sunset shall not
8 be construed to impose any requirements on, or affect the
9 validity of, any rule issued or other action taken pursuant
10 to such exemptions.

○