

Calendar No. 275

115TH CONGRESS
1ST SESSION**S. 2192**

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2017

Mr. GRASSLEY (for himself, Mr. CORNYN, Mr. TILLIS, Mr. LANKFORD, Mr. COTTON, and Mr. PERDUE) introduced the following bill; which was read the first time

DECEMBER 6, 2017

Read the second time and placed on the calendar

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Security, Enforcement, and Compassion United in Re-
6 form Efforts Act” or the “SECURE Act of 2017”.

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

Sec. 1. Short title table of contents.

TITLE I—BUILDING AMERICA’S TRUST ACT

Sec. 1001. Short title.

Subtitle A—Border Security

Sec. 1101. Short title.

Sec. 1102. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

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

Sec. 1112. Land use or acquisition.

Sec. 1113. Air and Marine Operations flight hours.

Sec. 1114. Capability deployment to specific sectors and transit zone.

Sec. 1115. Deployment of assets.

Sec. 1116. U.S. Border Patrol activities.

Sec. 1117. Border security technology program management.

Sec. 1118. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.

Sec. 1119. Operation Phalanx.

Sec. 1120. Merida Initiative.

Sec. 1121. Prohibitions on actions that impede border security on certain Federal land.

Sec. 1122. Landowner and rancher security enhancement.

Sec. 1123. Limitation on land owner’s liability.

Sec. 1124. Eradication of carrizo cane and salt cedar.

Sec. 1125. Prevention, detection, control, and eradication of diseases and pests.

Sec. 1126. Transnational criminal organization illicit spotter prevention and detection.

Sec. 1127. Southern border threat analysis.

Sec. 1128. Amendments to U.S. Customs and Border Protection.

Sec. 1129. Agent and officer technology use.

Sec. 1130. Integrated Border Enforcement Teams.

Sec. 1131. Tunnel Task Forces.

CHAPTER 2—PERSONNEL

Sec. 1141. Additional U.S. Customs and Border Protection agents and officers.

Sec. 1142. U.S. Customs and Border Protection retention incentives.

Sec. 1143. Anti-Border Corruption Reauthorization Act.

Sec. 1144. Training for officers and agents of U.S. Customs and Border Protection.

Sec. 1145. Additional U.S. Immigration and Customs Enforcement personnel.

Sec. 1146. Other immigration and law enforcement personnel.

Sec. 1147. Judicial resources for border security.

Sec. 1148. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

CHAPTER 3—GRANTS

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

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS

- Sec. 1161. Authorization of appropriations.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

- Sec. 1201. Definitions.
- Sec. 1202. Ports of entry infrastructure.
- Sec. 1203. Secure communications.
- Sec. 1204. Border security deployment program.
- Sec. 1205. Pilot and upgrade of license plate readers at ports of entry.
- Sec. 1206. Biometric technology.
- Sec. 1207. Nonintrusive inspection operational demonstration project.
- Sec. 1208. Biometric exit data system.
- Sec. 1209. Sense of Congress on cooperation between agencies.
- Sec. 1210. Authorization of appropriations.

Subtitle C—Domestic Security and Interior Enforcement

CHAPTER 1—GENERAL MATTERS

- Sec. 1301. Ending catch and release for repeat immigration violators and criminals aliens.
- Sec. 1302. Deterring visa overstays.
- Sec. 1303. Increase in immigration detention capacity.
- Sec. 1304. Collection of DNA from criminal and detained aliens.
- Sec. 1305. Collection, use, and storage of biometric data.
- Sec. 1306. Pilot program for electronic field processing.
- Sec. 1307. Ending abuse of parole authority.
- Sec. 1308. Reports to Congress on parole.
- Sec. 1309. Stop Dangerous Sanctuary Cities Act.
- Sec. 1310. Reinstatement of the Secure Communities Program.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

- Sec. 1320. Short title.
- Sec. 1321. Repatriation of unaccompanied alien children.
- Sec. 1322. Expedited due process and screening for unaccompanied alien children.
- Sec. 1323. Child welfare and law enforcement information sharing.
- Sec. 1324. Accountability for children and taxpayers.
- Sec. 1325. Custody of unaccompanied alien children in formal removal proceeding.
- Sec. 1326. Fraud in connection with the transfer of custody of unaccompanied alien children.
- Sec. 1327. Notification of States and foreign governments, reporting, and monitoring.

- Sec. 1328. Emergency immigration judge resources.
- Sec. 1329. Reports to Congress.

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

- Sec. 1401. Dangerous human smuggling, human trafficking, and human rights violations.
- Sec. 1402. Putting the Brakes on Human Smuggling Act.
- Sec. 1403. Drug trafficking and crimes of violence committed by illegal aliens.
- Sec. 1404. Establishing inadmissibility and deportability.
- Sec. 1405. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.
- Sec. 1406. Penalties for reentry of removed aliens.
- Sec. 1407. Laundering of monetary instruments.
- Sec. 1408. Freezing bank accounts of international criminal organizations and money launderers.
- Sec. 1409. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
- Sec. 1410. Closing the loophole on drug cartel associates engaged in money laundering.

Subtitle E—Protecting National Security and Public Safety

CHAPTER 1—GENERAL MATTERS

- Sec. 1501. Definitions of engage in terrorist activity and terrorist organization.
- Sec. 1502. Terrorist grounds of inadmissibility.
- Sec. 1503. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 1504. Detention of removable aliens.
- Sec. 1505. GAO study on deaths in custody.
- Sec. 1506. GAO study on migrant deaths.
- Sec. 1507. Statute of limitations for visa, naturalization, and other fraud offenses involving war crimes or human rights violations.
- Sec. 1508. Criminal detention of aliens to protect public safety.
- Sec. 1509. Recruitment of persons to participate in terrorism.
- Sec. 1510. Barring and removing persecutors, war criminals, and participants in crimes against humanity from the United States.
- Sec. 1511. Gang membership, removal, and increased criminal penalties related to gang violence.
- Sec. 1512. Barring aliens with convictions for driving under the influence or while intoxicated.
- Sec. 1513. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
- Sec. 1514. Protecting immigrants from convicted sex offenders.
- Sec. 1515. Enhanced criminal penalties for high speed flight.
- Sec. 1516. Prohibition on asylum and cancellation of removal for terrorists.
- Sec. 1517. Aggravated felonies.
- Sec. 1518. Convictions.
- Sec. 1519. Failure to obey removal orders.
- Sec. 1520. Sanctions for countries that delay or prevent repatriation of their nationals.
- Sec. 1521. Enhanced penalties for construction and use of border tunnels.

- Sec. 1522. Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- Sec. 1523. Expansion of criminal alien repatriation programs.

CHAPTER 2—STRONG VISA INTEGRITY SECURES AMERICA ACT

- Sec. 1531. Short title.
- Sec. 1532. Visa security.
- Sec. 1533. Electronic passport screening and biometric matching.
- Sec. 1534. Reporting visa overstays.
- Sec. 1535. Student and exchange visitor information system verification.
- Sec. 1536. Social media review of visa applicants.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

- Sec. 1541. Cancellation of additional visas.
- Sec. 1542. Visa information sharing.
- Sec. 1543. Visa interviews.
- Sec. 1544. Judicial review of visa revocation.

CHAPTER 4—SECURE VISAS ACT

- Sec. 1551. Short title.
- Sec. 1552. Authority of the Secretary of Homeland Security and the Secretary of State.

CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2017

- Sec. 1561. Short title.
- Sec. 1562. Expanded usage of fraud prevention and detection fees.
- Sec. 1563. Visa information sharing.
- Sec. 1564. Inadmissibility of spouses and children of traffickers.
- Sec. 1565. DNA testing.
- Sec. 1566. Access to NCIC criminal history database for diplomatic visas.
- Sec. 1567. Elimination of signed photograph requirement for visa applications.

CHAPTER 6—OTHER MATTERS

- Sec. 1571. Requirement for completion of background checks.
- Sec. 1572. Withholding of adjudication.
- Sec. 1573. Access to the National Crime Information Center Interstate Identification Index.
- Sec. 1574. Appropriate remedies for immigration litigation.
- Sec. 1575. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 1576. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 1577. Conforming amendment to the definition of racketeering activity.
- Sec. 1578. Validity of electronic signatures.

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

CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS

- Sec. 1601. Lawful permanent residents as applicants for admission.
- Sec. 1602. Date of admission for purposes of adjustment of status.

- Sec. 1603. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.
- Sec. 1604. Revocation of lawful permanent resident status for human rights violators.
- Sec. 1605. Removal of condition on lawful permanent resident status prior to naturalization.
- Sec. 1606. Prohibition on terrorists and aliens who pose a threat to national security or public safety from receiving an adjustment of status.
- Sec. 1607. Treatment of applications for adjustment of status during pending denaturalization proceedings.
- Sec. 1608. Extension of time limit to permit rescission of permanent resident status.
- Sec. 1609. Barring persecutors and terrorists from registry.

CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES
CITIZENSHIP

- Sec. 1621. Barring terrorists from becoming naturalized United States citizens.
- Sec. 1622. Terrorist bar to good moral character.
- Sec. 1623. Prohibition on judicial review of naturalization applications for aliens in removal proceedings.
- Sec. 1624. Limitation on judicial review when agency has not made decision on naturalization application and on denials.
- Sec. 1625. Clarification of denaturalization authority.
- Sec. 1626. Denaturalization of terrorists.
- Sec. 1627. Treatment of pending applications during denaturalization proceedings.
- Sec. 1628. Naturalization document retention.

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

- Sec. 1631. Forfeiture of proceeds from passport and visa offenses.
- Sec. 1632. Passport Revocation Act.

TITLE II—ASYLUM REFORM AND BORDER PROTECTION ACT OF
2017

- Sec. 2001. Short title.
- Sec. 2002. Clarification of intent regarding taxpayer-provided counsel.
- Sec. 2003. Unaccompanied alien child defined.
- Sec. 2004. Modifications to preferential availability for asylum for unaccompanied alien minors.
- Sec. 2005. Information sharing between the Department of Health and Human Services and the Department of Homeland Security.
- Sec. 2006. Reports.
- Sec. 2007. Termination of asylum status pursuant to return to home country.
- Sec. 2008. Asylum cases for home schoolers.
- Sec. 2009. Notice concerning frivolous asylum applications:.
- Sec. 2010. Termination of asylum status.
- Sec. 2011. Time limits for applying for asylum.
- Sec. 2012. Limits on continuances in removal proceedings.

TITLE III—E-VERIFY

- Sec. 3001. Permanent reauthorization.

- Sec. 3002. Preemption; liability.
- Sec. 3003. Information sharing.
- Sec. 3004. Small Business Demonstration Program.
- Sec. 3005. Fraud prevention.
- Sec. 3006. Identity authentication employment eligibility verification pilot programs.

TITLE IV—BRIDGE ACT

- Sec. 4001. Short title.
- Sec. 4002. Provisional protected presence for young individuals.

TITLE V—REFORMING AMERICAN IMMIGRATION FOR A STRONG ECONOMY ACT

- Sec. 5001. Short title.
- Sec. 5002. Family-Sponsored immigration priorities.

TITLE VI—OTHER MATTERS

- Sec. 6001. Other Immigration and Nationality Act amendments.
- Sec. 6002. Exemption from the Administrative Procedure Act.
- Sec. 6003. Exemption from the Paperwork Reduction Act.
- Sec. 6004. Ability to fill and retain Department of Homeland Security positions in United States territories.
- Sec. 6005. Severability.
- Sec. 6006. Funding.

TITLE VII—TECHNICAL AMENDMENTS

- Sec. 7001. References to the Immigration and Nationality Act.
- Sec. 7002. Technical amendments to title I of the Immigration and Nationality Act.
- Sec. 7003. Technical amendments to title II of the Immigration and Nationality Act.
- Sec. 7004. Technical amendments to title III of the Immigration and Nationality Act.
- Sec. 7005. Technical amendment to title IV of the Immigration and Nationality Act.
- Sec. 7006. Technical amendments to title V of the Immigration and Nationality Act.
- Sec. 7007. Other amendments.
- Sec. 7008. Repeals; rule of construction.
- Sec. 7009. Miscellaneous technical correction.

1 **TITLE I—BUILDING AMERICA’S** 2 **TRUST ACT**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Building America’s
5 Trust Act”.

1 **Subtitle A—Border Security**

2 **SEC. 1101. SHORT TITLE.**

3 This subtitle may be cited as the “Border Security
4 for America Act of 2017”.

5 **SEC. 1102. DEFINITIONS.**

6 In this subtitle:

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

13 (2) **APPROPRIATE CONGRESSIONAL COM-**
14 **MITTEE.**—The term “appropriate congressional com-
15 mittee” has the meaning given the term in section
16 2(2) of the Homeland Security Act of 2002 (6
17 U.S.C. 101(2)).

18 (3) **COMMISSIONER.**—The term “Commis-
19 sioner” means the Commissioner of U.S. Customs
20 and Border Protection.

21 (4) **HIGH TRAFFIC AREAS.**—The term “high
22 traffic areas” has the meaning given the term in sec-
23 tion 102(e)(1) of the Illegal Immigration Reform
24 and Immigrant Responsibility Act of 1996, as
25 amended by section 1111 of this Act.

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

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

7 (7) SITUATIONAL AWARENESS.—The term “sit-
8 uational awareness” has the meaning given the term
9 in section 1092(a)(7) of the National Defense Au-
10 thorization Act for Fiscal Year 2017 (Public Law
11 114–328; 6 U.S.C. 223(a)(7)).

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

17 **CHAPTER 1—INFRASTRUCTURE AND**
18 **EQUIPMENT**

19 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-**
20 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

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

9 (2) in subsection (b)—

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

13 (B) in paragraph (1)—

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

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

19 “(B) TACTICAL INFRASTRUCTURE.—

20 “(i) IN GENERAL.—Not later than
21 January 20, 2021, the Secretary of Home-
22 land Security, in carrying out subsection
23 (a), shall deploy along the United States
24 border the most practical and effective tac-
25 tical infrastructure available for achieving

1 situational awareness and operational con-
2 trol of the border.

3 “(ii) EXCEPTION FOR CERTAIN TAC-
4 TICAL INFRASTRUCTURE.—The deployment
5 of tactical infrastructure under this sub-
6 paragraph shall not apply in areas along
7 the border where natural terrain features,
8 natural barriers, or the remoteness of such
9 area would make deployment ineffective, as
10 determined by the Secretary, for the pur-
11 poses of gaining situational awareness or
12 operational control of such areas.”; and

13 (iii) in subparagraph (C)—

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

16 “(i) IN GENERAL.—In carrying out
17 this section, the Secretary of Homeland
18 Security, before deploying tactical infra-
19 structure in a specific area or region, shall
20 consult with the Secretary of the Interior,
21 the Secretary of Agriculture, the Governors
22 of each State on the southern land border
23 or the northern land border, other States,
24 local governments, Indian tribes, represent-
25 atives of U.S. Border Patrol and U.S. Cus-

1 toms and Border Protection, relevant Fed-
2 eral, State, local, and tribal agencies that
3 have jurisdiction on the southern land bor-
4 der or in the maritime environment along
5 the southern border, and private property
6 owners in the United States to minimize
7 the impact on the environment, culture,
8 commerce, quality of life for the commu-
9 nities and residents located near the sites
10 at which physical barriers, tactical infra-
11 structure, and technology are to be con-
12 structed.”;

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

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

17 “(ii) NOTIFICATION.—Not later than
18 60 days after the completion of the con-
19 sultation required under clause (i), the
20 Secretary of Homeland Security shall no-
21 tify the Committee on Homeland Security
22 of the House of Representatives and the
23 Committee on Homeland Security and
24 Governmental Affairs of the Senate of the
25 type of tactical infrastructure and tech-

1 nology that the Secretary has determined
2 is most practical and effective to achieve
3 operational control and situational aware-
4 ness in a specific area and the other alter-
5 natives the Secretary considered before
6 making such a determination.”;

7 (C) in paragraph (2)—

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

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

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

16 “(3) AGENT SAFETY.—In carrying out this sec-
17 tion, the Secretary of Homeland Security, when con-
18 structing tactical infrastructure, shall incorporate
19 such safety features into the design of such tactical
20 infrastructure that the Secretary determines, in the
21 Secretary’s sole discretion, are necessary to maxi-
22 mize the safety and effectiveness of officers or
23 agents of the Department of Homeland Security or
24 of any other Federal agency.”;

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

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of law, the Secretary of Homeland Security
5 is authorized to waive all legal requirements that the
6 Secretary, in the Secretary’s sole discretion, deter-
7 mines necessary to ensure the expeditious construc-
8 tion, installation, operation, and maintenance of the
9 tactical infrastructure and technology under this sec-
10 tion. Any such decision by the Secretary shall be ef-
11 fective upon publication in the Federal Register.”;
12 and

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

14 “(e) CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF TECHNOLOGY.—Not later than January 20,
15 2021, the Secretary of Homeland Security, in carrying out
16 subsection (a), shall deploy along the United States border
17 the most practical and effective technology available for
18 achieving situational awareness and operational control of
19 the border.

21 “(f) DEFINITIONS.—In this section:

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

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

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

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

10 “(3) SITUATIONAL AWARENESS DEFINED.—The
11 term ‘situational awareness’ has the meaning given
12 the term in section 1092(a)(7) of the National De-
13 fense Authorization Act for Fiscal Year 2017 (Pub-
14 lic Law 114–328; 6 U.S.C. 223(a)(7)).

15 “(4) TACTICAL INFRASTRUCTURE.—The term
16 ‘tactical infrastructure’ means—

17 “(A) boat ramps, access gates, check-
18 points, lighting, and roads; and

19 “(B) physical barriers (including fencing,
20 border wall system, and levee walls).

21 “(5) TECHNOLOGY.—The term ‘technology’
22 means border surveillance and detection technology,
23 including—

24 “(A) tower-based surveillance technology;

1 “(B) deployable, lighter-than-air ground
2 surveillance equipment;

3 “(C) Vehicle and Dismount Exploitation
4 Radars (VADER);

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

8 “(E) advanced unattended surveillance
9 sensors;

10 “(F) mobile vehicle-mounted and man-
11 portable surveillance capabilities;

12 “(G) unmanned aerial vehicles; and

13 “(H) predator-type unmanned aircraft sys-
14 tems.”.

15 **SEC. 1112. LAND USE OR ACQUISITION.**

16 Section 103(b) of the Immigration and Nationality
17 Act (8 U.S.C. 1103 note) is amended to read as follows:

18 “(b)(1) The Secretary may lease, contract for, or buy
19 any interest in land, including temporary use rights, adja-
20 cent to or in the vicinity of an international land border
21 when the Secretary determines that such land is essential
22 to control and guard the boundaries and borders of the
23 United States against any violation of this Act.

24 “(2) The Secretary may lease, contract for, or buy
25 any interest in land described in paragraph (1) when—

1 “(A) the lawful owner of that interest fixes a
2 price for leasing, contracting, or buying such inter-
3 est; and

4 “(B) the Secretary considers the price referred
5 to in subparagraph (A) to be reasonable.

6 “(3) If the Secretary and the lawful owner of an in-
7 terest in land described in paragraph (1) are unable to
8 agree to lease, contract for, or buy such interest at a rea-
9 sonable price for such lease, contract, or purchase, the
10 Secretary may commence condemnation proceedings pur-
11 suant to the Act of August 1, 1888 (Chapter 728; 25 Stat.
12 357).”.

13 **SEC. 1113. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

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

18 (b) **UNMANNED AERIAL SYSTEM.**—The Secretary
19 shall ensure that Air and Marine Operations operate un-
20 manned aerial systems on the southern border of the
21 United States for not fewer than 24 hours per day for
22 5 days per week.

23 (c) **CONTRACT AIR SUPPORT AUTHORIZATION.**—The
24 Commissioner shall contract for any additional aviation
25 services needed to fulfill identified air support mission

1 critical hours, as identified by the Chief of the U.S. Border
2 Patrol.

3 (d) PRIMARY MISSION.—The Commissioner shall en-
4 sure that—

5 (1) the primary missions for Air and Marine
6 Operations are to directly support U.S. Border Pa-
7 trol activities along the southern border of the
8 United States and Joint Interagency Task Force
9 South operations in the transit zone; and

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

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

17 (1) identify critical flight hour requirements;
18 and

19 (2) direct Air and Marine Operations to sup-
20 port requests from Sector Chiefs as their primary
21 mission.

22 (f) SMALL UNMANNED AERIAL VEHICLES.—

23 (1) IN GENERAL.—The Chief of the U.S. Bor-
24 der Patrol shall be the operational lead for U.S.
25 Customs and Border Protection’s use of small, un-

1 manned aerial vehicles for the purpose of meeting
2 the U.S. Border Patrol’s unmet flight hour oper-
3 ational requirements and to achieve situational
4 awareness and operational control.

5 (2) COORDINATION.—In carrying out para-
6 graph (1), the Chief of the U.S. Border Patrol shall
7 coordinate with the Executive Assistant Commis-
8 sioner for Air and Marine Operations of U.S. Cus-
9 toms and Border Protection to ensure the safety of
10 other aircraft flying in the vicinity of small, un-
11 manned aerial vehicles operated by U.S. Border Pa-
12 trol.

13 (3) DEFINED TERM.—In this subsection, the
14 term “small, unmanned aerial vehicle” means any
15 unmanned aerial vehicle operated by U.S. Customs
16 and Border Protection weighing less than 55
17 pounds.

18 (4) CONFORMING AMENDMENT.—Section
19 411(e)(3) of the Homeland Security Act of 2002 (6
20 U.S.C. 211(e)(3)) is amended—

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

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

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

3 “(C) carry out the small unmanned aerial
4 vehicle requirements under section 1112(f) of
5 the Border Security for America Act of 2017;
6 and”.

7 **SEC. 1114. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
8 **TORS AND TRANSIT ZONE.**

9 (a) IN GENERAL.—Not later than January 20, 2021,
10 the Secretary, in implementing section 102 of the Illegal
11 Immigration Reform and Immigrant Responsibility Act of
12 1996 (as amended by section 1111 of this Act), and acting
13 through the appropriate component of the Department of
14 Homeland Security, shall deploy to each sector or region
15 of the southern border and the northern border, in a
16 prioritized manner to achieve situational awareness and
17 operational control of such borders, the following addi-
18 tional capabilities:

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

21 (A) Tower-based surveillance technology.

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

24 (C) To increase coastal maritime domain
25 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 2 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 3 fiscal years.

19 (B) Increased maritime signals intelligence
20 capabilities.

21 (C) To increase maritime domain aware-
22 ness—

23 (i) unmanned aerial vehicles with
24 maritime surveillance capability; and

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) REIMBURSEMENT RELATED TO THE LOWER RIO
17 GRANDE VALLEY FLOOD CONTROL PROJECT.—The
18 International Boundary and Water Commission is author-
19 ized to reimburse State and local governments for any ex-
20 penses incurred before, on, or after the date of the enact-
21 ment of this Act by such governments in designing, con-
22 structing, and rehabilitating the Lower Rio Grande Valley
23 Flood Control Project of the Commission.

24 (c) TACTICAL FLEXIBILITY.—

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

3 (A) IN GENERAL.—Beginning on January
4 20, 2020, or after the Secretary has deployed at
5 least 25 percent of the capabilities required in
6 each sector specified in subsection (a), which-
7 ever comes later, the Secretary may deviate
8 from such capability deployments if the Sec-
9 retary determines that such deviation is re-
10 quired to achieve situational awareness or oper-
11 ational control.

12 (B) NOTIFICATION.—If the Secretary exer-
13 cises the authority described in subparagraph
14 (A), the Secretary shall, not later than 90 days
15 after such exercise, notify the Committee on
16 Homeland Security and Governmental Affairs
17 of the Senate and the Committee on Homeland
18 Security of the House of Representatives re-
19 garding the deviation under such subparagraph
20 that is the subject of such exercise. Not later
21 than 90 days after the Secretary makes any
22 changes to such deviation, the Secretary shall
23 notify such committees regarding such change.

24 (2) TRANSIT ZONE.—

1 (A) NOTIFICATION.—The Secretary shall
2 notify the Committee on Homeland Security
3 and Governmental Affairs of the Senate, the
4 Committee on Commerce, Science, and Trans-
5 portation of the Senate, the Committee on
6 Homeland Security of the House of Representa-
7 tives, and the Committee on Transportation
8 and Infrastructure of the House of Representa-
9 tives regarding the capability deployments for
10 the transit zone specified in subsection (a)(18),
11 including information relating to—

12 (i) the number and types of assets
13 and personnel deployed; and

14 (ii) the impact such deployments have
15 on the capability of the Coast Guard to
16 conduct its mission in the transit zone re-
17 ferred to in subsection (a)(18).

18 (B) ALTERATION.—The Secretary may
19 alter the capability deployments referred to in
20 this section if the Secretary—

21 (i) determines, after consultation with
22 the committees referred to in subpara-
23 graph (A), that such alteration is nec-
24 essary; and

1 (ii) not later than 30 days after mak-
2 ing a determination under clause (i), noti-
3 fies the committees referred to in such
4 subparagraph regarding such alteration,
5 including information relating to—

6 (I) the number and types of as-
7 sets and personnel deployed pursuant
8 to such alteration; and

9 (II) the impact such alteration
10 has on the capability of the Coast
11 Guard to conduct its mission in the
12 transit zone referred to in subsection
13 (a)(18).

14 (d) EXIGENT CIRCUMSTANCES.—

15 (1) IN GENERAL.—Notwithstanding subsection
16 (b), the Secretary may deploy the capabilities re-
17 ferred to in subsection (a) in a manner that is incon-
18 sistent with the requirements specified in such sub-
19 section if, after the Secretary has deployed at least
20 25 percent of such capabilities, the Secretary deter-
21 mines that exigent circumstances demand such an
22 inconsistent deployment or that such an inconsistent
23 deployment is vital to the national security interests
24 of the United States.

1 (2) NOTIFICATION.—Not later than 30 days
2 after making a determination under paragraph (1),
3 the Secretary shall notify the Committee on Home-
4 land Security of the House of Representatives and
5 the Committee on Homeland Security and Govern-
6 mental Affairs of the Senate of such determination
7 and provide a detailed justification for such deter-
8 mination.

9 **SEC. 1115. DEPLOYMENT OF ASSETS.**

10 (a) JOINT BRIEFING.—Not later than March 1 of
11 each year, the Secretary (or the Secretary’s designees)
12 shall conduct a joint, comprehensive briefing for all Mem-
13 bers of the appropriate congressional committees on the
14 deployment of Department of Homeland Security per-
15 sonnel and assets along the borders of the United States.

16 (b) CONTENT.—Each briefing conducted pursuant to
17 shall include—

18 (1) the number and types of assets and per-
19 sonnel to be deployed in each sector and district;

20 (2) the cause for any change in deployments of
21 assets and personnel in each sector and district; and

22 (3) the anticipated impact that such deploy-
23 ments or change in deployments are to have in
24 terms of the capacity of the Department of Home-

1 land Security to conduct its mission in each sector
2 or district.

3 **SEC. 1116. U.S. BORDER PATROL ACTIVITIES.**

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

9 **SEC. 1117. BORDER SECURITY TECHNOLOGY PROGRAM**
10 **MANAGEMENT.**

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

14 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**
15 **MANAGEMENT.**

16 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
17 this section, the term ‘major acquisition program’ means
18 an acquisition program of the Department that is esti-
19 mated by the Secretary to require an eventual total ex-
20 penditure of at least \$300,000,000 (based on fiscal year
21 2017 constant dollars) over its life cycle cost.

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

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

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

9 “(3) have a plan for meeting program imple-
10 mentation objectives by managing contractor per-
11 formance.

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

23 “(d) PLAN.—The Secretary, acting through the
24 Under Secretary for Management, in coordination with
25 the Under Secretary for Science and Technology and the

1 Commissioner of U.S. Customs and Border Protection,
2 shall submit to the appropriate congressional committees
3 a plan for testing, evaluating, and using independent
4 verification and validation resources for border security
5 technology. Under the plan, new border security tech-
6 nologies shall be evaluated through a series of assess-
7 ments, processes, and audits to ensure—

8 “(1) compliance with relevant departmental ac-
9 quisition policies and the Federal Acquisition Regu-
10 lation; and

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

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
15 433 the following:

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

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

1 **SEC. 1118. NATIONAL GUARD SUPPORT TO SECURE THE**
2 **SOUTHERN BORDER AND REIMBURSEMENT**
3 **OF STATES FOR DEPLOYMENT OF THE NA-**
4 **TIONAL GUARD AT THE SOUTHERN BORDER.**

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

13 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

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

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

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

1 (1) construct reinforced fencing or other phys-
2 ical barriers;

3 (2) operate ground-based surveillance systems;

4 (3) operate unmanned and manned aircraft;

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

9 (5) construct checkpoints along the Southern
10 border to bridge the gap to long-term permanent
11 checkpoints; and

12 (6) provide intelligence support.

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

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

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

1 (2) limits on the number of National Guard
2 personnel that may be placed on active duty for
3 operational support under section 115 of title 10,
4 United States Code.

5 (f) REIMBURSEMENT REQUIRED.—

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

14 (2) LIMITATION.—The total amount of reim-
15 bursements under this section may not exceed
16 \$35,000,000 in any fiscal year.

17 **SEC. 1119. OPERATION PHALANX.**

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

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

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

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

3 (2) intelligence analysis support.

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

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

15 (e) REPORTS.—

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

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

4 (A) the assistance provided;

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

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

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

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

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

18 **SEC. 1120. MERIDA INITIATIVE.**

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

23 (1) be focused on providing enhanced border se-
24 curity at Mexico’s northern and southern borders,

1 judicial reform, and support for Mexico’s anti-drug
2 efforts; and

3 (2) return to its original focus and prioritize se-
4 curity, training, and acquisition of equipment for
5 Mexican security forces involved in anti-drug efforts
6 as well as be used to train prosecutors in ongoing
7 justice reform efforts.

8 (b) ASSISTANCE FOR MEXICO.—The Secretary of
9 State, in coordination with the Secretary and the Sec-
10 retary of Defense, shall provide level and consistent assist-
11 ance to Mexico—

12 (1) to combat drug production and trafficking
13 and related violence, transnational organized crimi-
14 nal organizations, and corruption;

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

17 (3) to support border security and cooperation
18 with United States military, intelligence, and law en-
19 forcement agencies on border incursions;

20 (4) to support judicial reform, institution build-
21 ing, and rule of law activities to build judicial capac-
22 ity, address corruption and impunity, and support
23 human rights; and

1 (5) to provide for training and equipment for
2 Mexican security forces involved in efforts to eradi-
3 cate and interdict drugs.

4 (c) ALLOCATION OF FUNDS; REPORT.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, 50 percent of any assistance appro-
7 priated in any appropriations Act to implement this
8 section shall be withheld until after the Secretary of
9 State submits a written report to the congressional
10 committees specified in paragraph (3) certifying that
11 the Government of Mexico is—

12 (A) significantly reducing illegal migration,
13 drug trafficking, and cross-border criminal ac-
14 tivities on Mexico’s northern and southern bor-
15 ders;

16 (B) taking significant action to address
17 corruption, impunity, and human rights abuses;
18 and

19 (C) improving the transparency and ac-
20 countability of Mexican Federal police forces
21 and working with Mexican State and municipal
22 authorities to improve the transparency and ac-
23 countability of Mexican State and municipal po-
24 lice forces.

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

4 (A) actions taken by the Government of
5 Mexico to address the matters described in such
6 paragraph;

7 (B) any relevant assessments by civil soci-
8 ety and non-government organizations in Mex-
9 ico relating to such matters; and

10 (C) any instances in which the Secretary
11 determines that the actions taken by the Gov-
12 ernment of Mexico are inadequate to address
13 such matters.

14 (3) CONGRESSIONAL COMMITTEES SPECI-
15 FIED.—The congressional committees specified in
16 this paragraph are—

17 (A) the Committee on Appropriations of
18 the Senate;

19 (B) the Committee on Homeland Security
20 and Governmental Affairs of the Senate;

21 (C) the Committee on the Judiciary of the
22 Senate;

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

1 (E) the Committee on Appropriations of
2 the House of Representatives;

3 (F) the Committee on Homeland Security
4 of the House of Representatives;

5 (G) the Committee on the Judiciary of the
6 House of Representatives; and

7 (H) the Committee on Foreign Affairs of
8 the House of Representatives.

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

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

15 (2) the notification requirements of—

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

18 (B) the Committee on the Judiciary of the
19 Senate;

20 (C) the Committee on Foreign Relations of
21 the Senate;

22 (D) the Committee on Homeland Security
23 of the House of Representatives;

24 (E) the Committee on the Judiciary of the
25 House of Representatives; and

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

3 (e) SPENDING PLAN.—Not later than 45 days after
4 the date of the enactment of this Act, the Secretary of
5 State shall submit to the congressional committees speci-
6 fied in subsection (c)(3) a detailed spending plan for as-
7 sistance to Mexico under this section, which shall include
8 a strategy, developed after consulting with relevant au-
9 thorities of the Government of Mexico, for—

10 (1) combating drug trafficking and related vio-
11 lence and organized crime; and

12 (2) anti-corruption and rule of law activities,
13 which shall include concrete goals, actions to be
14 taken, budget proposals, and a description of antici-
15 pated results.

16 **SEC. 1121. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
17 **DER SECURITY ON CERTAIN FEDERAL LAND.**

18 (a) PROHIBITION ON INTERFERENCE WITH U.S.
19 CUSTOMS AND BORDER PROTECTION.—

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

1 aliens, instruments of terrorism, narcotics, and other
2 contraband through the southern border or the
3 northern border.

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

9 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
10 BORDER PROTECTION.—

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

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

21 (A) the use of motorized vehicles, foot pa-
22 trols, and horseback to patrol the border area,
23 apprehend illegal entrants, and rescue individ-
24 uals; and

1 (B) the construction, installation, oper-
2 ation and maintenance of tactical infrastructure
3 and border technology described in section 102
4 of the Illegal Immigration Reform and Immig-
5 grant Responsibility Act of 1996, as amended
6 by section 1111 of this Act.

7 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
8 ITY.—

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

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

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

20 (B) The Endangered Species Act of 1973
21 (16 U.S.C. 1531 et seq.).

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

1 (D) Division A of subtitle III of title 54,
2 United States Code (54 U.S.C. 300301 et seq.)
3 (formerly known as the “National Historic
4 Preservation Act”).

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

7 (F) The Clean Air Act (42 U.S.C. 7401 et
8 seq.).

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

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

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

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

17 (K) The Comprehensive Environmental
18 Response, Compensation, and Liability Act of
19 1980 (42 U.S.C. 9601 et seq.).

20 (L) Chapter 3125 of title 54, United
21 States Code (formerly known as the “Archeo-
22 logical and Historic Preservation Act”).

23 (M) The Antiquities Act (16 U.S.C. 431 et
24 seq.).

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

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

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

8 (Q) The Coastal Zone Management Act of
9 1972 (16 U.S.C. 1451 et seq.).

10 (R) The Wilderness Act (16 U.S.C. 1131
11 et seq.).

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

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

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

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

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

24 (X) The Otay Mountain Wilderness Act of
25 1999 (Public Law 106–145).

1 (Y) Sections 102(29) and 103 of the Cali-
2 fornia Desert Protection Act of 1994 (Public
3 Law 103–433).

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

7 (AA) The National Park Service General
8 Authorities Act (Public Law 91–383, 16 U.S.C.
9 1a–1 et seq.).

10 (BB) Sections 401(7), 403, and 404 of the
11 National Parks and Recreation Act of 1978
12 (Public Law 95–625).

13 (CC) Sections 301(a) through (f) of the
14 Arizona Desert Wilderness Act (Public Law
15 101–628).

16 (DD) The Rivers and Harbors Act of 1899
17 (33 U.S.C. 403).

18 (EE) The Eagle Protection Act (16 U.S.C.
19 668 et seq.).

20 (FF) The Native American Graves Protec-
21 tion and Repatriation Act (25 U.S.C. 3001 et
22 seq.).

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

1 (HH) The Religious Freedom Restoration
2 Act (42 U.S.C. 2000bb).

3 (II) The National Forest Management Act
4 of 1976 (16 U.S.C. 1600 et seq.).

5 (JJ) The Multiple Use and Sustained
6 Yield Act of 1960 (16 U.S.C. 528 et seq.).

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

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

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

24 (1) authority to restrict legal uses, such as
25 grazing, hunting, mining, or recreation or the use of

1 backcountry airstrips, on land under the jurisdiction
2 of the Secretary of the Interior or the Secretary of
3 Agriculture; or

4 (2) any additional authority to restrict legal ac-
5 cess to such land.

6 (e) EFFECT ON STATE AND PRIVATE LAND.—This
7 section—

8 (1) shall have no force or effect on State lands
9 or private lands; and

10 (2) shall not provide authority on or access to
11 State lands or private lands.

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

16 (g) MEMORANDA OF UNDERSTANDING.—The re-
17 quirements of this section shall not apply to the extent
18 that such requirements are incompatible with any memo-
19 randum of understanding or similar agreement entered
20 into between the Commissioner of U.S. Customs and Bor-
21 der Protection and a National Park Unit before, on, or
22 after the date of the enactment of this Act.

23 (h) DEFINITIONS.—In this section:

24 (1) COVERED FEDERAL LAND.—The term “cov-
25 ered Federal land” includes all land under the con-

1 trol of the Secretary concerned that is located within
2 100 miles of the southern border or the northern
3 border.

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

6 (A) with respect to land under the jurisdic-
7 tion of the Department of Agriculture, the Sec-
8 retary of Agriculture; and

9 (B) with respect to land under the jurisdic-
10 tion of the Department of the Interior, the Sec-
11 retary of the Interior.

12 **SEC. 1122. LANDOWNER AND RANCHER SECURITY EN-**
13 **HANCEMENT.**

14 (a) ESTABLISHMENT OF NATIONAL BORDER SECUR-
15 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
16 lish a National Border Security Advisory Committee,
17 which—

18 (1) may advise, consult with, report to, and
19 make recommendations to the Secretary on matters
20 relating to border security matters, including—

21 (A) verifying security claims and the bor-
22 der security metrics established by the Depart-
23 ment of Homeland Security under section 1092
24 of the National Defense Authorization Act for

1 Fiscal Year 2017 (Public Law 114–328; 6
2 U.S.C. 223); and

3 (B) discussing ways to improve the secu-
4 rity of high traffic areas along the northern
5 border and the southern border; and

6 (2) may provide, through the Secretary, rec-
7 ommendations to Congress.

8 (b) CONSIDERATION OF VIEWS.—The Secretary shall
9 consider the information, advice, and recommendations of
10 the National Border Security Advisory Committee in for-
11 mulating policy regarding matters affecting border secu-
12 rity.

13 (c) MEMBERSHIP.—The National Border Security
14 Advisory Committee shall consist of at least 1 member
15 from each State who—

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

18 (2) lives and works in the United States within
19 80 miles from the southern border or the northern
20 border.

21 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
22 COMMITTEE ACT.—The Federal Advisory Committee Act
23 (5 U.S.C. App.) shall not apply to the National Border
24 Security Advisory Committee.

1 **SEC. 1123. LIMITATION ON LAND OWNER'S LIABILITY.**

2 Section 287 of the Immigration and Nationality Act
3 (8 U.S.C. 1357) is amended by adding at the end the fol-
4 lowing:

5 “(h) INDEMNITY FOR ACTIONS OF LAW ENFORCE-
6 MENT OFFICERS.—

7 “(1) DEFINITIONS.—In this subsection—

8 “(A) the term ‘land’ includes roads, water,
9 watercourses, and private ways, and buildings,
10 structures, machinery, and equipment that is
11 attached to real property; and

12 “(B) the term ‘owner’ includes the pos-
13 sessor of a fee interest, a tenant, a lessee, an
14 occupant, the possessor of any other interest in
15 land, and any person having a right to grant
16 permission to use the land.

17 “(2) REIMBURSEMENT AUTHORIZED.—Notwith-
18 standing any other provision of law, and subject to
19 the availability of appropriations, any owner of land
20 located in the United States within 150 miles of the
21 southern border of the United States may seek reim-
22 bursement from the Department and the Secretary
23 shall pay for any adverse final tort judgment for
24 negligence (excluding attorneys’ fees and costs) au-
25 thorized under Federal or State tort law, arising di-
26 rectly from any border patrol action, such as appre-

1 hensions, tracking, and detention of aliens, that is
2 conducted on privately-owned land if—

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

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

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

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

18 “(3) EXCEPTIONS.—Nothing in this subsection
19 may be construed to require the Secretary to reim-
20 burse, under paragraph (2), a land owner for any
21 adverse final tort judgment for negligence or to limit
22 land owner liability which would otherwise exist
23 for—

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

4 “(B) maintaining an attractive nuisance;

5 “(C) gross negligence; or

6 “(D) direct interference with, or hindrance
7 of, any agent or officer of the Federal Govern-
8 ment who is authorized to enforce the immigra-
9 tion laws during—

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

11 or

12 “(ii) any action taken to apprehend or
13 detain any alien attempting to enter the
14 United States illegally or to evade execu-
15 tion of an arrest warrant for a violation of
16 any immigration law.

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

22 **SEC. 1124. ERADICATION OF CARRIZO CANE AND SALT**
23 **CEDAR.**

24 Not later than January 20, 2021, the Secretary, after
25 coordinating with the heads of the relevant Federal, State,

1 and local agencies, shall begin eradicating the carrizo cane
 2 plant and any salt cedar along the Rio Grande River.

3 **SEC. 1125. PREVENTION, DETECTION, CONTROL, AND**
 4 **ERADICATION OF DISEASES AND PESTS.**

5 (a) DEFINITIONS.—In this section:

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

8 (2) ARTICLE.—The term “article” means any
 9 pest or disease or any material or tangible object
 10 that could harbor a pest or disease.

11 (3) DISEASE.—The term “disease” has the
 12 meaning given such term by the Secretary of Agri-
 13 culture.

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

16 (5) MEANS OF CONVEYANCE.—The term
 17 “means of conveyance” means any personal property
 18 used for, or intended for use for, the movement of
 19 any other personal property.

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

24 (A) A protozoan.

25 (B) A plant or plant part.

- 1 (C) An animal.
2 (D) A bacterium.
3 (E) A fungus.
4 (F) A virus or viroid.
5 (G) An infectious agent or other pathogen.
6 (H) An arthropod.
7 (I) A parasite or parasitic plant.
8 (J) A prion.
9 (K) A vector.
10 (L) Any organism similar to or allied with
11 any of the organisms described in this para-
12 graph.

13 (7) PLANT.—The term “plant” means any
14 plant (including any plant part) capable of propaga-
15 tion, including a tree, a tissue culture, a plantlet cul-
16 ture, pollen, a shrub, a vine, a cutting, a graft, a
17 scion, a bud, a bulb, a root, and a seed.

18 (8) STATE.—The term “State” means any of
19 the several States, the District of Columbia, the
20 Commonwealth of Puerto Rico, Guam, the Common-
21 wealth of the Northern Mariana Islands, the Virgin
22 Islands of the United States, and any territory or
23 possession of the United States.

24 (b) DETECTION, CONTROL, AND ERADICATION OF
25 THE SPREAD OF DISEASES AND PESTS.—

1 (1) IN GENERAL.—The Secretary of Agriculture
2 may carry out operations and measures to prevent,
3 detect, control, or eradicate the spread of any pest
4 or disease of livestock or plant that threatens any
5 segment of agriculture.

6 (2) COMPENSATION.—

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

9 (i) the destruction of any animal,
10 plant, plant part, article, or means of con-
11 veyance consistent with the purposes of
12 this section; and

13 (ii) implementing measures to pre-
14 vent, detect, control, or eradicate the
15 spread of any pest disease of livestock or
16 plant that threatens any segment of agri-
17 culture.

18 (B) SPECIFIC COOPERATIVE PROGRAMS.—
19 The Secretary of Agriculture shall compensate
20 industry participants and State agencies that
21 cooperate with the Secretary of Agriculture in
22 carrying out operations and measures under
23 this subsection for up to 100 percent of eligible
24 costs relating to—

1 (i) cooperative programs involving
2 Federal, State, or industry participants to
3 control diseases of low or high pathoge-
4 nicity and pests in accordance with regula-
5 tions issued by the Secretary of Agri-
6 culture; and

7 (ii) the construction and operation of
8 research laboratories, quarantine stations,
9 and other buildings and facilities for spe-
10 cial purposes.

11 (C) REVIEWABILITY.—The action of any
12 officer, employee, or agent of the Secretary of
13 Agriculture under paragraph (1) shall not be
14 subject to review by any officer or employee of
15 the Federal Government other than the Sec-
16 retary of Agriculture or a designee of the Sec-
17 retary of Agriculture.

18 (c) COOPERATION.—

19 (1) IN GENERAL.—In carrying out this section,
20 the Secretary of Agriculture may cooperate with
21 other Federal agencies, States, State agencies, polit-
22 ical subdivisions of States, national and local govern-
23 ments of foreign countries, domestic and inter-
24 national organizations and associations, domestic

1 nonprofit corporations, Indian tribes, and other per-
2 sons.

3 (2) RESPONSIBILITY.—The person or other en-
4 tity cooperating with the Secretary of Agriculture
5 shall be responsible for the authority necessary to
6 carry out operations or measures—

7 (A) on all land and property within a for-
8 eign country or State, or under the jurisdiction
9 of an Indian tribe, other than on land and
10 property owned or controlled by the United
11 States; and

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

14 (d) FUNDING.—For fiscal year 2018, and for each
15 subsequent fiscal year, the Secretary of Agriculture shall
16 use such funds from the Commodity Credit Cooperation
17 as may be necessary to carry out operations and measures
18 to prevent, detect, control, or eradicate the spread of any
19 pest or disease of livestock or plant that threatens any
20 segment of agriculture.

21 (e) REIMBURSEMENT.—The Secretary of Agriculture
22 shall reimburse any Federal agency, State, State agency,
23 political subdivision of a State, national or local govern-
24 ment of a foreign country, domestic or international orga-
25 nization or association, domestic nonprofit corporation,

1 Indian tribe, or other person for specified costs, as pre-
2 scribed by the Secretary of Agriculture, in the discretion
3 of the Secretary of Agriculture, that result from coopera-
4 tion with the Secretary of Agriculture in carrying out op-
5 erations and measures under this section.

6 **SEC. 1126. TRANSNATIONAL CRIMINAL ORGANIZATION IL-**
7 **LICIT SPOTTER PREVENTION AND DETEC-**
8 **TION.**

9 (a) UNLAWFULLY HINDERING IMMIGRATION, BOR-
10 DER, AND CUSTOMS CONTROLS.—

11 (1) ENHANCED PENALTIES.—Chapter 9 of title
12 II of the Immigration and Nationality Act (8 U.S.C.
13 1351 et seq.) is amended by adding at the end the
14 following:

15 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
16 **DER, AND CUSTOMS CONTROLS.**

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

1 “(b) DESTRUCTION OF UNITED STATES BORDER
2 CONTROLS.—Any person who knowingly and without law-
3 ful authorization destroys, alters, or damages any fence,
4 barrier, sensor, camera, or other physical or electronic de-
5 vice deployed by the Federal Government to control the
6 border or a port of entry or otherwise seeks to construct,
7 excavate, or make any structure intended to defeat, cir-
8 cumvent, or evade any such fence, barrier, sensor camera,
9 or other physical or electronic device deployed by the Fed-
10 eral Government to control the border or a port of entry—

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

13 “(2) if, at the time of the offense, the person
14 uses or carries a firearm or who, in furtherance of
15 any such crime, possesses a firearm, shall be fined
16 under title 18, imprisoned not more than 20 years,
17 or both.

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

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

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

1 (b) CARRYING OR USING A FIREARM DURING AND
2 IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section
3 924(e) of title 18, United States Code, is amended—

4 (1) in paragraph (1)—

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

8 (B) in subparagraph (D)(ii), by inserting
9 “, alien smuggling crime,” after “crime of vio-
10 lence”;

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

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

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

15 “(3) For purposes of this subsection—

16 “(A) the term ‘alien smuggling crime’ means
17 any felony punishable under section 274(a), 277, or
18 278 of the Immigration and Nationality Act (8
19 U.S.C. 1324(a), 1327, and 1328);

20 “(B) the term ‘brandish’ means, with respect to
21 a firearm, to display all or part of the firearm, or
22 otherwise make the presence of the firearm known
23 to another person, in order to intimidate that per-
24 son, regardless of whether the firearm is directly
25 visible to that person;

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

3 “(i) has as an element the use, attempted
4 use, or threatened use of physical force against
5 the person or property of another; or

6 “(ii) by its nature, involves a substantial
7 risk that physical force against the person or
8 property of another may be used in the course
9 of committing the offense; and

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

15 (c) STATUTE OF LIMITATIONS.—Section 3298 of title
16 18, United States Code, is amended by inserting “, or
17 295” after “274(a)”.

18 **SEC. 1127. SOUTHERN BORDER THREAT ANALYSIS.**

19 (a) THREAT ANALYSIS.—

20 (1) REQUIREMENT.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary shall submit to the Committee on Homeland
23 Security and Governmental Affairs of the Senate
24 and the Committee on Homeland Security of the

1 House of Representatives a southern border threat
2 analysis.

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

5 (A) current and potential terrorism and
6 criminal threats posed by individuals and orga-
7 nized groups seeking—

8 (i) to unlawfully enter the United
9 States through the southern border; or

10 (ii) to exploit security vulnerabilities
11 along the southern border;

12 (B) improvements needed at and between
13 ports of entry along the southern border to pre-
14 vent terrorists and instruments of terror from
15 entering the United States;

16 (C) gaps in law, policy, and coordination
17 between State, local, or tribal law enforcement,
18 international agreements, or tribal agreements
19 that hinder effective and efficient border secu-
20 rity, counterterrorism, and anti-human smug-
21 gling and trafficking efforts;

22 (D) the current percentage of situational
23 awareness achieved by the Department of
24 Homeland Security along the southern border;

1 (E) the current percentage of operational
2 control achieved by the Department of Home-
3 land Security along the southern border; and

4 (F) traveler crossing times and any poten-
5 tial security vulnerability associated with pro-
6 longed wait times.

7 (3) ANALYSIS REQUIREMENTS.—In compiling
8 the southern border threat analysis under this sub-
9 section, the Secretary shall consider and examine—

10 (A) the technology needs and challenges,
11 including such needs and challenges identified
12 as a result of previous investments that have
13 not fully realized the security and operational
14 benefits that were sought;

15 (B) the personnel needs and challenges, in-
16 cluding such needs and challenges associated
17 with recruitment and hiring;

18 (C) the infrastructure needs and chal-
19 lenges;

20 (D) the roles and authorities of State,
21 local, and tribal law enforcement in general bor-
22 der security activities;

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

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

3 (G) the international agreements between
4 the United States and Mexico related to border
5 security.

6 (4) CLASSIFIED FORM.—To the extent possible,
7 the Secretary shall submit the southern border
8 threat analysis required under this subsection in un-
9 classified form, but may submit a portion of the
10 threat analysis in classified form if the Secretary de-
11 termines such action is appropriate.

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

13 (1) IN GENERAL.—Not later than the later of
14 180 days after the submission of the threat analysis
15 required under subsection (a) or June 30, 2018, and
16 every 5 years thereafter, the Secretary, acting
17 through the Chief of the U.S. Border Patrol, and in
18 consultation with the Officer for Civil Rights and
19 Civil Liberties of the Department of Homeland Se-
20 curity, shall issue a Border Patrol Strategic Plan.

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

24 (A) the southern border threat analysis re-
25 quired under subsection (a), with an emphasis

1 on efforts to mitigate threats identified in such
2 threat analysis;

3 (B) efforts to analyze and disseminate bor-
4 der security and border threat information be-
5 tween border security components of the De-
6 partment of Homeland Security and other ap-
7 propriate Federal departments and agencies
8 with missions associated with the southern bor-
9 der;

10 (C) efforts to increase situational aware-
11 ness, including—

12 (i) surveillance capabilities, including
13 capabilities developed or utilized by the
14 Department of Defense, and any appro-
15 priate technology determined to be excess
16 by the Department of Defense; and

17 (ii) the use of manned aircraft and
18 unmanned aerial systems, including cam-
19 era and sensor technology deployed on
20 such assets;

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

1 (E) efforts to detect, interdict, and disrupt
2 aliens and illicit drugs at the earliest possible
3 point;

4 (F) efforts to focus intelligence collection
5 to disrupt transnational criminal organizations
6 outside of the international and maritime bor-
7 ders of the United States;

8 (G) efforts to ensure that any new border
9 security technology can be operationally inte-
10 grated with existing technologies in use by the
11 Department of Homeland Security;

12 (H) any technology required to maintain,
13 support, and enhance security and facilitate
14 trade at ports of entry, including nonintrusive
15 detection equipment, radiation detection equip-
16 ment, biometric technology, surveillance sys-
17 tems, and other sensors and technology that the
18 Secretary determines to be necessary;

19 (I) operational coordination unity of effort
20 initiatives of the border security components of
21 the Department of Homeland Security, includ-
22 ing any relevant task forces of the Department
23 of Homeland Security;

24 (J) lessons learned from Operation
25 Jumpstart and Operation Phalanx;

1 (K) cooperative agreements and informa-
2 tion sharing with State, local, tribal, territorial,
3 and other Federal law enforcement agencies
4 that have jurisdiction on the northern border or
5 the southern border;

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

18 (M) staffing requirements for all depart-
19 mental border security functions;

20 (N) a prioritized list of departmental re-
21 search and development objectives to enhance
22 the security of the southern border;

23 (O) an assessment of training programs,
24 including training programs for—

1 (i) identifying and detecting fraudu-
2 lent documents;

3 (ii) understanding the scope of en-
4 forcement authorities and the use of force
5 policies; and

6 (iii) screening, identifying, and ad-
7 dressing vulnerable populations, such as
8 children and victims of human trafficking;
9 and

10 (P) an assessment of how border security
11 operations affect border crossing times.

12 **SEC. 1128. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
13 **PROTECTION.**

14 (a) DUTIES.—Section 411(c) of the Homeland Secu-
15 rity Act of 2002 (6 U.S.C. 211(c)) is amended—

16 (1) in paragraph (18), by striking “and” at the
17 end;

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

20 (3) by inserting after paragraph (18) the fol-
21 lowing:

22 “(19) administer the U.S. Customs and Border
23 Protection public private partnerships under subtitle
24 G;

1 “(20) administer preclearance operations under
2 the Preclearance Authorization Act of 2015 (19
3 U.S.C. 4431 et seq.); and”.

4 (b) OFFICE OF FIELD OPERATIONS STAFFING.—Sec-
5 tion 411(g)(5)(A) of the Homeland Security Act of 2002
6 (6 U.S.C. 211(g)(5)(A)) is amended by striking the period
7 at the end and inserting the following: “compared to the
8 number indicated by the current fiscal year work flow
9 staffing model.”.

10 (c) IMPLEMENTATION PLAN.—Section 814(e)(1)(B)
11 of the Preclearance Authorization Act of 2015 (19 U.S.C.
12 4433(e)(1)(B)) is amended to read as follows:

13 “(B) a port of entry vacancy rate which
14 compares the number of officers identified in
15 subparagraph (A) with the number of officers
16 at the port at which such officer is currently as-
17 signed.”.

18 **SEC. 1129. AGENT AND OFFICER TECHNOLOGY USE.**

19 In carrying out section 102 of the Illegal Immigration
20 Reform and Immigrant Responsibility Act of 1996 (as
21 amended by section 1111 of this Act) and section 1113
22 of this Act, the Secretary, to the greatest extent prac-
23 ticable, shall ensure that technology deployed to gain situ-
24 ational awareness and operational control of the border

1 be provided to front-line officers and agents of the Depart-
2 ment of Homeland Security.

3 **SEC. 1130. 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 1117 of this Act, is further amend-
7 ed by adding at the end the following:

8 **“SEC. 435. INTEGRATED BORDER ENFORCEMENT TEAMS.**

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

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 U.S. Border Patrol and may be comprised of per-
7 sonnel from—

8 “(A) other subcomponents of U.S. Cus-
9 toms and Border Protection;

10 “(B) U.S. Immigration and Customs En-
11 forcement, led by Homeland Security Investiga-
12 tions;

13 “(C) the Coast Guard, for the purpose of
14 securing the maritime borders of the United
15 States;

16 “(D) other Department personnel, as ap-
17 propriate;

18 “(E) other Federal departments and agen-
19 cies, as appropriate;

20 “(F) appropriate State law enforcement
21 agencies;

22 “(G) foreign law enforcement partners;

23 “(H) local law enforcement agencies from
24 affected border cities and communities; and

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—

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; and

14 “(C) whether other joint cross-border ini-
15 tiatives already take place within the region in
16 which the IBET would be established, including
17 other Department cross-border programs such
18 as the Integrated Cross-Border Maritime Law
19 Enforcement Operation Program established
20 under section 711 of the Coast Guard and Mar-
21 itime Transportation Act of 2012 (46 U.S.C.
22 70101 note) or the Border Enforcement Secu-
23 rity Task Force established under section 432.

24 “(3) DUPLICATION OF EFFORTS.—In deter-
25 mining whether to establish a new IBET or to ex-

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

11 “(d) OPERATION.—

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

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

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

23 “(2) LIMITATION.—Coast Guard personnel as-
24 signed under paragraph (1) may be assigned only
25 for the purposes of securing the maritime borders of

1 the United States, in accordance with subsection
2 (e)(1)(C).

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

8 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
9 retary may enter into memoranda of understanding with
10 appropriate representatives of the entities specified in sub-
11 section (e)(1) necessary to carry out the IBET program.

12 “(g) REPORT.—Not later than 180 days after the
13 date on which an IBET is established, and biannually
14 thereafter for the following 6 years, the Secretary shall
15 submit a report to the appropriate congressional commit-
16 tees, including the Committee on Homeland Security and
17 Governmental Affairs of the Senate and the Committee
18 on Homeland Security of the House of Representatives,
19 and in the case of Coast Guard personnel used to secure
20 the maritime borders of the United States, to the Com-
21 mittee on Transportation and Infrastructure of the House
22 of Representatives. The report required under this sub-
23 section shall—

24 “(1) describe the effectiveness of IBETs in ful-
25 filling the purposes specified in subsection (b);

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

4 “(3) address ways to support joint training for
5 IBET stakeholder agencies and radio interoper-
6 ability to allow for secure cross-border radio commu-
7 nications; and

8 “(4) assess how IBETs, Border Enforcement
9 Security Task Forces, and the Integrated Cross-Bor-
10 der Maritime Law Enforcement Operation Program
11 can better align operations, including interdiction
12 and investigation activities.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in section 1(b) of the Homeland Security Act of 2002 is
15 amended by adding after the item relating to section 434,
16 as added by section 1117(b), the following:

 “Sec. 435. Integrated Border Enforcement Teams.”.

17 **SEC. 1131. TUNNEL TASK FORCES.**

18 The Secretary is authorized to establish Tunnel Task
19 Forces for the purposes of detecting and remediating tun-
20 nels that breach the international borders of the United
21 States.

1 **CHAPTER 2—PERSONNEL**
2 **SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
3 **TECTION AGENTS AND OFFICERS.**

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

9 (b) **CBP OFFICERS.**—In addition to positions author-
10 ized before the date of the enactment of this Act and any
11 existing officer vacancies within U.S. Customs and Border
12 Protection as of such date, the Commissioner shall hire,
13 train, and assign to duty, not later than September 30,
14 2021—

15 (1) sufficient U.S. Customs and Border Protec-
16 tion officers to maintain an active duty presence of
17 not fewer than 27,725 full-time equivalent officers;
18 and

19 (2) 350 full-time support staff distributed
20 among all United States ports of entry.

21 (c) **AIR AND MARINE OPERATIONS.**—Not later than
22 September 30, 2021, the Commissioner of U.S. Customs
23 and Border Protection shall hire, train, and assign suffi-
24 cient agents for Air and Marine Operations of U.S. Cus-
25 toms and Border Protection to maintain not fewer than

1 1,675 full-time equivalent agents and not fewer than 264
2 Marine and Air Interdiction Agents for southern border
3 air and maritime operations.

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

6 (1) K-9 UNITS.—Not later than September 30,
7 2021, the Commissioner shall deploy not fewer than
8 300 new K-9 units, with supporting officers of U.S.
9 Customs and Border Protection and other required
10 staff, at land ports of entry and checkpoints, on the
11 southern border and the northern border.

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

15 (e) U.S. CUSTOMS AND BORDER PROTECTION
16 HORSEBACK UNITS.—

17 (1) INCREASE.—Not later than September 30,
18 2021, the Commissioner shall increase the number
19 of horseback units, with supporting officers of U.S.
20 Customs and Border Protection and other required
21 staff, by not fewer than 100 officers and 50 horses
22 for security patrol along the Southern border.

23 (2) HORSE UNIT SUPPORT.—The Commissioner
24 of U.S. Customs and Border Protection shall con-
25 struct new stables, maintain and improve existing

1 stables, and provide other resources needed to main-
2 tain the health and well-being of the horses that
3 serve in the horseback units.

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

9 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
10 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
11 later than September 30, 2021, the Commissioner shall
12 increase by not fewer than 50 the number of officers as-
13 sisting task forces and activities related to deployment and
14 operation of border tunnel detection technology and appre-
15 hensions of individuals using such tunnels for crossing
16 into the United States, drug trafficking, or human smug-
17 gling.

18 (h) AGRICULTURAL SPECIALISTS.—Not later than
19 September 30, 2021, the Secretary shall hire, train, and
20 assign to duty, in addition to the officers and agents au-
21 thorized under subsections (a) through (g), 631 U.S. Cus-
22 toms and Border Protection agricultural specialists to
23 ports of entry along the southern border and the northern
24 border.

1 (i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
2 Not later than September 30, 2021, the Commissioner
3 shall hire, train, and assign sufficient Office of Profes-
4 sional Responsibility special agents to maintain an active
5 duty presence of not fewer than 550 full-time equivalent
6 special agents.

7 (j) GAO REPORT.—If the staffing levels required
8 under this section are not achieved by September 30,
9 2021, the Comptroller General of the United States shall
10 conduct a review of the reasons why such levels were not
11 achieved.

12 **SEC. 1142. U.S. CUSTOMS AND BORDER PROTECTION RE-**
13 **TENTION INCENTIVES.**

14 (a) DEFINITIONS.—In this section:

15 (1) COVERED AREA.—The term “covered area”
16 means a geographic area that the Secretary deter-
17 mines is in a remote location or is an area for which
18 it is difficult to find full-time permanent covered
19 CBP employees, as compared to other ports of entry
20 or Border Patrol sectors.

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

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

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

14 (B) does not include additional pay, such
15 as night shift differentials under section
16 5343(f) of title 5, United States Code, or envi-
17 ronmental differentials under section
18 5343(c)(4) of such title.

19 (4) SPECIAL RATE OF PAY.—The term “special
20 rate of pay” means a higher than normal rate of pay
21 that exceeds the otherwise applicable rate of basic
22 pay for a similar covered CBP employee at a land
23 port of entry.

24 (b) HIRING INCENTIVES.—

1 (1) IN GENERAL.—To the extent necessary for
2 U.S. Customs and Border Protection to hire, train,
3 and deploy qualified officers and employees, and to
4 the extent necessary to meet the requirements set
5 forth in section 1141, the Commissioner, with the
6 approval of the Secretary, may pay a hiring bonus
7 of \$10,000 to a covered CBP employee, after the
8 covered CBP completes initial basic training and
9 executes a written agreement required under para-
10 graph (2).

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

20 (A) the amount of the hiring bonus;

21 (B) the conditions under which the agree-
22 ment may be terminated before the required pe-
23 riod of service is completed and the effect of
24 such termination;

1 (C) the length of the required service pe-
2 riod; and

3 (D) any other terms and conditions under
4 which the hiring bonus is payable, subject to
5 the requirements under this section.

6 (3) FORM OF PAYMENT.—A signing bonus paid
7 to a covered CBP employee under paragraph (1)
8 shall be paid in a single payment after the covered
9 CBP employee completes initial basic training and
10 enters on duty and executed the agreement under
11 paragraph (2).

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

17 (5) EFFECTIVE DATE AND SUNSET.—This sub-
18 section shall take effect on the date of the enactment
19 of this Act and shall remain in effect until the ear-
20 lier of—

21 (A) September 30, 2021; or

22 (B) the date on which U.S. Customs and
23 Border Protection has met the requirements
24 under subsections (a) and (b) of section 1141.

25 (c) RETENTION INCENTIVES.—

1 (1) IN GENERAL.—To the extent necessary for
2 U.S. Customs and Border Protection to retain quali-
3 fied employees, and to the extent necessary to meet
4 the requirements set forth in section 1141, the Com-
5 missioner, with the approval of the Secretary, may
6 pay a retention incentive to a covered CBP employee
7 who has been employed with U.S. Customs and Bor-
8 der Protection for a period exceeding 2 consecutive
9 years, and the Commissioner determines that, in the
10 absence of the retention incentive, the covered CBP
11 employee would likely—

12 (A) leave the Federal service; or

13 (B) transfer to, or be hired into, a dif-
14 ferent position within the Department (other
15 than another position in CBP).

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

25 (A) the amount of the retention incentive;

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

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

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

10 (3) CRITERIA.—When determining the amount
11 of a retention incentive payable to a covered CBP
12 employee under paragraph (1), the Commissioner
13 shall consider—

14 (A) the length of the Federal service and
15 experience of the covered CBP employee;

16 (B) the salaries for law enforcement offi-
17 cers in other Federal agencies; and

18 (C) the costs of replacing the covered CBP
19 employee, including the costs of training a new
20 employee.

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

24 (A) shall be approved by the Secretary and
25 the Commissioner;

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

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

6 (5) FORM OF PAYMENT.—A retention incentive
7 paid to a covered CBP employee under paragraph
8 (1) shall be paid as a single payment at the end of
9 the fiscal year in which the covered CBP employee
10 entered into an agreement under paragraph (2), or
11 in equal installments during the life of the service
12 agreement, as determined by the Commissioner.

13 (6) EXCLUSION OF RETENTION INCENTIVE
14 FROM RATE OF PAY.—A retention incentive paid to
15 a covered CBP employee under paragraph (1) shall
16 not be considered part of the rate of basic pay of the
17 covered CBP employee for any purpose.

18 (d) PILOT PROGRAM ON SPECIAL RATES OF PAY IN
19 COVERED AREAS.—

20 (1) IN GENERAL.—The Commissioner may es-
21 tablish a pilot program to assess the feasibility and
22 advisability of using special rates of pay for covered
23 CBP employees in covered areas, as designated on
24 the date of the enactment of this Act, to help meet
25 the requirements under section 1141.

1 (2) MAXIMUM AMOUNT.—The rate of basic pay
2 of a covered CBP employee paid a special rate of
3 pay under the pilot program may not exceed 125
4 percent of the otherwise applicable rate of basic pay
5 of the covered CBP employee.

6 (3) TERMINATION.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), the pilot program shall ter-
9minate on the date that is 2 years after the
10 date of the enactment of this Act.

11 (B) EXTENSION.—If the Secretary deter-
12mines that the pilot program is performing sat-
13isfactorily and there are metrics that prove its
14 success in meeting the requirements set forth in
15 section 1141, the Secretary may extend the
16 pilot program until the date that is 4 years
17 after the date of the enactment of this Act.

18 (4) REPORT TO CONGRESS.—Shortly after the
19 termination of the pilot program under paragraph
20 (3), the Commissioner shall submit a report to the
21 Committee on Homeland Security and Governmental
22 Affairs of the Senate, the Committee on the Judici-
23 ary of the Senate, the Committee on Homeland Se-
24 curity of the House of Representatives, and the

1 Committee on the Judiciary of the House of Rep-
2 resentatives that details—

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

5 (B) the covered areas in which the pilot
6 program was implemented.

7 (e) SALARIES.—

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

12 “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP
13 EMPLOYEES.—There are authorized to be appropriated to
14 U.S. Customs and Border Protection such sums as may
15 be necessary to increase, effective January 1, 2018, the
16 annual rate of basic pay for U.S. Customs and Border
17 Protection employees who have completed at least 1 year
18 of service—

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

1 “(2) to the annual rate of basic pay payable for
2 positions at GS–12, step 10 of the General Schedule
3 under such subchapter for supervisory CBP officers
4 and supervisory agents who are receiving the annual
5 rate of pay payable for a position at GS–10 of the
6 General Schedule;

7 “(3) to the annual rate of basic pay payable for
8 positions at GS–14, step 1 of the General Schedule
9 under such subchapter for supervisory CBP officers
10 and supervisory agents who are receiving the annual
11 rate of pay payable for a position at GS–11 of the
12 General Schedule;

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

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

24 (2) HARDSHIP DUTY PAY.—In addition to com-
25 pensation to which Border Patrol agents are other-

1 wise entitled, Border Patrol agents who are assigned
2 to rural areas shall be entitled to receive hardship
3 duty pay, in lieu of a retention incentive under sub-
4 section (b), in an amount determined by the Com-
5 missioner, which may not exceed the rate of special
6 pay to which members of a uniformed service are en-
7 titled under section 310 of title 37, United States
8 Code.

9 (3) OVERTIME LIMITATION.—Section 5(c)(1) of
10 the Act of February 13, 1911 (19 U.S.C. 267(c)(1))
11 is amended by striking “\$25,000” and inserting
12 “\$45,000”.

13 **SEC. 1143. ANTI-BORDER CORRUPTION REAUTHORIZATION**
14 **ACT.**

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

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

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

23 “(1) to a current, full-time law enforcement of-
24 ficer employed by a State or local law enforcement
25 agency who—

1 “(A) has continuously served as a law en-
2 forcement officer for not fewer than 3 years;

3 “(B) is authorized by law to engage in or
4 supervise the prevention, detection, investiga-
5 tion, or prosecution of, or the incarceration of
6 any person for, any violation of law, and has
7 statutory powers for arrest or apprehension;

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

15 “(D) has, during the past 10 years, suc-
16 cessfully completed a polygraph examination as
17 a condition of employment with such officer’s
18 current law enforcement agency;

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

21 “(A) has continuously served as a law en-
22 forcement officer for not fewer than 3 years;

23 “(B) is authorized to make arrests, con-
24 duct investigations, conduct searches, make sei-

1 zures, carry firearms, and serve orders, war-
2 rants, and other processes;

3 “(C) is not currently under investigation,
4 has not been found to have engaged in criminal
5 activity or serious misconduct, has not resigned
6 from a law enforcement officer position under
7 investigation or in lieu of termination, and has
8 not been dismissed from a law enforcement offi-
9 cer position; and

10 “(D) holds a current Tier 4 background
11 investigation or current Tier 5 background in-
12 vestigation; and

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

16 “(A) has served in the Armed Forces for
17 not fewer than 3 years;

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

21 “(C) holds, or has undergone within the
22 past 5 years, a current Tier 4 background in-
23 vestigation or current Tier 5 background inves-
24 tigation;

1 “(D) received, or is eligible to receive, an
2 honorably discharge from service in the Armed
3 Forces and has not engaged in criminal activity
4 or committed a serious military or civil offense
5 under the Uniform Code of Military Justice;
6 and

7 “(E) was not granted any waivers to ob-
8 tain the clearance referred to subparagraph
9 (B).

10 “(c) **TERMINATION OF WAIVER AUTHORITY.**—The
11 authority to issue a waiver under subsection (b) shall ter-
12 minate on the date that is 4 years after the date of the
13 enactment of the Building America’s Trust Act.”.

14 (c) **SUPPLEMENTAL COMMISSIONER AUTHORITY AND**
15 **DEFINITIONS.**—

16 (1) **SUPPLEMENTAL COMMISSIONER AUTHOR-**
17 **ITY.**—Section 4 of the Anti-Border Corruption Act
18 of 2010 (Public Law 111–376) is amended to read
19 as follows:

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

21 “(a) **NONEXEMPTION.**—An individual who receives a
22 waiver under section 3(b) is not exempt from other hiring
23 requirements relating to suitability for employment and
24 eligibility to hold a national security designated position,

1 as determined by the Commissioner of U.S. Customs and
2 Border Protection.

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

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

17 (2) REPORT.—The Anti-Border Corruption Act
18 of 2010, as amended by paragraph (1), is further
19 amended by adding at the end the following:

20 **“SEC. 5. REPORTING.**

21 “(a) ANNUAL REPORT.—Not later than 1 year after
22 the date of the enactment of the Building America’s Trust
23 Act, and annually thereafter while the waiver authority
24 under section 3(b) is in effect, the Commissioner of U.S.
25 Customs and Border Protection shall submit a report to

1 Congress that includes, with respect to each such report-
2 ing period—

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

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

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

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

11 “(5) an assessment of the current impact of the
12 polygraph waiver program on filling law enforcement
13 positions at U.S. Customs and Border Protection;
14 and

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

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

20 “(1) an analysis of other methods of employ-
21 ment suitability tests that detect deception and could
22 be used in conjunction with traditional background
23 investigations to evaluate potential employees for
24 suitability; and

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

6 (3) DEFINITIONS.—The Anti-Border Corrup-
7 tion Act of 2010, as amended by paragraphs (1) and
8 (2), is further amended by adding at the end the fol-
9 lowing:

10 **“SEC. 6. DEFINITIONS.**

11 “In this Act:

12 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—
13 The term ‘Federal law enforcement officer’ has the
14 meaning given the term ‘law enforcement officer’ in
15 sections 8331(20) and 8401(17) of title 5, United
16 States Code.

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

20 “(A) a member of the Armed Forces may
21 be discharged or separated from service in the
22 Armed Forces; and

23 “(B) a punitive discharge is, or would be,
24 authorized for the same or a closely related of-
25 fense under the Manual for Court-Martial, as

1 pursuant to Army Regulation 635-200 chapter
2 14-12.

3 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
4 ‘Tier 5’ with respect to background investigations
5 have the meaning given such terms under the Fed-
6 eral Investigative Standards prescribed by the Office
7 of Personnel Management and the Office of the Di-
8 rector of National Intelligence in December 2012.

9 “(4) VETERAN.—The term ‘veteran’ has the
10 meaning given such term in section 101(2) of title
11 38, United States Code.”.

12 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
13 tember 30, 2021, the Secretary shall increase to not fewer
14 than 150 the number of trained full-time equivalent poly-
15 graph examiners for administering polygraphs under the
16 Anti-Border Corruption Act of 2010, as amended by this
17 section.

18 **SEC. 1144. TRAINING FOR OFFICERS AND AGENTS OF U.S.**

19 **CUSTOMS AND BORDER PROTECTION.**

20 (a) IN GENERAL.—Section 411(l) of the Homeland
21 Security Act of 2002 (6 U.S.C. 211(l)) is amended to read
22 as follows:

23 “(1) TRAINING AND CONTINUING EDUCATION.—

24 “(1) MANDATORY TRAINING AND CONTINUING
25 EDUCATION.—The Commissioner shall ensure that

1 every agent and officer of U.S. Customs and Border
2 Protection receives at least 21 weeks of training that
3 is directly related to the mission of the U.S. Border
4 Patrol, Air and Marine, and the Office of Field Op-
5 erations before the initial assignment of such agents
6 and officers.

7 “(2) FLETC.—The Commissioner shall work
8 in consultation with the Director of the Federal Law
9 Enforcement Training Centers to establish guide-
10 lines and curriculum for the training of agents and
11 officers of U.S. Customs and Border Protection
12 under subsection (a).

13 “(3) CONTINUING EDUCATION.—The Commis-
14 sioner shall require all agents and officers of U.S.
15 Customs and Border Protection who are required to
16 undergo training under subsection (a) to participate
17 in not fewer than 8 hours of continuing education
18 annually to maintain and update understanding of
19 Federal legal rulings, court decisions, and Depart-
20 ment policies, procedures, and guidelines related to
21 relevant subject matters.

22 “(4) LEADERSHIP TRAINING.—Not later than 1
23 year after the date of the enactment of this sub-
24 section, the Commissioner shall develop and require
25 training courses geared towards the development of

1 leadership skills for mid- and senior-level career em-
2 ployees not later than 1 year after such employees
3 assume duties in supervisory roles.”.

4 (b) REPORT.—Not later than 180 days after the date
5 of the enactment of this Act, the Commissioner shall sub-
6 mit a report to the Committee on Finance of the Senate,
7 the Committee on Homeland Security and Governmental
8 Affairs of the Senate, the Committee on Homeland Secu-
9 rity of the House of Representatives, and the Committee
10 on Ways and Means of the House of Representatives that
11 identifies the guidelines and curriculum established to
12 carry out section 411(l) of the Homeland Security Act of
13 2002, as amended by subsection (a) of this section.

14 (c) ASSESSMENT.—Not later than four years after
15 the date of the enactment of this Act, the Comptroller
16 General of the United States shall submit to the Com-
17 mittee on Homeland Security of the House of Representa-
18 tives and the Committee on Homeland Security and Gov-
19 ernmental Affairs of the Senate a report that assesses the
20 training and education, including continuing education,
21 required under subsection (l) of section 411 of the Home-
22 land Security Act of 2002, as amended by subsection (a).

1 **SEC. 1145. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS**
2 **ENFORCEMENT PERSONNEL.**

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

10 (b) **HOMELAND SECURITY INVESTIGATIONS SPECIAL**
11 **AGENTS.**—By not later than September 30, 2021, the Di-
12 rector of U.S. Immigration and Customs Enforcement
13 shall increase the number of trained, full-time, active duty
14 Homeland Security Investigations special agents by not
15 fewer than 1,500.

16 (c) **BORDER ENFORCEMENT SECURITY TASK**
17 **FORCE.**—By not later than September 30, 2021, the Di-
18 rector of U.S. Immigration and Customs Enforcement
19 shall assign not fewer than 100 Homeland Security Inves-
20 tigation special agents to the Border Enforcement Secu-
21 rity Task Force Program established under section 432
22 of the Homeland Security Act of 2002 (6 U.S.C. 240).

23 **SEC. 1146. OTHER IMMIGRATION AND LAW ENFORCEMENT**
24 **PERSONNEL.**

25 (a) **DEPARTMENT OF JUSTICE.**—

1 (1) UNITED STATES ATTORNEYS.—By not later
2 than September 30, 2021, in addition to positions
3 authorized before the date of the enactment of this
4 Act and any existing attorney vacancies within the
5 Department of Justice on such date of enactment,
6 the Attorney General shall—

7 (A) increase by not fewer than 100 the
8 number of Assistant United States Attorneys,
9 and

10 (B) increase by not fewer than 50 the
11 number of Special Assistant United States At-
12 torneys in the United States Attorneys' office to
13 litigate denaturalization and other immigration
14 cases in the Federal courts.

15 (2) IMMIGRATION JUDGES.—

16 (A) ADDITIONAL IMMIGRATION JUDGES.—
17 By not later than September 30, 2021, in addi-
18 tion to positions authorized before the date of
19 the enactment of this Act and any existing va-
20 cancies within the Department of Justice on
21 such date of enactment, and subject to the
22 availability of appropriations, the Attorney Gen-
23 eral shall increase by 200 the number of trained
24 full-time immigration judges.

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

7 (3) BOARD OF IMMIGRATION APPEALS.—

8 (A) BOARD MEMBERS.—By not later than
9 September 30, 2021, the Attorney General shall
10 increase the number of Board Members author-
11 ized to serve on the Board of Immigration Ap-
12 peals to 25.

13 (B) STAFF ATTORNEYS.—By not later
14 than September 30, 2021, in addition to posi-
15 tions authorized before the date of the enact-
16 ment of this Act and any existing staff attorney
17 vacancies within the Department of Justice on
18 such date of enactment, and subject to the
19 availability of appropriations, the Attorney Gen-
20 eral shall increase the number of staff attorneys
21 assigned to support the Board of Immigration
22 Appeals by not fewer than 50.

23 (C) FACILITIES AND SUPPORT PER-
24 SONNEL.—The Attorney General is authorized
25 to procure space, temporary facilities, and re-

1 required administrative support staff, on an expedited basis, to accommodate the additional
2 Board Members authorized under subparagraph
3 (A).
4

5 (4) OFFICE OF IMMIGRATION LITIGATION.—By
6 not later than September 30, 2021, in addition to
7 positions authorized before the date of the enactment of this Act and any existing vacancies within
8 the Department of Justice on such date of enactment, and subject to the availability of appropriations, the Attorney General shall increase by not
9 fewer than 100 the number of attorneys for the Office of Immigration Litigation.
10

11 (b) DEPARTMENT OF HOMELAND SECURITY.—

12 (1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September 30,
13 2021, in addition to positions authorized before the
14 date of the enactment of this Act and any existing
15 officer vacancies within the Department of Homeland Security on such date of enactment, and subject to the availability of appropriations, the Director of U.S. Citizenship and Immigration Services shall increase by not fewer than 100 the number of
16 trained full-time active duty Fraud Detection and
17 National Security (FDNS) officers.
18
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1 (2) ICE HOMELAND SECURITY INVESTIGATIONS
2 FORENSIC DOCUMENT LABORATORY PERSONNEL.—
3 By not later than September 30, 2021, in addition
4 to positions authorized before the date of the enact-
5 ment of this Act and any existing officer vacancies
6 within the Department of Homeland Security on
7 such date of enactment, the Director of U.S. Immi-
8 gration and Customs Enforcement shall increase—

9 (A) the number of trained, full-time Foren-
10 sic Document Laboratory Examiners by 15;

11 (B) the number of trained, full-time Fin-
12 gerprint Specialists by 15;

13 (C) the number of trained, full-time Intel-
14 ligence Officers by 10; and

15 (D) the number of trained, full-time ad-
16 ministrative staff by 3.

17 (3) IMMIGRATION ATTORNEYS.—

18 (A) OFFICE OF THE PRINCIPAL LEGAL AD-
19 VISOR ATTORNEYS.—By not later than Sep-
20 tember 30, 2021, in addition to positions au-
21 thorized before the date of the enactment of
22 this Act and any existing attorney vacancies
23 within the Department of Homeland Security
24 on such date of enactment, the Director of U.S.
25 Immigration and Customs Enforcement shall

1 increase the number of trained, full-time, active
2 duty Office of Principal Legal Advisor attorneys
3 by not fewer than 1,200. The majority of such
4 attorneys shall perform duties related to litiga-
5 tion of removal proceedings and representing
6 the Department of Homeland Security in immi-
7 gration matters before the immigration courts
8 within the Department of Justice, the Executive
9 Office for Immigration Review, and enforce-
10 ment of U.S. customs and trade laws. At least
11 50 of these additional attorney positions shall
12 be by the Attorney General to increase the
13 number of U.S. Immigration and Customs En-
14 forcement attorneys serving as Special Assist-
15 ant U.S. Attorneys, on detail to the Depart-
16 ment of Justice, Offices of the U.S. Attorneys,
17 to assist with immigration-related litigation.

18 (B) USCIS IMMIGRATION ATTORNEYS.—

19 By not later than September 30, 2021, in addi-
20 tion to positions authorized before the date of
21 the enactment of this Act and any existing at-
22 torney vacancies within the Department of
23 Homeland Security on such date of enactment,
24 the Director of U.S. Citizenship and Immigra-
25 tion Services shall increase the number of

1 trained, full-time, active duty Office of Chief
2 Counsel attorneys by not fewer than 250. Such
3 attorneys shall primarily handle national secu-
4 rity and public safety cases, denaturalization
5 cases, and legal sufficiency reviews of immigra-
6 tion benefit decisions. At least 50 of these addi-
7 tional attorney positions shall be used by the
8 Attorney General to increase the number of
9 U.S. Citizenship and Immigration Service attor-
10 neys serving as Special Assistant U.S. Attor-
11 neys, on detail to the Department of Justice,
12 Offices of the U.S. Attorneys, to assist with im-
13 migration-related litigation.

14 (C) FACILITIES AND SUPPORT PER-
15 SONNEL.—The Attorney General and Secretary
16 are authorized to procure space, temporary fa-
17 cilities, and to hire the required administrative
18 and legal support staff, on an expedited basis,
19 to accommodate the additional positions author-
20 ized under this paragraph.

21 (4) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated, for each of
23 the fiscal years 2018 through 2021, such sums as
24 may be necessary to carry out this subsection.

25 (c) DEPARTMENT OF STATE.—

1 (1) VISA SPECIALISTS.—By not later than Sep-
2 tember 30, 2021, in addition to positions authorized
3 before the date of the enactment of this Act and any
4 existing attorney vacancies within the Department
5 on such date of enactment, the Assistant Secretary
6 of State for Consular Affairs shall increase the num-
7 ber of trained, full-time analysts within the Bureau
8 of Consular Affairs by not fewer than 50. Such ana-
9 lysts primarily should handle and advise on cases
10 and matters involving the potential for visa denial on
11 the basis of national security and public safety con-
12 cerns.

13 (2) IMMIGRATION ATTORNEYS.—By not later
14 than September 30, 2021, in addition to positions
15 authorized before the date of the enactment of this
16 Act and any existing attorney vacancies within the
17 Department on such date of enactment, the Assist-
18 ant Secretary of State for Consular Affairs shall in-
19 crease the number of trained, full-time, active attor-
20 neys adviser within the Bureau of Consular Affairs
21 by not fewer than 25. Such attorneys primarily
22 should handle and advise on cases and matters in-
23 volving the potential for visa denial on the basis of
24 national security and public safety concerns.

1 (3) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated, for each of
3 the fiscal years 2018 through 2021, \$15,000,000 to
4 carry out this section.

5 **SEC. 1147. JUDICIAL RESOURCES FOR BORDER SECURITY.**

6 (a) BORDER CROSSING PROSECUTIONS; CRIMINAL
7 CONSEQUENCE INITIATIVE.—

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

10 (A) to increase the number of criminal
11 prosecutions for unlawful border crossing in
12 each and every sector of the southern border by
13 not less than 80 percent per day, as compared
14 to the average number of such prosecutions per
15 day during the 12-month period preceding the
16 date of the enactment of this Act, by increasing
17 funding for—

18 (i) attorneys and administrative sup-
19 port staff in offices of United States attor-
20 neys;

21 (ii) support staff and interpreters in
22 court clerks' offices;

23 (iii) pre-trial services;

24 (iv) activities of the Office of the Fed-
25 eral Public Defender, including payments

1 to retain appointed counsel under section
2 3006A of title 18, United States Code; and

3 (v) additional personnel, including
4 deputy United States marshals in the
5 United States Marshals Service, to perform
6 intake, coordination, transportation, and
7 court security; and

8 (B) to reimburse Federal, State, local, and
9 tribal law enforcement agencies for any deten-
10 tion costs related to the increased border cross-
11 ing prosecutions carried out pursuant to sub-
12 paragraph (A).

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

22 (3) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated, for each of
24 the fiscal years 2018 through 2021, such sums as
25 may be necessary to carry out this subsection.

1 (b) ADDITIONAL PERMANENT DISTRICT COURT
2 JUDGESHIPS IN SOUTHERN BORDER STATES.—

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

5 (A) 4 additional district judges for the Dis-
6 trict of Arizona;

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

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

11 (D) 2 additional district judges for the
12 Southern District of Texas.

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

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

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

“Arizona 17”;

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

“California:
Northern 19
Eastern 12
Central 28
Southern 15”; and

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

“Texas:
Northern 12
Southern 21
Eastern 7
Western 17”.

10 (c) INCREASE IN FILING FEES.—

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

13 (A) by striking “\$350” and inserting
14 “\$375”; and

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

16 (2) EXPENDITURE LIMITATION.—Incremental
17 amounts collected pursuant to the amendments
18 made by paragraph (1) shall be deposited as offset-

1 ting receipts in the special fund of the Treasury es-
2 tablished under section 1931 of title 28, United
3 States Code. Such amounts shall be available solely
4 for the purpose of facilitating the processing of civil
5 cases, but only to the extent specifically appro-
6 priated by an Act of Congress enacted after the date
7 of the enactment of this Act.

8 **SEC. 1148. REIMBURSEMENT TO STATE AND LOCAL PROS-**
9 **ECUTORS FOR FEDERALLY INITIATED, IMMI-**
10 **GRATION-RELATED CRIMINAL CASES.**

11 (a) **IN GENERAL.**—The Attorney General shall reim-
12 burse State, county, tribal, and municipal governments for
13 costs associated with the prosecution of federally initiated
14 criminal cases declined to be prosecuted by local offices
15 of the United States attorneys, including costs relating to
16 pre-trial services, detention, clerical support, and public
17 defenders’ services associated to such prosecution.

18 (b) **EXCEPTION.**—Reimbursement under subsection
19 (a) shall not be available, at the discretion of the Attorney
20 General, if the Attorney General determines that there is
21 reason to believe that the jurisdiction seeking reimburse-
22 ment has engaged in unlawful conduct in connection with
23 immigration-related apprehensions.

CHAPTER 3—GRANTS**2 SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

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

5 (1) in paragraph (1)—

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

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

11 (2) by striking paragraphs (2) and (3) and in-
12 serting the following:

13 “(2) COMPENSATION.—

14 “(A) CALCULATION OF COMPENSATION.—
15 Compensation under paragraph (1)(A) shall be
16 the average cost of incarceration of a prisoner
17 in the relevant State, as determined by the At-
18 torney General.

19 “(B) COMPENSATION OF STATE FOR IN-
20 CARCERATION.—The Attorney General shall
21 compensate the State or political subdivision of
22 the State, in accordance with subparagraph
23 (A), for the incarceration of an alien—

24 “(i) whose immigration status cannot
25 be verified by the Secretary; and

1 “(ii) who would otherwise be an un-
2 documented criminal alien if the alien is
3 unlawfully present in the United States.

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

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

8 “(i) who has been incarcerated by a
9 Federal, State, or local law enforcement
10 entity; and

11 “(ii) whose immigration status cannot
12 be definitively identified.

13 “(B) UNDOCUMENTED CRIMINAL ALIEN.—
14 The term ‘undocumented criminal alien’ means
15 an alien who—

16 “(i) has been charged with or con-
17 victed of a felony or any misdemeanors;
18 and

19 “(ii)(I) entered the United States
20 without inspection or at any time or place
21 other than as designated by the Secretary;

22 “(II) was the subject of exclusion or
23 deportation or removal proceedings at the
24 time he or she was taken into custody by

1 the State or a political subdivision of the
2 State; or

3 “(III) was admitted as a non-
4 immigrant and, at the time he or she was
5 taken into custody by the State or a polit-
6 ical subdivision of the State, has failed to
7 maintain the nonimmigrant status in which
8 the alien was admitted or to which it was
9 changed under section 248, or to comply
10 with the conditions of any such status.”;

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

14 (4) in paragraph (5)(C), by striking “to carry
15 out this subsection” and all that follows and insert-
16 ing “\$950,000,000, for each of the fiscal years 2018
17 through 2021, to carry out this subsection.”; and

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

19 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any
20 funds provided to a State or a political subdivision
21 of a State as compensation under paragraph (1)(A)
22 for a fiscal year shall be distributed to such State
23 or political subdivision not later than 120 days after
24 the last day of the period specified by the Attorney

1 General for the submission of requests under that
2 paragraph for that fiscal year.”.

3 **SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE**
4 **GRANTS.**

5 (a) **AUTHORITY.**—

6 (1) **IN GENERAL.**—The Secretary, in consulta-
7 tion with State and local law enforcement agencies,
8 may award border security assistance grants to law
9 enforcement agencies located in the Southwest bor-
10 der region for the purposes described in subsection
11 (b).

12 (2) **PRIORITY.**—In awarding grants under this
13 section, the Secretary shall give priority to law en-
14 forcement agencies located in a county that is lo-
15 cated within 25 miles of the Southern border.

16 (b) **PURPOSES.**—Each grant awarded under sub-
17 section (a) shall be used to address drug trafficking,
18 smuggling, and border violence—

19 (1) by obtaining law enforcement equipment
20 and tools, including secure 2-way communication de-
21 vices, portable laptops and office computers, license
22 plate readers, unmanned aerial vehicles, unmanned
23 aircraft systems, manned aircraft, cameras with
24 night viewing capabilities, and any other appropriate
25 law enforcement equipment;

1 (2) by hiring additional personnel, including ad-
2 ministrative support personnel, dispatchers, and
3 jailers, and to provide overtime pay for such per-
4 sonnel;

5 (3) by purchasing law enforcement vehicles;

6 (4) by providing high performance aircraft and
7 helicopters for border surveillance and other critical
8 mission applications and paying for the operational
9 and maintenance costs associated with such craft;

10 (5) by providing critical power generation sys-
11 tems, infrastructure, and technological upgrades to
12 support State and local data management systems
13 and fusion centers; or

14 (6) by providing specialized training and paying
15 for the direct operating expenses associated with de-
16 tecting and prosecuting drug trafficking, human
17 smuggling, and other illegal activity or violence that
18 occurs at or near the Southern border.

19 (c) APPLICATION.—

20 (1) REQUIREMENT.—A law enforcement agency
21 seeking a grant under subsection (a), or a nonprofit
22 organization or coalition acting as an agent for 1 or
23 more such law enforcement entities, shall submit an
24 application to the Secretary that includes the infor-

1 mation described in paragraph (2) at such time and
2 in such manner as the Secretary may require.

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

5 (A) a description of the activities to be car-
6 ried out with a grant awarded under subsection
7 (a);

8 (B) if equipment will be purchased with
9 the grant, a detailed description of—

10 (i) the type and quantity of such
11 equipment; and

12 (ii) the personnel who will be using
13 such equipment;

14 (C) a description of the need of the law en-
15 forcement agency or agencies for the grant, in-
16 cluding a description of the inability of the
17 agency or agencies to carry out the proposed
18 activities without the grant; and

19 (D) an assurance that the agency or agen-
20 cies will, to the extent practicable, seek, recruit,
21 and hire women and members of racial and eth-
22 nic minority groups in law enforcement posi-
23 tions of the agency or agencies.

24 (d) REVIEW AND AWARD.—

1 (1) REVIEW.—Not later than 90 days after re-
2 ceiving an application submitted under subsection
3 (c), the Secretary shall review and approve or reject
4 the application.

5 (2) AWARD OF FUNDS.—Subject to the avail-
6 ability of appropriations, not later than 45 days
7 after the date an application is approved under
8 paragraph (1), the Secretary shall transmit the
9 grant funds to the applicant.

10 (3) PRIORITY.—In distributing grant funds
11 under this subsection, priority shall be given to high-
12 intensity areas for drug trafficking, smuggling, and
13 border violence.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated, for each of the fiscal years
16 1019 and 2020, \$300,000,000 for grants authorized
17 under this section.

18 **SEC. 1153. OPERATION STONEGARDEN.**

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

22 **“SEC. 2009. OPERATION STONEGARDEN.**

23 “(a) ESTABLISHMENT.—There is established in the
24 Department a program to be known as ‘Operation
25 Stonegarden’, under which the Secretary, acting through

1 the Administrator, shall make grants to eligible law en-
2 forcement agencies, through the State administrative
3 agency, to enhance border security in accordance with this
4 section.

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

8 “(1) shall be located in—

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

10 or

11 “(B) a State or territory with a maritime
12 border; and

13 “(2) shall be involved in an active, ongoing,
14 U.S. Customs and Border Protection operation co-
15 ordinated through a U.S. Border Patrol sector of-
16 fice.

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

19 “(1) equipment, including maintenance and
20 sustainment costs;

21 “(2) personnel, including overtime and backfill,
22 in support of enhanced border law enforcement ac-
23 tivities;

24 “(3) any activity permitted for Operation
25 Stonegarden under the Department of Homeland

1 Security’s Fiscal Year 2017 Homeland Security
2 Grant Program Notice of Funding Opportunity; and

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

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

10 “(e) REPORT.—For each of the fiscal years 2018
11 through 2022, the Administrator shall submit a report to
12 the Committee on Homeland Security and Governmental
13 Affairs of the Senate and the Committee on Homeland
14 Security of the House of Representatives containing infor-
15 mation on the expenditure of grants made under this sec-
16 tion by each grant recipient.

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

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

24 “(a) GRANTS AUTHORIZED.—The Secretary, through
25 the Administrator, may award grants under sections 2003,

1 2004, and 2009 to State, local, and tribal governments,
2 as appropriate.”.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of the Homeland Security Act of 2002 is
5 amended by inserting after the item relating to section
6 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

7 **SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS OF**
8 **CROSS-BORDER HUMAN SMUGGLING.**

9 In addition to any funding for grants made available
10 to the Attorney General for State and local law enforce-
11 ment assistance, the Attorney General shall award grants
12 to county, municipal, or tribal governments in States
13 along the southern border for costs, or reimbursement of
14 costs, associated with the transportation and processing
15 of unidentified alien remains that have been transferred
16 to an official medical examiner’s office or an institution
17 of higher education in the area with the capacity to ana-
18 lyze human remains using forensic best practices, includ-
19 ing DNA testing, where such expenses may contribute to
20 the collection and analysis of information pertaining to
21 missing and unidentified persons.

22 **SEC. 1155. GRANT ACCOUNTABILITY.**

23 (a) DEFINITIONS.—In this section:

24 (1) AWARDING ENTITY.—The term “awarding
25 entity” means the Secretary, the Administrator of

1 the Federal Emergency Management Agency, the
2 Director of the National Science Foundation, or the
3 Chief of the Office of Citizenship and New Ameri-
4 cans.

5 (2) NONPROFIT ORGANIZATION.—The term
6 “nonprofit organization” means an organization that
7 is described in section 501(c)(3) of the Internal Rev-
8 enue Code of 1986 and is exempt from taxation
9 under section 501(a) of such Code.

10 (3) UNRESOLVED AUDIT FINDING.—The term
11 “unresolved audit finding” means a finding in a
12 final audit report conducted by the Inspector Gen-
13 eral of the Department of Homeland Security, or the
14 Inspector General for the National Science Founda-
15 tion for grants awarded by the Director of the Na-
16 tional Science Foundation, that the audited grantee
17 has utilized grant funds for an unauthorized expend-
18 iture or otherwise unallowable cost that is not closed
19 or resolved within one year after the date when the
20 final audit report is issued.

21 (b) ACCOUNTABILITY.—All grants awarded by an
22 awarding entity pursuant to this subtitle shall be subject
23 to the following accountability provisions:

24 (1) AUDIT REQUIREMENT.—

1 (A) AUDITS.—Beginning in the first fiscal
2 year beginning after the date of the enactment
3 of this Act, and in each fiscal year thereafter,
4 the Inspector General of the Department of
5 Homeland Security, or the Inspector General
6 for the National Science Foundation for grants
7 awarded by the Director of the National
8 Science Foundation, shall conduct audits of re-
9 cipients of grants under this subtitle or any
10 amendments made by this subtitle to prevent
11 waste, fraud, and abuse of funds by grantees.
12 Such Inspectors General shall determine the ap-
13 propriate number of grantees to be audited
14 each year.

15 (B) MANDATORY EXCLUSION.—A recipient
16 of grant funds under this subtitle that is found
17 to have an unresolved audit finding shall not be
18 eligible to receive grant funds under this sub-
19 title or any amendment made by this subtitle
20 during the first 2 fiscal years beginning after
21 the end of the 1-year period described in sub-
22 section (A).

23 (C) PRIORITY.—In awarding a grant under
24 this subtitle or any amendment made by this
25 subtitle, the awarding entity shall give priority

1 to eligible applicants that did not have an unre-
2 solved audit finding during the 3 fiscal years
3 immediately preceding the date on which the
4 entity submitted the application for such grant.

5 (D) REIMBURSEMENT.—If an entity is
6 awarded grant funds under this subtitle or any
7 amendment made by this subtitle during the 2-
8 year period when the entity is barred from re-
9 ceiving grants under subparagraph (B), the
10 awarding entity shall—

11 (i) deposit an amount equal to the
12 amount of the grant funds that were im-
13 properly awarded to such entity into the
14 general fund of the Treasury; and

15 (ii) seek to recover the costs of the re-
16 payment under clause (i) from such entity.

17 (2) NONPROFIT ORGANIZATION REQUIRE-
18 MENTS.—

19 (A) PROHIBITION.—An awarding entity
20 may not award a grant under this subtitle or
21 any amendment made by this subtitle to a non-
22 profit organization that holds money in offshore
23 accounts for the purpose of avoiding the tax im-
24 posed under section 511(a) of the Internal Rev-
25 enue Code of 1986.

1 (B) DISCLOSURE.—Each nonprofit organi-
2 zation that is awarded a grant under this sub-
3 title or any amendment made by this subtitle
4 and uses the procedures prescribed by Internal
5 Revenue regulations to create a rebuttable pre-
6 sumption of reasonableness for the compensa-
7 tion of its officers, directors, trustees, and key
8 employees, shall disclose to the awarding entity,
9 in the application for the grant, the process for
10 determining such compensation, including the
11 independent persons involved in reviewing and
12 approving such compensation, the comparability
13 data used, and contemporaneous substantiation
14 of the deliberation and decision. Upon request,
15 the awarding entity shall make the information
16 disclosed under this subparagraph available for
17 public inspection.

18 (3) CONFERENCE EXPENDITURES.—

19 (A) LIMITATION.—Amounts authorized to
20 be appropriated to the Department of Home-
21 land Security or the National Science Founda-
22 tion for grant programs under this subtitle or
23 any amendment made by this subtitle may not
24 be used by an awarding entity to host or sup-
25 port any expenditure for conferences that uses

1 more than \$20,000 in funds made available by
2 the Department of Homeland Security or the
3 National Science Foundation unless the Deputy
4 Secretary for Homeland Security, or the Dep-
5 uty Director of the National Science Founda-
6 tion, or their designee, provides prior written
7 authorization that the funds may be expended
8 to host the conference.

9 (B) WRITTEN APPROVAL.—Written ap-
10 proval under subparagraph (A) shall include a
11 written estimate of all costs associated with the
12 conference, including the cost of all food, bev-
13 erages, audio-visual equipment, honoraria for
14 speakers, and entertainment.

15 (C) REPORT.—The Deputy Secretary of
16 Homeland Security and the Deputy Director of
17 the National Science Foundation shall submit
18 an annual report to Congress that identifies all
19 conference expenditures approved under this
20 paragraph.

21 (4) ANNUAL CERTIFICATION.—Beginning in the
22 first fiscal year beginning after the date of the en-
23 actment of this Act, each awarding entity shall sub-
24 mit a report to Congress that—

25 (A) indicates whether—

1 (i) all audits issued by the Offices of
2 the Inspector General under paragraph (1)
3 have been completed and reviewed by the
4 appropriate individuals;

5 (ii) all mandatory exclusions required
6 under paragraph (1)(B) have been issued;
7 and

8 (iii) all reimbursements required
9 under paragraph (1)(D) have been made;
10 and

11 (B) includes a list of any grant recipients
12 excluded under paragraph (1) during the pre-
13 vious year.

14 **CHAPTER 4—AUTHORIZATION OF**
15 **APPROPRIATIONS**

16 **SEC. 1161. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) IN GENERAL.—In addition to amounts otherwise
18 authorized to be appropriated, there are authorized to be
19 appropriated, for each of the fiscal years 2018 through
20 2021, \$2,500,000,000 to implement this title and the
21 amendments made by this title, of which—

22 (1) \$10,000,000 shall be used by the Depart-
23 ment of Homeland Security to implement Vehicle
24 and Dismount Exploitation Radars (VADER) in
25 border security operations;

1 (2) \$3,000,000 shall be used by the Depart-
2 ment of Homeland Security to implement 3-dimen-
3 sional, seismic, acoustic detection and ranging bor-
4 der tunneling detection technology on the southern
5 border;

6 (3) \$200,000,000 shall be used by the Depart-
7 ment of State to implement section 1120; and

8 (4) \$200,000,000 shall be used by the United
9 States Coast Guard to implement section
10 1114(a)(18).

11 (b) HIGH INTENSITY DRUG TRAFFICKING AREA
12 PROGRAM.—Section 707(p)(5) of the Office of National
13 Drug Control Policy Reauthorization Act of 1998 (21
14 U.S.C. 1706(p)(5)) is amended by striking “to the Office
15 of National Drug Control Policy” and all that follows and
16 inserting “\$280,000,000 to the Office of National Drug
17 Control Policy for each of the fiscal years 2018 through
18 2021 to carry out this section.”.

19 **Subtitle B—Emergency Port of**
20 **Entry Personnel and Infrastruc-**
21 **ture Funding**

22 **SEC. 1201. DEFINITIONS.**

23 In this subtitle:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

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

6 (B) the Committee on Finance of the Sen-
7 ate;

8 (C) the Committee on the Judiciary of the
9 Senate;

10 (D) the Committee on Homeland Security
11 of the House of Representatives;

12 (E) the Committee on Ways and Means of
13 the House of Representatives; and

14 (F) the Committee on the Judiciary of the
15 House of Representatives.

16 (2) SECRETARY.—The term “Secretary” means
17 the Secretary of Homeland Security.

18 **SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.**

19 (a) ADDITIONAL PORTS OF ENTRY.—

20 (1) AUTHORITY.—The Secretary may construct
21 new ports of entry along the northern border and
22 the southern border and determine the location of
23 any such new ports of entry.

24 (2) CONSULTATION.—

1 (A) REQUIREMENT TO CONSULT.—The
2 Secretary shall consult with the Secretary of
3 State, the Secretary of the Interior, the Sec-
4 retary of Agriculture, the Secretary of Trans-
5 portation, the Administrator of General Serv-
6 ices, and appropriate representatives of State
7 and local governments, and Indian tribes, and
8 property owners in the United States before se-
9 lecting a location for any new port constructed
10 pursuant to paragraph (1).

11 (B) CONSIDERATIONS.—The purpose of
12 the consultations required under subparagraph
13 (A) shall be to minimize any negative impacts
14 of such a new port on the environment, culture,
15 commerce, and quality of life of the commu-
16 nities and residents located near such new port.

17 (b) EXPANSION AND MODERNIZATION OF HIGH-VOL-
18 UME SOUTHERN BORDER PORTS OF ENTRY.—Not later
19 than September 30, 2021, the Secretary shall expand or
20 modernize the primary and secondary inspection lanes for
21 vehicle, cargo, and pedestrian inbound and outbound in-
22 spection lanes at ports of entry on the southern border,
23 as determined by the Secretary, for the purposes of reduc-
24 ing wait times and enhancing security, as determined by
25 the Secretary.

1 (c) PORT OF ENTRY PRIORITIZATION.—Before con-
2 structing any new ports of entry pursuant to subsection
3 (a), the Secretary shall complete the expansion and mod-
4 ernization of ports of entry pursuant to subsection (b) to
5 the extent practicable.

6 (d) NOTIFICATIONS.—

7 (1) NEW PORTS OF ENTRY.—Not later than 15
8 days after determining the location of any new port
9 of entry for construction pursuant to subsection (a),
10 the Secretary shall submit a report to the appro-
11 priate congressional committees and the Members of
12 Congress who represent the State or congressional
13 district in which such new port of entry will be lo-
14 cated that includes—

15 (A) information relating to the location of
16 such new port of entry;

17 (B) a description of the need for such new
18 port of entry and associated anticipated bene-
19 fits;

20 (C) a description of the consultations un-
21 dertaken by the Secretary pursuant to sub-
22 section (a)(2);

23 (D) any actions that will be taken to mini-
24 mize negative impacts of such new port of
25 entry; and

1 (E) the anticipated time line for the con-
2 struction and completion of such new port of
3 entry.

4 (2) EXPANSION AND MODERNIZATION OF PORTS
5 OF ENTRY.—Not later than 180 days after the date
6 of the enactment of this Act, the Secretary shall no-
7 tify the appropriate congressional committees of—

8 (A) the ports of entry on the southern bor-
9 der selected for expansion or modernization
10 pursuant to subsection (b); and

11 (B) the Secretary’s plan for expanding or
12 modernizing the primary and secondary inspec-
13 tion lanes at each such port of entry.

14 **SEC. 1203. SECURE COMMUNICATIONS.**

15 (a) IN GENERAL.—The Secretary shall ensure that
16 each U.S. Customs and Border Protection and U.S. Immi-
17 gration and Customs Enforcement officer or agent, if ap-
18 propriate, is equipped with a secure 2-way communication
19 device, supported by system interoperability, that allows
20 each such officer to communicate—

21 (1) between ports of entry and inspection sta-
22 tions; and

23 (2) with other Federal, State, tribal, and local
24 law enforcement entities.

1 (b) LAND BORDER AGENTS AND OFFICERS.—The
2 Secretary shall ensure that each U.S. Customs and Border
3 Protection agent or officer assigned or required to patrol
4 on foot, by horseback, or with a canine unit, in remote
5 mission critical locations, and at border checkpoints, has
6 a multi- or dual-band encrypted portable radio.

7 **SEC. 1204. BORDER SECURITY DEPLOYMENT PROGRAM.**

8 (a) EXPANSION.—Not later than September 30,
9 2021, the Secretary shall fully implement U.S. Customs
10 and Border Protection’s Border Security Deployment Pro-
11 gram and expand the integrated surveillance and intrusion
12 detection system at land ports of entry along the southern
13 border and the northern border.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
15 tion to amounts otherwise authorized to be appropriated
16 for such purpose, there is authorized to be appropriated
17 \$33,000,000, for each of the fiscal year 2018 through
18 2021, to carry out subsection (a).

19 **SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READ-**
20 **ERS AT PORTS OF ENTRY.**

21 (a) UPGRADE.—Not later than 1 year after the date
22 of the enactment of this Act, the Commissioner of U.S.
23 Customs and Border Protection shall upgrade all existing
24 license plate readers on the northern border or the south-
25 ern border on incoming and outgoing vehicle lanes.

1 (b) PILOT PROGRAM.—Not later than 90 days after
2 the date of the enactment of this Act, the Commissioner
3 of U.S. Customs and Border Protection shall conduct a
4 1-month pilot program on the southern border using li-
5 cense plate readers for 1 to 2 cargo lanes at the top 3
6 high-volume land ports of entry or checkpoints to deter-
7 mine their effectiveness in reducing cross-border wait
8 times for commercial traffic and tractor-trailers.

9 (c) REPORT.—Not later than 180 days after the date
10 of the enactment of this Act, the Secretary shall submit
11 a report to the appropriate congressional committees that
12 contains—

13 (1) the results of the pilot program under sub-
14 section (b); and

15 (2) recommendations for using such technology
16 on the southern border.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
18 tion to amounts otherwise authorized to be appropriated
19 for such purpose, there is authorized to be appropriated
20 \$125,000,000 for fiscal year 2018 to carry out subsection
21 (a).

22 **SEC. 1206. BIOMETRIC TECHNOLOGY.**

23 (a) BIOMETRIC STORAGE.—

24 (1) CREATION OR EXPANSION OF SYSTEM.—

25 Not later than 180 days after the date of the enact-

1 ment of this Act, the Secretary shall create a system
2 (or upgrade and expand the capability and capacity
3 of an existing system, if a Department of Homeland
4 Security system already has capability and capacity
5 for storage) to allow for the storage of fingerprints,
6 photographs, iris scans, voice prints, and any other
7 biometric data of aliens that can be used by the De-
8 partment of Homeland Security, other Federal agen-
9 cies, and State and local law enforcement agencies
10 for identity verification, authentication, background
11 checks, and document production.

12 (2) COMPATIBILITY.—The Secretary shall en-
13 sure, to the extent possible, that the system created
14 or expanded under paragraph (1) is compatible with
15 existing State and local law enforcement systems
16 that are used for the collection and storage of bio-
17 metric data for criminal aliens.

18 (b) PILOT PROGRAM.—When the system created
19 under subsection (a) is operational, U.S. Immigration and
20 Customs Enforcement and U.S. Citizenship and Immigra-
21 tion Services shall conduct a 6-month pilot program on
22 the collection and use of iris scans and voice prints for
23 identity verification, authentication, background checks,
24 and document production.

1 (c) REPORT.—Not later than 6 months after the con-
2 clusion of the pilot program under subsection (b), the Sec-
3 retary shall report the results of the pilot program and
4 make recommendations for using such technology to—

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

7 (2) the Committee on the Judiciary of the Sen-
8 ate;

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

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

13 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
14 tion to amounts otherwise authorized to be appropriated,
15 there are authorized to be appropriated, for each of the
16 fiscal years 2018 through 2021, \$10,000,000 carry out
17 this section.

18 **SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL**
19 **DEMONSTRATION PROJECT.**

20 (a) IN GENERAL.—

21 (1) ESTABLISHMENT.—Not later than 6
22 months after the date of the enactment of this Act,
23 the Commissioner shall establish a 6-month oper-
24 ational demonstration project to deploy a high-
25 throughput nonintrusive passenger vehicle inspection

1 system at not fewer than 3 land ports of entry along
2 the United States-Mexico border with significant
3 cross-border traffic.

4 (2) LOCATION.—The demonstration project es-
5 tablished under paragraph (1)—

6 (A) shall be located within the pre-primary
7 traffic flow; and

8 (B) should be scalable to span up to 26
9 contiguous in-bound traffic lanes without recon-
10 figuration of existing lanes.

11 (b) REPORT.—Not later than 90 days after the con-
12 clusion of the operational demonstration project under
13 subsection (a), the Commissioner shall submit a report to
14 the Committee on Homeland Security and Governmental
15 Affairs of the Senate, the Committee on Finance of the
16 Senate, the Committee on Homeland Security of the
17 House of Representatives, and the Committee on Ways
18 and Means of the House of Representatives that de-
19 scribes—

20 (1) the effects of the demonstration project on
21 legitimate travel and trade;

22 (2) the effects of the demonstration project on
23 wait times, including processing times, for non-pe-
24 destrian traffic; and

1 (3) the effectiveness of the demonstration
2 project in combating terrorism and smuggling.

3 **SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.**

4 (a) IN GENERAL.—Subtitle B of title IV of the
5 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
6 is amended by inserting after section 418 the following:

7 **“SEC. 419. BIOMETRIC ENTRY-EXIT.**

8 “(a) ESTABLISHMENT.—The Secretary—

9 “(1) not later than 180 days after the date of
10 the enactment of this section, shall submit an imple-
11 mentation plan to the Committee on Homeland Se-
12 curity and Governmental Affairs of the Senate, the
13 Committee on the Judiciary of the Senate, the Com-
14 mittee on Homeland Security of the House of Rep-
15 resentatives, and the Committee on the Judiciary of
16 the House of Representatives for establishing a bio-
17 metric exit data system to complete the integrated
18 biometric entry and exit data system required under
19 section 7208 of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (8 U.S.C. 1365b), in-
21 cluding—

22 “(A) an integrated master schedule and
23 cost estimate, including requirements and de-
24 sign, development, operational, and mainte-
25 nance costs of such a system, that takes into

1 account prior reports on such matters issued by
2 the Government Accountability Office and the
3 Department;

4 “(B) cost-effective staffing and personnel
5 requirements of such a system that leverages
6 existing resources of the Department that takes
7 into account prior reports on such matters
8 issued by the Government Accountability Office
9 and the Department;

10 “(C) a consideration of training programs
11 necessary to establish such a system that takes
12 into account prior reports on such matters
13 issued by the Government Accountability Office
14 and the Department;

15 “(D) a consideration of how such a system
16 will affect arrival and departure wait times that
17 takes into account prior reports on such matter
18 issued by the Government Accountability Office
19 and the Department;

20 “(E) information received after consulta-
21 tion with private sector stakeholders, including
22 the—

23 “(i) trucking industry;

24 “(ii) airport industry;

25 “(iii) airline industry;

1 “(iv) seaport industry;

2 “(v) travel industry; and

3 “(vi) biometric technology industry;

4 “(F) a consideration of how trusted trav-
5 eler programs in existence as of the date of the
6 enactment of this Act may be impacted by, or
7 incorporated into, such a system;

8 “(G) defined metrics of success and mile-
9 stones;

10 “(H) identified risks and mitigation strate-
11 gies to address such risks;

12 “(I) a consideration of how other countries
13 have implemented a biometric exit data system;
14 and

15 “(J) a list of statutory, regulatory, or ad-
16 ministrative authorities needed to integrate
17 such a system into the operations of the Trans-
18 portation Security Administration; and

19 “(2) not later than 2 years after the date of the
20 enactment of this section, shall establish a biometric
21 exit data system at—

22 “(A) the 15 United States airports that
23 support the highest volume of international air
24 travel, as determined by available Federal flight
25 data;

1 “(B) the 10 United States seaports that
2 support the highest volume of international sea
3 travel, as determined by available Federal travel
4 data; and

5 “(C) the 15 United States land ports of
6 entry that support the highest volume of vehi-
7 cle, pedestrian, and cargo crossings, as deter-
8 mined by available Federal border crossing
9 data.

10 “(b) IMPLEMENTATION.—

11 “(1) PILOT PROGRAM AT LAND PORTS OF
12 ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAF-
13 FIC.—Not later than 6 months after the date of the
14 enactment of this section, the Secretary, in collabo-
15 ration with industry stakeholders, shall establish a
16 6-month pilot program to test the biometric exit
17 data system referred to in subsection (a)(2) on non-
18 pedestrian outbound traffic at not fewer than 3 land
19 ports of entry with significant cross-border traffic,
20 including at not fewer than 2 land ports of entry on
21 the southern land border and at least 1 land port of
22 entry on the northern land border. Such pilot pro-
23 gram may include a consideration of more than 1 bi-
24 ometric mode, and shall be implemented to deter-
25 mine—

1 “(A) how a nationwide implementation of
2 such biometric exit data system at land ports of
3 entry shall be carried out;

4 “(B) the infrastructure required to carry
5 out subparagraph (A);

6 “(C) the effects of such pilot program on
7 legitimate travel and trade;

8 “(D) the effects of such pilot program on
9 wait times, including processing times, for such
10 nonpedestrian traffic;

11 “(E) the effects of such pilot program on
12 combating terrorism; and

13 “(F) the effects of such pilot program on
14 identifying visa holders who violate the terms of
15 their visas.

16 “(2) EXPANSION TO LAND PORTS OF ENTRY
17 FOR NONPEDESTRIAN OUTBOUND TRAFFIC.—

18 “(A) IN GENERAL.—Not later than 5 years
19 after the date of the enactment of this section,
20 the Secretary shall expand the biometric exit
21 data system referred to in subsection (a)(2) to
22 all land ports of entry, and such system shall
23 apply only in the case of nonpedestrian out-
24 bound traffic.

1 “(B) EXTENSION.—The Secretary may ex-
2 tend for a single 2-year period the date speci-
3 fied in subparagraph (A) if the Secretary cer-
4 tifies to the Committee on Homeland Security
5 and Governmental Affairs of the Senate, the
6 Committee on the Judiciary of the Senate, the
7 Committee on Homeland Security of the House
8 of Representatives, and the Committee on the
9 Judiciary of the House of Representatives that
10 the 15 land ports of entry that support the
11 highest volume of passenger vehicles, as deter-
12 mined by available Federal data, do not have
13 the physical infrastructure or characteristics to
14 install the systems necessary to implement a bi-
15 ometric exit data system.

16 “(3) EXPANSION TO AIR AND SEA PORTS OF
17 ENTRY.—Not later than 5 years after the date of
18 the enactment of this section, the Secretary shall ex-
19 pand the biometric exit data system referred to in
20 subsection (a)(2) to all air and sea ports of entry.

21 “(4) EXPANSION TO LAND PORTS OF ENTRY
22 FOR PEDESTRIANS.—Not later than 5 years after
23 the date of the enactment of this section, the Sec-
24 retary shall expand the biometric exit data system
25 referred to in subsection (a)(2) to all land ports of

1 entry, and such system shall apply only in the case
2 of pedestrians.

3 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
4 TATION.—The Secretary, in consultation with appropriate
5 private sector stakeholders, shall ensure that the collection
6 of biometric data under this section causes the least pos-
7 sible disruption to the movement of people or cargo in air,
8 sea, or land transportation, while fulfilling the goals of im-
9 proving counterterrorism efforts and identifying visa hold-
10 ers who violate the terms of their visas.

11 “(d) TERMINATION OF PROCEEDING.—Notwith-
12 standing any other provision of law, the Secretary shall,
13 on the date of the enactment of this section, terminate
14 the proceeding entitled ‘Collection of Alien Biometric Data
15 Upon Exit From the United States at Air and Sea Ports
16 of Departure; United States Visitor and Immigrant Status
17 Indicator Technology Program (“US-VISIT”)', issued on
18 April 24, 2008 (73 Fed. Reg. 22065).

19 “(e) DATA-MATCHING.—The biometric exit data sys-
20 tem established under this section shall—

21 “(1) match biometric information for an indi-
22 vidual who is departing the United States against bi-
23 ometric data previously provided to the United
24 States Government by such individual for the pur-
25 poses of international travel;

1 “(2) leverage the infrastructure and databases
2 of the current biometric entry and exit system estab-
3 lished pursuant to section 7208 of the Intelligence
4 Reform and Terrorism Prevention Act of 2004 (8
5 U.S.C. 1365b) for the purpose described in para-
6 graph (1); and

7 “(3) be interoperable with, and allow matching
8 against, other Federal databases that—

9 “(A) store biometrics of known or sus-
10 pected terrorists; and

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

13 “(f) SCOPE.—

14 “(1) IN GENERAL.—The biometric exit data
15 system established under this section shall include a
16 requirement for the collection of biometric exit data
17 at the time of departure for all categories of individ-
18 uals who are required by the Secretary to provide bi-
19 ometric entry data.

20 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
21 UALS.—This section shall not apply in the case of an
22 individual who exits and then enters the United
23 States on a passenger vessel (as such term is defined
24 in section 2101 of title 46, United States Code) the

1 itinerary of which originates and terminates in the
2 United States.

3 “(3) EXCEPTION FOR LAND PORTS OF
4 ENTRY.—This section shall not apply in the case of
5 a United States or Canadian citizen who exits the
6 United States through a land port of entry.

7 “(g) COLLECTION OF DATA.—The Secretary may not
8 require any non-Federal person to collect biometric data,
9 or contribute to the costs of collecting or administering
10 the biometric exit data system established under this sec-
11 tion, except through a mutual agreement.

12 “(h) MULTI-MODAL COLLECTION.—In carrying out
13 subsections (a)(1) and (b), the Secretary shall make every
14 effort to collect biometric data using multiple modes of
15 biometrics.

16 “(i) FACILITIES.—All facilities at which the biometric
17 exit data system established under this section is imple-
18 mented shall provide and maintain space for Federal use
19 that is adequate to support biometric data collection and
20 other inspection-related activity. For non-federally owned
21 facilities, such space shall be provided and maintained at
22 no cost to the Government.

23 “(j) NORTHERN LAND BORDER.—In the case of the
24 northern land border, the requirements under subsections
25 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through

1 the sharing of biometric data provided to U.S. Customs
2 and Border Protection by the Canadian Border Services
3 Agency pursuant to the 2011 Beyond the Border agree-
4 ment.

5 “(k) FAIR AND OPEN COMPETITION.—The Secretary
6 shall procure goods and services to implement this section
7 via fair and open competition in accordance with the Fed-
8 eral Acquisition Regulations.

9 “(l) OTHER BIOMETRIC INITIATIVES.—The Sec-
10 retary may pursue biometric initiatives at air, land, and
11 sea ports of entry for the purposes of border security and
12 trade facilitation distinct from the biometric exit data sys-
13 tem described in this section.

14 “(m) CONGRESSIONAL REVIEW.—Not later than 90
15 days after the date of the enactment of this section, the
16 Secretary shall submit to reports and recommendations to
17 the Committee on Homeland Security and Governmental
18 Affairs of the Senate, the Committee on the Judiciary of
19 the Senate, the Committee on Homeland Security of the
20 House of Representatives, and the Committee on the Judi-
21 ciary of the House of Representatives regarding the
22 Science and Technology Directorate’s Air Entry and Exit
23 Re-Engineering Program of the Department and the U.S.
24 Customs and Border Protection entry and exit mobility
25 program demonstrations.

1 “(n) SAVINGS CLAUSE.—Nothing in this section may
2 be construed to prohibit the collection of user fees per-
3 mitted by section 13031 of the Consolidated Omnibus
4 Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002 is
7 amended by inserting after the item relating to section
8 417 the following:

“Sec. 419. Biometric entry-exit.”.

9 **SEC. 1209. SENSE OF CONGRESS ON COOPERATION BE-**
10 **TWEEN AGENCIES.**

11 (a) FINDING.—Congress finds that personnel con-
12 straints exist at land ports of entry with regard to sanitary
13 and phytosanitary inspections for exported goods.

14 (b) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that, in the best interest of cross-border trade and
16 the agricultural community—

17 (1) any lack of certified personnel for inspection
18 purposes at ports of entry should be addressed by
19 seeking cooperation between agencies and depart-
20 ments of the United States, whether in the form of
21 a memorandum of understanding or through a cer-
22 tification process, whereby additional existing agents
23 are authorized for additional hours to facilitate the
24 crossing and trade of perishable goods in a manner

1 consistent with rules of the Department of Agri-
2 culture; and

3 (2) cross designation should be available for
4 personnel who will assist more than one agency or
5 department at land ports of entry to facilitate in-
6 creased trade and commerce.

7 **SEC. 1210. AUTHORIZATION OF APPROPRIATIONS.**

8 In addition to any amounts otherwise authorized to
9 be appropriated for such purpose, there is authorized to
10 be appropriated \$1,250,000,000 for each of the fiscal
11 years 2018 through 2021 to carry out this title, of
12 which—

13 (1) \$2,000,000 shall be used by the Secretary
14 for—

15 (A) hiring additional Uniform Management
16 Center support personnel;

17 (B) purchasing uniforms for U.S. Customs
18 and Border Protection officers and agents;

19 (C) acquiring additional motor vehicles to
20 support vehicle mounted surveillance systems;

21 (D) hiring additional motor vehicle pro-
22 gram support personnel; and

23 (E) contract support for customer service,
24 vendor management, and operations manage-
25 ment;

1 (2) \$250,000,000 per year shall be used to im-
 2 plement the biometric exit data system described in
 3 section 419 of the Homeland Security Act of 2002,
 4 as added by section 1208 of this Act; and

5 (3) \$65,000,000 shall be used by the Secretary
 6 to purchase—

7 (A) new AS350, UH-60L, and UAS-Native
 8 M9 aircrafts;

9 (B) required support equipment; and

10 (C) initial spare parts for southern and
 11 northern border security and maritime oper-
 12 ations.

13 **Subtitle C—Domestic Security and** 14 **Interior Enforcement**

15 **CHAPTER 1—GENERAL MATTERS**

16 **SEC. 1301. ENDING CATCH AND RELEASE FOR REPEAT IM-** 17 **MIGRATION VIOLATORS AND CRIMINALS** 18 **ALIENS.**

19 (a) IN GENERAL.—Section 236 of the Immigration
 20 and Nationality Act (8 U.S.C. 1226) is amended by strik-
 21 ing the section heading and subsections (a) through (c)
 22 and inserting the following:

23 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

24 **“(a) ARREST, DETENTION, AND RELEASE.—**

1 “(1) IN GENERAL.—The Secretary, on a war-
2 rant issued by the Secretary, may arrest an alien
3 and detain the alien pending a decision on whether
4 the alien is to be removed from the United States
5 up until the alien has an administratively final order
6 of removal. Except as provided in subsection (c) and
7 pending such decision, the Secretary—

8 “(A) may—

9 “(i) continue to detain the arrested
10 alien;

11 “(ii) release the alien on bond of at
12 least \$5,000, with security approved by,
13 and containing conditions prescribed by,
14 the Secretary; or

15 “(iii) release the alien on his or her
16 own recognizance, subject to appropriate
17 conditions set forth by the Secretary, if the
18 Secretary determines that the alien will not
19 pose a danger to the safety of other per-
20 sons or of property and is likely to appear
21 for any scheduled proceeding; and

22 “(B) may not provide the alien with work
23 authorization (including an ‘employment au-
24 thorized’ endorsement or other appropriate
25 work permit) or advance parole to travel outside

1 of the United States, unless the alien is lawfully
2 admitted for permanent residence or otherwise
3 would (without regard to removal proceedings)
4 be provided such authorization.

5 “(b) REVOCATION OF BOND OR PAROLE.—The Sec-
6 retary, at any time, may revoke bond or parole authorized
7 under subsection (a), rearrest the alien under the original
8 warrant, and detain the alien.

9 “(c) MANDATORY DETENTION OF CRIMINAL
10 ALIENS.—

11 “(1) CRIMINAL ALIENS.—The Secretary shall
12 take into custody and continue to detain any alien
13 at any time after the alien is released, without re-
14 gard to whether the alien is released on parole, su-
15 pervised release, and without regard to whether the
16 alien may be arrested or imprisoned again for the
17 same offense, if the alien—

18 “(A)(i) has not been admitted or paroled
19 into the United States; and

20 “(ii) was apprehended anywhere within
21 100 miles of the international border of the
22 United States;

23 “(B) is inadmissible by reason of having
24 committed any offense covered in section
25 212(a)(2);

1 “(C) is deportable by reason of having
2 committed any offense covered in section
3 237(a)(2);

4 “(D) is convicted for an offense under sec-
5 tion 275(a);

6 “(E) is convicted for an offense under sec-
7 tion 276;

8 “(F) is convicted for any criminal offense;
9 or

10 “(G) is inadmissible under section
11 212(a)(3)(B) or deportable under section
12 237(a)(4)(B).

13 “(2) RELEASE.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the Secretary may release an
16 alien described in paragraph (1) only if the Sec-
17 retary decides pursuant to section 3251 of title
18 18, United States Code, and in accordance with
19 a procedure that considers the severity of the
20 offense committed by the alien, that—

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

23 “(I) a witness;

24 “(II) a potential witness;

1 “(III) a person cooperating with
2 an investigation into major criminal
3 activity; or

4 “(IV) an immediate family mem-
5 ber or close associate of a witness, po-
6 tential witness, or person cooperating
7 with such an investigation; and

8 “(ii) the alien demonstrates to the
9 satisfaction of the Secretary that the
10 alien—

11 “(I) is not a flight risk;

12 “(II) poses no danger to the safe-
13 ty of other persons or of property;

14 “(III) is not a threat to national
15 security or public safety; and

16 “(IV) is likely to appear at any
17 scheduled proceeding.

18 “(B) ARRESTED, BUT NOT CONVICTED,
19 ALIENS.—

20 “(i) RELEASE FOR PROCEEDINGS.—

21 The Secretary may release any alien held
22 pursuant to paragraph (1) to the appro-
23 priate authority for any proceedings subse-
24 quent to the arrest.

1 “(ii) RESUMPTION OF CUSTODY.—If
2 an alien is released pursuant to clause (i),
3 the Secretary shall—

4 “(I) resume custody of the alien
5 during any period pending the final
6 disposition of any such proceedings
7 that the alien is not in the custody of
8 such appropriate authority; and

9 “(II) if the alien is not convicted
10 of the offense for which the alien was
11 arrested, the Secretary shall continue
12 to detain the alien until removal pro-
13 ceedings are completed.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in the first section of the Immigration and Nationality Act
16 is amended by striking the item relating to section 236
17 and inserting the following:

“Sec. 236. Apprehension and detention of aliens.”.

18 **SEC. 1302. DETERRING VISA OVERSTAYS.**

19 (a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
20 the Immigration and Nationality Act (8 U.S.C. 1184) is
21 amended by striking the section heading and all that fol-
22 lows through subsection (a)(1) and inserting the following:

23 **“SEC. 214. ADMISSION OF NONIMMIGRANTS.**

24 “(a) IN GENERAL.—

25 “(1) TERMS AND CONDITIONS OF ADMISSION.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), the admission to the
3 United States of any alien as a nonimmigrant
4 may be for such time and under such conditions
5 as the Secretary may prescribe, including when
6 the Secretary deems necessary the giving of a
7 bond with sufficient surety in such sum and
8 containing such conditions as the Secretary
9 shall prescribe, to insure that at the expiration
10 of such time or upon failure to maintain the
11 status under which the alien was admitted, or
12 to maintain any status subsequently acquired
13 under section 248, such alien will depart from
14 the United States.

15 “(B) GUAM OR CNMI VISA WAIVER NON-
16 IMMIGRANTS.—No alien admitted to Guam or
17 the Commonwealth of the Northern Mariana Is-
18 lands without a visa pursuant to section 212(l)
19 may be authorized to enter or stay in the
20 United States other than in Guam or the Com-
21 monwealth of the Northern Mariana Islands or
22 to remain in Guam or the Commonwealth of
23 the Northern Mariana Islands for a period ex-
24 ceeding 45 days from the date of admission to

1 Guam or the Commonwealth of the Northern
2 Mariana Islands.

3 “(C) VISA WAIVER PROGRAM NON-
4 IMMIGRANTS.—No alien admitted to the United
5 States without a visa pursuant to section 217
6 may be authorized to remain in the United
7 States as a nonimmigrant visitor for a period
8 exceeding 90 days from the date of admission.

9 “(D) BAR TO IMMIGRATION BENEFITS AND
10 TO CONTESTING REMOVAL.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), except for an alien admitted as a non-
13 immigrant under subparagraph (A) or (G)
14 of section 101(a)(15) or a NATO non-
15 immigrant, any alien who remains in the
16 United States beyond the period of stay
17 authorized by the Secretary, without good
18 cause is ineligible for all immigration bene-
19 fits or relief available under the immigra-
20 tion laws, including relief under sections
21 240B, 245, 248, and 249, other than—

22 “(I) asylum;

23 “(II) relief as a victim of traf-
24 ficking under section 101(a)(15)(T);

1 “(III) relief as a victim of crimi-
2 nal activity under section
3 101(a)(15)(U);

4 “(IV) relief as a VAWA self-peti-
5 tioner;

6 “(V) relief as a battered spouse
7 or child under section 240A(b)(2);

8 “(VI) withholding of removal
9 under section 241(b)(3); or

10 “(VII) protection from removal
11 based on a claim under the Conven-
12 tion Against Torture and Other Cruel,
13 Inhuman or Degrading Treatment or
14 Punishment, done at New York, De-
15 cember 10, 1984.

16 “(ii) EXCEPTION.—The Secretary
17 may, in the Secretary’s sole and
18 unreviewable discretion, determine that a
19 nonimmigrant is not subject to clause (i)
20 if—

21 “(I) the alien was lawfully admit-
22 ted to the United States as a non-
23 immigrant;

24 “(II) the alien filed a nonfrivo-
25 lous application for change of status

1 to another nonimmigrant category or
2 extension of stay before the date of
3 expiration of the alien's authorized pe-
4 riod of stay as a nonimmigrant;

5 “(III) the alien has not been em-
6 ployed without authorization in the
7 United States, before, or during pend-
8 ency of the application;

9 “(IV) the alien has not otherwise
10 violated the terms of the alien's non-
11 immigrant status; and

12 “(V) the Secretary, in the Sec-
13 retary's sole and unreviewable discre-
14 tion, determines that the alien is not
15 a threat to national security or public
16 safety.

17 “(iii) GOOD CAUSE DEFINED.—For
18 purposes of clause (i), the term ‘good
19 cause’ means exigent humanitarian cir-
20 cumstances, such as medical emergencies
21 or force majeure.”.

22 (b) ISSUANCE OF NONIMMIGRANT VISAS.—Section
23 221(a) of the Immigration and Nationality Act (8 U.S.C.
24 1201(a)) is amended by adding at the end the following:

1 “(3) The Secretary of State shall ensure that every
2 application for a nonimmigrant visa includes an acknowl-
3 edgment, executed by the alien under penalty of perjury,
4 confirming that the alien—

5 “(A) has been notified of the terms and condi-
6 tions of the nonimmigrant visa, including the waiver
7 of rights under subsection (j); and

8 “(B) understands that he or she will be ineli-
9 gible for all immigration benefits and any form of
10 relief or protection from removal, including relief
11 under sections 240B, 245, 248, and 249, other than
12 a request for asylum, relief as a victim of trafficking
13 under section 101(a)(15)(T), relief as a victim of
14 criminal activity under 101(A)(15)(U), relief as a
15 VAWA self-petitioner, relief as a battered spouse or
16 child under section 240A(b)(2), withholding of re-
17 moval under section 241(b)(3), or protection from
18 removal based on a claim under the Convention
19 Against Torture and Other Cruel, Inhuman or De-
20 grading Treatment or Punishment, done at New
21 York, December 10, 1984, and from contesting re-
22 moval if the alien violates any term or condition of
23 his or her nonimmigrant visa or fails to depart the
24 United States at the end of the alien’s authorized
25 period of stay.”.

1 (c) BARS TO IMMIGRATION RELIEF.—Section 221 of
2 the Immigration and Nationality Act, as amended by sub-
3 section (b), is further amended by adding at the end the
4 following:

5 “(j) WAIVER OF RIGHTS.—The Secretary of State
6 may not issue a nonimmigrant visa under section 214 to
7 an alien (other than an alien who qualifies for a visa under
8 subparagraph (A) or (G) of section 101(a)(15), is a
9 VAWA self-petitioner, or qualifies for a visa under the
10 North Atlantic Treaty, signed at Washington April 4,
11 1949) until the alien has waived any right to relief under
12 sections 240B, 245, 248, and 249 (other than relief from
13 removal under section 241(b)(3)), any form of relief estab-
14 lished after the date on which the nonimmigrant visa is
15 issued, and from contesting removal if the alien—

16 “(1) violates a term or condition of his or her
17 nonimmigrant status; or

18 “(2) fails to depart the United States at the
19 end of the alien’s authorized period of stay.”.

20 (d) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—
21 Section 217(b) of the Immigration and Nationality Act (8
22 U.S.C. 1187(b)) is amended to read as follows:

23 “(b) WAIVER OF RIGHTS.—An alien may not be pro-
24 vided a waiver under the program unless the alien has—

1 “(1) signed, under penalty of perjury, an ac-
2 knowledge confirming that the alien was noti-
3 fied and understands that he or she will be ineligible
4 for any form of relief or immigration benefit under
5 the Act or any other immigration laws, including
6 sections 240B, 245, 248, and 249 (other than a re-
7 quest for asylum), relief as a victim of trafficking
8 under section 101(a)(15)(T), relief as a victim of
9 criminal activity under 101(A)(15)(U), relief as a
10 VAWA self-petitioner, relief as a battered spouse or
11 child under section 240A(b)(2), withholding of re-
12 moval under section 241(b)(3), or protection from
13 removal based on a claim under the Convention
14 Against Torture and Other Cruel, Inhuman or De-
15 grading Treatment or Punishment, done at New
16 York, December 10, 1984, if the alien fails to depart
17 from the United States at the end of the 90-day pe-
18 riod for admission;

19 “(2) waived any right to review or appeal under
20 this Act of an immigration officer’s determination as
21 to the a admissibility of the alien at the port of
22 entry into the United States; and

23 “(3) waived any right to contest, other than on
24 the basis of an application for asylum, any action for
25 removal of the alien.”.

1 (e) DETENTION AND REPATRIATION OF VISA WAIV-
2 ER VIOLATORS.—Section 217(c)(2)(E) of the Immigration
3 and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended
4 by striking the section header and inserting the following:

5 “(E) DETENTION AND REPATRIATION OF
6 ALIENS.—Any alien who fails to depart from
7 the United States at the end of the 90-day pe-
8 riod for admission shall be detained pending re-
9 moval.”.

10 **SEC. 1303. INCREASE IN IMMIGRATION DETENTION CAPAC-**
11 **ITY.**

12 Not later than September 30, 2018, and subject to
13 the availability of appropriations, the Secretary of Home-
14 land Security shall increase the immigration detention ca-
15 pacity to a daily immigration detention capacity of not
16 fewer than 48,879 detention beds.

17 **SEC. 1304. COLLECTION OF DNA FROM CRIMINAL AND DE-**
18 **TAINED ALIENS.**

19 Section 3 of the DNA Analysis Backlog Elimination
20 Act of 2000 (42 U.S.C. 14135a) is amended—

21 (1) in subsection (a)(1), by adding at the end
22 the following:

23 “(C) The Secretary of Homeland Security shall
24 collect DNA samples from any alien (as defined

1 under section 101(a)(3) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1101(a)(3)) who—

3 “(i) has been detained pursuant to section
4 235(b)(1)(B)(iii)(IV), 236, 236A, or 238 of
5 such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV),
6 1226, 1226a, and 1228); or

7 “(ii) is the subject of a final order of re-
8 moval under section 240 of such Act (8 U.S.C.
9 1229a) based on inadmissibility under section
10 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) or
11 being subject to removal under section
12 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)).”;

13 and

14 (2) in subsection (b), by striking “or the proba-
15 tion office responsible (as applicable)” and inserting
16 “the probation office responsible, or the Secretary of
17 Homeland Security”.

18 **SEC. 1305. COLLECTION, USE, AND STORAGE OF BIOMETRIC**

19 **DATA.**

20 (a) **COLLECTION AND USE OF BIOMETRIC INFORMA-**
21 **TION FOR IMMIGRATION PURPOSES.—**

22 (1) **COLLECTION.**—The Secretary of Homeland
23 Security may require any individual filing an appli-
24 cation, petition, or other request for an immigration
25 benefit or immigration status with the Department

1 of Homeland Security or seeking an immigration
2 benefit or other authorization, employment author-
3 ization, identity, or travel document, or requesting
4 relief or protection under any provision of the immi-
5 gration laws to submit biometric information (in-
6 cluding fingerprints, photograph, signature, voice
7 print, iris scan, or DNA) to the Secretary.

8 (2) USE.—The Secretary may use any biomet-
9 ric information submitted under paragraph (1) to
10 conduct background and security checks, verify an
11 individual’s identity, adjudicate, revoke, or terminate
12 an immigration benefit or immigration status, and
13 perform other functions related to administering and
14 enforcing the immigration laws.

15 (b) BIOMETRIC AND BIOGRAPHIC INFORMATION

16 SHARING.—

17 (1) SHARING WITH DEPARTMENT OF DEFENSE
18 AND FEDERAL BUREAU OF INVESTIGATION.—The
19 Secretary of Homeland Security, the Secretary of
20 Defense, and the Director of the Federal Bureau of
21 Investigation—

22 (A) shall exchange appropriate biometric
23 and biographic information to determine or con-
24 firm the identity of an individual and to assess

1 whether the individual is a threat to national
2 security or public safety; and

3 (B) may use information exchanged pursu-
4 ant to subparagraph (A)—

5 (i) to compare biometric and bio-
6 graphic information contained in applicable
7 systems of the Department of Homeland
8 Security, the Department of Defense, or
9 the Federal Bureau of Investigation to de-
10 termine if there is a match between such
11 information; and

12 (ii) if there is a match between such
13 information, to relay such information to
14 the requesting agency.

15 (2) USE OF BIOMETRIC DATA BY THE DEPART-
16 MENT OF STATE.—The Secretary of State shall use
17 biometric information from applicable systems of the
18 Department of Homeland Security, of the Depart-
19 ment of Defense, and of the Federal Bureau of In-
20 vestigation to track individuals who are—

21 (A)(i) known or suspected terrorists; or

22 (ii) identified as a potential threat to na-
23 tional security; and

24 (B) using an alias while traveling.

1 (3) REPORT ON BIOMETRIC INFORMATION
2 SHARING WITH MEXICO AND OTHER COUNTRIES FOR
3 IDENTITY VERIFICATION.—Not later than 180 days
4 after the date of the enactment of this Act, the Sec-
5 retary of Homeland Security and the Secretary of
6 State shall submit a joint report on the status of ef-
7 forts to engage with the Government of Mexico and
8 the governments of other appropriate foreign coun-
9 tries located in Central America or South America—

10 (A) to discuss coordination on biometric
11 information sharing between the United States
12 and such countries; and

13 (B) to enter into bilateral agreements that
14 provide for the sharing of such biometric infor-
15 mation with the Department of State, the De-
16 partment of Defense, the Department of Jus-
17 tice, the Federal Bureau of Investigation, and
18 the Department of Homeland Security to use
19 in—

20 (i) identifying individuals who are
21 known or suspected terrorists or potential
22 threats to national security; and

23 (ii) verifying the entry and exit of in-
24 dividuals to and from the United States.

1 (4) RULE OF CONSTRUCTION.—The collection
2 of biometric information under paragraph (1) shall
3 not limit the authority of the Secretary of Homeland
4 Security to collect biometric information from any
5 individual arriving to or departing from the United
6 States.

7 **SEC. 1306. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
8 **ESSING.**

9 (a) IN GENERAL.—Not later than 6 months after the
10 date of the enactment of this Act, the Secretary of Home-
11 land Security shall establish a pilot program in at least
12 5 of the 10 U.S. Immigration and Customs Enforcement
13 field offices or regions with the largest removal caseloads
14 to allow U.S. Immigration and Customs Enforcement offi-
15 cers to use handheld or vehicle-mounted computers to elec-
16 tronically—

17 (1) process and serve charging documents, in-
18 cluding notices to appear, while in the field;

19 (2) process and place detainees while in the
20 field;

21 (3) collect biometric data for the purpose of
22 identifying an alien and establishing both immigra-
23 tion status and criminal history while in the field;

1 (4) enter any required data, including personal
2 information about the alien subject and the reason
3 for issuing the document;

4 (5) apply the electronic signature of the issuing
5 U.S. Immigration and Customs Enforcement officer
6 or agent;

7 (6) apply or capture the electronic signature of
8 the alien on any charging document or notice, in-
9 cluding any electronic signature captured to ac-
10 knowledge service of such documents or notices;

11 (7) set the date on which the alien is required
12 to appear before an immigration judge, in the case
13 of notices to appear;

14 (8) print any documents the alien subject may
15 be required to sign, along with additional copies of
16 documents to be served on the alien; and

17 (9) interface with the ENFORCE database so
18 that all data is collected, stored, and retrievable in
19 real-time.

20 (b) CONTRACT SUPPORT.—The Secretary may con-
21 tract with commercial vendors to test prototypes for elec-
22 tronic handheld or vehicle-mounted computers capable of
23 meeting the requirements under subsection (a).

24 (c) RULE OF CONSTRUCTION.—The pilot program
25 described in subsection (a) shall be designed to replace,

1 to the extent possible, the current paperwork and data
2 entry process used for issuing such charging documents
3 and detainers.

4 (d) REPORT.—Not later than 1 year months after the
5 commencement of the pilot program described in sub-
6 section (a), the Comptroller General of the United States
7 shall submit a report to the Committee on Homeland Se-
8 curity and Governmental Affairs of the Senate, the Com-
9 mittee on the Judiciary of the Senate, the Committee on
10 Homeland Security of the House of Representatives, the
11 Committee on the Judiciary of the House of Representa-
12 tives that includes—

13 (1) the results of the pilot program; and

14 (2) recommendations for using the technology
15 described in subsection (a) on a nationwide basis.

16 **SEC. 1307. ENDING ABUSE OF PAROLE AUTHORITY.**

17 (a) IN GENERAL.—Section 212(d)(5) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1182(d)(5)) is
19 amended to read as follows:

20 “(5) PAROLE AUTHORITY.—

21 “(A) IN GENERAL.—Except as provided in sub-
22 paragraph (C) or section 214(f), the Secretary may
23 temporarily parole into the United States any alien
24 applying for admission to the United States, under
25 such conditions as the Secretary may prescribe, in-

1 including requiring the posting of a bond, and only on
2 a case-by-case basis for an urgent humanitarian rea-
3 son or a reason deemed strictly in the public inter-
4 est.

5 “(B) PAROLE NOT AN ADMISSION.—In accord-
6 ance with section 101(a)(13)(B), parole of an alien
7 under subparagraph (A) shall not be regarded as an
8 admission of the alien to the United States. When
9 the purposes of the parole of an alien have been
10 served, as determined by the Secretary, the alien
11 shall immediately return to his or her country of
12 citizenship, nationality, or origin. If the alien was
13 paroled from custody, the alien shall be returned to
14 the custody from which the alien was paroled and
15 the alien shall be considered for admission to the
16 United States on the same basis as other similarly
17 situated applicants for admission.

18 “(C) PROHIBITED USES OF PAROLE AUTHOR-
19 ITY.—

20 “(i) IN GENERAL.—The Secretary may not
21 use the authority under subparagraph (A) to
22 parole in generalized categories of aliens or
23 classes of aliens based solely on nationality,
24 presence, or residence in the United States,
25 family relationships, or any other criteria that

1 would cover a broad group of foreign nationals
2 either inside or outside of the United States.

3 “(ii) ALIENS WHO ARE NATIONAL SECUR-
4 RITY OR PUBLIC SAFETY THREATS.—

5 “(I) PROHIBITION ON PAROLE.—The
6 Secretary shall not parole in any alien who
7 the Secretary, in the Secretary’s sole and
8 unreviewable discretion, determines is a
9 threat to national security or public safety,
10 except in extreme exigent circumstances.

11 “(II) EXTREME EXIGENT CIR-
12 CUMSTANCES DEFINED.—In subclause (I),
13 the term ‘extreme exigent circumstances’
14 means circumstances under which—

15 “(aa) the failure to parole the
16 alien would result in the immediate
17 significant risk of loss of life or bodily
18 function due to a medical emergency;

19 “(bb) the failure to parole the
20 alien would conflict with medical ad-
21 vice as to the health or safety of the
22 individual, detention facility staff, or
23 other detainees; or

24 “(cc) there is an urgent need for
25 the alien’s presence for a law enforce-

1 ment purpose, including for a prosecu-
2 tion or securing the alien’s presence
3 to appear as a material witness, or a
4 national security purpose.

5 “(D) URGENT HUMANITARIAN REASON DE-
6 FINED.—An urgent humanitarian reason referred to
7 in subparagraph (A) means—

8 “(i) the alien has a medical emergency and
9 the alien cannot obtain necessary treatment in
10 the foreign state in which the alien is residing
11 or the medical emergency is life-threatening and
12 there is insufficient time for the alien to be ad-
13 mitted through the normal visa process;

14 “(ii) the alien is needed in the United
15 States in order to donate an organ or other tis-
16 sue for transplant into a close family member;

17 “(iii) the alien has a close family member
18 in the United States whose death is imminent
19 and the alien could not arrive in the United
20 States in time to see such family member alive
21 if the alien were to be admitted through the
22 normal visa process;

23 “(iv) the alien is a lawful applicant for ad-
24 justment of status under section 245; or

1 “(v) the alien was lawfully granted status
2 under section 208 or lawfully admitted under
3 section 207.

4 “(E) PUBLIC INTEREST DEFINED.—A reason
5 deemed strictly in the public interest occurs if the
6 alien has assisted the United States Government in
7 a matter, such as a criminal investigation, espio-
8 nage, or other similar law enforcement activity, and
9 either the alien’s presence in the United States is re-
10 quired by the Government or the alien’s life would
11 be threatened if the alien were not permitted to
12 come to the United States.

13 “(F) LIMITATION ON THE USE OF PAROLE AU-
14 THORITY.—The Secretary may not use the parole
15 authority under this paragraph to permit to come to
16 the United States aliens who have applied for and
17 have been found to be ineligible for refugee status or
18 any alien to whom the provisions of this paragraph
19 do not apply.

20 “(G) TERMINATION OF PAROLE.—The Sec-
21 retary shall determine when the purpose of parole of
22 an alien has been served and, upon such determina-
23 tion—

24 “(i) the alien’s case shall continue to be
25 dealt with in the same manner as that of any

1 other applicant for admission to the United
2 States; and

3 “(ii) if the alien was previously detained,
4 the alien shall be returned to the custody from
5 which the alien was paroled.

6 “(H) LIMITATIONS ON USE OF ADVANCE PA-
7 ROLE.—

8 “(i) ADVANCE PAROLE DEFINED.—In this
9 subparagraph, the term ‘advance parole’ means
10 advance approval for an alien applying for ad-
11 mission to the United States to request at a
12 port of entry in the United States, a pre-inspec-
13 tion station, or a designated field office of the
14 Department of Homeland Security, to be pa-
15 roled into the United States under subpara-
16 graph (A).

17 “(ii) APPROVAL OF ADVANCE PAROLE.—
18 The Secretary may, in the Secretary’s discre-
19 tion, grant an application for advance parole.
20 Approval of an application for advance parole
21 shall not constitute a grant of parole under sub-
22 paragraph (A). A grant of parole into the
23 United States based on an approved application
24 for advance parole shall not be considered a pa-
25 role for purposes of qualifying for adjustment

1 of status to lawful permanent resident status in
2 the United States under section 245 or 245A.

3 “(iii) REVOCATION OF ADVANCE PA-
4 ROLE.—The Secretary may revoke a grant of
5 advance parole to an alien at any time. Such
6 revocation shall not be subject to administrative
7 appeal or judicial review.

8 “(iv) TEMPORARY DEPARTURE.—An alien
9 who leaves the United States temporarily pur-
10 suant to a grant of advance parole makes a de-
11 parture from the United States pursuant to the
12 immigration laws.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the first day of the first
15 month beginning more than 60 days after the date of the
16 enactment of this Act.

17 **SEC. 1308. REPORTS TO CONGRESS ON PAROLE.**

18 (a) REPORT ON NUMBER AND CATEGORY OF ALIENS
19 PAROLED INTO THE UNITED STATES.—Not later than 90
20 days after the end of each fiscal year, the Secretary of
21 Homeland Security shall submit a report to the Committee
22 on the Judiciary of the Senate and the Committee on the
23 Judiciary of the House of Representatives that, with re-
24 spect to the most recently completed fiscal year—

1 (1) describes the number and categories of
2 aliens paroled into the United States under section
3 212(d)(5) of the Immigration and Nationality Act,
4 as amended by section 1307; and

5 (2) contains information and data concerning—

6 (A) the number and categories of aliens
7 paroled;

8 (B) the duration of parole granted to
9 aliens referred to in subparagraph (A); and

10 (C) the current immigration status of the
11 aliens referred to in subparagraph (A).

12 (b) REPORT ON PAROLE PROCEDURES.—Not later
13 than 180 days after the date of the enactment of this Act,
14 and annually thereafter, the Attorney General and the
15 Secretary of Homeland Security shall jointly—

16 (1) conduct a review regarding the effectiveness
17 of parole and custody determination procedures ap-
18 plicable to aliens who have established a credible
19 fear of persecution and are awaiting a final deter-
20 mination regarding their asylum claim by the immi-
21 gration courts; and

22 (2) submit a report to the Committee on the
23 Judiciary of the Senate and the Committee on the
24 Judiciary of the House of Representatives based on
25 the results of such review, that includes—

1 (A) an analysis of—

2 (i) the rate at which release from de-
3 tention (including release on parole) is
4 granted to aliens who have established a
5 credible fear of persecution and are await-
6 ing a final determination regarding their
7 asylum claim by the immigration courts
8 throughout the United States; and

9 (ii) any disparity that exists between
10 locations or geographical areas, including
11 an explanation of the reasons for this dis-
12 parity and what actions are being taken to
13 have consistent and uniform application of
14 the standards for granting parole;

15 (B) an analysis of the effect of the proce-
16 dures and policies applied with respect to parole
17 and custody determinations by the Attorney
18 General and by the Secretary on the alien's
19 pursuit of their asylum claim before an immi-
20 gration court;

21 (C) an analysis of the effectiveness of the
22 procedures and policies applied with respect to
23 parole and custody determinations by the Attor-
24 ney General and by the Secretary in securing

1 the alien’s presence at the immigration court
2 proceedings;

3 (D) recommendations with respect to
4 whether the existing parole and custody deter-
5 mination procedures applicable to aliens who
6 have established a credible fear of persecution
7 and are awaiting a final determination regard-
8 ing their asylum claim by the immigration
9 courts—

10 (i) respect the interests of the aliens;

11 and

12 (ii) ensure the presence of the aliens
13 at the immigration court proceedings; and

14 (E) an assessment on corresponding failure
15 to appear rates, in absentia orders, and ab-
16 sconders.

17 **SEC. 1309. STOP DANGEROUS SANCTUARY CITIES ACT.**

18 (a) **SHORT TITLE.**—This section may be cited as the
19 “Stop Dangerous Sanctuary Cities Act”.

20 (b) **ENSURING THAT LOCAL AND FEDERAL LAW EN-
21 FORCEMENT OFFICERS MAY COOPERATE TO SAFEGUARD
22 OUR COMMUNITIES.**—

23 (1) **AUTHORITY TO COOPERATE WITH FEDERAL
24 OFFICIALS.**—A State or a political subdivision of a
25 State that has executed an agreement with the De-

1 partment of Homeland Security under section
2 287(g) of the Immigration and Nationality Act (8
3 U.S.C. 1357(g)), or an officer, employee, or agent of
4 such State or political subdivision that complies with
5 a detainer issued by the Department under section
6 236, 241, or 287 of the Immigration and Nationality
7 Act (8 U.S.C. 1226, 1231, and 1357)—

8 (A) shall be deemed to be acting as an
9 agent of the Department; and

10 (B) with regard to actions taken to comply
11 with the detainer, shall have all authority avail-
12 able to officers and employees of the Depart-
13 ment.

14 (2) LEGAL PROCEEDINGS.—In any legal pro-
15 ceeding brought against a State or a political sub-
16 division of State that has executed an agreement
17 with the Department of Homeland Security under
18 section 287(g) of the Immigration and Nationality
19 Act (8 U.S.C. 1357(g)), or an officer, employee, or
20 agent of such State or political subdivision acting
21 pursuant to such agreement, which challenges the le-
22 gality of the seizure or detention of an individual
23 pursuant to a detainer issued by the Department
24 under section 236, 241, or 287 of the Immigration

1 and Nationality Act (8 U.S.C. 1226, 1231, and
2 1357)—

3 (A) no liability for false arrest or imprison-
4 ment shall lie against the State or political sub-
5 division of a State for actions taken in compli-
6 ance with the detainer, which includes main-
7 taining custody of the alien in accordance with
8 the instructions on the detainer form and noti-
9 fying the Department prior to the alien's re-
10 lease from custody; and

11 (B) if the actions of the officer, employee,
12 or agent of the State or political subdivision
13 were taken in compliance with the detainer—

14 (i) the officer, employee, or agent
15 shall be deemed—

16 (I) to be an employee of the Fed-
17 eral Government and an investigative
18 or law enforcement officer; and

19 (II) to have been acting within
20 the scope of his or her employment
21 under section 1346(b) and chapter
22 171 of title 28, United States Code;

23 (ii) section 1346(b) of title 28, United
24 States Code, shall provide the exclusive
25 remedy for the plaintiff; and

1 (iii) the United States shall be sub-
2 stituted as defendant in the proceeding.

3 (c) SANCTUARY JURISDICTION DEFINED.—

4 (1) IN GENERAL.—Except as provided under
5 subsection (2), for purposes of this section, the term
6 “sanctuary jurisdiction” means any State or political
7 subdivision of a State that has executed an agree-
8 ment with the Department of Homeland Security
9 under section 287(g) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1357(g)) and has in effect a
11 statute, ordinance, policy, or practice that prohibits
12 or restricts any government entity or official from—

13 (A) sending, receiving, maintaining, or ex-
14 changing with any Federal, State, or local gov-
15 ernment entity information regarding the citi-
16 zenship or immigration status (lawful or unlaw-
17 ful) of any individual; or

18 (B) complying with a request lawfully
19 made by the Department under section 236 or
20 287 of the Immigration and Nationality Act (8
21 U.S.C. 1226, 1357) to comply with a detainer
22 for, or notify about the release of, an individual.

23 (2) EXCEPTION.—A State or political subdivi-
24 sion of a State shall not be deemed a sanctuary ju-
25 risdiction based solely on its having a policy whereby

1 its officials will not share information regarding, or
2 comply with a request made by the Department
3 under section 236 or 287 of the Immigration and
4 Nationality Act (8 U.S.C. 1226 and 1357) to comply
5 with a detainer regarding, an individual who comes
6 forward as a victim or a witness to a criminal of-
7 fense.

8 (d) SANCTUARY JURISDICTIONS INELIGIBLE FOR
9 CERTAIN FEDERAL FUNDS.—

10 (1) ECONOMIC DEVELOPMENT ADMINISTRATION
11 GRANTS.—

12 (A) GRANTS FOR PUBLIC WORKS AND ECO-
13 NOMIC DEVELOPMENT.—Section 201(b) of the
14 Public Works and Economic Development Act
15 of 1965 (42 U.S.C. 3141(b)) is amended—

16 (i) in paragraph (2), by striking
17 “and” at the end;

18 (ii) in paragraph (3), by striking the
19 period at the end and inserting “; and”;
20 and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(4) the area in which the project is to be car-
24 ried out is not a sanctuary jurisdiction (as defined

1 in subsection (e) of the Stop Dangerous Sanctuary
2 Cities Act).”.

3 (B) GRANTS FOR PLANNING AND ADMINIS-
4 TRATIVE EXPENSES.—Section 203(a) of the
5 Public Works and Economic Development Act
6 of 1965 (42 U.S.C. 3143(a)) is amended by
7 adding at the end the following: “A sanctuary
8 jurisdiction (as defined in subsection (e) of the
9 Stop Dangerous Sanctuary Cities Act) may not
10 be deemed an eligible recipient under this sub-
11 section.”.

12 (C) SUPPLEMENTARY GRANTS.—Section
13 205(a) of the Public Works and Economic De-
14 velopment Act of 1965 (42 U.S.C. 3145(a)) is
15 amended—

16 (i) in paragraph (2), by striking
17 “and” at the end;

18 (ii) in paragraph (3)(B), by striking
19 the period at the end and inserting “;
20 and”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(4) will be carried out in an area that does not
24 contain a sanctuary jurisdiction (as defined in sub-

1 section (c) of the Stop Dangerous Sanctuary Cities
2 Act).”.

3 (D) GRANTS FOR TRAINING, RESEARCH,
4 AND TECHNICAL ASSISTANCE.—Section 207 of
5 the Public Works and Economic Development
6 Act of 1965 (42 U.S.C. 3147) is amended by
7 adding at the end the following:

8 “(c) INELIGIBILITY OF SANCTUARY JURISDIC-
9 TIONS.—Grant funds under this section may not be used
10 to provide assistance to a sanctuary jurisdiction (as de-
11 fined in subsection (c) of the Stop Dangerous Sanctuary
12 Cities Act).”.

13 (2) COMMUNITY DEVELOPMENT BLOCK
14 GRANTS.—

15 (A) DEFINITIONS.—Section 102(a) of the
16 Housing and Community Development Act of
17 1974 (42 U.S.C. 5302(a)) is amended by add-
18 ing at the end the following:

19 “(25) The term ‘sanctuary jurisdiction’ has the
20 meaning given that term in subsection (c) of the
21 Stop Dangerous Sanctuary Cities Act.”.

22 (B) ELIGIBLE GRANTEES.—

23 (i) IN GENERAL.—Section 104(b) of
24 the Housing and Community Development

1 Act of 1974 (42 U.S.C. 5304(b)) is
2 amended—

3 (I) in paragraph (5), by striking
4 “and” at the end;

5 (II) by redesignating paragraph
6 (6) as paragraph (7); and

7 (III) by inserting after paragraph
8 (5) the following:

9 “(6) the grantee is not a sanctuary jurisdiction
10 and will not become a sanctuary jurisdiction during
11 the period for which the grantee receives a grant
12 under this title; and”.

13 (ii) PROTECTION OF INDIVIDUALS
14 AGAINST CRIME.—Section 104 of the
15 Housing and Community Development Act
16 of 1974 (42 U.S.C. 5304) is amended by
17 adding at the end the following:

18 “(n) PROTECTION OF INDIVIDUALS AGAINST
19 CRIME.—

20 “(1) IN GENERAL.—No funds authorized to be
21 appropriated to carry out this title may be obligated
22 or expended for any State or unit of general local
23 government that is a sanctuary jurisdiction.

24 “(2) RETURNED AMOUNTS.—

1 “(A) STATE.—If a State is a sanctuary ju-
2 risdiction during the period for which it receives
3 amounts under this title, the Secretary—

4 “(i) shall direct the State to imme-
5 diately return to the Secretary any such
6 amounts that the State received for that
7 period; and

8 “(ii) shall reallocate amounts returned
9 under clause (i) for grants under this title
10 to other States that are not sanctuary ju-
11 risdictions.

12 “(B) UNIT OF GENERAL LOCAL GOVERN-
13 MENT.—If a unit of general local government is
14 a sanctuary jurisdiction during the period for
15 which it receives amounts under this title, any
16 such amounts that the unit of general local gov-
17 ernment received for that period—

18 “(i) in the case of a unit of general
19 local government that is not in a non-
20 entitlement area, shall be returned to the
21 Secretary for grants under this title to
22 States and other units of general local gov-
23 ernment that are not sanctuary jurisdic-
24 tions; and

1 “(ii) in the case of a unit of general
2 local government that is in a nonentitle-
3 ment area, shall be returned to the Gov-
4 ernor of the State for grants under this
5 title to other units of general local govern-
6 ment in the State that are not sanctuary
7 jurisdictions.

8 “(C) REALLOCATION RULES.—In reallo-
9 cating amounts under subparagraphs (A) and
10 (B), the Secretary—

11 “(i) shall apply the relevant allocation
12 formula under subsection (b), with all
13 sanctuary jurisdictions excluded; and

14 “(ii) shall not be subject to the rules
15 for reallocation under subsection (c).”.

16 **SEC. 1310. REINSTATEMENT OF THE SECURE COMMUNITIES**
17 **PROGRAM.**

18 (a) REINSTATEMENT.—The Secretary shall reinstate
19 and operate the Secure Communities immigration enforce-
20 ment program administered by U.S. Immigration and
21 Customs Enforcement between 2008 and 2014.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated \$150,000,000 to carry out
24 this section.

1 **CHAPTER 2—PROTECTION AND DUE**
2 **PROCESS FOR UNACCOMPANIED**
3 **ALIEN CHILDREN**

4 **SEC. 1320. SHORT TITLE.**

5 This chapter may be cited as the “Protecting Chil-
6 dren and America’s Homeland Act of 2017”.

7 **SEC. 1321. REPATRIATION OF UNACCOMPANIED ALIEN**
8 **CHILDREN.**

9 Section 235(a) of the William Wilberforce Trafficking
10 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
11 1232(a)) is amended—

12 (1) in paragraph (2)—

13 (A) by amending the paragraph heading to
14 read as follows: “RULES FOR UNACCOMPANIED
15 ALIEN CHILDREN.—”;

16 (B) in subparagraph (A), in the matter
17 preceding clause (i), by striking “who is a na-
18 tional or habitual resident of a country that is
19 contiguous with the United States shall be
20 treated in accordance with subparagraph (B)”
21 and inserting “shall be treated in accordance
22 with subparagraph (B) or subsection (b), as ap-
23 propriate”; and

24 (C) in subparagraph (C)—

1 (i) by amending the subparagraph
2 heading to read as follows: “AGREEMENTS
3 WITH FOREIGN COUNTRIES.—”; and

4 (ii) in the matter preceding clause (i),
5 by striking “countries contiguous to the
6 United States” and inserting “Canada, El
7 Salvador, Guatemala, Honduras, Mexico,
8 and any other foreign country that the
9 Secretary determines appropriate”;

10 (2) by redesignating paragraphs (3), (4), and
11 (5) as paragraphs (4), (5), and (6), respectively;

12 (3) inserting after paragraph (2) the following:

13 “(3) MANDATORY EXPEDITED REMOVAL OF
14 CRIMINALS AND GANG MEMBERS.—Notwithstanding
15 any other provision of law, the Secretary of Home-
16 land Security shall place an unaccompanied alien
17 child in a proceeding in accordance with section 235
18 of the Immigration and Nationality Act (8 U.S.C.
19 1225a) if, the Secretary determines or has reason to
20 believe the alien—

21 “(A) has been convicted of any offense car-
22 rying a maximum term of imprisonment of
23 more than 180 days;

1 “(B) has been convicted of, or found to be
2 a juvenile offender based on, an offense which
3 involved—

4 “(i) the use or attempted use of phys-
5 ical force, or threatened use of a deadly
6 weapon;

7 “(ii) the purchase, sale, offering for
8 sale, exchange, use, ownership, possession,
9 or carrying, or of attempting or conspiring
10 to purchase, sell, offer for sale, exchange,
11 use, own, possess, or carry, any weapon,
12 part, or accessory which is a firearm or de-
13 structive device (as defined in section
14 921(a) of title 18, United States Code) in
15 violation of any law;

16 “(iii) child abuse and neglect (as de-
17 fined in section 40002(a)(3) of the Vio-
18 lence Against Women Act of 1994 (42
19 U.S.C. 13925(a)(3)));

20 “(iv) assault resulting in bodily injury
21 (as defined in section 2266 of title 18,
22 United States Code);

23 “(v) the violation of a protection order
24 (as defined in section 2266 of title 18,
25 United States Code);

1 “(vi) driving while intoxicated or driv-
2 ing under the influence (as such terms are
3 defined in section 164 of title 23, United
4 States Code); or

5 “(vii) any offense under foreign law,
6 except for a purely political offense, which,
7 if the offense had been committed in the
8 United States, would render the alien inad-
9 missible under section 212(a) of the Immig-
10 ration and Nationality Act (8 U.S.C.
11 1182(a));

12 “(C) has been convicted of, or found to be
13 a juvenile offender based on, more than 1 crimi-
14 nal offense (other than minor traffic offenses);

15 “(D) has been convicted of, or found to be
16 a juvenile offender based on a crime of violence
17 or an offense under Federal, State, or Tribal
18 law, that has, as an element, the use or at-
19 tempted use of physical force or the threatened
20 use of physical force or a deadly weapon;

21 “(E) has engaged in, is engaged in, or is
22 likely to engage after entry in any terrorist ac-
23 tivity (as defined in section 212(a)(3)(B)(iii) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1182(a)(3)(B)(iii))), or intends to participate or

1 has participated in the activities of a foreign
2 terrorist organization (as designated under sec-
3 tion 219 of the Immigration and Nationality
4 Act (8 U.S.C. 1189));

5 “(F) has engaged in, is engaged in, or any
6 time after a prior admission engages in activity
7 described in section 237(a)(4) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1227(a)(4));

9 “(G) is or was a member of a criminal
10 gang (as defined in section 101(a)(53) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1101(a)(53)));

13 “(H) provided materially false, fictitious,
14 or fraudulent information regarding age or
15 identity to the United States Government with
16 the intent to inaccurately classified as an unac-
17 companied alien child; or

18 “(I) has entered the United States more
19 than once in violation of section 275(a) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1325(a)), knowing that the entry was unlaw-
22 ful.”; and

23 (4) in paragraph (4), as redesignated by para-
24 graph (2) of this subsection—

1 (A) by striking “not described in para-
2 graph (2)(A)”; and

3 (B) by inserting “who choose not to with-
4 draw their application for admission and return
5 to their country of nationality or country of last
6 habitual residence” after “port of entry”; and

7 (5) in paragraph (6)(D), as redesignated by
8 paragraph (2)—

9 (A) by amending the subparagraph head-
10 ing to read as follows: “EXPEDITED DUE PROC-
11 ESS AND SCREENING FOR UNACCOMPANIED
12 ALIEN CHILDREN.—”;

13 (B) in the matter preceding clause (i), by
14 striking “, except for an unaccompanied alien
15 child from a contiguous country subject to the
16 exceptions under subsection (a)(2), shall be—”
17 and inserting “who meets the criteria under
18 paragraph (2)(A) and chooses not to withdraw
19 his or her application for admission and return
20 to the unaccompanied alien child’s country of
21 nationality or country of last habitual residence,
22 as permitted under section 235B(c)(5) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1225b(c)(5))—”;

1 (C) by amending clause (i) to read as fol-
2 lows:

3 “(i) shall be placed in a proceeding in
4 accordance with section 235B of the Immi-
5 gration and Nationality Act (8 U.S.C.
6 1225b), which shall commence not later
7 than 7 days after the screening of an unac-
8 companied alien child described in para-
9 graph (5);”;

10 (D) by redesignating clauses (ii) and (iii)
11 as clauses (iii) and (iv), respectively;

12 (E) by inserting after clause (i) the fol-
13 lowing:

14 “(ii) may not be placed in the custody
15 of a nongovernmental sponsor or otherwise
16 released from the immediate custody of the
17 United States Government until the child
18 is repatriated unless the child—

19 “(I) is the subject of an order
20 under section 235B(e)(1) of the Im-
21 migration and Nationality Act (8
22 U.S.C. 1225b(e)(1)); and

23 “(II) is placed or released in ac-
24 cordance with subsection (c)(2)(C).”;

1 (F) in clause (iii), as redesignated, by in-
 2 serting “is” before “eligible”; and

3 (G) in clause (iv), as redesignated, by in-
 4 serting “shall be” before “provided”.

5 **SEC. 1322. EXPEDITED DUE PROCESS AND SCREENING FOR**
 6 **UNACCOMPANIED ALIEN CHILDREN.**

7 (a) HUMANE AND EXPEDITED INSPECTION AND
 8 SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—

9 (1) IN GENERAL.—Chapter 4 of title II of the
 10 Immigration and Nationality Act (8 U.S.C. 1221 et
 11 seq.) is amended by inserting after section 235A the
 12 following:

13 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
 14 **SCREENING FOR UNACCOMPANIED ALIEN**
 15 **CHILDREN.**

16 “(a) ASYLUM OFFICER DEFINED.—In this section,
 17 the term ‘asylum officer’ means an immigration officer
 18 who—

19 “(1) has had professional training in country
 20 conditions, asylum law, and interview techniques
 21 comparable to that provided to full-time adjudicators
 22 of applications under section 208; and

23 “(2) is supervised by an officer who—

24 “(A) meets the condition described in
 25 paragraph (1); and

1 “(B) has had substantial experience adju-
2 dicating asylum applications under section 208.

3 “(b) PROCEEDING.—

4 “(1) IN GENERAL.—Not later than 7 days after
5 the screening of an unaccompanied alien child under
6 section 235(a)(5) of the William Wilberforce Traf-
7 ficking Victims Protection Reauthorization Act of
8 2008 (8 U.S.C. 1232(a)(5)), an immigration judge
9 shall—

10 “(A) conduct and conclude a proceeding to
11 inspect, screen, and determine the status of the
12 unaccompanied alien child who is an applicant
13 for admission to the United States; and

14 “(B) in the case of an unaccompanied
15 alien child seeking asylum, conduct fact finding
16 to determine whether the unaccompanied alien
17 child meets the definition of unaccompanied
18 alien child under section 235(g) of the William
19 Wilberforce Trafficking Victims Protection Re-
20 authorization Act of 2008 (8 U.S.C. 1232(g)).

21 “(2) TIME LIMIT.—Not later than 72 hours
22 after the conclusion of a proceeding with respect to
23 an unaccompanied alien child under this section, the
24 immigration judge who conducted such proceeding
25 shall issue an order pursuant to subsection (e).

1 “(c) CONDUCT OF PROCEEDING.—

2 “(1) AUTHORITY OF IMMIGRATION JUDGE.—

3 The immigration judge conducting a proceeding
4 under this section—

5 “(A) shall administer oaths, receive evi-
6 dence, and interrogate, examine, and cross-ex-
7 amine the unaccompanied alien child and any
8 witnesses;

9 “(B) is authorized to sanction by civil
10 money penalty any action (or inaction) in con-
11 tempt of the judge’s proper exercise of author-
12 ity under this Act; and

13 “(C) shall determine whether the unaccom-
14 panied alien child meets any of the criteria set
15 out in subparagraphs (A) through (I) of section
16 235(a)(3) of the William Wilberforce Traf-
17 ficking Victims Protection Reauthorization Act
18 of 2008 (8 U.S.C. 1232(a)(3)), and if so, order
19 the alien removed under subsection (e)(2).

20 “(2) FORM OF PROCEEDING.—A proceeding
21 under this section may take place—

22 “(A) in person;

23 “(B) at a location agreed to by the parties,
24 in the absence of the unaccompanied alien child;

25 “(C) by video conference; or

1 “(D) by telephone conference.

2 “(3) PRESENCE OF ALIEN.—If it is impracti-
3 cable by reason of the mental incompetency of the
4 unaccompanied alien child for the alien to be present
5 at the proceeding, the Attorney General shall pre-
6 scribe safeguards to protect the rights and privileges
7 of the alien.

8 “(4) RIGHTS OF THE ALIEN.—In a proceeding
9 under this section—

10 “(A) the unaccompanied alien child shall
11 be provided access to counsel in accordance
12 with section 235(c)(5) of the William Wilber-
13 force Trafficking Victims Protection Reauthor-
14 ization Act of 2008 (8 U.S.C. 1232(c)(5));

15 “(B) the alien shall be given a reasonable
16 opportunity—

17 “(i) to examine the evidence against
18 the alien;

19 “(ii) to present evidence on the alien’s
20 own behalf; and

21 “(iii) to cross-examine witnesses pre-
22 sented by the Government;

23 “(C) the rights set forth in subparagraph
24 (B) shall not entitle the alien—

1 “(i) to examine such national security
2 information as the Government may prof-
3 fer in opposition to the alien’s admission to
4 the United States; or

5 “(ii) to an application by the alien for
6 discretionary relief under this Act; and

7 “(D) a complete record shall be kept of all
8 testimony and evidence produced at the pro-
9 ceeding.

10 “(5) WITHDRAWAL OF APPLICATION FOR AD-
11 MISSION.—An unaccompanied alien child applying
12 for admission to the United States may, and at any
13 time before the issuance of a final order of removal,
14 be permitted to withdraw the application and imme-
15 diately be returned to the alien’s country of nation-
16 ality or country of last habitual residence.

17 “(6) CONSEQUENCES OF FAILURE TO AP-
18 PEAR.—An unaccompanied alien child who does not
19 attend a proceeding under this section, shall be or-
20 dered removed, except under exceptional cir-
21 cumstances where the alien’s absence is the fault of
22 the Government, a medical emergency, or an act of
23 nature.

24 “(d) DECISION AND BURDEN OF PROOF.—

25 “(1) DECISION.—

1 “(A) IN GENERAL.—Notwithstanding sec-
2 tion 235(b), at the conclusion of a proceeding
3 under this section, the immigration judge shall
4 determine whether an unaccompanied alien
5 child is likely—

6 “(i) to be admissible to the United
7 States; or

8 “(ii) to be eligible for any form of re-
9 lief from removal under this Act.

10 “(B) EVIDENCE.—The determination of
11 the immigration judge under subparagraph (A)
12 shall be based only on the evidence produced at
13 the hearing.

14 “(2) BURDEN OF PROOF.—

15 “(A) IN GENERAL.—In a proceeding under
16 this section, an unaccompanied alien child who
17 is an applicant for admission has the burden of
18 establishing, by clear and convincing evidence,
19 that the alien—

20 “(i) is likely to be entitled to be law-
21 fully admitted to the United States or eli-
22 gible for any form of relief from removal
23 under this Act; or

24 “(ii) is lawfully present in the United
25 States pursuant to a prior admission.

1 “(B) ACCESS TO DOCUMENTS.—In meeting
2 the burden of proof under subparagraph (A)(ii),
3 the alien shall be given access to—

4 “(i) the alien’s visa or other entry
5 document, if any; and

6 “(ii) any other records and docu-
7 ments, not considered by the Attorney
8 General to be confidential, pertaining to
9 the alien’s admission or presence in the
10 United States.

11 “(e) ORDERS.—

12 “(1) PLACEMENT IN FURTHER PRO-
13 CEEDINGS.—If an immigration judge determines
14 that the unaccompanied alien child has met the bur-
15 den of proof under subsection (d)(2), the immigra-
16 tion judge shall order the alien to be placed in fur-
17 ther proceedings in accordance with section 240.

18 “(2) ORDERS OF REMOVAL.—If an immigration
19 judge determines that the unaccompanied alien child
20 has not met the burden of proof required under sub-
21 section (d)(2), the judge shall order the alien re-
22 moved from the United States without further hear-
23 ing or review unless the alien claims—

24 “(A) an intention to apply for asylum
25 under section 208;

1 “(B) a fear of persecution; or

2 “(C) a fear of torture.

3 “(3) CLAIMS FOR ASYLUM.—If an unaccom-

4 panied alien child described in paragraph (2) claims

5 an intention to apply for asylum under section 208,

6 a fear of persecution, or a fear of torture, the immi-

7 gration judge shall order the alien referred for an

8 interview by an asylum officer under subsection (f).

9 “(f) ASYLUM INTERVIEWS.—

10 “(1) CREDIBLE FEAR OF PERSECUTION OR

11 TORTURE DEFINED.—In this subsection, the term

12 ‘credible fear of persecution or torture’ means, after

13 taking into account the credibility of the statements

14 made by an unaccompanied alien child in support of

15 the alien’s claim and such other facts as are known

16 to the asylum officer, there is a significant possi-

17 bility that the alien could establish eligibility for—

18 “(A) asylum under section 208; or

19 “(B) protection from removal based on Ar-

20 ticle 3 of the Convention Against Torture and

21 Other Cruel, Inhuman, or Degrading Treatment

22 or Punishment, done at New York, December

23 10, 1984.

24 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-

25 lum officer shall conduct the interviews of an unac-

1 accompanied alien child referred under subsection
2 (e)(3).

3 “(3) REFERRAL OF CERTAIN ALIENS.—If the
4 asylum officer determines at the time of the inter-
5 view that an unaccompanied alien child has a cred-
6 ible fear of persecution or torture, the alien shall be
7 held in the custody of the Secretary of Health and
8 Human Services pursuant to section 235(b) of the
9 William Wilberforce Trafficking Victims Protection
10 Reauthorization Act of 2008 (8 U.S.C. 1232(b))
11 during further consideration of the application for
12 asylum.

13 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
14 NO CREDIBLE FEAR OF PERSECUTION.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (C), if the asylum officer determines that
17 an unaccompanied alien child does not have a
18 credible fear of persecution, the asylum officer
19 shall order the alien removed from the United
20 States without further hearing or review.

21 “(B) RECORD OF DETERMINATION.—The
22 asylum officer shall prepare a written record of
23 a determination under subparagraph (A), which
24 shall include—

1 “(i) a summary of the material facts
2 as stated by the alien;

3 “(ii) such additional facts (if any) re-
4 lied upon by the asylum officer;

5 “(iii) the asylum officer’s analysis of
6 why, in light of such facts, the alien has
7 not established a credible fear of persecu-
8 tion; and

9 “(iv) a copy of the asylum officer’s
10 interview notes.

11 “(C) REVIEW OF DETERMINATION.—

12 “(i) RULEMAKING.—The Attorney
13 General shall establish, by regulation, a
14 process by which an immigration judge
15 shall conduct a prompt review, upon the
16 alien’s request, of a determination under
17 subparagraph (A) that the alien does not
18 have a credible fear of persecution or tor-
19 ture.

20 “(ii) MANDATORY COMPONENTS.—
21 The review described in clause (i)—

22 “(I) shall include an opportunity
23 for the alien to be heard and ques-
24 tioned by the immigration judge, ei-

1 ther in person or by telephonic or
2 video connection; and

3 “(II) shall be concluded as expe-
4 ditiously as possible, to the maximum
5 extent practicable within 24 hours,
6 but in no case later than 7 days after
7 the date of the determination under
8 subparagraph (A).

9 “(D) MANDATORY PROTECTIVE CUS-
10 TODY.—Any alien subject to the procedures
11 under this paragraph shall be held in the cus-
12 tody of the Secretary of Health and Human
13 Services pursuant to section 235(b) of the Wil-
14 liam Wilberforce Trafficking Victims Protection
15 Reauthorization Act of 2008 (8 U.S.C.
16 1232(b))—

17 “(i) pending a final determination of
18 an application for asylum under this sub-
19 section; and

20 “(ii) after a determination under this
21 subsection that the alien does not have a
22 credible fear of persecution, until the alien
23 is removed.

24 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (f)(4)(C) and paragraph (2), a removal order
3 entered in accordance with subsection (e)(2) or
4 (f)(4)(A) is not subject to administrative appeal.

5 “(2) RULEMAKING.—The Attorney General
6 shall establish, by regulation, a process for the
7 prompt review of an order under subsection (e)(2)
8 against an alien who claims under oath, or as per-
9 mitted under penalty of perjury under section 1746
10 of title 28, United States Code, after having been
11 warned of the penal ties for falsely making such
12 claim under such conditions to have been—

13 “(A) lawfully admitted for permanent resi-
14 dence;

15 “(B) admitted as a refugee under section
16 207; or

17 “(C) granted asylum under section 208.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents in the first section of the Immigration and Na-
20 tionality Act is amended by inserting after the item
21 relating to section 235A the following:

 “Sec. 235B. Humane and expedited inspection and screening for unaccom-
 panied alien children.”.

22 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
23 Section 242 of the Immigration and Nationality Act (8
24 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “section
3 235(b)(1))” and inserting “section 235(b)(1) or
4 an order of removal issued to an unaccom-
5 panied alien child after proceedings under sec-
6 tion 235B”; and

7 (B) in paragraph (2)—

8 (i) by inserting “or section 235B”
9 after “section 235(b)(1)” each place such
10 term appears; and

11 (ii) in subparagraph (A)—

12 (I) in the subparagraph heading,
13 by inserting “OR 235B” after “SEC-
14 TION 235(b)(1)”; and

15 (II) in clause (iii), by striking
16 “section 235(b)(1)(B),” and inserting
17 “section 235(b)(1)(B) or 235B(f);”;
18 and

19 (2) in subsection (e)—

20 (A) in the subsection heading, by inserting
21 “OR 235B” after “SECTION 235(b)(1)”;

22 (B) by inserting “or section 235B” after
23 “section 235(b)(1)” each place such term ap-
24 pears;

1 (C) in subparagraph (2)(C), by inserting
2 “or section 235B(g)” after “section
3 235(b)(1)(C)”; and

4 (D) in subparagraph (3)(A), by inserting
5 “or section 235B” after “section 235(b)”.

6 **SEC. 1323. CHILD WELFARE AND LAW ENFORCEMENT IN-**
7 **FORMATION SHARING.**

8 Section 235(b) of the William Wilberforce Trafficking
9 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
10 1232(b)) is amended by adding at the end the following:

11 “(5) INFORMATION SHARING.—

12 “(A) IMMIGRATION STATUS.—If the Sec-
13 retary of Health and Human Services considers
14 placement of an unaccompanied alien child with
15 a potential sponsor, the Secretary of Homeland
16 Security shall provide to the Secretary of
17 Health and Human Services the immigration
18 status of such potential sponsor before the
19 placement of the unaccompanied alien child.

20 “(B) OTHER INFORMATION.—The Sec-
21 retary of Health and Human Services shall pro-
22 vide to the Secretary of Homeland Security and
23 the Attorney General, upon request, any rel-
24 evant information related to an unaccompanied
25 alien child who is or has been in the custody of

1 the Secretary of Health and Human Services,
2 including the location of the child and any per-
3 son to whom custody of the child has been
4 transferred, for any legitimate law enforcement
5 objective, including the enforcement of the im-
6 migration laws.”.

7 **SEC. 1324. ACCOUNTABILITY FOR CHILDREN AND TAX-**
8 **PAYERS.**

9 Section 235(b) of the William Wilberforce Trafficking
10 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
11 1232(b)), as amended by section 1323, is further amended
12 by adding at the end the following:

13 “(6) INSPECTION OF FACILITIES.—The Inspec-
14 tor General of the Department of Health and
15 Human Services shall conduct regular inspections of
16 facilities utilized by the Secretary of Health and
17 Human Services to provide care and custody of an
18 unaccompanied alien children who are in the imme-
19 diate custody of the Secretary to ensure that such
20 facilities are operated in the most efficient manner
21 practicable.

22 “(7) FACILITY OPERATIONS COSTS.—The Sec-
23 retary of Health and Human Services shall ensure
24 that facilities utilized to provide care and custody of
25 unaccompanied alien children are operated efficiently

1 and at a rate of cost that is not greater than \$500
2 per day for each child housed or detained at such fa-
3 cility, unless the Secretary certifies that compliance
4 with this requirement is temporarily impossible due
5 to emergency circumstances.”.

6 **SEC. 1325. CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
7 **DREN IN FORMAL REMOVAL PROCEEDING.**

8 (a) IN GENERAL.—Section 235(c) of the William Wil-
9 berforce Trafficking Victims Protection Reauthorization
10 Act of 2008 (8 U.S.C. 1232(c)) is amended—

11 (1) in paragraph (2) by adding at the end the
12 following:

13 “(C) CHILDREN IN FORMAL REMOVAL
14 PROCEEDINGS.—

15 “(i) LIMITATION ON PLACEMENT.—
16 Notwithstanding any settlement or consent
17 decree previously issued before the date of
18 the enactment of the Protecting Children
19 and America’s Homeland Act of 2017 and
20 section 236.3 of title 8, Code of Federal
21 Regulations, or a similar successor regula-
22 tion, an unaccompanied alien child who has
23 been placed in a proceeding under section
24 240 of the Immigration and Nationality
25 Act (8 U.S.C. 1229a) may not be placed in

1 the custody of a nongovernmental sponsor
2 or otherwise released from the immediate
3 custody of the United States Government
4 unless—

5 “(I) the nongovernmental spon-
6 sor is a biological or adoptive parent
7 or legal guardian of the unaccom-
8 panied alien child;

9 “(II) the parent or legal guardian
10 is legally present in the United States
11 at the time of the placement;

12 “(III) the parent or legal guard-
13 ian has undergone a mandatory bio-
14 metric criminal history check;

15 “(IV) if the nongovernmental
16 sponsor is the biological parent, the
17 parent’s relationship to the alien child
18 has been verified through DNA test-
19 ing conducted by the Secretary of
20 Health and Human Services;

21 “(V) if the nongovernmental
22 sponsor is the adoptive parent, the
23 parent’s relationship to the alien child
24 has been verified with the judicial
25 court that issued the final legal adop-

1 tion decree by the Secretary of Health
2 and Human Services; and

3 “(VI) the Secretary of Health
4 and Human Services has determined
5 that the alien child is not a danger to
6 self, a danger to the community, or at
7 risk of flight.

8 “(ii) EXCEPTIONS.—If the Secretary
9 of Health and Human Services determines
10 that an unaccompanied alien child is a vic-
11 tim of severe forms of trafficking in per-
12 sons (as defined in section 103 of the
13 Trafficking Victims Protection Act of 2000
14 (22 U.S.C. 7102)), a special needs child
15 with a disability (as defined in section 3 of
16 the Americans with Disabilities Act of
17 1990 (42 U.S.C. 12102)), a child who has
18 been a victim of physical or sexual abuse
19 under circumstances that indicate that the
20 child’s health or welfare has been signifi-
21 cantly harmed or threatened, or a child
22 with mental health needs that require on-
23 going assistance from a social welfare
24 agency, the alien child may be placed with
25 a grandparent or adult sibling if the

1 grandparent or adult sibling meets the re-
2 quirements under subclauses (II), (III),
3 and (IV) of clause (i).

4 “(iii) MONITORING.—

5 “(I) IN GENERAL.—If an unac-
6 companied alien child who is 15, 16,
7 or 17 years of age is placed with a
8 nongovernmental sponsor or, if an un-
9 accompanied alien child who is young-
10 er than 15 years of age is placed with
11 a nongovernmental sponsor, such non-
12 governmental sponsor shall—

13 “(aa) enroll in the alter-
14 native to detention program of
15 U.S. Immigration and Customs
16 Enforcement; and

17 “(bb) continuously wear an
18 electronic ankle monitor while the
19 unaccompanied alien child is in
20 removal proceedings.

21 “(II) PENALTY FOR MONITOR
22 TAMPERING.—If an electronic ankle
23 monitor required by subclause (I) is
24 tampered with, the sponsor of the un-
25 accompanied alien child shall be sub-

1 ject to a civil penalty of \$150 for each
2 day the monitor is not functioning due
3 to the tampering, up to a maximum of
4 \$3,000.

5 “(iv) EFFECT OF VIOLATION OF CON-
6 DITIONS.—The Secretary of Health and
7 Human Services shall remove an unaccom-
8 panied alien child from a sponsor if the
9 sponsor violates the terms of the agree-
10 ment specifying the conditions under which
11 the alien was placed with the sponsor.

12 “(v) FAILURE TO APPEAR.—

13 “(I) CIVIL PENALTY.—If an un-
14 accompanied alien child is placed with
15 a sponsor and fails to appear in a
16 mandatory court appearance, the
17 sponsor shall be subject to a civil pen-
18 alty of \$250 for each day until the
19 alien appears in court, up to a max-
20 imum of \$5,000.

21 “(II) BURDEN OF PROOF.—The
22 sponsor is not subject to the penalty
23 imposed under subclause (I) if the
24 sponsor—

1 “(aa) appears in person and
2 proves to the immigration court
3 that the failure to appear by the
4 unaccompanied alien child was
5 not the fault of the sponsor; and

6 “(bb) supplies the immigra-
7 tion court with documentary evi-
8 dence that supports the assertion
9 described in item (aa).

10 “(vi) PROHIBITION ON PLACEMENT
11 WITH SEX OFFENDERS AND HUMAN TRAF-
12 FICKERS.—The Secretary of Health and
13 Human Services may not place an unac-
14 companied alien child under this subpara-
15 graph in the custody of an individual who
16 has been convicted of, or the Secretary has
17 reason to believe was otherwise involved in
18 the commission of—

19 “(I) a sex offense (as defined in
20 section 111 of the Sex Offender Reg-
21 istration and Notification Act (42
22 U.S.C. 16911));

23 “(II) a crime involving severe
24 forms of trafficking in persons (as de-
25 fined in section 103 of the Trafficking

1 Victims Protection Act of 2000 (22
2 U.S.C. 7102)); or

3 “(III) an offense under Federal,
4 State, or Tribal law that has, as an
5 element of the offense, the use or at-
6 tempted use of physical force or the
7 threatened use of physical force or a
8 deadly weapon.

9 “(vii) REQUIREMENTS OF CRIMINAL
10 BACKGROUND CHECK.—A biometric crimi-
11 nal history check required under clause
12 (i)(III) shall be conducted using a set of
13 fingerprints or other biometric identifier
14 through—

15 “(I) the Federal Bureau of Inves-
16 tigation;

17 “(II) criminal history repositories
18 of all States that the individual lists
19 as current or former residences; and

20 “(III) any other State or Federal
21 database or repository that the Sec-
22 retary of Health and Human Services
23 determines is appropriate.”.

24 (b) HOME STUDIES AND FOLLOW-UP SERVICES FOR
25 UNACCOMPANIED ALIEN CHILDREN.—Section 235(c)(3)

1 of the William Wilberforce Trafficking Victims Protection
2 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amend-
3 ed—

4 (1) by redesignating subparagraph (C) as (D);

5 and

6 (2) by amending subparagraph (B) to read as
7 follows:

8 “(B) HOME STUDIES.—

9 “(i) IN GENERAL.—Before placing the
10 child with an individual, the Secretary of
11 Health and Human Services shall deter-
12 mine whether a home study is necessary.

13 “(ii) REQUIRED HOME STUDIES.—A
14 home study shall be conducted for a
15 child—

16 “(I) who is a victim of a severe
17 form of trafficking in persons or is a
18 special needs child with a disability
19 (as defined in section 12102 of title
20 42);

21 “(II) who has been a victim of
22 physical or sexual abuse under cir-
23 cumstances that indicate that the
24 child’s health or welfare has been sig-
25 nificantly harmed or threatened; or

1 “(III) whose proposed sponsor
2 clearly presents a risk of abuse, mal-
3 treatment, exploitation, or trafficking
4 to the child based on all available ob-
5 jective evidence.

6 “(C) FOLLOW-UP SERVICES AND ADDI-
7 TIONAL HOME STUDIES.—

8 “(i) PENDENCY OF REMOVAL PRO-
9 CEEDINGS.—Every 6 months, the Sec-
10 retary of Health and Human Services shall
11 conduct follow-up services for children for
12 whom a home study was conducted and
13 who were placed with a nongovernmental
14 sponsor until initial removal proceedings
15 have been completed and the immigration
16 judge has issued an order of removal,
17 granted voluntary departure under section
18 240B, or granted the alien relief from re-
19 moval.

20 “(ii) CHILDREN WITH MENTAL
21 HEALTH OR OTHER NEEDS.—Every 6
22 months, for up to 2 years from the date of
23 placement with a nongovernmental spon-
24 sor, the Secretary of Health and Human
25 Services shall conduct follow-up services

1 for children with mental health needs or
2 other needs that could benefit from ongoing
3 assistance from a social welfare agency.
4

5 “(iii) CHILDREN AT RISK.—Every 3
6 months, for up to 2 years from the date of
7 placement with a nongovernmental sponsor,
8 the Secretary of Health and Human
9 Services shall conduct home studies and
10 follow-up services, including partnering
11 with local community programs that focus
12 on early morning and after-school programs
13 for at risk children who need a secure
14 environment to engage in studying,
15 training, and skills-building programs and
16 who are at risk for recruitment by criminal
17 gangs or other transnational criminal organizations
18 in the United States.”.

19 (c) DETENTION OF ACCOMPANIED MINORS.—

20 (1) IN GENERAL.—Section 235 of the William
21 Wilberforce Trafficking Victims Protection Reau-
22 thorization Act of 2008 (8 U.S.C. 1232) is amend-
23 ed—

24 (A) by redesignating subsections (d) and

25 (e) as subsections (e) and (f) respectively; and

1 (B) by inserting after subsection (c) the
2 following:

3 “(d) DETENTION OF ACCOMPANIED MINORS.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of law—

6 “(A) judicial determination, consent de-
7 cree, or settlement agreement, the detention of
8 any alien minor who is not described in section
9 462(g)(2) of the Homeland Security Act of
10 2002 (6 U.S.C. 279(g)(2)) shall be governed by
11 sections 217, 235, 236, and 241 of the Immi-
12 gration and Nationality Act (8 U.S.C. 1187,
13 1225, 1226, and 1231); and

14 “(B) the decision whether to detain or re-
15 lease the alien minor shall be in the sole and
16 unreviewable discretion of the Secretary of
17 Homeland Security.

18 “(2) LIMITATIONS ON RELEASE.—The release
19 of an alien minor who is not described in section
20 462(g)(2) of the Homeland Security Act of 2002 (6
21 U.S.C. 279(g)(2)) may not be presumed and an
22 alien minor not described in such section may not be
23 released by the Secretary to anyone other than a
24 parent or legal guardian.

1 “(3) CONDITIONS OF CONFINEMENT.—The con-
 2 ditions of confinement applicable to alien minors
 3 who are not described in section 462(g) of the
 4 Homeland Security Act of 2002 (6 U.S.C.
 5 279(g)(2)) shall be determined in the sole and
 6 unreviewable discretion of the Secretary of Home-
 7 land Security, and specific licensing requirements
 8 may not be imposed other than requirements deter-
 9 mined appropriate by the Secretary.”.

10 (2) EFFECTIVE DATE.—The amendments made
 11 by subparagraph (1) shall take effect on the date of
 12 enactment of this Act and shall apply regardless of
 13 the date on which the actions giving rise to remov-
 14 ability or detention took place.

15 **SEC. 1326. FRAUD IN CONNECTION WITH THE TRANSFER OF**
 16 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
 17 **DREN.**

18 (a) IN GENERAL.—Chapter 47 of title 18, United
 19 States Code, is amended by adding at the end the fol-
 20 lowing:

21 **“§ 1041. Fraud in connection with the transfer of cus-**
 22 **tody of unaccompanied alien children**

23 “(a) IN GENERAL.—It shall be unlawful for a person
 24 to obtain custody of an unaccompanied alien child (as de-

1 fined in section 462(g) of the Homeland Security Act of
2 2002 (6 U.S.C. 279(g)) by—

3 “(1) making any materially false, fictitious, or
4 fraudulent statement or representation; or

5 “(2) making or using any false writing or docu-
6 ment knowing the same to contain any materially
7 false, fictitious, or fraudulent statement or entry.

8 “(b) PENALTIES.—

9 “(1) IN GENERAL.—Any person who violates, or
10 attempts or conspires to violate, this section shall be
11 fined under this title and imprisoned for not less
12 than 1 year.

13 “(2) ENHANCED PENALTY FOR TRAF-
14 FICKING.—If the primary purpose of the violation,
15 attempted violation, or conspiracy to violate this sec-
16 tion was to subject the child to sexually explicit ac-
17 tivity or any other form of exploitation, the offender
18 shall be fined under this title and imprisoned for not
19 less than 15 years.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for chapter 47 of title 18, United States Code, is amended
22 by inserting after the item relating to section 1040 the
23 following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien
children.”.

1 **SEC. 1327. NOTIFICATION OF STATES AND FOREIGN GOV-**
2 **ERNMENTS, REPORTING, AND MONITORING.**

3 (a) NOTIFICATION.—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) NOTIFICATION TO STATES.—

8 “(1) BEFORE PLACEMENT.—The Secretary of
9 Homeland Security or the Secretary of Health and
10 Human Services shall notify the Governor of a State
11 not later than 48 hours before the placement of an
12 unaccompanied alien child from in custody of such
13 Secretary in the care of a facility or sponsor in such
14 State.

15 “(2) INITIAL REPORTS.—Not later than 60
16 days after the date of the enactment of the Pro-
17 tecting Children and America’s Homeland Act of
18 2017, the Secretary of Health and Human Services
19 shall submit a report to the Governor of each State
20 in which an unaccompanied alien child was dis-
21 charged to a sponsor or placed in a facility while re-
22 maining in the legal custody of the Secretary during
23 the period beginning October 1, 2013 and ending on
24 the date of the enactment of the Protecting Children
25 and America’s Homeland Act of 2017.

1 “(3) MONTHLY REPORTS.—The Secretary of
2 Health and Human Services shall submit a monthly
3 report to the Governor of each State in which, dur-
4 ing the reporting period, unaccompanied alien chil-
5 dren were discharged to a sponsor or placed in a fa-
6 cility while remaining in the legal custody of the
7 Secretary of Health and Human Services.

8 “(4) CONTENTS.—Each report required to be
9 submitted to the Governor of a State under para-
10 graph (2) or (3) shall identify the number of unac-
11 companied alien children placed in the State during
12 the reporting period, disaggregated by—

13 “(A) the locality in which the aliens were
14 placed; and

15 “(B) the age of such aliens.

16 “(k) NOTIFICATION OF FOREIGN COUNTRY.—The
17 Secretary of Homeland Security shall provide information
18 regarding each unaccompanied alien child to the govern-
19 ment of the country of which the child is a national to
20 assist such government with the identification and reunifi-
21 cation of such child with their parent or other qualifying
22 relative.

23 “(l) MONITORING REQUIREMENT.—The Secretary of
24 Health and Human Services shall—

25 “(1) require all sponsors to agree—

1 “(A) to receive approval from the Sec-
2 retary of Health and Human Services before
3 changing the location in which the sponsor is
4 housing an unaccompanied alien child placed in
5 the sponsor’s custody; and

6 “(B) to provide a current address for the
7 child and the reason for the change of address;

8 “(2) provide regular and frequent monitoring of
9 the physical and emotional well-being of each unac-
10 companied alien child who has been discharged to a
11 sponsor or remained in the legal custody of the Sec-
12 retary until the child’s immigration case is resolved;
13 and

14 “(3) not later than 60 days after the date of
15 the enactment of this Act, submit a plan to Con-
16 gress for implementing the requirements under para-
17 graphs (1) and (2).”.

18 **SEC. 1328. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

19 (a) DESIGNATION.—Not later than 14 days after the
20 date of the enactment of this Act, the Attorney General
21 shall designate up to 100 immigration judges, including
22 through the hiring of retired immigration judges, mag-
23 istrate judges, or administrative law judges, or the reas-
24 signment of current immigration judges, that are dedi-
25 cated—

1 (1) to conducting humane and expedited inspec-
2 tion and screening for unaccompanied alien children
3 under section 235B of the Immigration and Nation-
4 ality Act, as added by section 1322; or

5 (2) to reducing existing backlogs in immigration
6 court proceedings initiated under section 239 of the
7 Immigration and Nationality Act (8 U.S.C. 1229).

8 (b) REQUIREMENT.—The Attorney General shall en-
9 sure that sufficient immigration judge resources are dedi-
10 cated to the purpose described in subsection (a)(1) and
11 the Secretary shall ensure that sufficient immigration at-
12 torneys are dedicated to such purpose to comply with the
13 requirement under section 235B(b)(1) of the Immigration
14 and Nationality Act, as added by section 1322.

15 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated \$10,000,000, for each of the
17 fiscal years 2018 through 2022, to implement this section.

18 **SEC. 1329. REPORTS TO CONGRESS.**

19 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
20 CHILDREN.—Not later than September 30, 2019, the Sec-
21 retary of Health and Human Services shall submit to Con-
22 gress and make publicly available a report that includes—

23 (1) a detailed summary of the contracts in ef-
24 fect to care for and house unaccompanied alien chil-

1 dren, including the names and locations of contrac-
2 tors and the facilities being used;

3 (2) the cost per day to care for and house an
4 unaccompanied alien child, including an explanation
5 of such cost;

6 (3) the number of unaccompanied alien children
7 who have been released to a sponsor, if any;

8 (4) a list of the States to which unaccompanied
9 alien children have been released from the custody of
10 the Secretary of Health and Human Services to the
11 care of a sponsor or placement in a facility;

12 (5) the number of unaccompanied alien children
13 who have been released to a sponsor who is not law-
14 fully present in the United States, including the
15 country of nationality or last habitual residence and
16 age of such children;

17 (6) a determination of whether more than 1 un-
18 accompanied alien child has been released to the
19 same sponsor, including the number of children who
20 were released to such sponsor;

21 (7) an assessment of the extent to which the
22 Secretary of Health and Human Services is moni-
23 toring the release of unaccompanied alien children,
24 including home studies done and electronic moni-
25 toring devices used;

1 (8) an assessment of the extent to which the
2 Secretary of Health and Human Services is making
3 efforts—

4 (A) to educate unaccompanied alien chil-
5 dren about their legal rights; and

6 (B) to provide unaccompanied alien chil-
7 dren with access to pro bono counsel; and

8 (9) the extent of the public health issues of un-
9 accompanied alien children, including contagious dis-
10 eases, the benefits or medical services provided, and
11 the outreach to States and localities about public
12 health issues, that could affect the public.

13 (b) REPORTS ON REPATRIATION AGREEMENTS.—

14 Not later than September 30, 2018, the Secretary of State
15 shall submit to Congress and make publically available a
16 report that—

17 (1) includes a copy of any repatriation agree-
18 ment for unaccompanied alien children in effect;

19 (2) describes any such repatriation agreement
20 that is being considered or negotiated; and

21 (3) describes the funding provided to the 20
22 countries that have the highest number of nationals
23 entering the United States as unaccompanied alien
24 children, including amounts provided—

1 (A) to deter the nationals of each country
2 from illegally entering the United States; and

3 (B) to care for or reintegrate repatriated
4 unaccompanied alien children in the country of
5 nationality or last habitual residence.

6 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
7 ALITY.—Not later than September 30, 2019, the Sec-
8 retary of Homeland Security shall submit to Congress and
9 make publicly available a report that describes—

10 (1) the number of unaccompanied alien children
11 who have voluntarily returned to their country of na-
12 tionality or habitual residence, disaggregated by—

13 (A) country of nationality or habitual resi-
14 dence; and

15 (B) age of the unaccompanied alien chil-
16 dren;

17 (2) the number of unaccompanied alien children
18 who have been returned to their country of nation-
19 ality or habitual residence, including the length of
20 time such children were present in the United
21 States;

22 (3) the number of unaccompanied alien children
23 who have not been returned to their country of na-
24 tionality or habitual residence pending travel docu-
25 ments or other requirements from such country, in-

1 cluding how long they have been waiting to return;
2 and

3 (4) the number of unaccompanied alien children
4 who were granted relief in the United States, wheth-
5 er through asylum, any other immigration benefit or
6 status, or deferred action.

7 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
8 later than September 30, 2019, and once every 3 months
9 thereafter, the Secretary of Homeland Security, in coordi-
10 nation with the Director of the Executive Office for Immi-
11 gration Review, shall submit to Congress and make pub-
12 lically available a report that describes—

13 (1) the number of unaccompanied alien children
14 who, after proceedings under section 235(b) of the
15 Immigration and Nationality Act, as added by sec-
16 tion 1322, were returned to their country of nation-
17 ality or habitual residence, disaggregated by—

18 (A) country of nationality or residence; and

19 (B) age and gender of such aliens;

20 (2) the number of unaccompanied alien children
21 who, after proceedings under such section 235B,
22 prove a claim of admissibility and are placed in pro-
23 ceedings under section 240 of the Immigration and
24 Nationality Act (8 U.S.C. 1229a);

1 (3) the number of unaccompanied alien children
2 who fail to appear at a removal hearing that such
3 alien was required to attend;

4 (4) the number of sponsors who were levied a
5 penalty, including the amount and whether the pen-
6 alty was collected, for the failure of an unaccom-
7 panied alien child to appear at a removal hearing;
8 and

9 (5) the number of aliens that are classified as
10 unaccompanied alien children, the ages and coun-
11 tries of nationality of such children, and the orders
12 issued by the immigration judge at the conclusion of
13 proceedings under such section 235B for such chil-
14 dren.

15 **Subtitle D—Penalties for Smug-**
16 **gling, Drug Trafficking, Human**
17 **Trafficking, Terrorism, and Ille-**
18 **gal Entry and Reentry; Bars to**
19 **Readmission of Removed Aliens**

20 **SEC. 1401. DANGEROUS HUMAN SMUGGLING, HUMAN TRAF-**
21 **FICKING, AND HUMAN RIGHTS VIOLATIONS.**

22 (a) CRIMINAL PENALTIES FOR HUMAN SMUGGLING
23 AND TRAFFICKING.—Section 274(a) of the Immigration
24 and Nationality Act (8 U.S.C. 1324(a)) is amended—

25 (1) in paragraph (1)—

1 (A) in subparagraph (A), by amending
2 clause (ii) to read as follows:

3 “(ii) knowing, or in reckless disregard
4 of the fact, that an alien has come to, en-
5 tered into, or remains in the United States
6 in violation of law—

7 “(I) transports, moves, or at-
8 tempts to transport or move such
9 alien within the United States by
10 means of transportation or otherwise,
11 in furtherance of such violation of
12 law; or

13 “(II) transports or moves the
14 alien with the purpose of facilitating
15 the illegal entry of the alien into Can-
16 ada or Mexico.”; and

17 (B) in subparagraph (B)—

18 (i) by redesignating clauses (iii) and
19 (iv) as clauses (vi) and (vii), respectively;

20 (ii) in clause (vi), as redesignated, by
21 inserting “for not less than 10 years and”
22 before “not more than 20 years,”; and

23 (iii) by inserting after clause (ii) the
24 following:

1 “(iii) in the case of a violation of
2 clause (i), (ii), (iii), (iv), or (v) of subpara-
3 graph (A) that is the third or subsequent
4 violation committed by such person under
5 this section, shall be fined under title 18,
6 imprisoned for not less than 5 years and
7 not more than 25 years, or both;

8 “(iv) in the case of a violation of
9 clause (i), (ii), (iii), (iv), or (v) of subpara-
10 graph (A) that recklessly, knowingly, or in-
11 tentionally results in a victim being invol-
12 untarily forced into labor or prostitution,
13 shall be fined under title 18, imprisoned
14 for not less than 5 years and not more
15 than 25 years, or both;

16 “(v) in the case of a violation of
17 clause (i), (ii), (iii), (iv), or (v) of subpara-
18 graph (A) during and in relation to which
19 any person is subjected to an involuntary
20 sexual act (as defined in section 2246(2) of
21 title 18), be fined under title 18, impris-
22 oned for not less than 5 years and not
23 more than 25 years, or both;”;

24 (2) by adding at the end the following:

1 “(5) Any person who, knowing that a person is an
2 alien in unlawful transit from 1 country to another or on
3 the high seas, transports, moves, harbors, conceals, or
4 shields from detection such alien outside of the United
5 States when the alien is seeking to enter the United States
6 without official permission or legal authority, shall for,
7 each alien in respect to whom a violation of this paragraph
8 occurs, be fined under title 18, United States Code, im-
9 prisoned not more than 10 years, or both.”.

10 (b) SEIZURE AND FORFEITURE.—Section 274(b)(1)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1324(b)(1)) is amended to read as follows:

13 “(1) IN GENERAL.—Any real or personal prop-
14 erty involved in or used to facilitate the commission
15 of a violation or attempted violation of subsection
16 (a), the gross proceeds of such violation or at-
17 tempted violation, and any property traceable to
18 such property or proceeds, shall be seized and sub-
19 ject to forfeiture.”.

20 **SEC. 1402. PUTTING THE BRAKES ON HUMAN SMUGGLING**
21 **ACT.**

22 (a) SHORT TITLE.—This section may be cited as the
23 “Putting the Brakes on Human Smuggling Act”.

24 (b) FIRST VIOLATION.—Section 31310(b)(1) of title
25 49, United States Code, is amended—

1 (1) in subparagraph (D), by striking the “or”
2 at the end;

3 (2) in subparagraph (E), by striking the period
4 at the end and inserting a semicolon; and

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

6 “(F) using a commercial motor vehicle in will-
7 fully aiding or abetting an alien’s illegal entry into
8 the United States by transporting, guiding, direct-
9 ing, or attempting to assist the alien with the alien’s
10 entry in violation of section 275 of the Immigration
11 and Nationality Act (8 U.S.C. 1325), regardless of
12 whether the alien is ultimately fined or imprisoned
13 for an act in violation of such section; or

14 “(G) using a commercial motor vehicle in will-
15 fully aiding or abetting the transport of controlled
16 substances, monetary instruments, bulk cash, or
17 weapons by any individual departing the United
18 States.”.

19 (c) SECOND OR MULTIPLE VIOLATIONS.—Section
20 31310(c)(1) of title 49, United States Code, is amended—

21 (1) in subparagraph (E), by striking the “or”
22 at the end;

23 (2) by redesignating subparagraph (F) as sub-
24 paragraph (H);

1 (3) in subparagraph (H), as redesignated, by
2 striking “(E)” and inserting “(F)”; and

3 (4) by inserting after subparagraph (E) the fol-
4 lowing:

5 “(F) using a commercial motor vehicle more
6 than once in willfully aiding or abetting an alien’s il-
7 legal entry into the United States by transporting,
8 guiding, directing and attempting to assist the alien
9 with the alien’s entry in violation of section 275 of
10 the Immigration and Nationality Act (8 U.S.C.
11 1325), regardless of whether the alien is ultimately
12 fined or imprisoned for an act in violation of such
13 section;

14 “(G) using a commercial motor vehicle in will-
15 fully aiding or abetting the transport of controlled
16 substances, monetary instruments, bulk cash, or
17 weapons by any individual departing the United
18 States; or”.

19 (d) LIFETIME DISQUALIFICATION.—Section
20 31310(d) of title 49, United States Code, is amended to
21 read as follows:

22 “(d) LIFETIME DISQUALIFICATION.—The Secretary
23 shall permanently disqualify an individual from operating
24 a commercial motor if the individual uses a commercial
25 motor vehicle—

1 “(1) in committing a felony involving manufac-
2 turing, distributing, or dispensing a controlled sub-
3 stance, or possession with intent to manufacture,
4 distribute, or dispense a controlled substance;

5 “(2) in committing an act for which the indi-
6 vidual is convicted under—

7 “(A) section 274 of the Immigration and
8 Nationality Act (8 U.S.C. 1324); or

9 “(B) section 277 of such Act (8 U.S.C.
10 1327); or

11 “(3) in willfully aiding or abetting the transport
12 of controlled substances, monetary instruments, bulk
13 cash, and weapons by any individual departing the
14 United States.”.

15 (e) REPORTING REQUIREMENTS.—

16 (1) COMMERCIAL DRIVER’S LICENSE INFORMA-
17 TION SYSTEM.—Section 31309(b)(1) of title 49,
18 United States Code, is amended—

19 (A) in subparagraph (E), by striking
20 “and” at the end;

21 (B) in subparagraph (F), by striking the
22 period at the end and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(G) whether the operator was disquali-
25 fied, either temporarily or permanently, from

1 operating a commercial motor vehicle under sec-
 2 tion 31310, including under subsection
 3 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

4 (2) NOTIFICATION BY THE STATE.—Section
 5 31311(a)(8) of title 49, United States Code, is
 6 amended by inserting “including such a disqualifica-
 7 tion, revocation, suspension, or cancellation made
 8 pursuant to a disqualification under subsection
 9 (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after
 10 “60 days,”.

11 **SEC. 1403. DRUG TRAFFICKING AND CRIMES OF VIOLENCE**

12 **COMMITTED BY ILLEGAL ALIENS.**

13 (a) IN GENERAL.—Title 18, United States Code, is
 14 amended by inserting after chapter 27 the following:

15 **“CHAPTER 28—DRUG TRAFFICKING AND**
 16 **CRIMES OF VIOLENCE COMMITTED BY**
 17 **ILLEGAL ALIENS**

“581. Enhanced penalties for drug trafficking and crimes committed by illegal
 aliens.

18 **“§ 581. Enhanced penalties for drug trafficking and**
 19 **crimes committed by illegal aliens**

20 “(a) OFFENSE.—Any alien unlawfully present in the
 21 United States, who commits, conspires to commit, or at-
 22 tempts to commit a an offense under Federal, State, or
 23 Tribal law, that has, as an element, the use or attempted
 24 use of physical force or the threatened use of physical

1 force or a deadly weapon or a drug trafficking crime (as
 2 defined in section 924) shall be fined under this title im-
 3 prisoned for not less than 5 years, or both.

4 “(b) ENHANCED PENALTIES FOR ALIENS ORDERED
 5 REMOVED.—Any alien unlawfully present in the United
 6 States who violates subsection (a) and was ordered re-
 7 moved under the Immigration and Nationality Act (8
 8 U.S.C. 1101 et seq.) on the grounds of having committed
 9 a crime before the violation of subsection (a), shall be
 10 fined under this title, imprisoned for not less than 15
 11 years, or both.

12 “(c) REQUIREMENT FOR CONSECUTIVE SEN-
 13 TENCES.—Any term of imprisonment imposed under this
 14 section shall be consecutive to any term imposed for any
 15 other offense.”.

16 (b) CLERICAL AMENDMENT.—The table of chapters
 17 at the beginning of part I of title 18, United States Code,
 18 is amended by inserting after the item relating to chapter
 19 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal
 aliens 581”.

20 **SEC. 1404. ESTABLISHING INADMISSIBILITY AND DEPORT-**
 21 **ABILITY.**

22 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
 23 the Immigration and Nationality Act (8 U.S.C.

1 1182(a)(2)(A)) is amended by adding at the end the fol-
2 lowing:

3 “(iii) CONSIDERATION OF OTHER EVI-
4 DENCE.—If the conviction records do not
5 conclusively establish whether a crime con-
6 stitutes a crime involving moral turpitude,
7 the Secretary may consider other evidence
8 related to the conviction, including charg-
9 ing documents, plea agreements, plea col-
10 loquies, jury instructions, police reports,
11 that clearly establishes that the conduct
12 for which the alien was engaged constitutes
13 a crime involving moral turpitude.”.

14 (b) DEPORTABLE ALIENS.—

15 (1) GENERAL CRIMES.—Section 237(a)(2)(A)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1227(a)(2)(A)) is amended by inserting after clause
18 (iv) the following:

19 “(v) CRIMES INVOLVING MORAL TUR-
20 PITUDE.—If the conviction records do not
21 conclusively establish whether a crime con-
22 stitutes a crime involving moral turpitude,
23 the Secretary or the Attorney General may
24 consider other evidence related to the con-
25 viction, including charging documents, plea

1 agreements, plea colloquies, jury instruc-
2 tions, and police reports, that clearly estab-
3 lishes that the conduct for which the alien
4 was engaged constitutes a crime involving
5 moral turpitude.”.

6 (2) DOMESTIC VIOLENCE.—Section
7 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))
8 is amended by adding at the end the following:

9 “(iii) CRIME OF VIOLENCE.—If the
10 conviction records do not conclusively es-
11 tablish whether a crime of domestic vio-
12 lence constitutes a crime of violence or an
13 offense under Federal, State, or Tribal law
14 that has, as an element of the crime, the
15 use or attempted use of physical force or
16 the threatened use of physical force or a
17 deadly weapon, the Secretary or the Attor-
18 ney General may consider other evidence
19 related to the conviction, including charg-
20 ing documents, plea agreements, plea col-
21 loquies, jury instructions, and police re-
22 ports, that clearly establishes that the con-
23 duct for which the alien was engaged con-
24 stitutes a crime of violence or an offense
25 under Federal, State, or Tribal law that

1 has, as an element of the crime, the use or
2 attempted use of physical force or the
3 threatened use of physical force or a dead-
4 ly weapon.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act and shall apply to acts that occur before, on,
8 or after the date of the enactment of this Act.

9 **SEC. 1405. PENALTIES FOR ILLEGAL ENTRY; ENHANCED**
10 **PENALTIES FOR ENTERING WITH INTENT TO**
11 **AID, ABET, OR COMMIT TERRORISM.**

12 (a) IN GENERAL.—Section 275 of the Immigration
13 and Nationality Act (8 U.S.C. 1325) is amended by strik-
14 ing the section heading and subsections (a) and (b) and
15 inserting the following:

16 **“SEC. 275. ILLEGAL ENTRY.**

17 “(a) IN GENERAL.—

18 “(1) BARS TO IMMIGRATION RELIEF AND BENE-
19 FITS.—Any alien shall be ineligible for all immigra-
20 tion benefits or relief available under the immigra-
21 tion laws, including relief under section 240B, 245,
22 248, and 249, other than asylum, relief as a victim
23 of trafficking under section 101(a)(15)(T), relief as
24 a victim of criminal activity under section
25 101(a)(15)(U), relief as a VAWA self-petitioner, re-

1 lief as a battered spouse or child under section
2 240A(b)(2), withholding of removal under section
3 241(b)(3), or protection from removal based on a
4 claim under the Convention Against Torture and
5 Other Cruel, Inhuman or Degrading Treatment or
6 Punishment, done at New York, December 10,
7 1984, if the alien—

8 “(A) enters, crosses, or attempts to enter
9 or cross the border into the United States at
10 any time or place other than as designated by
11 immigration officers;

12 “(B) eludes, at any time or place, examina-
13 tion or inspection by an authorized immigra-
14 tion, customs, or agriculture officer (including
15 failing to stop at the command of such officer);
16 or

17 “(C) enters or crosses the border to the
18 United States and, upon examination or inspec-
19 tion, makes a false or misleading representation
20 or conceals a material fact, including such rep-
21 resentation or willful concealment in the context
22 of arrival, reporting, entry, or clearance, re-
23 quirements of the customs laws, immigration
24 laws, agriculture laws, or shipping laws.

1 “(2) CRIMINAL OFFENSES.—An alien shall be
2 subject to the penalties under paragraph (3) if the
3 alien—

4 “(A) enters, crosses, or attempts to enter
5 or cross the border into the United States at
6 any time or place other than as designated by
7 immigration officers;

8 “(B) eludes, at any time or place, examina-
9 tion or inspection by an authorized immigra-
10 tion, customs, or agriculture officer (including
11 failing to stop at the command of such officer);
12 or

13 “(C) enters or crosses the border to the
14 United States and, upon examination or inspec-
15 tion, makes a false or misleading representation
16 or conceals a material fact, including such rep-
17 resentation or concealment in the context of ar-
18 rival, reporting, entry, or clearance, require-
19 ments of the customs laws, immigration laws,
20 agriculture laws, or shipping laws.

21 “(3) CRIMINAL PENALTIES.—Any alien who
22 violates any provision under paragraph (1)—

23 “(A) shall, for the first violation, be fined
24 under title 18, United States Code, imprisoned
25 not more than 6 months, or both;

1 “(B) shall, for a second or subsequent vio-
2 lation, or following an order of voluntary depar-
3 ture, be fined under such title, imprisoned not
4 more than 2 years, or both;

5 “(C) if the violation occurred after the
6 alien had been convicted of 3 or more mis-
7 demeanors (at least 1 of which involves con-
8 trolled substances, abuse of a minor, trafficking
9 or smuggling, or any offense that could result
10 in serious bodily harm or injury to another per-
11 son), a significant misdemeanor, or a felony,
12 shall be fined under such title, imprisoned not
13 more than 10 years, or both;

14 “(D) if the violation occurred after the
15 alien had been convicted of a felony for which
16 the alien received a term of imprisonment of
17 not less than 30 months, shall be fined under
18 such title, imprisoned not more than 15 years,
19 or both; and

20 “(E) if the violation occurred after the
21 alien had been convicted of a felony for which
22 the alien received a term of imprisonment of
23 not less than 60 months, such alien shall be
24 fined under such title, imprisoned not more
25 than 20 years, or both.

1 “(4) PRIOR CONVICTIONS.—The prior convic-
2 tions described in subparagraphs (C) through (E) of
3 paragraph (3) are elements of the offenses described
4 in that paragraph and the penalties in such subpara-
5 graphs shall apply only in cases in which the convic-
6 tion or convictions that form the basis for the addi-
7 tional penalty are—

8 “(A) alleged in the indictment or informa-
9 tion; and

10 “(B) proven beyond a reasonable doubt at
11 trial; or

12 “(C) admitted by the defendant.

13 “(5) DURATION OF OFFENSES.—An offense
14 under this subsection continues until the alien is dis-
15 covered within the United States by an immigration,
16 customs, or agriculture officer.

17 “(6) ATTEMPT.—Any person who attempts to
18 commit any offense under this section shall be pun-
19 ished in the same manner as for a completion of
20 such offense.

21 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
22 ALTIES.—

23 “(1) IN GENERAL.—Any alien who is appre-
24 hended while entering, attempting to enter, or cross-
25 ing or attempting to cross the border to the United

1 States at a time or place other than as designated
2 by immigration officers shall be subject to a civil
3 penalty, in addition to any criminal or other civil
4 penalties that may be imposed under any other pro-
5 vision of law, in an amount equal to—

6 “(A) not less than \$50 or more than \$250
7 for each such entry, crossing, attempted entry,
8 or attempted crossing; or

9 “(B) twice the amount specified in para-
10 graph (1) if the alien had previously been sub-
11 ject to a civil penalty under this subsection.

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

16 (b) ENHANCED PENALTIES.—Section 275 of the Im-
17 migration and Nationality Act, as amended by subsection
18 (a), is further amended by adding at the end the following:

19 “(e) ENHANCED PENALTY FOR TERRORIST
20 ALIENS.—Any alien who commits an offense described in
21 subsection (a) for the purpose of engaging in, or with the
22 intent to engage in, any Federal crime of terrorism (as
23 defined in section 2332b(g) of title 18, United States
24 Code) shall be imprisoned for not less than 10 years and
25 not more than 30 years.”.

1 (c) CLERICAL AMENDMENT.—The table of contents
2 in the first section of the Immigration and Nationality Act
3 is amended by striking the item relating to section 275
4 and inserting the following:

“Sec. 275. Illegal entry.”.

5 (d) APPLICATION.—

6 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of
7 the Immigration and Nationality Act, as amended by
8 subsection (a), shall apply only to violations of sec-
9 tion 275(a)(2) of such Act committed on or after the
10 date of enactment of this Act.

11 (2) BARS TO IMMIGRATION RELIEF AND BENE-
12 FITS.—Section 275(a)(1) of such Act, as amended
13 by subsection (a), shall take effect on the date of en-
14 actment and apply to any alien who, on or after the
15 date of enactment—

16 (A) enters or crosses, or attempts to enter
17 or cross, the border into the United States at
18 any time or place other than as designated by
19 immigration officers;

20 (B) eludes, at any time or place, examina-
21 tion or inspection by an authorized immigra-
22 tion, customs, or agriculture officer (including
23 failing to stop at the command of such officer);

24 or

1 (C) enters or crosses the border to the
2 United States and, upon examination or inspec-
3 tion, makes a false or misleading representation
4 or conceals a material fact, including such rep-
5 resentation or concealment in the context of ar-
6 rival, reporting, entry, or clearance, require-
7 ments of the customs laws, immigration laws,
8 agriculture laws, or shipping laws.

9 **SEC. 1406. PENALTIES FOR REENTRY OF REMOVED ALIENS.**

10 (a) **SHORT TITLES.**—This section may be cited as the
11 “Stop Illegal Reentry Act” or “Kate’s Law”.

12 (b) **INCREASED PENALTIES FOR REENTRY OF RE-**
13 **MOVED ALIEN.**—

14 (1) **IN GENERAL.**—Section 276 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1326) is amend-
16 ed to read as follows:

17 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

18 **“(a) IN GENERAL.**—

19 **“(1) BARS TO IMMIGRATION RELIEF AND BENE-**
20 **FITS.**—Any alien who has been denied admission, ex-
21 cluded, deported, or removed or has departed the
22 United States while an order of exclusion, deporta-
23 tion, or removal is outstanding shall be ineligible for
24 all immigration benefits or relief available under the
25 immigration laws, including relief under section

1 240B, 245, 248, and 249, other than asylum, relief
2 as a victim of trafficking under section
3 101(a)(15)(T), relief as a victim of criminal activity
4 under section 101(a)(15)(U), relief as a VAWA self-
5 petitioner, relief as a battered spouse or child under
6 section 240A(b)(2), withholding of removal under
7 section 241(b)(3), or protection from removal based
8 on a claim under the Convention Against Torture
9 and Other Cruel, Inhuman or Degrading Treatment
10 or Punishment, done at New York, December 10,
11 1984, if, after such denial, exclusion, deportation,
12 removal, or departure, the alien enters, attempts to
13 enter, crosses the border to, attempts to cross the
14 border to, or is at any time found in, the United
15 States, unless—

16 “(A) if the alien is seeking admission more
17 than 10 years after the date of the alien’s last
18 departure from the United States, the Sec-
19 retary, before the alien’s reembarkation at a
20 place outside of the United States or the alien’s
21 application for admission from a foreign contig-
22 uous territory, has expressly consented to such
23 alien’s reapplying for admission; or

24 “(B) with respect to an alien previously de-
25 nied admission and removed, such alien estab-

1 lishes that the alien was not required to obtain
2 such advance consent under this Act or any
3 other Act.

4 “(2) CRIMINAL OFFENSES.—Any alien who—

5 “(A) has been denied admission, deported,
6 or removed or has departed the United States
7 while an order of deportation, or removal is out-
8 standing; and

9 “(B) after such denial, removal or depart-
10 ure, enters, attempts to enter, crosses the bor-
11 der to, attempts to cross the border to, or is at
12 any time found in, the United States, unless—

13 “(i) if the alien is seeking admission
14 more than 10 years after the date of the
15 alien’s last departure from the United
16 States, the Secretary, before the alien’s re-
17 embarkation at a place outside the United
18 States or the alien’s application for admis-
19 sion from a foreign contiguous territory,
20 has expressly consented to such alien’s re-
21 applying for admission; or

22 “(ii) with respect to an alien pre-
23 viously denied admission and removed,
24 such alien establishes that the alien was

1 not required to obtain such advance con-
2 sent under this Act or any other Act,

3 “shall be fined under title 18, United States
4 Code, imprisoned not more than 5 years, or both.

5 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
6 TAIN REMOVED ALIENS.—

7 “(1) REENTRY AFTER REMOVAL.—Notwith-
8 standing the penalties under subsection (a)(2), and
9 except as provided in subsection (c)—

10 “(A) an alien described in subsection (a)
11 who has been excluded from the United States
12 pursuant to section 235(c) because the alien
13 was excludable under section 212(a)(3)(B) or
14 who has been removed from the United States
15 pursuant to the provisions of title V, and there-
16 after, without the permission of the Secretary,
17 enters the United States, or attempts to enter
18 the United States, shall be fined under title 18,
19 United States Code, and imprisoned for a pe-
20 riod of 15 years, which sentence shall not run
21 concurrently with any other sentence;

22 “(B) an alien described in subsection (a)
23 who was removed from the United States pur-
24 suant to section 237(a)(4)(B) and thereafter,
25 without the permission of the Secretary, enters,

1 attempts to enter, or is at any time found in,
2 the United States (unless the Secretary has ex-
3 pressly consented to such alien's reentry) shall
4 be fined under title 18, United States Code, im-
5 prisoned for not more than 15 years, or both;
6 and

7 “(C) an alien described in subsection (a)
8 who has been denied admission, excluded, de-
9 ported, or removed 2 or more times for any rea-
10 son and thereafter enters, attempts to enter,
11 crosses the border, attempts to cross the bor-
12 der, or is at any time found in the United
13 States, shall be fined under title 18, United
14 States Code, imprisoned not more than 15
15 years, or both.

16 “(2) REENTRY OF CRIMINAL ALIENS AFTER RE-
17 MOVAL.—Notwithstanding the penalties under sub-
18 section (a)(2), and except as provided in subsection
19 (h)—

20 “(A) an alien described in subsection (a)
21 who was convicted, before the alien was subject
22 to removal or departure, of a significant mis-
23 demeanor shall be fined under title 18, United
24 States Code, imprisoned not more than 10
25 years, or both;

1 “(B) an alien described in subsection (a)
2 who was convicted, before the alien was subject
3 to removal or departure, of 2 or more mis-
4 demeanors involving drugs, crimes against the
5 person, or both shall be fined under title 18,
6 United States Code, imprisoned not more than
7 10 years, or both;

8 “(C) an alien described in subsection (a)
9 who was convicted, before the alien was subject
10 to removal or departure, of 3 or more mis-
11 demeanors for which the alien was sentenced to
12 a term of imprisonment of not less than 90
13 days for each offense, or 12 months in the ag-
14 gregate shall be fined under title 18, United
15 States Code, imprisoned not more than 10
16 years, or both;

17 “(D) an alien described in subsection (a)
18 who was convicted, before the alien was subject
19 to removal or departure, of a felony for which
20 the alien was sentenced to a term of imprison-
21 ment of not less than 30 months shall be fined
22 under such title, imprisoned not more than 15
23 years, or both;

24 “(E) an alien described in subsection (a)
25 who was convicted, before the alien was subject

1 to removal or departure, of a felony for which
2 the alien was sentenced to a term of imprison-
3 ment of not less than 60 months shall be fined
4 under such title, imprisoned not more than 20
5 years, or both;

6 “(F) an alien described in subsection (a)
7 who was convicted of 3 or more felonies of any
8 kind shall be fined under such title, imprisoned
9 not more than 25 years, or both; and

10 “(G) an alien described in subsection (a)
11 who was convicted, before the alien was subject
12 to removal or departure or after such removal
13 or departure, for murder, rape, kidnapping, or
14 a felony offense described in chapter 77 (relat-
15 ing to peonage and slavery) or 113B (relating
16 to terrorism) of such title shall be fined under
17 such title, imprisoned not more than 25 years,
18 or both;

19 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
20 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
21 standing the penalties under subsections (a) and (b), an
22 alien described in subsection (a) shall be imprisoned not
23 less than 5 years and not more than 20 years, and may,
24 in addition, be fined under title 18, United States Code,
25 if the alien—

1 “(1) was convicted, before the alien was subject
2 to removal or departure, of an aggravated felony; or

3 “(2) was convicted at least twice before such re-
4 moval or departure of illegal reentry under this sec-
5 tion.

6 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
7 convictions described in subsection (b)(2) are elements of
8 the crimes described in that subsection, and the penalties
9 in that subsection shall apply only in cases in which the
10 conviction or convictions that form the basis for the addi-
11 tional penalty are—

12 “(1) alleged in the indictment or information;
13 and

14 “(2)(A) proven beyond a reasonable doubt at
15 trial; or

16 “(B) admitted by the defendant.

17 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
18 firmative defense to a violation of this section that—

19 “(1) before the alleged violation, the alien
20 sought and received the express consent of the Sec-
21 retary to reapply for admission into the United
22 States; or

23 “(2) with respect to an alien previously denied
24 admission and removed, the alien—

1 “(A) was not required to obtain such ad-
2 vance consent under this Act or any other Act;
3 and

4 “(B) had complied with all other laws and
5 regulations governing the alien’s admission into
6 the United States.

7 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
8 DERLYING REMOVAL ORDER.—In a criminal proceeding
9 under this section, an alien may not challenge the validity
10 of a removal order described in subsection (a), (b), or (c)
11 concerning the alien unless the alien demonstrates that—

12 “(1) the alien exhausted any administrative
13 remedies that may have been available to seek relief
14 against the order;

15 “(2) the deportation proceedings at which the
16 order was issued improperly deprived the alien of the
17 opportunity for judicial review; and

18 “(3) the entry of the order was fundamentally
19 unfair.

20 “(g) REENTRY OF ALIEN REMOVED BEFORE THE
21 COMPLETION OF THE TERM OF IMPRISONMENT.—Any
22 alien removed pursuant to section 241(a)(4) who enters,
23 attempts to enter, crosses the border to, attempts to cross
24 the border to, or is at any time found in, the United
25 States—

1 “(1) shall be incarcerated for the remainder of
2 the sentence of imprisonment that was pending at
3 the time of deportation without any reduction for
4 parole or supervised release unless the alien affirma-
5 tively demonstrates that the Secretary has expressly
6 consented to the alien’s reentry (if a request for con-
7 sent to reapply is authorized under this section); and

8 “(2) shall be subject to such other penalties re-
9 lating to the reentry of removed aliens as may be
10 available under this section or any other provision of
11 law.

12 “(h) DEFINITIONS.—In this section:

13 “(1) CROSSES THE BORDER.—The term
14 ‘crosses the border’ refers to the physical act of
15 crossing the border, regardless of whether the alien
16 is free from official restraint.

17 “(2) FELONY.—The term ‘felony’ means any
18 criminal offense punishable by a term of imprison-
19 ment of more than 1 year under the laws of the
20 United States, any State, or a foreign government.

21 “(3) MISDEMEANOR.—The term ‘misdemeanor’
22 means any criminal offense punishable by a term of
23 imprisonment of not more than 1 year under the ap-
24 plicable laws of the United States, any State, or a
25 foreign government.

1 “(4) REMOVAL.—The term ‘removal’ includes
2 any denial of admission, deportation, or removal, or
3 any agreement by which an alien stipulates or agrees
4 to deportation, or removal.

5 “(5) SIGNIFICANT MISDEMEANOR.—The term
6 ‘significant misdemeanor’ means a misdemeanor
7 crime that—

8 “(A) involves the use or attempted use of
9 physical force, or threatened use of a deadly
10 weapon, committed by a current or former
11 spouse, parent, or guardian of the victim, by a
12 person with whom the victim shares a child in
13 common, by a person who is cohabiting with or
14 has cohabited with the victim as a spouse, par-
15 ent, or guardian, or by a person similarly situ-
16 ated to a spouse, parent, or guardian of the vic-
17 tim;

18 “(B) is a sexual assault (as such term is
19 defined in section 40002(a)(29) of the Violent
20 Crime Control and Law Enforcement Act of
21 1994 (42 U.S.C. 13925(a)(29));

22 “(C) involved the unlawful possession of a
23 firearm (as such term is defined in section 921
24 of title 18, United States Code);

1 “(D) is a crime of violence (as defined in
2 section 16 of title 18, United States Code); or

3 “(E) is an offense under Federal, State, or
4 Tribal law, that has, as an element, the use or
5 attempted use of physical force or the threat-
6 ened use of physical force or a deadly weapon.

7 “(6) STATE.—The term ‘State’ means a State
8 of the United States, the District of Columbia, and
9 any commonwealth, territory, or possession of the
10 United States.”.

11 (c) EFFECTIVE DATE.—Section 276(a)(1), as
12 amended by subsection (b), shall take effect on the date
13 of the enactment of this Act and shall apply to any alien
14 who, on or after such date of enactment—

15 (1) has been denied admission, excluded, de-
16 ported, or removed or has departed the United
17 States while an order of exclusion, deportation, or
18 removal is outstanding; and

19 (2) after such denial, exclusion, deportation or
20 removal, enters, attempts to enter, crosses the bor-
21 der to, attempts to cross the border to, or is at any
22 time found in, the United States, unless—

23 (A) if the alien is seeking admission more
24 than 10 years after the date of the alien’s last
25 departure from the United States, the Secretary

1 of Homeland Security, before the alien’s re-
2 embarkation at a place outside the United
3 States or the alien’s application for admission
4 from a foreign contiguous territory, has ex-
5 pressly consented to such alien’s reapplying for
6 admission; or

7 (B) with respect to an alien previously de-
8 nied admission and removed, such alien estab-
9 lishes that the alien was not required to obtain
10 such advance consent under the Immigration
11 and Nationality Act (8 U.S.C. 1101 et seq.) or
12 any other Act.

13 **SEC. 1407. LAUNDERING OF MONETARY INSTRUMENTS.**

14 Section 1956(c)(7)(D) of title 18, United States
15 Code, is amended by inserting “section 1590 (relating to
16 trafficking with respect to peonage, slavery, involuntary
17 servitude, or forced labor),” after “section 1363 (relating
18 to destruction of property within the special maritime and
19 territorial jurisdiction),”.

20 **SEC. 1408. FREEZING BANK ACCOUNTS OF INTERNATIONAL**
21 **CRIMINAL ORGANIZATIONS AND MONEY**
22 **LAUNDERERS.**

23 Section 981(b) of title 18, United States Code, is
24 amended by adding at the end the following:

1 “(5)(A) If a person is arrested or charged in connec-
2 tion with an offense described in subparagraph (C) involv-
3 ing the movement of funds into or out of the United
4 States, the Attorney General may apply to any Federal
5 judge or magistrate judge in the district in which the ar-
6 rest is made or where the charges are filed for an ex parte
7 order restraining any account held by the person arrested
8 or charged for not more than 30 days. Such 30-day time
9 period may be extended for good cause shown at a hearing
10 conducted in the manner provided in rule 43(e) of the
11 Federal Rules of Civil Procedure. The court may receive
12 and consider evidence and information submitted by the
13 Government that would be inadmissible under the Federal
14 Rules of Evidence.

15 “(B) The application for a restraining order under
16 subparagraph (A) shall—

17 “(i) identify the offense for which the person
18 has been arrested or charged;

19 “(ii) identify the location and description of the
20 accounts to be restrained; and

21 “(iii) state that the restraining order is needed
22 to prevent the removal of the funds in the account
23 by the person arrested or charged, or by others asso-
24 ciated with such person, during the time needed by
25 the Government to conduct such investigation as

1 may be necessary to establish whether there is prob-
2 able cause to believe that the funds in the accounts
3 are subject to forfeiture in connection with the com-
4 mission of any criminal offense.

5 “(C) An offense described in this subparagraph is any
6 offense for which forfeiture is authorized under this title,
7 title 31, or the Controlled Substances Act (21 U.S.C. 801
8 et seq.).

9 “(D) For purposes of this section—

10 “(i) the term ‘account’ includes any safe deposit
11 box and any account (as defined in paragraphs (1)
12 and (2) of section 5318A(e) of title 31, United
13 States Code) at any financial institution; and

14 “(ii) the term ‘account held by the person ar-
15 rested or charged’ includes an account held in the
16 name of such person, and any account over which
17 such person has effective control as a signatory or
18 otherwise.

19 “(E) A restraining order issued under this paragraph
20 shall not be considered a ‘seizure’ for purposes of section
21 983(a).

22 “(F) A restraining order issued under this paragraph
23 may be executed in any district in which the subject ac-
24 count is found, or transmitted to the central authority of

1 any foreign State for service in accordance with any treaty
2 or other international agreement.”.

3 **SEC. 1409. CRIMINAL PROCEEDS LAUNDERED THROUGH**
4 **PREPAID ACCESS DEVICES, DIGITAL CUR-**
5 **RENCIES, OR OTHER SIMILAR INSTRUMENTS.**

6 (a) IN GENERAL.—

7 (1) DEFINITIONS.—

8 (A) ADDITION OF ISSUERS, REDEEMERS,
9 AND CASHIERS OF PREPAID ACCESS DEVICES
10 AND DIGITAL CURRENCIES TO THE DEFINITION
11 OF FINANCIAL INSTITUTIONS.—Section
12 5312(a)(2)(K) of title 31, United States Code,
13 is amended to read as follows:

14 “(K) an issuer, redeemer, or cashier of
15 travelers’ checks, checks, money orders, prepaid
16 access devices, digital currencies, or any digital
17 exchanger or tumbler of digital currency;”.

18 (B) ADDITION OF PREPAID ACCESS DE-
19 VICES TO THE DEFINITION OF MONETARY IN-
20 STRUMENTS.—Section 5312(a)(3)(B) of such
21 title is amended by inserting “prepaid access
22 devices,” after “delivery,”.

23 (C) DEFINITION OF PREPAID ACCESS DE-
24 VICE.—Section 5312 of such title is amended—

1 (i) by redesignating paragraph (6) as
2 paragraph (7); and

3 (ii) by inserting after paragraph (5)
4 the following:

5 “(6) ‘prepaid access device’ means an electronic
6 device or vehicle, such as a card, plate, code, num-
7 ber, electronic serial number, mobile identification
8 number, personal identification number, or other in-
9 strument that provides a portal to funds or the value
10 of funds that have been paid in advance and can be
11 retrievable and transferable at some point in the fu-
12 ture.”.

13 (2) GAO REPORT.—Not later than 18 months
14 after the date of the enactment of this Act, the
15 Comptroller General of the United States shall sub-
16 mit a report to Congress that describes—

17 (A) the impact of amendments made by
18 paragraph (1) on law enforcement, the prepaid
19 access device industry, and consumers; and

20 (B) the implementation and enforcement
21 by the Department of the Treasury of the final
22 rule relating to “Bank Secrecy Act Regula-
23 tions—Definitions and Other Regulations Re-
24 lating to Prepaid Access” (76 Fed. Reg. 45403
25 (July 29, 2011)).

1 (b) CUSTOMS AND BORDER PROTECTION STRATEGY
2 FOR PREPAID ACCESS DEVICES.—Not later than 18
3 months after the date of the enactment of this Act, the
4 Secretary of Homeland Security, in consultation with the
5 Commissioner of U.S. Customs and Border Protection,
6 shall submit a report to Congress that—

7 (1) details a strategy to interdict and detect
8 prepaid access devices, digital currencies, or other
9 similar instruments, at border crossings and other
10 ports of entry for the United States; and

11 (2) includes an assessment of the infrastructure
12 needed to carry out the strategy detailed pursuant
13 to paragraph (1).

14 (c) MONEY SMUGGLING THROUGH BLANK CHECKS
15 IN BEARER FORM.—Section 5316 of title 31, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
19 BLANK.—For purposes of this section, a monetary instru-
20 ment in bearer form that has the amount left blank, such
21 that the amount could be filled in by the bearer, shall be
22 considered to have a value of more than \$10,000 if the
23 monetary instrument was drawn on an account that con-
24 tained or was intended to contain more than \$10,000 at
25 the time the monetary instrument was—

1 “(1) transported; or

2 “(2) negotiated.”.

3 **SEC. 1410. CLOSING THE LOOPHOLE ON DRUG CARTEL AS-**
4 **SOCIATES ENGAGED IN MONEY LAUNDERING.**

5 (a) INTENT TO CONCEAL OR DISGUISE.—Section
6 1956(a) of title 18, United States Code, is amended—

7 (1) in paragraph (1)(B), by striking “(B) know-
8 ing that” and all that follows through “Federal
9 law,” and inserting the following:

10 “(B) knowing that the transaction—

11 “(i) conceals or disguises, or is intended to
12 conceal or disguise, the nature, source, location,
13 ownership, or control of the proceeds of some
14 form of unlawful activity; or

15 “(ii) avoids, or is intended to avoid, a
16 transaction reporting requirement under State
17 or Federal law,”; and

18 (2) in paragraph (2)(B), by striking “(B) know-
19 ing that” and all that follows through “Federal
20 law,” and inserting the following:

21 “(B) knowing that the monetary instrument or
22 funds involved in the transportation, transmission,
23 or transfer represent the proceeds of some form of
24 unlawful activity, and knowing that such transpor-
25 tation, transmission, or transfer—

1 “(i) conceals or disguises, or is intended to
2 conceal or disguise, the nature, source, location,
3 ownership, or control of the proceeds of some
4 form of unlawful activity; or

5 “(ii) avoids, or is intended to avoid, a
6 transaction reporting requirement under State
7 or Federal law.”.

8 (b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
9 such title is amended by inserting “, and regardless of
10 whether the person knew that the activity constituted a
11 felony” before the semicolon at the end.

12 **Subtitle E—Protecting National**
13 **Security and Public Safety**
14 **CHAPTER 1—GENERAL MATTERS**

15 **SEC. 1501. DEFINITIONS OF ENGAGE IN TERRORIST ACTIV-**
16 **ITY AND TERRORIST ORGANIZATION.**

17 (a) DEFINITION OF ENGAGE IN TERRORIST ACTIV-
18 ITY.—Section 212(a)(3)(B)(iv)(I) of the Immigration and
19 Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amend-
20 ed to read as follows:

21 “(I) to commit a terrorist activity
22 or, under circumstances indicating an
23 intention to cause death, serious bod-
24 ily harm, or substantial damage to

1 property, to incite another person to
2 commit a terrorist activity;”.

3 (b) DEFINITION OF TERRORIST ORGANIZATION.—
4 Section 212(a)(3)(B)(vi)(III) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1182(a)(3)(B)(vi)(III)) is amended
6 to read as follows:

7 “(III) that is a group of 2 or
8 more individuals, whether organized
9 or not, which engages in, or has a
10 subgroup that engages in, the activi-
11 ties described in subclauses (I)
12 through (VI) of clause (iv), if the
13 group or subgroup presents a threat
14 to the national security of the United
15 States.”.

16 **SEC. 1502. TERRORIST GROUNDS OF INADMISSIBILITY.**

17 (a) SECURITY AND RELATED GROUNDS.—Section
18 212(a)(3)(A) of the Immigration and Nationality Act (8
19 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

20 “(A) IN GENERAL.—Any alien who a con-
21 sular officer, the Attorney General, or the Sec-
22 retary knows, or has reasonable ground to be-
23 lieve, seeks to enter the United States to en-
24 gage solely, principally, or incidentally, in, or
25 who is engaged in, or with respect to clauses (i)

1 and (iii) has engaged in within the previous 5
2 years—

3 “(i) any activity—

4 “(I) to violate any law of the
5 United States relating to espionage or
6 sabotage; or

7 “(II) to violate or evade any law
8 prohibiting the export from the
9 United States of goods, technology, or
10 sensitive information;

11 “(ii) any other activity which would be
12 unlawful if committed in the United
13 States; or

14 “(iii) any activity a purpose of which
15 is the opposition to, or the control or over-
16 throw of, the Government of the United
17 States by force, violence, or other unlawful
18 means,

19 is inadmissible.”.

20 (b) TERRORIST ACTIVITIES.—Section
21 212(a)(3)(B)(i) of the Immigration and Nationality Act
22 (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

23 (1) in subclause (IV), by inserting “or has
24 been” before “a representative”;

1 (2) in subclause (V), by inserting “or has been”
2 before “a member”;

3 (3) in subclause (VI), by inserting “or has
4 been” before “a member”;

5 (4) by amending subclause (VII) to read as fol-
6 lows:

7 “(VII) endorses or espouses, or
8 has endorsed or espoused, terrorist
9 activity or persuades or has persuaded
10 others to endorse or espouse terrorist
11 activity or support a terrorist organi-
12 zation;”;

13 (5) by amending subclause (IX) to read as fol-
14 lows:

15 “(IX) is the spouse or child of an
16 alien who is inadmissible under this
17 subparagraph if—

18 “(aa) the activity causing
19 the alien to be found inadmissible
20 occurred within the last 5 years;
21 and

22 “(bb)(AA) the spouse or
23 child knew, or should reasonably
24 have known, of the activity caus-

1 ing the alien to be found inad-
2 missible under this section; and

3 “(BB) the consular officer
4 or Attorney General does not
5 have reasonable grounds to be-
6 lieve that the spouse or child has
7 renounced the activity causing
8 the alien to be found inadmissible
9 under this section.”; and

10 (6) by striking the undesignated matter fol-
11 lowing subclause (IX).

12 (c) PALESTINE LIBERATION ORGANIZATION.—Sec-
13 tion 212(a)(3)(B) of the Immigration and Nationality Act
14 (8 U.S.C. 1182(a)(3)(B)), is amended by adding at the
15 end the following:

16 “(vii) PALESTINE LIBERATION ORGA-
17 NIZATION.—An alien who is an officer, of-
18 ficial, representative, or spokesman of the
19 Palestine Liberation Organization is con-
20 sidered, for purposes of this Act, to be en-
21 gaged in terrorist activity.”.

22 **SEC. 1503. EXPEDITED REMOVAL FOR ALIENS INADMIS-**
23 **SIBLE ON CRIMINAL OR SECURITY GROUNDS.**

24 (a) IN GENERAL.—Section 238 of the Immigration
25 and Nationality Act (8 U.S.C. 1228) is amended—

1 (1) in the section heading, by adding at the end
2 the following: “**OR WHO ARE SUBJECT TO TER-**
3 **RORISM-RELATED GROUNDS FOR REMOVAL**”;

4 (2) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) by striking “Attorney General”
7 and inserting “Secretary, in the exercise of
8 discretion,”; and

9 (ii) by striking “set forth in this sub-
10 section or” and inserting “set forth in this
11 subsection, in lieu of removal proceedings
12 under”;

13 (B) in paragraphs (3) and (4), by striking
14 “Attorney General” each place that term ap-
15 pears and inserting “Secretary”;

16 (C) in paragraph (5)—

17 (i) by striking “described in this sec-
18 tion” and inserting “described in para-
19 graph (1) or (2)”;

20 (ii) by striking “the Attorney General
21 may grant in the Attorney General’s dis-
22 cretion.” and inserting “the Secretary or
23 the Attorney General may grant, in the
24 discretion of the Secretary or the Attorney
25 General, in any proceeding.”;

1 (D) by redesignating paragraphs (3), (4),
2 and (5) as paragraphs (4), (5), and (6) respec-
3 tively; and

4 (E) by inserting after paragraph (2) the
5 following:

6 “(3) The Secretary, in the exercise of discre-
7 tion, may determine inadmissibility under section
8 212(a)(2) and issue an order of removal pursuant to
9 the procedures set forth in this subsection, in lieu of
10 removal proceedings under section 240, with respect
11 to an alien who—

12 “(A) has not been admitted or paroled;

13 “(B) has not been found to have a credible
14 fear of persecution pursuant to the procedures
15 set forth in 235(b)(1)(B); and

16 “(C) is not eligible for a waiver of inadmis-
17 sibility or relief from removal.”;

18 (3) by redesignating the first subsection (c) as
19 subsection (d);

20 (4) by redesignating the second subsection (c),
21 as so designated by section 617(b)(13) of the Illegal
22 Immigration Reform and Immigrant Responsibility
23 Act of 1996 (division C of Public Law 104–208; 110
24 Stat. 3009–720)), as subsection (e); and

1 (5) by inserting after subsection (b) the fol-
2 lowing:

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

5 “(1) IN GENERAL.—The Secretary—

6 “(A) notwithstanding section 240, shall—

7 “(i) determine the inadmissibility of
8 every alien under subclause (I), (II), or
9 (III) of section 212(a)(3)(B)(i), or the de-
10 portability of the alien under section
11 237(a)(4)(B) as a consequence of being de-
12 scribed in 1 of such subclauses; and

13 “(ii) issue an order of removal pursu-
14 ant to the procedures set forth in this sub-
15 section to every alien determined to be in-
16 admissible or deportable on a ground de-
17 scribed in clause (i); and

18 “(B) may—

19 “(i) determine the inadmissibility of
20 any alien under subparagraph (A) or (B)
21 of section 212(a)(3) (other than subclauses
22 (I), (II), and (III) of section
23 212(a)(3)(B)), or the deportability of the
24 alien under subparagraph (A) or (B) of
25 section 237(a)(4) (as a consequence of

1 being described in subclause (I), (II), or
2 (III) of section 212(a)(3)(B)); and

3 “(ii) issue an order of removal pursu-
4 ant to the procedures set forth in this sub-
5 section to every alien determined to be in-
6 admissible or deportable on a ground de-
7 scribed in clause (i).

8 “(2) LIMITATION.—The Secretary may not exe-
9 cute any order described in paragraph (1) until 30
10 days after the date on which such order was issued,
11 unless waived by the alien, to give the alien an op-
12 portunity to petition for judicial review under section
13 242.

14 “(3) PROCEEDINGS.—The Secretary shall pre-
15 scribe regulations to govern proceedings under this
16 subsection, which shall require that—

17 “(A) the alien is given reasonable notice of
18 the charges and of the opportunity described in
19 subparagraph (C);

20 “(B) the alien has the privilege of being
21 represented (at no expense to the Government)
22 by such counsel, authorized to practice in such
23 proceedings, as the alien shall choose;

1 “(C) the alien has a reasonable oppor-
2 tunity to inspect the evidence and rebut the
3 charges;

4 “(D) a determination is made on the
5 record that the individual upon whom the notice
6 for the proceeding under this section is served
7 (either in person or by mail) is, in fact, the
8 alien named in such notice;

9 “(E) a record is maintained for judicial re-
10 view; and

11 “(F) the final order of removal is not adju-
12 dicated by the same person who issues the
13 charges.

14 “(4) LIMITATION ON RELIEF FROM RE-
15 MOVAL.—No alien described in this subsection shall
16 be eligible for any relief from removal that the Sec-
17 retary may grant in the Secretary’s discretion.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 of the Immigration and Nationality Act (8 U.S.C. 1101
20 et seq.) is amended by striking the item relating to section
21 238 and inserting the following:

 “Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who
 are subject to terrorism-related grounds for removal.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act and shall not apply to aliens who are in removal

1 proceedings under section 240 of the Immigration and Na-
2 tionality Act (8 U.S.C. 1229a) on such date of enactment.

3 **SEC. 1504. DETENTION OF REMOVABLE ALIENS.**

4 (a) CRIMINAL ALIEN ENFORCEMENT PARTNER-
5 SHIPS.—Section 287 of the Immigration and Nationality
6 Act (8 U.S.C. 1357), as amended by section 1123, is fur-
7 ther amended by inserting after subsection (h) the fol-
8 lowing:

9 “(i) CRIMINAL ALIEN ENFORCEMENT PARTNER-
10 SHIPS.—

11 “(1) IN GENERAL.—The Secretary may enter
12 into a written agreement with a State, or with any
13 political subdivision of a State, to authorize the tem-
14 porary placement of 1 or more U.S. Customs and
15 Border Protection agents or officers or U.S. Immig-
16 ration and Customs Enforcement agents or inves-
17 tigators at a local police department or precinct—

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

22 “(B) to issue charging documents and no-
23 tices related to the initiation of removal pro-
24 ceedings or reinstatement of prior removal or-
25 ders under section 241(a)(5);

1 “(C) to enter information directly into the
2 National Crime Information Center (NCIC)
3 database, Immigration Violator File, includ-
4 ing—

5 “(i) the alien’s address;

6 “(ii) the reason for the arrest;

7 “(iii) the legal cite of the State law
8 violated or for which the alien is charged;

9 “(iv) the alien’s driver’s license num-
10 ber and State of issuance, if the alien has
11 a driver’s license;

12 “(v) any other identification document
13 held by the alien and issuing entity for
14 such identification documents; and

15 “(vi) any identifying marks, such as
16 tattoos, birthmarks, and scars;

17 “(D) to collect the alien’s biometrics, in-
18 cluding iris, fingerprint, photographs, and sig-
19 nature, of the alien and to enter such informa-
20 tion into the Automated Biometric Identifica-
21 tion System (IDENT) and any other Depart-
22 ment of Homeland Security database author-
23 ized for storage of biometric information for
24 aliens; and

1 “(E) to make advance arrangements for
2 the immediate transfer from State to Federal
3 custody of any criminal when the alien is re-
4 leased, without regard to whether the alien is
5 released on parole, supervised release, or proba-
6 tion, and without regard to whether alien may
7 be arrested imprisoned again for the same of-
8 fense.

9 “(2) LENGTH OF TEMPORARY DUTY ASSIGN-
10 MENTS.—The initial period for a temporary duty as-
11 signment authorized under this paragraph shall be 1
12 year. The temporary duty assignment may be ex-
13 tended for additional periods of time as agreed to by
14 the Secretary and the State or political subdivision
15 of the State to ensure continuity of cooperation and
16 coverage.

17 “(3) TECHNOLOGY USAGE.—The Secretary
18 shall provide U.S. Customs and Border Protection
19 and U.S. Immigration and Customs Enforcement
20 agents, officers, and investigators on a temporary
21 duty assignment under this paragraph mobile access
22 to Federal databases containing alien information,
23 live scan technology for collection of biometrics, and
24 video-conferencing capability for use at local police
25 departments or precincts in remote locations.

1 “(4) REPORT.—Not later than 1 year after the
2 date of the enactment of the Strong Visa Integrity
3 Secures America Act, the Secretary shall submit a
4 report to the Committee on the Judiciary of the
5 Senate, the Committee on Homeland Security and
6 Governmental Affairs of the Senate, the Committee
7 on the Judiciary of the House of Representatives,
8 and the Committee on Homeland Security of the
9 House of Representatives that identifies—

10 “(A) the number of States that have en-
11 tered into an agreement under this subsection;

12 “(B) the number of criminal aliens proc-
13 essed by the U.S. Customs and Border Protec-
14 tion agent or officer or U.S. Immigration and
15 Customs Enforcement agent or investigator
16 during the temporary duty assignment; and

17 “(C) the number of criminal aliens trans-
18 ferred from State to Federal custody during the
19 agreement period.”.

20 (b) DETENTION, RELEASE, AND REMOVAL OF
21 ALIENS ORDERED REMOVED.—

22 (1) REMOVAL PERIOD.—

23 (A) IN GENERAL.—Section 241(a)(1)(A) of
24 the Immigration and Nationality Act (8 U.S.C.

1 1231(a)(1)(A)) is amended by striking “Attor-
2 ney General” and inserting “Secretary”.

3 (B) BEGINNING OF PERIOD.—Section
4 241(a)(1)(B) of such Act (8 U.S.C.
5 1231(a)(1)(B)) is amended to read as follows:

6 “(B) BEGINNING OF PERIOD.—

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

10 “(I) If a court, the Board of Im-
11 migration Appeals, or an immigration
12 judge orders a stay of the removal of
13 the alien, the date on which the stay
14 of removal ends.

15 “(II) If the alien is ordered re-
16 moved, the date pursuant to an ad-
17 ministratively final removal order and
18 the Secretary takes the alien into cus-
19 tody for removal.

20 “(III) If the alien is detained or
21 confined (except under an immigra-
22 tion process), the date on which the
23 alien is released from detention or
24 confinement.

1 “(ii) BEGINNING OF REMOVAL PERIOD
2 FOLLOWING A TRANSFER OF CUSTODY.—If
3 the Secretary transfers custody of the alien
4 pursuant to law to another Federal agency
5 or to an agency of a State or local govern-
6 ment in connection with the official duties
7 of such agency, the removal period for the
8 alien—

9 “(I) shall be tolled; and

10 “(II) shall resume on the date on
11 which the alien is returned to the cus-
12 tody of the Secretary.”.

13 (C) SUSPENSION OF PERIOD.—Section
14 241(a)(1)(C) of such Act (8 U.S.C.
15 1231(a)(1)(C)) is amended to read as follows:

16 “(C) SUSPENSION OF PERIOD.—The re-
17 moval period shall be extended beyond a period
18 of 90 days and the alien may remain in deten-
19 tion during such extended period if the alien—

20 “(i) fails or refuses to make all rea-
21 sonable efforts to comply with the order of
22 removal or to fully cooperate with the ef-
23 forts of the Secretary to establish the
24 alien’s identity and carry out the order of
25 removal, including making timely applica-

1 tion in good faith for travel or other docu-
2 ments necessary to the alien’s departure;
3 or

4 “(ii) conspires or acts to prevent the
5 alien’s removal subject to an order of re-
6 moval.”.

7 (2) DETENTION.—Section 241(a)(2) of the Im-
8 migration and Nationality Act (8 U.S.C. 1231(a)(2))
9 is amended—

10 (A) by inserting “(A)” before “During”;

11 (B) by striking “Attorney General” and in-
12 serting “Secretary”; and

13 (C) by adding at the end the following:

14 “(B) DURING A PENDENCY OF A STAY.—

15 If a court, the Board of Immigration Appeals,
16 or an immigration judge orders a stay of re-
17 moval of an alien who is subject to an order of
18 removal, the Secretary, in the Secretary’s sole
19 and unreviewable exercise of discretion, and
20 notwithstanding any provision of law, including
21 section 2241 of title 28, United States Code,
22 may detain the alien during the pendency of
23 such stay of removal.”.

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

4 (A) in the matter preceding subparagraph
5 (A), by striking “Attorney General” and insert-
6 ing “Secretary”;

7 (B) in subparagraph (C), by striking “At-
8 torney General” and inserting “Secretary”; and

9 (C) by amending subparagraph (D) to read
10 as follows:

11 “(D) to obey reasonable restrictions on the
12 alien’s conduct or activities, or to perform af-
13 firmative acts, that the Secretary prescribes for
14 the alien, in order to prevent the alien from ab-
15 sconding, for the protection of the community,
16 or for other purposes related to the enforcement
17 of the immigration laws.”.

18 (4) ALIENS IMPRISONED, ARRESTED, OR ON PA-
19 ROLE, SUPERVISED RELEASE, OR PROBATION.—Sec-
20 tion 241(a)(4) of the Immigration and Nationality
21 Act (8 U.S.C. 1231(a)(4)) is amended—

22 (A) in subparagraph (A), by striking “At-
23 torney General” and inserting “Secretary”; and

24 (B) in subparagraph (B)—

1 (i) in the matter preceding clause (i),
2 by striking “Attorney General” and insert-
3 ing “Secretary”;

4 (I) in clause (i), by striking “if
5 the Attorney General” and inserting
6 “if the Secretary”; and

7 (II) in clause (ii)(III), by striking
8 “Attorney General” and inserting
9 “Secretary”.

10 (5) REINSTATEMENT OF REMOVAL ORDERS
11 AGAINST ALIENS ILLEGALLY REENTERING.—

12 (A) IN GENERAL.—Section 241(a)(5) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1231(a)(5)) is amended to read as follows:

15 “(5) REINSTATEMENT OF REMOVAL ORDERS
16 AGAINST ALIENS ILLEGALLY REENTERING.—If the
17 Secretary determines that an alien has entered the
18 United States illegally after having been removed,
19 deported, or excluded or having departed voluntarily,
20 under an order of removal, deportation, or exclusion,
21 regardless of the date of the original order or the
22 date of the illegal entry—

23 “(A) the order of removal, deportation, or
24 exclusion is reinstated from its original date

1 and is not subject to being reopened or reviewed
2 notwithstanding section 242(a)(2)(D);

3 “(B) the alien is not eligible and may not
4 apply for any relief under this Act, regardless
5 of the date on which an application or request
6 for such relief may have been filed or made;

7 “(C) the alien shall be removed under the
8 order of removal, deportation, or exclusion at
9 any time after the illegal entry; and

10 “(D) reinstatement under subparagraph
11 (A) shall not require proceedings under section
12 240 or other proceedings before an immigration
13 judge.”.

14 (B) JUDICIAL REVIEW.—Section 242 of
15 such Act (8 U.S.C. 1252) is amended by adding
16 at the end the following:

17 “(h) JUDICIAL REVIEW OF DECISION TO
18 REINSTATE REMOVAL ORDER UNDER SECTION
19 241(A)(5).—

20 “(1) REVIEW OF DECISION TO REIN-
21 STATE REMOVAL ORDER.—Judicial review
22 of determinations under section 241(a)(5)
23 is available in an action under subsection
24 (a).

1 “(2) NO REVIEW OF ORIGINAL
2 ORDER.—Notwithstanding any other provi-
3 sion of law (statutory or nonstatutory), in-
4 cluding section 2241 of title 28, United
5 States Code, any other habeas corpus pro-
6 vision, or sections 1361 and 1651 of such
7 title, no court shall have jurisdiction to re-
8 view any cause or claim, arising from, or
9 relating to, any challenge to the original
10 order.”.

11 (C) EFFECTIVE DATE.—The amendments
12 made by subparagraphs (A) and (B) shall take
13 effect as if enacted on April 1, 1997 and shall
14 apply to all orders reinstated or after that date
15 by the Secretary of Homeland Security (or by
16 the Attorney General before March 1, 2003),
17 regardless of the date of the original order.

18 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Sec-
19 tion 241(a)(6) of the Immigration and Nationality
20 Act (8 U.S.C. 1231(a)(6)) is amended—

21 (A) by striking “Attorney General” and in-
22 serting “Secretary”; and

23 (B) by striking “removal period and, if re-
24 leased,” and inserting “removal period, in the
25 discretion of the Secretary, without any limita-

1 tions other than those specified in this section,
2 until the alien is removed.”.

3 (7) PAROLE; ADDITIONAL RULES; JUDICIAL RE-
4 VIEW.—Section 241(a) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1231(a)) is amended—

6 (A) in paragraph (7), by striking “Attor-
7 ney General” and inserting “Secretary”;

8 (B) by redesignating paragraph (7) as
9 paragraph (14); and

10 (C) by inserting after paragraph (6) the
11 following:

12 “(7) PAROLE.—Except for aliens subject to de-
13 tention under paragraph (6) and aliens subject to
14 detention under section 236(c), 236A, or 238, if an
15 alien who is detained is an applicant for admission,
16 the Secretary, in the Secretary’s discretion, may pa-
17 role the alien under section 212(d)(5) and may pro-
18 vide, notwithstanding section 212(d)(5), that the
19 alien shall not be returned to custody unless either
20 the alien violates the conditions of such parole or the
21 alien’s removal becomes reasonably foreseeable, pro-
22 vided that in no circumstance shall such alien be
23 considered admitted.

1 “(8) ADDITIONAL RULES FOR DETENTION OR
2 RELEASE OF CERTAIN ALIENS WHO WERE PRE-
3 VIOUSLY ADMITTED TO THE UNITED STATES.—

4 “(A) APPLICATION.—The procedures set
5 out under this paragraph—

6 “(i) apply only to an alien who were
7 previously admitted to the United States;
8 and

9 “(ii) do not apply to any other alien,
10 including an alien detained pursuant to
11 paragraph (6).

12 “(B) ESTABLISHMENT OF A DETENTION
13 REVIEW PROCESS FOR ALIENS WHO FULLY CO-
14 OPERATE WITH REMOVAL.—

15 “(i) REQUIREMENT TO ESTABLISH.—

16 If an alien has made all reasonable efforts
17 to comply with a removal order and to co-
18 operate fully with the efforts of the Sec-
19 retary to establish the alien’s identity and
20 carry out the removal order, including
21 making timely application in good faith for
22 travel or other documents necessary to the
23 alien’s departure, and has not conspired or
24 acted to prevent removal, the Secretary
25 shall establish an administrative review

1 process to determine whether the alien
2 should be detained or released on condi-
3 tions.

4 “(ii) DETERMINATIONS.—The Sec-
5 retary shall—

6 “(I) make a determination
7 whether to release an alien described
8 in clause (i) after the end of the
9 alien’s removal period; and

10 “(II) in making a determination
11 under subclause (I), consider any evi-
12 dence submitted by the alien, and may
13 consider any other evidence, including
14 any information or assistance pro-
15 vided by the Department of State or
16 other Federal agency and any other
17 information available to the Secretary
18 pertaining to the ability to remove the
19 alien.

20 “(9) AUTHORITY TO DETAIN BEYOND THE RE-
21 MOVAL PERIOD.—The Secretary, in the exercise of
22 discretion, without any limitations other than those
23 specified in this section, may continue to detain an
24 alien for 90 days beyond the removal period (includ-

1 ing any extension of the removal period as provided
2 in subsection (a)(1)(C)—

3 “(A) until the alien is removed, if the Sec-
4 retary determines that—

5 “(i) there is a significant likelihood
6 that the alien will be removed in the rea-
7 sonably foreseeable future;

8 “(ii) the alien would be removed in
9 the reasonably foreseeable future, or would
10 have been removed, but for the alien’s fail-
11 ure or refusal to make all reasonable ef-
12 forts to comply with the removal order, or
13 to cooperate fully with the Secretary’s ef-
14 forts to establish the alien’s identity and
15 carry out the removal order, including
16 making timely application in good faith for
17 travel or other documents necessary to the
18 alien’s departure, or conspiracies or acts to
19 prevent removal;

20 “(iii) the government of the foreign
21 country of which the alien is a citizen, sub-
22 ject, national, or resident is denying or un-
23 reasonably delaying accepting the return of
24 such alien after the Secretary asks whether

1 the government will accept an alien under
2 section 243(d); or

3 “(iv) the government of the foreign
4 country of which the alien is a citizen, sub-
5 ject, national, or resident is refusing to
6 issue any required travel or identity docu-
7 ments to allow such alien to return to that
8 country;

9 “(B) until the alien is removed, if the Sec-
10 retary certifies in writing—

11 “(i) in consultation with the Secretary
12 of Health and Human Services, that the
13 alien has a highly contagious disease that
14 poses a threat to public safety;

15 “(ii) after receipt of a written rec-
16 ommendation from the Secretary of State,
17 that release of the alien is likely to have
18 serious adverse foreign policy consequences
19 for the United States;

20 “(iii) based on information available
21 to the Secretary (including classified, sen-
22 sitive, or other information, and without
23 regard to the grounds upon which the alien
24 was ordered removed), that there is reason
25 to believe that the release of the alien

1 would threaten the national security of the
2 United States; or

3 “(iv) that the release of the alien will
4 threaten the safety of the community or
5 any person, conditions of release cannot
6 reasonably be expected to ensure the safety
7 of the community or any person, and ei-
8 ther—

9 “(I) the alien has been convicted
10 of 1 or more aggravated felonies (as
11 defined in section 101(a)(43)), 1 or
12 more crimes identified by the Sec-
13 retary by regulation, or 1 or more at-
14 tempts or conspiracies to commit any
15 such aggravated felonies or such iden-
16 tified crimes, provided that the aggre-
17 gate term of imprisonment for such
18 attempts or conspiracies is at least 5
19 years; or

20 “(II) the alien has committed 1
21 or more violent offenses (but not in-
22 cluding a purely political offense) and,
23 because of a mental condition or per-
24 sonality disorder and behavior associ-
25 ated with that condition or disorder,

1 the alien is likely to engage in acts of
2 violence in the future; or

3 “(v) that the release of the alien will
4 threaten the safety of the community or
5 any person, conditions of release cannot
6 reasonably be expected to ensure the safety
7 of the community or any person, and the
8 alien has been convicted of at least one ag-
9 gravated felony (as defined in section
10 101(a)(43)); and

11 “(C) pending a determination under sub-
12 paragraph (B), if the Secretary has initiated
13 the administrative review process not later than
14 30 days after the expiration of the removal pe-
15 riod (including any extension of the removal pe-
16 riod as provided in subsection (a)(1)(C)).

17 “(10) RENEWAL AND DELEGATION OF CERTIFI-
18 CATION.—

19 “(A) RENEWAL.—The Secretary may
20 renew a certification under subparagraph
21 (B)(ii) every 6 months without limitation, after
22 providing an opportunity for the alien to re-
23 quest reconsideration of the certification and to
24 submit documents or other evidence in support
25 of that request. If the Secretary does not renew

1 a certification, the Secretary may not continue
2 to detain the alien under paragraph (9)(B).

3 “(B) DELEGATION.—Notwithstanding sec-
4 tion 103, the Secretary may not delegate the
5 authority to make or renew a certification de-
6 scribed in clause (ii), (iii), or (iv) of subpara-
7 graph (9)(B) to an official below the level of the
8 Director of U.S. Immigration and Customs En-
9 forcement.

10 “(11) RELEASE ON CONDITIONS.—If the Sec-
11 retary determines that an alien should be released
12 from detention, the Secretary, in the exercise of dis-
13 cretion, may impose conditions on release as pro-
14 vided in paragraph (3).

15 “(12) REDETENTION.—The Secretary, in the
16 exercise of discretion, without any limitations other
17 than those specified in this section, may again de-
18 tain any alien subject to a final removal order who
19 is released from custody if the alien fails to comply
20 with the conditions of release or to continue to sat-
21 isfy the conditions described in subparagraph (8), or
22 if, upon reconsideration, the Secretary determines
23 that the alien can be detained under subparagraph
24 (9). Paragraphs (6) through (14) shall apply to any
25 alien returned to custody pursuant to this subpara-

1 graph, as if the removal period terminated on the
2 day of the redetention.

3 “(13) CERTAIN ALIENS WHO EFFECTED
4 ENTRY.—If an alien has entered the United States,
5 but has not been lawfully admitted nor physically
6 present in the United States continuously for the 2-
7 year period immediately preceding the commence-
8 ment of removal proceedings under this Act against
9 the alien, the Secretary, in the exercise of discretion,
10 may decide not to apply paragraph (8) and detain
11 the alien without any limitations except those which
12 the Secretary shall adopt by regulation.

13 “(14) JUDICIAL REVIEW.—Without regard to
14 the place of confinement, judicial review of any ac-
15 tion or decision pursuant to paragraph (6) through
16 (14) shall be available exclusively in habeas corpus
17 proceedings instituted in the United States District
18 Court for the District of Columbia, and only if the
19 alien has exhausted all administrative remedies
20 (statutory and regulatory) available to the alien as
21 of right.”.

22 (c) DETENTION OF ALIENS DURING REMOVAL PRO-
23 CEEDINGS.—

1 (1) IN GENERAL.—Section 235 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1225) is amend-
3 ed by adding at the end the following:

4 “(e) LENGTH OF DETENTION.—

5 “(1) IN GENERAL.—An alien may be detained
6 under this section while proceedings are pending,
7 without limitation, until the alien is subject to an
8 administratively final order of removal.

9 “(2) EFFECT ON DETENTION UNDER SECTION
10 241.—The length of detention under this section
11 shall not affect the validity of any detention under
12 section 241.

13 “(f) JUDICIAL REVIEW.—Without regard to the place
14 of confinement, judicial review of any action or decision
15 made pursuant to subsection (e) shall be available exclu-
16 sively in a habeas corpus proceeding instituted in the
17 United States District Court for the District of Columbia
18 and only if the alien has exhausted all administrative rem-
19 edies (statutory and nonstatutory) available to the alien
20 as of right.”.

21 (2) CONFORMING AMENDMENTS.—Section 236
22 of the Immigration and Nationality Act (8 U.S.C.
23 1226) is amended—

24 (A) in subsection (e), by adding at the end
25 the following: “Without regard to the place of

1 confinement, judicial review of any action or de-
2 cision made pursuant to section 235(f) shall be
3 available exclusively in a habeas corpus pro-
4 ceeding instituted in the United States District
5 Court for the District of Columbia, and only if
6 the alien has exhausted all administrative rem-
7 edies (statutory and nonstatutory) available to
8 the alien as of right.”; and

9 (B) by adding at the end the following:

10 “(f) LENGTH OF DETENTION.—

11 “(1) IN GENERAL.—An alien may be detained
12 under this section, without limitation, until the alien
13 is subject to an administratively final order of re-
14 moval.

15 “(2) EFFECT ON DETENTION UNDER SECTION
16 241.—The length of detention under this section
17 shall not affect the validity of any detention under
18 section 241.”.

19 (d) ATTORNEY GENERAL’S DISCRETION IN DETER-
20 MINING COUNTRIES OF REMOVAL.—Section 241(b) of the
21 Immigration and Nationality Act (8 U.S.C. 1231(b)) is
22 amended—

23 (1) in paragraph (1)(C)(iv), by striking the pe-
24 riod at the end and inserting “, or the Attorney
25 General decides that removing the alien to the coun-

1 try is prejudicial to the interests of the United
2 States.”;

3 (2) in paragraph (2)(E)(vii), by inserting “or
4 the Attorney General decides that removing the alien
5 to 1 or more of such countries is prejudicial to the
6 interests of the United States,” after “this subpara-
7 graph,”.

8 (e) EFFECTIVE DATES AND APPLICATION.—

9 (1) AMENDMENTS MADE BY SUBSECTION (B).—

10 The amendments made by subsection (b) shall take
11 effect on the date of the enactment of this Act. Sec-
12 tion 241 of the Immigration and Nationality Act, as
13 amended by subsection (b), shall apply to—

14 (A) all aliens subject to a final administra-
15 tive removal, deportation, or exclusion order
16 that was issued before, on, or after the date of
17 the enactment of this Act; and

18 (B) acts and conditions occurring or exist-
19 ing before, on, or after the date of the enact-
20 ment of this Act.

21 (2) AMENDMENTS MADE BY SUBSECTION (C).—

22 The amendments made by subsection (c) shall take
23 effect upon the date of the enactment of this Act.
24 Sections 235 and 236 of the Immigration and Na-
25 tionality Act, as amended by subsection (c), shall

1 apply to any alien in detention under provisions of
2 such sections on or after the date of the enactment
3 of this Act.

4 **SEC. 1505. GAO STUDY ON DEATHS IN CUSTODY.**

5 Not later than 1 year after the date of the enactment
6 of this Act, the Comptroller General of the United States
7 shall submit a report to Congress on the deaths in custody
8 of detainees held by the Department of Homeland Security,
9 which shall include, with respect to any such
10 deaths—

11 (1) whether any such deaths could have been
12 prevented by the delivery of medical treatment ad-
13 ministered while the detainee is in the custody of the
14 Department of Homeland Security;

15 (2) whether Department practices and proce-
16 dures were properly followed and obeyed;

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

20 (4) whether reports of such deaths were made
21 to the Deaths in Custody Reporting Program.

22 **SEC. 1506. GAO STUDY ON MIGRANT DEATHS.**

23 Not later than 1 year after the date of the enactment
24 of this Act, the Comptroller General of the United States
25 shall submit, to the Committee on the Judiciary of the

1 Senate, the Committee on Homeland Security and Govern-
2 mental Affairs of the Senate, the Committee on the Judici-
3 ary of the House of Representatives, and the Committee
4 on Homeland Security of the House of Representatives,
5 a report that describes—

6 (1) the total number of migrant deaths along
7 the southern border during the previous 7 years;

8 (2) the total number of unidentified deceased
9 migrants found along the southern border in the
10 previous 7 years;

11 (3) the level of cooperation between U.S. Cus-
12 toms and Border Protection, State and local law en-
13 forcement agencies, foreign diplomatic and consular
14 posts, nongovernmental organizations, and family
15 members to accurately identify deceased individuals;

16 (4) the use of DNA testing and sharing of such
17 data between U.S. Customs and Border Protection,
18 State and local law enforcement agencies, foreign
19 diplomatic and consular posts, and nongovernmental
20 organizations to accurately identify deceased individ-
21 uals;

22 (5) the comparison of DNA data with informa-
23 tion on Federal, State, and local missing person reg-
24 istries; and

1 (6) the procedures and processes U.S. Customs
2 and Border Protection has in place for notification
3 of relevant authorities or family members after miss-
4 ing persons are identified through DNA testing.

5 **SEC. 1507. STATUTE OF LIMITATIONS FOR VISA, NATU-**
6 **RALIZATION, AND OTHER FRAUD OFFENSES**
7 **INVOLVING WAR CRIMES OR HUMAN RIGHTS**
8 **VIOLATIONS.**

9 (a) STATUTE OF LIMITATIONS FOR VISA FRAUD AND
10 OTHER OFFENSES.—Chapter 213 of title 18, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 **“§ 3302. Fraud in connection with certain human**
14 **rights violations or war crimes**

15 “(a) IN GENERAL.—No person shall be prosecuted,
16 tried, or punished for violation of any provision of section
17 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt
18 or conspiracy to violate any provision of such sections, if
19 the fraudulent conduct, misrepresentation, concealment,
20 or fraudulent, fictitious, or false statement concerns the
21 alleged offender’s—

22 “(1) participation, at any time, at any place,
23 and irrespective of the nationality of the alleged of-
24 fender or any victim, in a human rights violation or
25 war crime; or

1 “(2) membership in, service in, or authority
2 over a military, paramilitary, or police organization
3 that participated in such conduct during any part of
4 any period in which the alleged offender was a mem-
5 ber of, served in, or had authority over the organiza-
6 tion, unless the indictment is found or the informa-
7 tion is instituted within 20 years after the commis-
8 sion of the offense.

9 “(b) DEFINITIONS.—In this section—

10 “(1) the term ‘extrajudicial killing under color
11 of foreign law’ means conduct described in section
12 212(a)(3)(E)(iii) of the Immigration and Nationality
13 Act (8 U.S.C. 1182(a)(3)(E)(iii));

14 “(2) the term ‘female genital mutilation’ means
15 conduct described in section 116;

16 “(3) the term ‘genocide’ means conduct de-
17 scribed in section 1091(a);

18 “(4) the term ‘human rights violation or war
19 crime’ means genocide, incitement to genocide, war
20 crimes, torture, female genital mutilation,
21 extrajudicial killing under color of foreign law, perse-
22 cution, particularly severe violation of religious free-
23 dom by a foreign government official, or the use or
24 recruitment of child soldiers;

1 “(5) the term ‘incitement to genocide’ means
2 conduct described in section 1091(c);

3 “(6) the term ‘particularly severe violation of
4 religious freedom’ means conduct described in sec-
5 tion (22 U.S.C. 6402(13));

6 “(7) the term ‘persecution’ means conduct that
7 is a bar to relief under section 208(b)(2)(A)(i) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1158(b)(2)(A)(i));

10 “(8) the term ‘torture’ means conduct described
11 in paragraphs (1) and (2) of section 2340;

12 “(9) the term ‘use or recruitment of child sol-
13 diers’ means conduct described in subsections (a)
14 and (d) of section 2442; and

15 “(10) the term ‘war crimes’ means conduct de-
16 scribed in subsections (c) and (d) of section 2441.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for chapter 213 of title 18, United States Code, is amend-
19 ed by adding at the end the following:

“3302. Fraud in connection with certain human rights violations or war
crimes.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to fraudulent conduct, misrepre-
22 sentations, concealments, and fraudulent, fictitious, or
23 false statements made or committed before, on, or after
24 the date of enactment of this Act.

1 **SEC. 1508. CRIMINAL DETENTION OF ALIENS TO PROTECT**
2 **PUBLIC SAFETY.**

3 (a) IN GENERAL.—Section 3142(e) of title 18,
4 United States Code, is amended to read as follows:

5 “(e) DETENTION.—

6 “(1) IN GENERAL.—If, after a hearing pursu-
7 ant to the provisions of subsection (f), the judicial
8 officer finds that no condition or combination of con-
9 ditions will reasonably assure the appearance of the
10 person as required and the safety of any other per-
11 son and the community, such judicial officer shall
12 order the detention of the person before trial.

13 “(2) PRESUMPTION ARISING FROM OFFENSES
14 DESCRIBED IN SUBSECTION (F)(1).—In a case de-
15 scribed in subsection (f)(1) of this section, a rebutta-
16 ble presumption arises that no condition or combina-
17 tion of conditions will reasonably assure the safety
18 of any other person and the community if such judi-
19 cial officer finds that—

20 “(A) the person has been convicted of a
21 Federal offense that is described in subsection
22 (f)(1), or of a State or local offense that would
23 have been an offense described in subsection
24 (f)(1) if a circumstance giving rise to Federal
25 jurisdiction had existed;

1 “(B) the offense described in subparagraph
2 (A) was committed while the person was on re-
3 lease pending trial for a Federal, State, or local
4 offense; and

5 “(C) not more than 5 years has elapsed
6 since the later of the date of conviction or the
7 date of the release of the person from imprison-
8 ment, for the offense described in subparagraph
9 (A).

10 “(3) PRESUMPTION ARISING FROM OTHER OF-
11 FENSES INVOLVING ILLEGAL SUBSTANCES, FIRE-
12 ARMS, VIOLENCE, OR MINORS.—Subject to rebuttal
13 by the person, it shall be presumed that no condition
14 or combination of conditions will reasonably assure
15 the appearance of the person as required and the
16 safety of the community if the judicial officer finds
17 that there is probable cause to believe that the per-
18 son committed—

19 “(A) an offense for which a maximum
20 term of imprisonment of 10 years or more is
21 prescribed in the Controlled Substances Act (21
22 U.S.C. 801 et seq.), the Controlled Substances
23 Import and Export Act (21 U.S.C. 951 et seq.),
24 or chapter 705 of title 46;

1 “(B) an offense under section 924(c),
2 956(a), or 2332b;

3 “(C) an offense listed in section
4 2332b(g)(5)(B) for which a maximum term of
5 imprisonment of 10 years or more is prescribed;
6 or

7 “(D) an offense involving a minor victim
8 under section 1201, 1591, 2241, 2242,
9 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1),
10 2252(a)(2), 2252(a)(3), 2252A(a)(1),
11 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
12 2421, 2422, 2423, or 2425.

13 “(4) PRESUMPTION ARISING FROM OFFENSES
14 RELATING TO IMMIGRATION LAW.—Subject to rebut-
15 tal by the person, it shall be presumed that no con-
16 dition or combination of conditions will reasonably
17 assure the appearance of the person as required if
18 the judicial officer finds that there is probable cause
19 to believe that the person is an alien and that the
20 person—

21 “(A) has no lawful immigration status in
22 the United States;

23 “(B) is the subject of a final order of re-
24 moval; or

1 “(C) has committed a felony offense under
2 section 842(i)(5), 911, 922(g)(5), 1015, 1028,
3 1028A, 1425, or 1426, or chapter 75 or 77, or
4 section 243, 274, 275, 276, 277, or 278 of the
5 Immigration and Nationality Act (8 U.S.C.
6 1253, 1324, 1325, 1326, 1327, and 1328).”.

7 (b) IMMIGRATION STATUS AS FACTOR IN DETER-
8 MINING CONDITIONS OF RELEASE.—Section 3142(g)(3)
9 of title 18, United States Code, is amended—

10 (1) in subparagraph (A), by striking “and” at
11 the end; and

12 (2) by adding at the end the following:

13 “(C) whether the person is in a lawful im-
14 migration status, has previously entered the
15 United States illegally, has previously been re-
16 moved from the United States, or has otherwise
17 violated the conditions of his or her lawful im-
18 migration status; and”.

19 **SEC. 1509. RECRUITMENT OF PERSONS TO PARTICIPATE IN**
20 **TERRORISM.**

21 (a) IN GENERAL.—Chapter 113B of title 18, United
22 States Code, is amended by inserting after section 2332b
23 the following:

1 **“§ 2332c. Recruitment of persons to participate in ter-**
2 **rorism**

3 “(a) OFFENSES.—

4 “(1) IN GENERAL.—It shall be unlawful for any
5 person to employ, solicit, induce, command, or cause
6 another person to commit an act of domestic ter-
7 rorism or international terrorism or a Federal crime
8 of terrorism, with the intent that the other person
9 commit such act or crime of terrorism.

10 “(2) ATTEMPT AND CONSPIRACY.—It shall be
11 unlawful for any person to attempt or conspire to
12 commit an offense under paragraph (1).

13 “(b) PENALTIES.—Any person who violates sub-
14 section (a)—

15 “(1) in the case of an attempt or conspiracy,
16 shall be fined under this title, imprisoned not more
17 than 10 years, or both;

18 “(2) if death of an individual results, shall be
19 fined under this title, punished by death or impris-
20 oned for any term of years or for life, or both;

21 “(3) if serious bodily injury to any individual
22 results, shall be fined under this title, imprisoned
23 not less than 10 years nor more than 25 years, or
24 both; and

25 “(4) in any other case, shall be fined under this
26 title, imprisoned not more than 10 years, or both.

1 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
 2 tion may be construed or applied to abridge the exercise
 3 of rights guaranteed under the First Amendment to the
 4 Constitution of the United States.

5 “(d) LACK OF CONSUMMATED TERRORIST ACT NOT
 6 A DEFENSE.—It is not a defense under this section that
 7 the act of domestic terrorism or international terrorism
 8 or Federal crime of terrorism that is the object of the em-
 9 ployment, solicitation, inducement, commanding, or caus-
 10 ing has not been done.

11 “(e) DEFINITIONS.—In this section—

12 “(1) the term ‘Federal crime of terrorism’ has
 13 the meaning given that term in section 2332b; and

14 “(2) the term ‘serious bodily injury’ has the
 15 meaning given that term in section 1365(h).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
 17 for chapter 113B of title 18, United States Code, is
 18 amended by inserting after the item relating to section
 19 2332b the following:

“2332c. Recruitment of persons to participate in terrorism.”.

20 **SEC. 1510. BARRING AND REMOVING PERSECUTORS, WAR**
 21 **CRIMINALS, AND PARTICIPANTS IN CRIMES**
 22 **AGAINST HUMANITY FROM THE UNITED**
 23 **STATES.**

24 (a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMI-
 25 NALS, AND PARTICIPANTS IN CRIMES AGAINST HUMAN-

1 ITY.—Section 212(a)(3)(E) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

3 (1) by striking the subparagraph heading and
4 inserting “PARTICIPANTS IN PERSECUTION (INCLUD-
5 ING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES,
6 CRIMES AGAINST HUMANITY, OR THE COMMISSION
7 OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILL-
8 ING.—”;

9 (2) in clause (iii)(II)—

10 (A) by striking “of any foreign nation”
11 and inserting “(including acts taken as part of
12 an armed group exercising de facto authority)”;
13 and

14 (3) by adding after clause (iii) the following:

15 “(iv) PERSECUTORS, WAR CRIMINALS,
16 AND PARTICIPANTS IN CRIMES AGAINST
17 HUMANITY.—Any alien, including an alien
18 who is a superior commander, who com-
19 mitted, ordered, incited, assisted, or other-
20 wise participated in a war crime (as de-
21 fined in section 2441(c) of title 18, United
22 States Code) a crime against humanity, or
23 in the persecution of any person on ac-
24 count of race, religion, nationality, mem-

1 bership in a particular social group, or po-
2 litical opinion, is inadmissible.

3 “(v) CRIME AGAINST HUMANITY DE-
4 FINED.—In this subparagraph, the term
5 ‘crime against humanity’ means conduct
6 that is part of a widespread and systematic
7 attack targeting any civilian population,
8 with knowledge that the conduct was part
9 of the attack or with the intent that the
10 conduct be part of the attack—

11 “(I) that, if such conduct oc-
12 curred in the United States or in the
13 special maritime and territorial juris-
14 diction of the United States, would
15 violate—

16 “(aa) section 1111 of title
17 18, United States Code (relating
18 to murder);

19 “(bb) section 1201(a) of
20 such title (relating to kidnap-
21 ping);

22 “(cc) section 1203(a) of
23 such title 18 (relating to hostage
24 taking), notwithstanding any ex-

1 ception under subsection (b) of
2 such section 1203;

3 “(dd) section 1581(a) of
4 such title (relating to peonage);

5 “(ee) section 1583(a)(1) of
6 such title (relating to kidnapping
7 or carrying away individuals for
8 involuntary servitude or slavery);

9 “(ff) section 1584(a) of such
10 title (relating to sale into invol-
11 untary servitude);

12 “(gg) section 1589(a) of
13 such title (relating to forced
14 labor);

15 “(hh) section 1590(a) of
16 such title (relating to trafficking
17 with respect to peonage, slavery,
18 involuntary servitude, or forced
19 labor);

20 “(ii) section 1591(a) of such
21 title (relating to sex trafficking of
22 children or by force, fraud, or co-
23 ercion);

1 “(jj) section 2241(a) of such
2 title (relating to aggravated sexual
3 abuse by force or threat); or

4 “(kk) section 2242 of such
5 title (relating to sexual abuse);

6 “(II) that would constitute tor-
7 ture (as defined in section 2340(1) of
8 title 18, United States Code);

9 “(III) that would constitute cruel
10 or inhuman treatment, as described in
11 section 2441(d)(1)(B) of such title;

12 “(IV) that would constitute per-
13 forming biological experiments, as de-
14 scribed in section 2441(d)(1)(C) of
15 such title;

16 “(V) that would constitute muti-
17 lation or maiming, as described in sec-
18 tion 2441(d)(1)(E) of such title; or

19 “(VI) that would constitute in-
20 tentionally causing serious bodily in-
21 jury, as described in section
22 2441(d)(1)(F) of such title.

23 “(vi) SUPERIOR COMMANDER.—In
24 this subparagraph—

1 “(I) the term ‘superior com-
2 mander’ means—

3 “(aa) a military commander
4 or a person with effective control
5 of military forces or an armed
6 group;

7 “(bb) who knew or should
8 have known that a subordinate or
9 someone under his or her effec-
10 tive control is committing acts
11 described in subsection (a), is
12 about to commit such acts, or
13 had committed such acts; and

14 “(cc) who fails to take the
15 necessary and reasonable meas-
16 ures to prevent such acts or, for
17 acts that have been committed,
18 to punish the perpetrators of
19 such acts;

20 “(II) the term ‘systematic’ means
21 the commission of a series of acts fol-
22 lowing a regular pattern and occur-
23 ring in an organized, non-random
24 manner; and

1 “(III) the term ‘widespread’
2 means a single, large scale act or a se-
3 ries of acts directed against a sub-
4 stantial number of victims.”.

5 (b) BARRING WAIVER OF INADMISSIBILITY FOR PER-
6 SECUTORS.—Section 212(d)(3)(A) of the Immigration and
7 Nationality Act (8 U.S.C. 1182(d)(3)(A)) is amended by
8 striking “and clauses (i) and (ii) of paragraph (3)(E)”
9 both places that term appears and inserting “and (3)(E)”.

10 (c) REMOVAL OF PERSECUTORS.—Section
11 237(a)(4)(D) of the Immigration and Nationality Act (8
12 U.S.C. 1227(a)(4)(D)) is amended—

13 (1) in the subparagraph heading, by striking
14 “NAZI” ; and

15 (2) by striking “or (iii)” and inserting “(iii), or
16 (iv)”.

17 (d) SEVERE VIOLATIONS OF RELIGIOUS FREE-
18 DOM.—Section 212(a)(2)(G) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1182(a)(2)(G)) is amended—

20 (1) in the subparagraph heading, by striking
21 “FOREIGN GOVERNMENT OFFICIALS” and inserting
22 “ANY PERSONS”; and

23 (2) by striking “, while serving as a foreign
24 government official,”.

1 (e) BARRING PERSECUTORS FROM ESTABLISHING
2 GOOD MORAL CHARACTER.—Section 101(f) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1101(f)) is amend-
4 ed—

5 (1) in paragraph (8), by striking “or” at the
6 end;

7 (2) in paragraph (9), by striking “killings) or
8 212(a)(2)(G) (relating to severe violations of reli-
9 gious freedom).” and inserting “killings),
10 212(a)(2)(G) (relating to severe violations of reli-
11 gious freedom), or 212(a)(3)(G) (relating to recruit-
12 ment and use of child soldiers);”; and

13 (3) by inserting after paragraph (9) the fol-
14 lowing:

15 “(10) one who at any time committed, ordered,
16 incited, assisted, or otherwise participated in the
17 persecution of any person on account of race, reli-
18 gion, nationality, membership in a particular social
19 group, or political opinion; or”.

20 (f) INCREASING CRIMINAL PENALTIES FOR ANYONE
21 WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—
22 Section 277 of the Immigration and Nationality Act (8
23 U.S.C. 1327) is amended by striking “(other than sub-
24 paragraph (E) thereof)”.

1 (g) INCREASING CRIMINAL PENALTIES FOR FEMALE
2 GENITAL MUTILATION.—Section 116 of title 18, United
3 States Code, is amended—

4 (1) in subsection (a), by striking “shall be fined
5 under this title or imprisoned not more than 5 years,
6 or both” and inserting “has engaged in a violent
7 crime against children under section 3559(f)(3),
8 shall be imprisoned for life or for 10 years or
9 longer”; and

10 (2) in subsection (d), by striking “shall be fined
11 under this title or imprisoned not more than 5 years,
12 or both.” and inserting “shall be imprisoned for life
13 or for 10 years or longer.”.

14 (h) MATERIAL SUPPORT IN THE RECRUITMENT OR
15 USE OF CHILD SOLDIERS.—

16 (1) INADMISSIBILITY.—Section 212(a)(3)(G) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1182(a)(3)(G)) is amended—

19 (A) by striking “section 2442” and insert-
20 ing “section 2442(a)”; and

21 (B) by inserting “or has provided material
22 support in the recruitment or use of child sol-
23 diers in violation of section 2339A of such title
24 18,” after “Code,”.

1 (2) DEPORTABILITY.—Section 237(a)(4)(F) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1227(a)(4)(F)) is amended by inserting “or has pro-
4 vided material support in the recruitment or use of
5 child soldiers in violation of section 2339A of title
6 18,” after “Code,”.

7 (i) TECHNICAL AMENDMENTS.—The Immigration
8 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

9 (1) in section 101(a)(42) (8 U.S.C.
10 1101(a)(42)), by inserting “committed,” before “or-
11 dered”;

12 (2) in section 208(b)(2)(A)(i) (8 U.S.C.
13 1158(b)(2)(A)(i)), by inserting “committed,” before
14 “ordered”; and

15 (3) in section 241(b)(3)(B)(i) (8 U.S.C.
16 1231(b)(3)(B)(i)), by inserting “committed,” before
17 “ordered”.

18 (j) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any offense committed before,
20 on, or after the date of enactment of this Act.

21 **SEC. 1511. GANG MEMBERSHIP, REMOVAL, AND INCREASED**
22 **CRIMINAL PENALTIES RELATED TO GANG VI-**
23 **OLENCE.**

24 (a) DEFINITION OF CRIMINAL GANG.—Section
25 101(a) of the Immigration and Nationality Act (8 U.S.C.

1 1101(a)) is amended by inserting after subparagraph (52)
2 the following:

3 “(53)(A) The term ‘criminal gang’ means any ongo-
4 ing group, club, organization, or association, inside or out-
5 side the United States, of 2 or more persons that—

6 “(i) has, as 1 of its primary purposes, the com-
7 mission of 1 or more of the criminal offenses de-
8 scribed in subparagraph (B) and the members of
9 which engage, or have engaged within the past 5
10 years, in a continuing series of such offenses; or

11 “(ii) has been designated as a criminal gang by
12 the Secretary, in consultation with the Attorney
13 General, as meeting the criteria set forth in clause
14 (i).

15 “(B) The offenses described in this subparagraph,
16 whether in violation of Federal or State law or the law
17 of a foreign country and regardless of whether the offenses
18 occurred before, on, or after the date of the enactment
19 of the Strong Visa Integrity Secures America Act, are the
20 following:

21 “(i) Any aggravated felony.

22 “(ii) A felony drug offense (as defined in sec-
23 tion 102 of the Controlled Substances Act (21
24 U.S.C. 802)).

1 “(iii) Any criminal offense described in section
2 212 or 237.

3 “(iv) An offense involving illicit trafficking in a
4 controlled substance (as defined in section 102 of
5 the Controlled Substances Act), including a drug
6 trafficking crime (as defined in section 924(c) of
7 title 18, United States Code).

8 “(v) An offense under section 274 (relating to
9 bringing in and harboring certain aliens), section
10 277 (relating to aiding or assisting certain aliens to
11 enter the United States), or section 278 (relating to
12 importation of alien for immoral purpose).

13 “(vi) Any offense under Federal, State, or Trib-
14 al law, that has, as an element of the offense, the
15 use or attempted use of physical force or the threat-
16 ened use of physical force or a deadly weapon.

17 “(vii) Any offense that has, as an element of
18 the offense, the use, attempted use, or threatened
19 use of any physical object to inflict or cause (either
20 directly or indirectly) serious bodily injury, including
21 an injury that may ultimately result in the death of
22 a person.

23 “(viii) An offense involving obstruction of jus-
24 tice, tampering with or retaliating against a witness,
25 victim, or informant.

1 “(ix) Any conduct punishable under section
2 1028 or 1029 of title 18, United States Code (relat-
3 ing to fraud and related activity in connection with
4 identification documents or access devices), sections
5 1581 through 1594 of such title (relating to peon-
6 age, slavery and trafficking in persons), section
7 1952 of such title (relating to interstate and foreign
8 travel or transportation in aid of racketeering enter-
9 prises), section 1956 of such title (relating to the
10 laundering of monetary instruments), section 1957
11 of such title (relating to engaging in monetary trans-
12 actions in property derived from specified unlawful
13 activity), or sections 2312 through 2315 of such title
14 (relating to interstate transportation of stolen motor
15 vehicles or stolen property).

16 “(x) A conspiracy to commit an offense de-
17 scribed in clauses (i) through (v).

18 “(C) Notwithstanding any other provision of law (in-
19 cluding any effective date), a group, club, organization,
20 or association shall be considered a criminal gang regard-
21 less of whether the conduct occurred before, on, or after
22 the date of the enactment of the Strong Visa Integrity
23 Secures America Act.”.

1 (b) INADMISSIBILITY.—Section 212(a)(2) of the Im-
2 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is
3 amended by adding at the end the following:

4 “(J) ALIENS ASSOCIATED WITH CRIMINAL
5 GANGS.—

6 “(i) IN GENERAL.—Any alien who a
7 consular officer, the Secretary, or the At-
8 torney General knows or has reasonable
9 ground to believe—

10 “(I) to be or to have been a
11 member of a criminal gang; or

12 “(II) to have participated in the
13 activities of a criminal gang, knowing
14 or having reason to know that such
15 activities will promote, further, aid, or
16 support the illegal activity of the
17 criminal gang,

18 is inadmissible.

19 “(ii) EXCEPTION.—Clause (i) shall
20 not apply to an alien—

21 “(I) who did not know, or should
22 not reasonably have known, of the ac-
23 tivity causing the alien to be found in-
24 admissible under this section; or

1 “(II) whom the consular officer
2 or the Attorney General has reason-
3 able grounds to believe has renounced
4 the activity causing the alien to be
5 found inadmissible under this sec-
6 tion..”.

7 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
8 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
9 amended by adding at the end the following:

10 “(G) ALIENS ASSOCIATED WITH CRIMINAL
11 GANGS.—

12 “(i) IN GENERAL.—Any alien who the
13 Secretary or the Attorney General knows
14 or has reason to believe—

15 “(I) is or has been a member of
16 a criminal gang; or

17 “(II) has participated in the ac-
18 tivities of a criminal gang, knowing or
19 having reason to know that such ac-
20 tivities will promote, further, aid, or
21 support the illegal activity of the
22 criminal gang,
23 is deportable.

24 “(ii) EXCEPTION.—Clause (i) shall
25 not apply to an alien—

1 “(I) who did not know, or should
2 not reasonably have known, of the ac-
3 tivity causing the alien to be found
4 deportable under this section; or

5 “(II) whom the consular or At-
6 torney General has reasonable
7 grounds to believe has renounced the
8 activity causing the alien to be found
9 deportable under this section..”.

10 (d) DESIGNATION OF CRIMINAL GANGS.—

11 (1) IN GENERAL.—Chapter 2 of title II of the
12 Immigration and Nationality Act (8 U.S.C. 1181 et
13 seq.) is amended by adding at the end the following:

14 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

15 “(a) IN GENERAL.—The Secretary, in consultation
16 with the Attorney General, and the Secretary of State,
17 may designate a group or association as a criminal gang
18 if their conduct is described in section 101(a)(53) or if
19 the group’s or association’s conduct poses a significant
20 risk that threatens the security and the public safety of
21 United States nationals or the national security, homeland
22 security, foreign policy, or economy of the United States.

23 “(b) EFFECTIVE DATE.—Designations under sub-
24 section (a) shall remain in effect until the designation is
25 revoked, after consultation between the Secretary, the At-

1 torney General, and the Secretary of State, or is termi-
 2 nated in accordance with Federal law.”.

3 (2) CLERICAL AMENDMENT.—The table of con-
 4 tents in the first section of the Immigration and Na-
 5 tionality Act is amended by inserting after the item
 6 relating to section 219 the following:

“220. Designation of criminal gangs.”

7 (e) ANNUAL REPORT ON DETENTION OF CRIMINAL
 8 GANG MEMBERS.—Not later than March 1 of each year
 9 (beginning 1 year after the date of the enactment of this
 10 Act), the Secretary, after consultation with the heads of
 11 appropriate Federal agencies, shall submit a report to the
 12 Committee on Homeland Security and Governmental Af-
 13 fairs of the Senate, the Committee on the Judiciary of the
 14 Senate, the Committee on Homeland Security of the
 15 House of Representatives, and the Committee on the Judi-
 16 ciary of the House of Representatives on the number of
 17 aliens detained who are described in section 212(a)(2)(J)
 18 and section 237(a)(2)(G) of the Immigration and Nation-
 19 ality Act (8 U.S.C. 1182(a)(2)(J) and 1227(a)(2)(G)), as
 20 added by subsections (b) and (c).

21 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
 22 ATION.—

23 (1) INAPPLICABILITY OF RESTRICTION ON RE-
 24 MOVAL TO CERTAIN COUNTRIES.—Section
 25 241(b)(3)(B) of the Immigration and Nationality

1 Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the
2 matter preceding clause (i), by inserting “who is de-
3 scribed in section 212(a)(2)(J)(i) or section
4 237(a)(2)(G)(i) or who is” after “to an alien”.

5 (2) INELIGIBILITY FOR ASYLUM.—Section
6 208(b)(2)(A) of the Immigration and Nationality
7 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

8 (A) in clause (v), by striking “or” at the
9 end;

10 (B) by redesignating clause (vi) as clause
11 (vii);

12 (C) by inserting after clause (v) the fol-
13 lowing:

14 “(vi) the alien is described in section
15 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
16 (relating to participation in criminal
17 gangs); or”; and

18 (D) by amending clause (vii), as redesign-
19 nated, to read as follows:

20 “(vii) the alien was firmly resettled in
21 another country before arriving in the
22 United States, which shall be considered
23 evidence that the alien can live in such
24 country (in any legal status) without fear
25 of persecution.”.

1 (g) CANCELLATION OF REMOVAL.—Section 240A(c)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1229b(c)) is amended by adding at the end the following:

4 “(7) An alien who is described in section
5 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)(relating
6 to participation in criminal gangs).”.

7 (h) VOLUNTARY DEPARTURE.—Section 240B(c) of
8 the Immigration and Nationality Act (8 U.S.C. 1229c(e))
9 is amended to read as follows:

10 “(c) LIMITATION ON VOLUNTARY DEPARTURE.—The
11 Attorney General shall not permit an alien to depart vol-
12 untarily under this section if the alien—

13 “(1) was previously permitted to depart volun-
14 tarily after having been found inadmissible under
15 section 212(a)(6)(A); or

16 “(2) is described in section 212(a)(2)(J)(i) or
17 237(a)(2)(G)(i)(relating to participation in criminal
18 gangs).”.

19 (i) EFFECTIVE DATE AND APPLICATION.—The
20 amendments made by this section shall take effect on the
21 date of the enactment of this Act and shall apply to acts
22 that occur before, on, or after the date of the enactment
23 of this Act.

1 **SEC. 1512. BARRING ALIENS WITH CONVICTIONS FOR DRIV-**
2 **ING UNDER THE INFLUENCE OR WHILE IN-**
3 **TOXICATED.**

4 (a) AGGRAVATED FELONY DRIVING WHILE INTOXI-
5 CATED.—

6 (1) DEFINITIONS.—Section 101(a)(43) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(43)) is amended—

9 (A) in subparagraph (T), by striking
10 “and”;

11 (B) in subparagraph (U), by striking the
12 period at the end and inserting “; and”; and

13 (C) by inserting after subparagraph (U)
14 the following:

15 “(V) a single conviction for driving while
16 intoxicated (including a conviction for driving
17 while under the influence of or impaired by al-
18 cohol or illicit drugs), when such impaired driv-
19 ing was the cause of the serious bodily injury
20 or death of another person or a second or sub-
21 sequent conviction for driving while intoxicated
22 (including a conviction for driving under the in-
23 fluence of or impaired by alcohol or illicit
24 drugs), without regard to whether the convic-
25 tion is classified as a misdemeanor or felony
26 under State law. For purposes of this para-

1 graph, the Secretary or the Attorney General
2 are not required to prove the first conviction for
3 driving while intoxicated (including a conviction
4 for driving while under the influence of or im-
5 paired by alcohol or illicit drugs) as a predicate
6 offense and need only make a factual deter-
7 mination that the alien was previously convicted
8 for driving while intoxicated (including a convic-
9 tion for driving while under the influence of or
10 impaired by alcohol or illicit drugs).”.

11 (2) EFFECTIVE DATE AND APPLICATION.—The
12 amendments made by this section shall take effect
13 on the date of the enactment of this Act and shall
14 apply to any conviction entered on or after such
15 date.

16 (b) INADMISSIBILITY FOR DRIVING WHILE INTOXI-
17 CATED OR UNDER THE INFLUENCE.—

18 (1) IN GENERAL.—Section 212(a)(2) of the Im-
19 migration and Nationality Act, as amended by sec-
20 tion 1511, is further amended by adding at the end
21 the following:

22 “(K) DRIVING WHILE INTOXICATED AND
23 UNLAWFULLY PRESENT IN THE UNITED
24 STATES.—An alien who is convicted of driving
25 while intoxicated, driving under the influence,

1 or a similar violation of State law is inadmis-
2 sible.”.

3 (2) EFFECTIVE DATE AND APPLICATION.—The
4 amendment made by paragraph (1) shall take effect
5 on the date of the enactment of this Act and shall
6 apply to any conviction entered on or after such
7 date.

8 (c) DEPORTATION FOR DRIVING WHILE INTOXI-
9 CATED OR UNDER THE INFLUENCE.—

10 (1) IN GENERAL.—Section 237(a)(2) of the Im-
11 migration and Nationality Act, as amended by sec-
12 tion 1511, is further amended by adding at the end
13 the following:

14 “(H) DRIVING WHILE INTOXICATED AND
15 WHILE UNLAWFULLY PRESENT IN THE UNITED
16 STATES.—An alien who is convicted of driving
17 while intoxicated, driving under the influence,
18 or a similar violation of State law is deport-
19 able.”.

20 (2) APPLICATION.—The amendment made by
21 paragraph (1) shall take effect on the date of the en-
22 actment of this Act and shall apply to any conviction
23 entered on or after such date.

24 (d) GOOD MORAL CHARACTER BAR FOR DUI OR
25 DWI CONVICTIONS.—

1 (1) IN GENERAL.—Section 101(f) of the Immi-
2 gration and Nationality Act, as amended by section
3 1510, is further amended by inserting after para-
4 graph (1) the following:

5 “(2) inadmissible under section 212(a)(2)(K) or
6 deportable under section 237(a)(2)(H);”.

7 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) IN GENERAL.—Section 212(h) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1182(h)) is
10 amended—

11 (A) by inserting “or the Secretary” after
12 “the Attorney General” each place such term
13 appears; and

14 (B) in the matter preceding paragraph (1),
15 by striking “and (E)” and inserting “(E), and
16 (K)”.

17 (2) EFFECTIVE DATE; APPLICATION.—The
18 amendments made by paragraph (1) shall take effect
19 on the date of the enactment of this Act and apply
20 to any conviction entered on or after such date.

1 **SEC. 1513. BARRING AGGRAVATED FELONS, BORDER**
2 **CHECKPOINT RUNNERS, AND SEX OFFEND-**
3 **ERS FROM ADMISSION TO THE UNITED**
4 **STATES.**

5 (a) INADMISSIBILITY ON CRIMINAL AND RELATED
6 GROUNDS; WAIVERS.—Section 212 of the Immigration
7 and Nationality Act (8 U.S.C. 1182) is amended—

8 (1) in subsection (a)(2)—

9 (A) in subparagraph (A)(i)—

10 (i) in subclause (I), by striking “, or”
11 and inserting a semicolon;

12 (ii) in subclause (II), by striking the
13 comma at the end and inserting “; or”;
14 and

15 (iii) by inserting after subclause (II)
16 the following:

17 “(III) a violation of (or a con-
18 spiracy or attempt to violate) any
19 statute relating to section 208 of the
20 Social Security Act (42 U.S.C. 408)
21 (relating to social security account
22 numbers or social security cards) or
23 section 1028 of title 18, United States
24 Code (relating to fraud and related
25 activity in connection with identifica-

1 tion documents, authentication fea-
2 tures, and information),”; and

3 (B) by inserting after subparagraph (K),
4 as added by section 1512, the following:

5 “(L) CITIZENSHIP FRAUD.—Any alien con-
6 victed of, or who admits having committed, or
7 who admits committing acts which constitute
8 the essential elements of, a violation of, or an
9 attempt or a conspiracy to violate, subsection
10 (a) or (b) of section 1425 of title 18, United
11 States Code (relating to the procurement of
12 citizenship or naturalization unlawfully), is in-
13 admissible.

14 “(M) CERTAIN FIREARM OFFENSES.—Any
15 alien who at any time has been convicted under
16 any law of, admits having committed, or admits
17 committing acts which constitute the essential
18 elements of, any law relating to, purchasing,
19 selling, offering for sale, exchanging, using,
20 owning, possessing, or carrying, or of attempt-
21 ing or conspiring to purchase, sell, offer for
22 sale, exchange, use, own, possess, or carry, any
23 weapon, part, or accessory which is a firearm or
24 destructive device (as defined in section 921(a)

1 of title 18, United States Code) in violation of
2 any law, is inadmissible.

3 “(N) AGGRAVATED FELONS.—Any alien
4 who has been convicted of an aggravated felony
5 at any time is inadmissible.

6 “(O) HIGH SPEED FLIGHT.—Any alien
7 who has been convicted of a violation of section
8 758 of title 18, United States Code (relating to
9 high speed flight from an immigration check-
10 point), is inadmissible.

11 “(P) FAILURE TO REGISTER AS A SEX OF-
12 FENDER.—Any alien convicted under section
13 2250 of title 18, United States Code, is inad-
14 missible.

15 “(Q) CRIMES OF DOMESTIC VIOLENCE,
16 STALKING, OR VIOLATION OF PROTECTION OR-
17 DERS; CRIMES AGAINST CHILDREN.—

18 “(i) DOMESTIC VIOLENCE, STALKING,
19 AND CHILD ABUSE.—

20 “(I) IN GENERAL.—Except as
21 provided in subsection (v), any alien
22 who at any time is or has been con-
23 victed of a crime involving the use or
24 attempted use of physical force, or
25 threatened use of a deadly weapon, a

1 crime of domestic violence, a crime of
2 stalking, or a crime of child abuse,
3 child neglect, or child abandonment is
4 inadmissible.

5 “(II) CRIME OF DOMESTIC VIO-
6 LENCE DEFINED.—For purposes of
7 this clause, the term ‘crime of domes-
8 tic violence’ means any crime of vio-
9 lence or any offense under Federal,
10 State, or Tribal law, that has, as an
11 element, the use or attempted use of
12 physical force or the threatened use of
13 physical force or a deadly weapon
14 against a person committed by a cur-
15 rent or former spouse of the person,
16 by an individual with whom the per-
17 son shares a child in common, by an
18 individual who is cohabiting with or
19 has cohabited with the person as a
20 spouse, by an individual similarly situ-
21 ated to a spouse of the person under
22 the domestic or family violence laws of
23 the jurisdiction where the offense oc-
24 curs, or by any other individual
25 against a person who is protected

1 from that individual's acts under the
2 domestic or family violence laws of the
3 United States or any State, Indian
4 tribal government, or unit of local
5 government.

6 “(ii) VIOLATORS OF PROTECTION OR-
7 DERS.—

8 “(I) IN GENERAL.—Except as
9 provided in subsection (v), any alien
10 who at any time is or has been en-
11 joined under a protection order issued
12 by a court and whom the court deter-
13 mines has engaged in conduct that
14 violates the portion of a protection
15 order that involves protection against
16 credible threats of violence, repeated
17 harassment, or bodily injury to the
18 person or persons for whom the pro-
19 tection order was issued is inadmis-
20 sible.

21 “(II) PROTECTIVE ORDER DE-
22 FINED.—In this clause, the term ‘pro-
23 tection order’ means any injunction
24 issued for the purpose of preventing
25 violent or threatening acts of violence

1 that involve the use or attempted use
2 of physical force, or threatened use of
3 a deadly weapon, committed by a cur-
4 rent or former spouse, parent, or
5 guardian of the victim, by a person
6 with whom the victim shares a child
7 in common, by a person who is cohab-
8 iting with or has cohabited with the
9 victim as a spouse, parent, or guard-
10 ian, or by a person similarly situated
11 to a spouse, parent, or guardian of
12 the victim, including temporary or
13 final orders issued by civil or criminal
14 courts (other than support or child
15 custody orders or provisions) whether
16 obtained by filing an independent ac-
17 tion or as an independent order in an-
18 other proceeding.”;

19 (2) in subsection (h)—

20 (A) in the matter preceding paragraph (1),
21 as amended by this Act, by striking “, and
22 (K)”, and inserting “(K), and (M)”;

23 (B) in the undesignated matter following
24 paragraph (2)—

1 (i) by striking “torture.” and insert-
2 ing “torture, or has been convicted of an
3 aggravated felony.”; and

4 (ii) by striking “if either since the
5 date of such admission the alien has been
6 convicted of an aggravated felony or the
7 alien” and inserting “if since the date of
8 such admission the alien”;

9 (3) by redesignating subsection (t), as added by
10 section 1(b)(2)(B) of Public Law 108–449, as sub-
11 section (u); and

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

13 “(v) WAIVER FOR VICTIMS OF DOMESTIC VIO-
14 LENCE.—

15 “(1) IN GENERAL.—The Secretary or the Attor-
16 ney General is not limited by the criminal court
17 record and may waive the application of subsection
18 (a)(2)(Q)(i) (with respect to crimes of domestic vio-
19 lence and crimes of stalking) and subsection
20 (a)(2)(Q)(ii), in the case of an alien who has been
21 battered or subjected to extreme cruelty and who is
22 not and was not the primary perpetrator of violence
23 in the relationship, upon a determination that—

24 “(A) the alien was acting in self-defense;

1 “(B) the alien was found to have violated
2 a protection order intended to protect the alien;
3 or

4 “(C) the alien committed, was arrested for,
5 was convicted of, or pled guilty to committing
6 a crime—

7 “(i) that did not result in serious bod-
8 ily injury; and

9 “(ii) where there was a connection be-
10 tween the crime and the alien’s having
11 been battered or subjected to extreme cru-
12 elty.

13 “(2) CREDIBLE EVIDENCE CONSIDERED.—In
14 acting on applications for a waiver under this sub-
15 section, the Secretary or the Attorney General shall
16 consider any credible evidence relevant to the appli-
17 cation. The determination of what evidence is cred-
18 ible and the weight to be given that evidence shall
19 be within the sole discretion of the Secretary or the
20 Attorney General.”.

21 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
22 237(a)(3)(B) of the Immigration and Nationality Act (8
23 U.S.C. 1227(a)(3)(B)) is amended—

24 (1) in clause (i), by striking the comma at the
25 end and inserting a semicolon;

1 (2) in clause (ii), by striking “, or” at the end
2 and inserting a semicolon;

3 (3) in clause (iii), by striking the comma at the
4 end and inserting “; or”; and

5 (4) by inserting after clause (iii) the following:

6 “(iv) of a violation of, or an attempt
7 or a conspiracy to violate, subsection (a) or
8 (b) of section 1425 of title 18 (relating to
9 the unlawful procurement of citizenship or
10 naturalization),”.

11 (c) DEPORTABILITY; CRIMINAL OFFENSES.—Section
12 237(a)(2) of the Immigration and Nationality Act (8
13 U.S.C. 1227(a)(2)), as amended by sections 1511 and
14 1512, is further amended by adding at the end the fol-
15 lowing:

16 “(I) IDENTIFICATION FRAUD.—Any alien
17 who is convicted of a violation of (or a con-
18 spiracy or attempt to violate) an offense relat-
19 ing to section 208 of the Social Security Act
20 (42 U.S.C. 408) (relating to social security ac-
21 count numbers or social security cards) or sec-
22 tion 1028 of title 18, United States Code (relat-
23 ing to fraud and related activity in connection
24 with identification), is deportable.”.

1 (d) APPLICABILITY.—The amendments made by this
2 section shall apply to—

3 (1) any act that occurred before, on, or after
4 the date of the enactment of this Act;

5 (2) all aliens who are required to establish ad-
6 missibility on or after such date of enactment; and

7 (3) all removal, deportation, or exclusion pro-
8 ceedings that are filed, pending, or reopened, on or
9 after such date of enactment.

10 (e) RULE OF CONSTRUCTION.—The amendments
11 made by this section may not be construed to create eligi-
12 bility for relief from removal under section 212(c) of the
13 Immigration and Nationality Act (8 U.S.C. 1182(c)), as
14 in effect on the day before the date of the enactment of
15 this Act, if such eligibility did not exist before such date
16 of enactment.

17 **SEC. 1514. PROTECTING IMMIGRANTS FROM CONVICTED**
18 **SEX OFFENDERS.**

19 (a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1154(a)(1)) is amend-
21 ed—

22 (1) in subparagraph (A), by amending clause
23 (viii) to read as follows:

24 “(viii) Clause (i) shall not apply to a citizen of the
25 United States who has been convicted of an offense de-

1 scribed in subparagraph (A), (I), or (K) of section
2 101(a)(43) or a specified offense against a minor as de-
3 fined in section 111(7) of the Adam Walsh Child Protec-
4 tion and Safety Act of 2006 (42 U.S.C. 16911(7)) unless
5 the Secretary, in the Secretary’s sole and unreviewable
6 discretion, determines that the citizen poses no risk to the
7 alien with respect to whom a petition described in clause
8 (i) is filed.”; and

9 (2) in subparagraph (B)(i)—

10 (A) by redesignating the second subclause

11 (I) as subclause (II); and

12 (B) by amending such subclause (II) to

13 read as follows:

14 “(II) Subclause (I) shall not apply to an alien law-
15 fully admitted for permanent residence who has been con-
16 victed of an offense described in subparagraph (A), (I),
17 or (K) of section 101(a)(43) or a specified offense against
18 a minor as defined in section 111(7) of the Adam Walsh
19 Child Protection and Safety Act of 2006 (42 U.S.C.
20 16911(7)) unless the Secretary, in the Secretary’s sole and
21 unreviewable discretion, determines that the alien lawfully
22 admitted for permanent residence poses no risk to the
23 alien with respect to whom a petition described in sub-
24 clause (I) is filed.”.

1 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(15)(K)) is amended by striking
4 “204(a)(1)(A)(viii)(I)” each place such term appears and
5 inserting “204(a)(1)(A)(viii)”.

6 (c) EFFECTIVE DATE; APPLICATION.—The amend-
7 ments made by this section shall take effect on the date
8 of the enactment of this Act and shall apply to petitions
9 filed on or after such date.

10 **SEC. 1515. ENHANCED CRIMINAL PENALTIES FOR HIGH**
11 **SPEED FLIGHT.**

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

14 **“§ 758. Unlawful flight from immigration or customs**
15 **controls**

16 “(a) EVADING A CHECKPOINT.—Any person who,
17 while operating a motor vehicle or vessel, knowingly flees
18 or evades a checkpoint operated by the Department of
19 Homeland Security or any other Federal law enforcement
20 agency, and then knowingly or recklessly disregards or dis-
21 obeys the lawful command of any law enforcement agent,
22 shall be fined under this title, imprisoned not more than
23 5 years, or both.

24 “(b) FAILURE TO STOP.—Any person who, while op-
25 erating a motor vehicle, aircraft, or vessel, knowingly or

1 recklessly disregards or disobeys the lawful command of
2 an officer of the Department of Homeland Security en-
3 gaged in the enforcement of the immigration, customs, or
4 maritime laws, or the lawful command of any law enforce-
5 ment agent assisting such officer, shall be fined under this
6 title, imprisoned not more than 2 years, or both.

7 “(c) ALTERNATIVE PENALTIES.—Notwithstanding
8 the penalties provided in subsection (a) or (b), any person
9 who violates such subsection—

10 “(1) shall be fined under this title, imprisoned
11 not more than 10 years, or both, if the violation in-
12 volved the operation of a motor vehicle, aircraft, or
13 vessel—

14 “(A) in excess of the applicable or posted
15 speed limit;

16 “(B) in excess of the rated capacity of the
17 motor vehicle, aircraft, or vessel; or

18 “(C) in an otherwise dangerous or reckless
19 manner;

20 “(2) shall be fined under this title, imprisoned
21 not more than 20 years, or both, if the violation cre-
22 ated a substantial and foreseeable risk of serious
23 bodily injury or death to any person;

1 “(3) shall be fined under this title, imprisoned
2 not more than 30 years, or both, if the violation
3 caused serious bodily injury to any person; or

4 “(4) shall be fined under this title, imprisoned
5 for any term of years or life, or both, if the violation
6 resulted in the death of any person.

7 “(d) ATTEMPT AND CONSPIRACY.—Any person who
8 attempts or conspires to commit any offense under this
9 section shall be punished in the same manner as a person
10 who completes the offense.

11 “(e) FORFEITURE.—Any property, real or personal,
12 constituting or traceable to the gross proceeds of the of-
13 fense and any property, real or personal, used or intended
14 to be used to commit or facilitate the commission of the
15 offense shall be subject to forfeiture.

16 “(f) FORFEITURE PROCEDURES.—Seizures and for-
17 feitures under this section shall be governed by the provi-
18 sions of chapter 46 (relating to civil forfeitures), including
19 section 981(d), except that such duties as are imposed
20 upon the Secretary of the Treasury under the customs
21 laws described in that section shall be performed by such
22 officers, agents, and other persons as may be designated
23 for that purpose by the Secretary of Homeland Security
24 or the Attorney General. Nothing in this section may be
25 construed to limit the authority of the Secretary of Home-

1 land Security to seize and forfeit motor vehicles, aircraft,
2 or vessels under the Customs laws or any other laws of
3 the United States.

4 “(g) DEFINITIONS.—For purposes of this section—

5 “(1) the term ‘checkpoint’ includes any customs
6 or immigration inspection at a port of entry or im-
7 migration inspection at a U.S. Border Patrol check-
8 point;

9 “(2) the term ‘law enforcement agent’ means—

10 “(A) any Federal, State, local or tribal of-
11 ficial authorized to enforce criminal law; and

12 “(B) when conveying a command described
13 in subsection (b), an air traffic controller;

14 “(3) the term ‘lawful command’ includes a com-
15 mand to stop, decrease speed, alter course, or land,
16 whether communicated orally, visually, by means of
17 lights or sirens, or by radio, telephone, or other com-
18 munication;

19 “(4) the term ‘motor vehicle’ means any motor-
20 ized or self-propelled means of terrestrial transpor-
21 tation; and

22 “(5) the term ‘serious bodily injury’ has the
23 meaning given in section 2119(2).”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for chapter 35 of title 18, United States Code, is amended

1 by striking the item relating to section 758 and inserting
2 the following:

“758. Unlawful flight from immigration or customs controls.”.

3 (c) **RULE OF CONSTRUCTION.**—The amendments
4 made by subsection (a) may not be construed to create
5 eligibility for relief from removal under section 212(c) of
6 the Immigration and Nationality Act (8 U.S.C. 1182(c)),
7 as in effect on the day before the date of the enactment
8 of this Act, if such eligibility did not exist before such date
9 of enactment.

10 **SEC. 1516. PROHIBITION ON ASYLUM AND CANCELLATION**
11 **OF REMOVAL FOR TERRORISTS.**

12 (a) **ASYLUM.**—Section 208(b)(2)(A) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)), as
14 amended by section 1511 and 1512, is further amended—

15 (1) by inserting “or the Secretary” after “if the
16 Attorney General”; and

17 (2) by amending clause (v) to read as follows:

18 “(v) the alien is described in subpara-
19 graph (B)(i) or (F) of section 212(a)(3),
20 unless, in the case of an alien described in
21 section 212(a)(3)(B)(i)(IX), the Secretary
22 or the Attorney General determines, in his
23 or her sole and unreviewable discretion,
24 that there are not reasonable grounds for

1 regarding the alien as a danger to the se-
2 curity of the United States; or”.

3 (b) CANCELLATION OF REMOVAL.—Section
4 240A(c)(4) of the Immigration and Nationality Act (8
5 U.S.C. 1229b(c)(4)) is amended—

6 (1) by striking “inadmissible under” and insert-
7 ing “described in”; and

8 (2) by striking “deportable under” and insert-
9 ing “described in”.

10 (c) RESTRICTION ON REMOVAL.—

11 (1) IN GENERAL.—Section 241(b)(3)(A) of the
12 Immigration and Nationality Act (8 U.S.C.
13 1231(b)(3)(A)) is amended—

14 (A) by inserting “or the Secretary” after
15 “Attorney General” both places that term ap-
16 pears;

17 (B) by striking “Notwithstanding” and in-
18 serting the following:

19 “(i) IN GENERAL.—Notwithstanding”;
20 and

21 (C) by adding at the end the following:

22 “(ii) BURDEN OF PROOF.—The alien
23 has the burden of proof to establish that
24 the alien’s life or freedom would be threat-
25 ened in such country, and that race, reli-

1 gion, nationality, membership in a par-
2 ticular social group, or political opinion
3 would be at least 1 central reason for such
4 threat.”.

5 (2) EXCEPTION.—Section 241(b)(3)(B) of such
6 Act (8 U.S.C. 1231(b)(3)(B)) is amended—

7 (A) by inserting “or the Secretary” after
8 “Attorney General” both places that term ap-
9 pears;

10 (B) in clause (iii), striking “or” at the end;

11 (C) in clause (iv), striking the period at
12 the end and inserting a semicolon;

13 (D) inserting after clause (iv) the fol-
14 lowing:

15 “(v) the alien is described in subpara-
16 graph (B)(i) or (F) of section
17 212(a)(3)(B), unless, in the case of an
18 alien described in section
19 212(a)(3)(B)(i)(IX), the Secretary or the
20 Attorney General determines, in his or her
21 sole and unreviewable discretion, that there
22 are not reasonable grounds for regarding
23 the alien as a danger to the security of the
24 United States; or

1 “(vi) the alien is convicted of an ag-
2 gravated felony.”; and

3 (E) by striking the undesignated matter at
4 the end.

5 (3) SUSTAINING BURDEN OF PROOF; CREDI-
6 BILITY DETERMINATIONS.—Section 241(b)(3)(C) of
7 such Act (8 U.S.C. 1231(b)(3)(C)) is amended by
8 striking “In determining whether an alien has dem-
9 onstrated that the alien’s life or freedom would be
10 threatened for a reason described in subparagraph
11 (A),” and inserting “For purposes of this para-
12 graph,”.

13 (4) EFFECTIVE DATE; APPLICATION.—The
14 amendments made by paragraphs (1) and (2) shall
15 take effect as if enacted on May 11, 2005, and shall
16 apply to applications for withholding of removal
17 made on or after such date.

18 (d) EFFECTIVE DATES; APPLICATIONS.—Except as
19 provided in subsection (c)(4), the amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act and sections 208(b)(2)(A), 240A(c), and
22 241(b)(3) of the Immigration and Nationality Act, as
23 amended by this section, shall apply to—

24 (1) all aliens in removal, deportation, or exclu-
25 sion proceedings;

1 (2) all applications pending on, or filed after,
2 the date of the enactment of this Act; and

3 (3) with respect to aliens and applications de-
4 scribed in paragraph (1) or (2), acts and conditions
5 constituting a ground for exclusion, deportation, or
6 removal occurring or existing before, on, or after the
7 date of the enactment of this Act.

8 **SEC. 1517. AGGRAVATED FELONIES.**

9 (a) **DEFINITION OF AGGRAVATED FELONY.**—Section
10 101(a)(43) of the Immigration and Nationality Act (8
11 U.S.C. 1101(a)(43)), as amended by section 1512, is fur-
12 ther amended—

13 (1) in subparagraph (A), by striking “sexual
14 abuse of a minor;” and inserting “any conviction for
15 a sex offense, including an offense described in sec-
16 tions 2241 and 2243 of title 18, United States Code,
17 or an offense in which the alien abused or was in-
18 volved in the abuse of any individual younger than
19 18 years of age, or in which the victim was, at the
20 time the offense was committed, younger than 18
21 years of age, regardless of the reason and extent of
22 the act, the sentence imposed, or the elements in the
23 offense that are required for conviction;”;

24 (2) in subparagraph (F), by striking “at least
25 one year” and inserting “is at least 1 year, except

1 that if the conviction records do not conclusively es-
2 tablish whether a crime constitutes a crime of vio-
3 lence or an offense under Federal, State, or Tribal
4 law, that has, as an element, the use or attempted
5 use of physical force or the threatened use of phys-
6 ical force or a deadly weapon, the Attorney General
7 or the Secretary may consider other evidence related
8 to the conviction, including police reports and wit-
9 ness statements, that clearly establishes that the
10 conduct leading to the alien’s conviction constitutes
11 a crime of violence or an offense under Federal,
12 State, or Tribal law, that has, as an element, the use
13 or attempted use of physical force or the threatened
14 use of physical force or a deadly weapon;”;

15 (3) by amending subparagraph (G) to read as
16 follows:

17 “(G) a theft offense under State or Fed-
18 eral law (including theft by deceit, theft by
19 fraud, and receipt of stolen property) or bur-
20 glary offense under State or Federal law for
21 which the term of imprisonment is at least 1
22 year, except that if the conviction records do
23 not conclusively establish whether a crime con-
24 stitutes a theft or burglary offense, the Attor-
25 ney General or Secretary may consider other

1 evidence related to the conviction, including po-
2 lice reports and witness statements, that clearly
3 establishes that the conduct for which the alien
4 was engaged constitutes a theft or burglary of-
5 fense;”;

6 (4) in subparagraph (I), by striking “or 2252”
7 and inserting “2252, or 2252A”;

8 (5) in subparagraph (N)—

9 (A) by striking “paragraph (1)(A) or (2)
10 of”; and

11 (B) by adding a semicolon at the end;

12 (6) by amending subparagraph (O) to read as
13 follows:

14 “(O) an offense described in section 275 or
15 276 for which the term of imprisonment is at
16 least 1 year;”;

17 (7) in subparagraph (P) by striking “(i) which
18 either is falsely making, forging, counterfeiting, mu-
19 tilating, or altering a passport or instrument in vio-
20 lation of section 1543 of title 18, United States
21 Code, or is described in section 1546(a) of such title
22 (relating to document fraud) and (ii)” and inserting
23 “which is described in the first paragraph of section
24 1541, 1542, 1543, 1544, 1546(a), or 1547 of title
25 18, United States Code, and”;

1 (8) in subparagraph (U), by striking “an at-
2 tempt or conspiracy to commit an offense described
3 in this paragraph” and inserting “an attempt to
4 commit, conspiracy to commit, or facilitation of an
5 offense described in this paragraph, or aiding, abet-
6 ting, procuring, commanding, inducing, or soliciting
7 the commission of such an offense”; and

8 (9) by striking the undesignated material at
9 end and inserting the following:

10 “The term applies to an offense described in this para-
11 graph, whether in violation of Federal or State law, or
12 a law of a foreign country, for which the term of imprison-
13 ment was completed within the previous 20 years, and
14 even if the length of the term of imprisonment for the
15 offense is based on recidivist or other enhancements. Not-
16 withstanding any other provision of law (including any ef-
17 fective date), the term applies regardless of whether the
18 conviction was entered before, on, or after September 30,
19 1996.”.

20 (b) DEFINITION OF CONVICTION.—Section
21 101(a)(48) of the Immigration and Nationality Act (8
22 U.S.C. 1101(a)(48)) is amended by adding at the end the
23 following:

24 “(C)(i) Any reversal, vacatur, expungement, or modi-
25 fication of a conviction, sentence, or conviction that was

1 granted to ameliorate the consequences of the conviction,
 2 sentence, or conviction, or was granted for rehabilitative
 3 purposes shall have no effect on the immigration con-
 4 sequences resulting from the original conviction.

5 “(ii) The alien shall have the burden of dem-
 6 onstrating that any reversal, vacatur, expungement, or
 7 modification, including modification to any sentence for an
 8 offense, was not granted to ameliorate the consequences
 9 of the conviction, sentence, or conviction record, or for re-
 10 habilitative purposes.”.

11 (c) EFFECTIVE DATE; APPLICATION.—The amend-
 12 ments made by this section shall take effect on the date
 13 of the enactment of this Act and apply to any act that
 14 occurred before, on, or after such date of enactment.

15 **SEC. 1518. CONVICTIONS.**

16 (a) GROUNDS OF INADMISSIBILITY.—Section
 17 212(a)(2) of the Immigration and Nationality Act (8
 18 U.S.C. 1182(a)(2)), as amended by sections 1511 through
 19 1513, is further amended by adding at the end the fol-
 20 lowing:

21 “(L) CONVICTIONS.—

22 “(i) IN GENERAL.—For purposes of
 23 determining whether an underlying crimi-
 24 nal offense constitutes a ground of inad-
 25 missibility under this subsection, all stat-

1 utes or common law offenses are divisible
2 if any of the conduct encompassed by the
3 statute constitutes an offense that is a
4 ground of inadmissibility.

5 “(ii) OTHER EVIDENCE.—If the con-
6 viction records, such as charging docu-
7 ments, plea agreements, plea colloquies,
8 and jury instructions, do not conclusively
9 establish whether a crime constitutes a
10 ground of inadmissibility, the Attorney
11 General, the Secretary of State, or the Sec-
12 retary may consider other evidence related
13 to the conviction, including police reports
14 and witness statements, that clearly estab-
15 lishes that the conduct leading to the
16 alien’s conviction constitutes a ground of
17 inadmissibility.”.

18 (b) GROUNDS OF DEPORTABILITY.—Section
19 237(a)(2) of the Immigration and Nationality Act (8
20 U.S.C. 1227(a)(2)), as amended by sections 1511 through
21 1513, is further amended by adding at the end the fol-
22 lowing:

23 “(J) CRIMINAL OFFENSES.—

24 “(i) IN GENERAL.—For purposes of
25 determining whether an underlying crimi-

1 nal offense constitutes a ground of deport-
2 ability under this subsection, all statutes or
3 common law offenses are divisible if any of
4 the conduct encompassed by the statute
5 constitutes an offense that is a ground of
6 deportability.

7 “(ii) OTHER EVIDENCE.—If the con-
8 viction records, such as charging docu-
9 ments, plea agreements, plea colloquies,
10 and jury instructions, do not conclusively
11 establish whether a crime constitutes a
12 ground of deportability, the Attorney Gen-
13 eral or the Secretary may consider other
14 evidence related to the conviction, includ-
15 ing police reports and witness statements,
16 that clearly establishes that the conduct
17 leading to the alien’s conviction constitutes
18 a ground of deportability.”.

19 **SEC. 1519. FAILURE TO OBEY REMOVAL ORDERS.**

20 (a) IN GENERAL.—Section 243 of the Immigration
21 and Nationality Act (8 U.S.C. 1253) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1), in the matter pre-
24 ceding subparagraph (A), by inserting “212(a)
25 or” before “237(a),”; and

1 (B) by striking paragraph (3);
2 (2) by striking subsection (b); and
3 (3) by redesignating subsections (c) and (d) as
4 subsections (b) and (c), respectively.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 subsection (a)(1) shall take effect on the date of the enact-
7 ment of this Act and shall apply to acts that are described
8 in subparagraphs (A) through (D) of section 243(a)(1) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1253(a)(1)) that occur on or after such date of enactment.

11 **SEC. 1520. SANCTIONS FOR COUNTRIES THAT DELAY OR**
12 **PREVENT REPATRIATION OF THEIR NATION-**
13 **ALS.**

14 Section 243 of the Immigration and Nationality Act
15 (8 U.S.C. 1253) is amended by striking subsection (c),
16 as redesignated by section 1519(a)(3), and inserting the
17 following:

18 “(c) **LISTING OF COUNTRIES WHO DELAY REPATRI-**
19 **ATION OF REMOVED ALIENS.**—

20 “(1) **LISTING OF COUNTRIES.**—Beginning on
21 the date that is 6 months after the date of the en-
22 actment of the Strong Visa Integrity Secures Amer-
23 ica Act, and every 6 months thereafter, the Sec-
24 retary shall publish a report in the Federal Register
25 that includes a list of—

1 “(A) countries that have refused or unrea-
2 sonably delayed repatriation of an alien who is
3 a national of that country since the date of en-
4 actment of this Act and the total number of
5 such aliens, disaggregated by nationality;

6 “(B) countries that have an excessive repa-
7 triation failure rate; and

8 “(C) each country that was reported as
9 noncompliant in the most recent reporting pe-
10 riod.

11 “(2) EXEMPTION.—The Secretary, in the Sec-
12 retary’s sole and unreviewable discretion, and in con-
13 sultation with the Secretary of State, may exempt a
14 country from inclusion on the list under paragraph
15 (1) if there are significant foreign policy or security
16 concerns that warrant such an exemption.

17 “(d) DISCONTINUING GRANTING OF VISAS TO NA-
18 TIONALS OF COUNTRIES DENYING OR DELAYING ACCEPT-
19 ING ALIEN.—

20 “(1) IN GENERAL.—Notwithstanding section
21 221(c), the Secretary shall take the action described
22 in paragraph (2)(A) and may take an action de-
23 scribed in paragraph (2)(B), if the Secretary deter-
24 mines that—

1 “(A) an alien who is a national of a foreign
2 country is inadmissible under section 212 or de-
3 portable under section 237, or the alien has
4 been ordered removed from the United States;
5 and

6 “(B) the government of the foreign coun-
7 try referred to in subparagraph (A) is—

8 “(i) denying or unreasonably delaying
9 accepting aliens who are citizens, subjects,
10 nationals, or residents of that country
11 after the Secretary asks whether the gov-
12 ernment will accept an alien under this
13 section; or

14 “(ii) refusing to issue any required
15 travel or identity documents to allow the
16 alien who is citizen, subject, national, or
17 resident of that country to return to that
18 country.

19 “(2) ACTIONS DESCRIBED.—The actions de-
20 scribed in this paragraph are the following:

21 “(A) An order from the Secretary of State
22 to consular officers in the foreign country re-
23 ferred to in paragraph (1) to discontinue grant-
24 ing visas under section 101(a)(15)(A)(iii) to at-
25 tendants, servants, personal employees, and

1 members of their immediate families, of the of-
2 ficials and employees of that country who re-
3 ceive nonimmigrant status under clause (i) or
4 (ii) of section 101(a)(15)(A).

5 “(B) Denial of admission to any citizens,
6 subjects, nationals, and residents from the for-
7 eign country referred to in paragraph (1), the
8 imposition of any limitations, conditions, or ad-
9 ditional fees on the issuance of visas or travel
10 from that country, or the imposition of any
11 other sanctions against that country that are
12 authorized by law.

13 “(3) RESUMPTION OF VISA ISSUANCE.—Con-
14 sular officers in the foreign country that refused or
15 unreasonably delayed repatriation or refused to issue
16 required identity or travel documents may resume
17 visa issuance after the Secretary notifies the Sec-
18 retary of State that the country has accepted the
19 aliens.”.

20 **SEC. 1521. ENHANCED PENALTIES FOR CONSTRUCTION**
21 **AND USE OF BORDER TUNNELS.**

22 Section 555 of title 18, United States Code, is
23 amended—

1 (1) in subsection (a), by striking “not more
2 than 20 years.” and inserting “not less than 7 years
3 and not more than 20 years.”; and

4 (2) in subsection (b), by striking “not more
5 than 10 years.” and inserting “not less than 3 years
6 and not more than 10 years.”.

7 **SEC. 1522. ENHANCED PENALTIES FOR FRAUD AND MISUSE**
8 **OF VISAS, PERMITS, AND OTHER DOCU-**
9 **MENTS.**

10 Section 1546(a) of title 18, United States Code, is
11 amended—

12 (1) by striking “Commissioner of the Immigra-
13 tion and Naturalization Service” each place that
14 term appears and inserting “Secretary of Homeland
15 Security”;

16 (2) by striking “Shall be fined” and all that fol-
17 lows and inserting “Shall be fined under this title or
18 imprisoned for not less than 12 years and not more
19 than 25 years (if the offense was committed to fa-
20 cilitate an act of international terrorism (as defined
21 in section 2331 of this title)), not less than 10 years
22 and not more than 20 years (if the offense was com-
23 mitted to facilitate a drug trafficking crime (as de-
24 fined in section 929(a) of this title)), not less than
25 5 years and not more than 10 years (for the first

1 or second such offense, if the offense was not com-
2 mitted to facilitate such an act of international ter-
3 rorism or a drug trafficking crime), or not less than
4 7 years and not more than 15 years (for any other
5 offense), or both.”

6 **SEC. 1523. EXPANSION OF CRIMINAL ALIEN REPATRIATION**
7 **PROGRAMS.**

8 (a) **EXPANSION OF CRIMINAL ALIEN REPATRIATION**
9 **FLIGHTS.**—Not later than 90 days after the date of the
10 enactment of this Act, the Secretary of Homeland Security
11 shall increase the number of criminal and illegal alien re-
12 patriation flights from the United States conducted by
13 U.S. Customs and Border Protection and U.S. Immigra-
14 tion and Customs Enforcement Air Operations by not less
15 than 15 percent compared to the number of such flights
16 operated, and authorized to be operated, under existing
17 appropriations and funding on the date of the enactment
18 of this Act.

19 (b) **U.S. IMMIGRATION AND CUSTOMS ENFORCE-**
20 **MENT AIR OPERATIONS.**—Not later than 90 days after
21 the date of the enactment of this Act, the Secretary of
22 Homeland Security shall issue a directive to expand U.S.
23 Immigration and Customs Enforcement Air Operations
24 (referred to in this subsection as “ICE Air Ops”) so that
25 ICE Air Ops provides additional services with respect to

1 aliens who are illegally present in the United States. Such
2 expansion shall include—

3 (1) increasing the daily operations of ICE Air
4 Ops with buses and air hubs in the top 5 geographic
5 regions along the southern border;

6 (2) allocating a set number of seats for such
7 aliens for each metropolitan area; and

8 (3) allowing a metropolitan area to trade or
9 give some of seats allocated to such area under para-
10 graph (2) for such aliens to other areas in the region
11 of such area based on the transportation needs of
12 each area.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-
14 tion to the amounts otherwise authorized to be appro-
15 priated, there is authorized to be appropriated
16 \$10,000,000 for each of fiscal years 2018 through 2021
17 to carry out this section.

18 **CHAPTER 2—STRONG VISA INTEGRITY**

19 **SECURES AMERICA ACT**

20 **SEC. 1531. SHORT TITLE.**

21 This chapter may be cited as the “Strong Visa Integ-
22 rity Secures America Act”.

1 **SEC. 1532. VISA SECURITY.**

2 (a) VISA SECURITY UNITS AT HIGH RISK POSTS.—

3 Section 428(e)(1) of the Homeland Security Act of 2002

4 (6 U.S.C. 236(e)(1)) is amended—

5 (1) by striking “The Secretary” and inserting

6 the following:

7 “(A) AUTHORIZATION.—Subject to the

8 minimum number specified in subparagraph

9 (B), the Secretary”; and

10 (2) by adding at the end the following:

11 “(B) RISK-BASED ASSIGNMENTS.—

12 “(i) IN GENERAL.—In carrying out

13 subparagraph (A), the Secretary shall as-

14 sign, in a risk-based manner, and consid-

15 ering the criteria described in clause (ii),

16 employees of the Department to not fewer

17 than 50 diplomatic and consular posts at

18 which visas are issued.

19 “(ii) CRITERIA DESCRIBED.—The cri-

20 teria described in this clause are the fol-

21 lowing:

22 “(I) The number of nationals of

23 a country in which any of the diplo-

24 matic and consular posts referred to

25 in clause (i) are located who were

26 identified in United States Govern-

1 ment databases related to the identi-
2 ties of known or suspected terrorists
3 during the previous year.

4 “(II) Information on cooperation
5 of the country referred to in subclause
6 (I) with the counterterrorism efforts
7 of the United States.

8 “(III) Information analyzing the
9 presence, activity, or movement of ter-
10 rorist organizations (as such term is
11 defined in section 212(a)(3)(B)(vi) of
12 the Immigration and Nationality Act
13 (8 U.S.C. 1182(a)(3)(B)(vi)) within
14 or through the country referred to in
15 subclause (I).

16 “(IV) The number of formal ob-
17 jections based on derogatory informa-
18 tion issued by the Visa Security Advi-
19 sory Opinion Unit pursuant to para-
20 graph (10) regarding nationals of a
21 country in which any of the diplomatic
22 and consular posts referred to in
23 clause (i) are located.

1 “(V) The adequacy of the border
2 and immigration control of the coun-
3 try referred to in subclause (I).

4 “(VI) Any other criteria the Sec-
5 retary determines appropriate.

6 “(iii) RULE OF CONSTRUCTION.—The
7 assignment of employees of the Depart-
8 ment pursuant to this subparagraph is
9 solely the authority of the Secretary and
10 may not be altered or rejected by the Sec-
11 retary of State.”.

12 (b) COUNTERTERRORISM VETTING AND SCREEN-
13 ING.—Section 428(e)(2) of the Homeland Security Act of
14 2002 (6 U.S.C. 236(e)(2)) is amended—

15 (1) by redesignating subparagraph (C) as sub-
16 paragraph (D); and

17 (2) by inserting after subparagraph (B) the fol-
18 lowing:

19 “(C) Screen any such applications against
20 the appropriate criminal, national security, and
21 terrorism databases maintained by the Federal
22 Government.”.

23 (c) TRAINING AND HIRING.—Section 428(e)(6)(A) of
24 the Homeland Security Act of 2002 (6 U.S.C.
25 236(e)(6)(A)) is amended—

1 (1) by striking “The Secretary shall ensure, to
2 the extent possible, that any employees” and insert-
3 ing “The Secretary, acting through the Commis-
4 sioner of U.S. Customs and Border Protection and
5 the Director of U.S. Immigration and Customs En-
6 forcement, shall provide training to any employees”;
7 and

8 (2) by striking “shall be provided the necessary
9 training”.

10 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
11 AND VISA SECURITY ADVISORY OPINION UNIT.—Section
12 428(e) of the Homeland Security Act of 2002 (6 U.S.C.
13 236(e)) is amended by adding at the end the following:

14 “(9) REMOTE PRE-ADJUDICATED VISA SECU-
15 RITY ASSISTANCE.—At the visa-issuing posts at
16 which employees of the Department are not assigned
17 pursuant to paragraph (1), the Secretary shall, in a
18 risk-based manner, assign employees of the Depart-
19 ment to remotely perform the functions required
20 under paragraph (2) at not fewer than 50 of such
21 posts.

22 “(10) VISA SECURITY ADVISORY OPINION
23 UNIT.—The Secretary shall establish within U.S.
24 Immigration and Customs Enforcement a Visa Secu-
25 rity Advisory Opinion Unit to respond to requests

1 from the Secretary of State to conduct a visa secu-
2 rity review using information maintained by the De-
3 partment on visa applicants, including terrorism as-
4 sociation, criminal history, counter-proliferation, and
5 other relevant factors, as determined by the Sec-
6 retary.”.

7 (e) SCHEDULE OF IMPLEMENTATION.—The require-
8 ments established under paragraphs (1) and (10) of sec-
9 tion 428(e) of the Homeland Security Act of 2002, as
10 amended and added by this section, shall be implemented
11 not later than 3 years after the date of the enactment of
12 this Act.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$30,000,000 to imple-
15 ment this section and the amendments made by this sec-
16 tion.

17 **SEC. 1533. ELECTRONIC PASSPORT SCREENING AND BIO-**
18 **METRIC MATCHING.**

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

22 **“SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIO-**
23 **METRIC MATCHING.**

24 “(a) IN GENERAL.—Not later than 1 year after the
25 date of the enactment of the Strong Visa Integrity Secures

1 America Act, the Commissioner of U.S. Customs and Bor-
2 der Protection shall—

3 “(1) screen electronic passports at airports of
4 entry by reading each such passport’s embedded
5 chip; and

6 “(2) to the greatest extent practicable, utilize
7 facial recognition technology or other biometric tech-
8 nology, as determined by the Commissioner, to in-
9 spect travelers at United States airports of entry.

10 “(b) APPLICABILITY.—

11 “(1) ELECTRONIC PASSPORT SCREENING.—
12 Subsection (a)(1) shall apply to passports belonging
13 to individuals who are United States citizens, indi-
14 viduals who are nationals of a program country pur-
15 suant to section 217 of the Immigration and Nation-
16 ality Act (8 U.S.C. 1187), and individuals who are
17 nationals of any other foreign country that issues
18 electronic passports.

19 “(2) FACIAL RECOGNITION MATCHING.—Sub-
20 section (a)(2) shall apply, at a minimum, to individ-
21 uals who are nationals of a program country pursu-
22 ant to section 217 of such Act.

23 “(c) ANNUAL REPORT.—

24 “(1) IN GENERAL.—The Commissioner of U.S.
25 Customs and Border Protection, in collaboration

1 with the Chief Privacy Officer of the Department,
2 shall submit an annual report, through fiscal year
3 2021, to the Committee on Homeland Security and
4 Governmental Affairs of the Senate and the Com-
5 mittee on Homeland Security of the House of Rep-
6 resentatives that describes the utilization of facial
7 recognition technology and other biometric tech-
8 nology pursuant to subsection (a)(2).

9 “(2) REPORT CONTENTS.—Each report sub-
10 mitted pursuant to paragraph (1) shall include—

11 “(A) information on the type of technology
12 used at each airport of entry;

13 “(B) the number of individuals who were
14 subject to inspection using either of such tech-
15 nologies at each airport of entry;

16 “(C) within the group of individuals sub-
17 ject to such inspection, the number of those in-
18 dividuals who were United States citizens and
19 lawful permanent residents;

20 “(D) information on the disposition of data
21 collected during the year covered by such re-
22 port; and

23 “(E) information on protocols for the man-
24 agement of collected biometric data, including
25 time frames and criteria for storing, erasing,

1 destroying, or otherwise removing such data
2 from databases utilized by the Department.

3 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
4 **AND BORDER PROTECTION.**

5 “The Commissioner of U.S. Customs and Border
6 Protection shall, in a risk-based manner, continuously
7 screen individuals issued any visa, and individuals who are
8 nationals of a program country pursuant to section 217
9 of the Immigration and Nationality Act (8 U.S.C. 1187),
10 who are present, or expected to arrive within 30 days, in
11 the United States, against the appropriate criminal, na-
12 tional security, and terrorism databases maintained by the
13 Federal Government.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in section 1(b) of the Homeland Security Act of 2002 is
16 amended by inserting after the item relating to section
17 419 the following:

“Sec. 420. Electronic passport screening and biometric matching.

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

18 **SEC. 1534. REPORTING VISA OVERSTAYS.**

19 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
20 is amended—

21 (1) in subsection (a)—

22 (A) by striking “Attorney General” and in-
23 serting “Secretary of Homeland Security”; and

1 (B) by inserting before the period at the
2 end the following: “, and any additional infor-
3 mation that the Secretary determines necessary
4 for purposes of the report under subsection
5 (b).”; and

6 (2) by amending subsection (b) to read as fol-
7 lows:

8 “(b) ANNUAL REPORT.—Not later than June 30,
9 2018, and annually thereafter, the Secretary of Homeland
10 Security shall submit a report to the Committee on Home-
11 land Security and Governmental Affairs of the Senate, the
12 Committee on the Judiciary of the Senate, the Committee
13 on Homeland Security of the House of Representatives,
14 and the Committee on the Judiciary of the House of Rep-
15 resentatives that provides, for the preceding fiscal year,
16 numerical estimates (including information on the meth-
17 odology utilized to develop such numerical estimates) of—

18 “(1) for each country, the number of aliens
19 from the country who are described in subsection
20 (a), including—

21 “(A) the total number of such aliens within
22 all classes of nonimmigrant aliens described in
23 section 101(a)(15) of the Immigration and Na-
24 tionality Act (8 U.S.C. 1101(a)(15)); and

1 “(B) the number of such aliens within each
2 of the classes of nonimmigrant aliens, as well as
3 the number of such aliens within each of the
4 subclasses of such classes of nonimmigrant
5 aliens, as applicable;

6 “(2) for each country, the percentage of the
7 total number of aliens from the country who were
8 present in the United States and were admitted to
9 the United States as nonimmigrants who are de-
10 scribed in subsection (a);

11 “(3) the number of aliens described in sub-
12 section (a) who arrived by land at a port of entry
13 into the United States;

14 “(4) the number of aliens described in sub-
15 section (a) who entered the United States using a
16 border crossing identification card (as defined in sec-
17 tion 101(a)(6) of the Immigration and Nationality
18 Act (8 U.S.C. 1101(a)(6)); and

19 “(5) the number of Canadian nationals who en-
20 tered the United States without a visa and whose
21 authorized period of stay in the United States termi-
22 nated during the previous fiscal year, but who re-
23 mained in the United States.”.

1 **SEC. 1535. STUDENT AND EXCHANGE VISITOR INFORMA-**
2 **TION SYSTEM VERIFICATION.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the Secretary of Homeland Security shall
5 ensure that the information collected under the program
6 established under section 641 of the Illegal Immigration
7 Reform and Immigrant Responsibility Act of 1996 (8
8 U.S.C. 1372) is available to officers of U.S. Customs and
9 Border Protection conducting primary inspections of
10 aliens seeking admission to the United States at each port
11 of entry of the United States.

12 **SEC. 1536. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

13 (a) IN GENERAL.—Subtitle C of title IV of the
14 Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.),
15 as amended by section 1117, is further amended by adding
16 at the end the following:

17 **“SEC. 435. SOCIAL MEDIA SCREENING.**

18 “(a) IN GENERAL.—Not later than 180 days after
19 the date of the enactment of the Strong Visa Integrity
20 Secures America Act, the Secretary shall, to the greatest
21 extent practicable, and in a risk based manner and on an
22 individualized basis, review the social media accounts of
23 visa applicants who are citizens of, or who reside in, high
24 risk countries, as determined by the Secretary based on
25 the criteria described in subsection (b).

1 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
2 mining whether a country is high-risk pursuant to sub-
3 section (a), the Secretary shall consider the following cri-
4 teria:

5 “(1) The number of nationals of the country
6 who were identified in United States Government
7 databases related to the identities of known or sus-
8 pected terrorists during the previous year.

9 “(2) The level of cooperation of the country
10 with the counter-terrorism efforts of the United
11 States.

12 “(3) Any other criteria the Secretary deter-
13 mines appropriate.

14 “(c) COLLABORATION.—To develop the technology
15 required to carry out the requirements under subsection
16 (a), the Secretary shall collaborate with—

17 “(1) the head of a national laboratory within
18 the Department’s laboratory network with relevant
19 expertise;

20 “(2) the head of a relevant university-based
21 center within the Department’s centers of excellence
22 network; and

23 “(3) the heads of other appropriate Federal
24 agencies.

1 **“SEC. 436. 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 Act, is further amended by inserting after
8 the item relating to section 433 the following:

“Sec. 434. Social media screening.

“Sec. 435. Open source screening.”.

9 **CHAPTER 3—VISA CANCELLATION AND**
10 **REVOCAATION**

11 **SEC. 1541. CANCELLATION OF ADDITIONAL VISAS.**

12 (a) IN GENERAL.—Section 222(g) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “Attorney General,” and
16 inserting “Secretary,”; and

17 (B) by inserting “and any other non-
18 immigrant visa issued by the United States that
19 is in the possession of the alien” after “such
20 visa”; and

21 (2) in paragraph (2)(A), by striking “(other
22 than the visa described in paragraph (1)) issued in
23 a consular office located in the country of the alien’s
24 nationality” and inserting “(other than a visa de-

1 scribed in paragraph (1)) issued in a consular office
2 located in the country of the alien’s nationality or
3 foreign residence”.

4 (b) EFFECTIVE DATE AND APPLICATION.—The
5 amendments made by subsection (a) shall take effect on
6 the date of the enactment of this Act and shall apply to
7 a visa issued before, on, or after such date.

8 **SEC. 1542. VISA INFORMATION SHARING.**

9 (a) IN GENERAL.—Section 222(f) of the Immigration
10 and Nationality Act (8 U.S.C. 1202(f)) is amended—

11 (1) in the matter preceding paragraph (1), by
12 striking “issuance or refusal” and inserting
13 “issuance, refusal, or revocation”; and

14 (2) in paragraph (2)—

15 (A) in the matter preceding subparagraph
16 (A), by striking “and on the basis of reci-
17 procity”;

18 (B) in subparagraph (A)—

19 (i) by striking “for the purpose of pre-
20 venting” and inserting the following: “for
21 the purpose of—

22 “(i) preventing”; and

23 (ii) by adding at the end the fol-
24 lowing:

1 “(ii) determining a person’s deport-
2 ability or eligibility for a visa, admission,
3 or other immigration benefit;”;

4 (C) in subparagraph (B)—

5 (i) by striking “for the purposes” and
6 inserting “for 1 of the purposes”; and

7 (ii) by striking “or to deny visas to
8 persons who would be inadmissible to the
9 United States.” and inserting “; or”; and

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

11 “(C) with regard to any or all aliens in the
12 database, specified data elements from each
13 record, if the Secretary of State determines that
14 it is required for national security or public
15 safety or in the national interest to provide
16 such information to a foreign government.”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 subsection (a) shall take effect on the date that is 60 days
19 after the date of the enactment of the Act.

20 **SEC. 1543. VISA INTERVIEWS.**

21 (a) **IN GENERAL.**—Section 222(h) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1202(h)) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (B), by striking “or”
25 at the end;

1 (B) in subparagraph (C), by striking
2 “and” at the end and inserting “or”; and

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

4 “(D) by the Secretary of State, if the Sec-
5 retary, in his or her sole and unreviewable dis-
6 cretion, determines that an interview is unnec-
7 essary because the alien is ineligible for a visa;
8 and”.

9 (2) in paragraph (2)—

10 (A) in subparagraph (E)(iv), by striking
11 “or” at the end;

12 (B) in subparagraph (F)(iii), by striking
13 the period at the end and inserting “; or”; and

14 (C) by adding at the end the following:

15 “(G) is an individual within a class of
16 aliens that the Secretary, in his or her sole and
17 unreviewable discretion, has determined may
18 pose a threat to national security or public safe-
19 ty.”.

20 **SEC. 1544. JUDICIAL REVIEW OF VISA REVOCATION.**

21 Section 221(i) of the Immigration and Nationality
22 Act (8 U.S.C. 1201(i)) is amended—

23 (1) by inserting “(1)” after “(i)”; and

24 (2) by adding at the end the following:

1 “(2) A revocation under this subsection of a visa or
2 other documentation from an alien shall automatically
3 cancel any other valid visa that is in the alien’s posses-
4 sion.”.

5 **CHAPTER 4—SECURE VISAS ACT**

6 **SEC. 1551. SHORT TITLE.**

7 This chapter may be cited as the “Secure Visas Act”.

8 **SEC. 1552. AUTHORITY OF THE SECRETARY OF HOMELAND** 9 **SECURITY AND THE SECRETARY OF STATE.**

10 (a) IN GENERAL.—Section 428 of the Homeland Se-
11 curity Act of 2002 (6 U.S.C. 236) is amended by striking
12 subsections (b) and (c) and inserting the following:

13 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
14 SECURITY.—

15 “(1) IN GENERAL.—Notwithstanding section
16 104(a) of the Immigration and Nationality Act (8
17 U.S.C. 1104(a)) and any other provision of law, and
18 except for the authority of the Secretary of State
19 under subparagraphs (A) and (G) of section
20 101(a)(15) of the Immigration and Nationality Act
21 (8 U.S.C. 1101(a)(15)), the Secretary—

22 “(A) shall have exclusive authority to issue
23 regulations, establish policy, and administer and
24 enforce the provisions of the Immigration and
25 Nationality Act (8 U.S.C. 1101 et seq.) and all

1 other immigration or nationality laws relating
2 to the functions of consular officers of the
3 United States in connection with the granting
4 and refusal of a visa; and

5 “(B) may refuse or revoke any visa to any
6 alien or class of aliens if the Secretary, or his
7 or her designee, determines that such refusal or
8 revocation is necessary or advisable in the secu-
9 rity interests of the United States.

10 “(2) EFFECT OF REVOCATION.—The revocation
11 of any visa under paragraph (1)(B)—

12 “(A) shall take effect immediately; and

13 “(B) shall automatically cancel any other
14 valid visa that is in the alien’s possession.

15 “(3) JUDICIAL REVIEW.—Notwithstanding any
16 other provision of law, including section 2241 of title
17 28, United States Code, any other habeas corpus
18 provision, and sections 1361 and 1651 of such title,
19 no United States court has jurisdiction to review a
20 decision by the Secretary to refuse or revoke a visa.

21 “(c) EFFECT OF VISA APPROVAL BY THE SEC-
22 RETARY OF STATE.—

23 “(1) IN GENERAL.—The Secretary of State may
24 direct a consular officer to refuse or revoke a visa
25 to an alien if the Secretary determines that such re-

1 fusal or revocation is necessary or advisable in the
2 foreign policy interests of the United States.

3 “(2) LIMITATION.—No decision by the Sec-
4 retary of State to approve a visa may override a de-
5 cision by the Secretary under subsection (b).”.

6 (b) VISA REVOCATION.—Section 428 of the Home-
7 land Security Act (6 U.S.C. 236) is amended by adding
8 at the end the following:

9 “(j) VISA REVOCATION INFORMATION.—If the Sec-
10 retary or the Secretary of State revokes a visa—

11 “(1) the relevant consular, law enforcement,
12 and terrorist screening databases shall be imme-
13 diately updated on the date of the revocation; and

14 “(2) look-out notices shall be posted to all De-
15 partment port inspectors and Department of State
16 consular officers.”.

17 (c) CONFORMING AMENDMENT.—Section 104(a)(1)
18 of the Immigration and Nationality Act is amended by in-
19 serting “and the power authorized under section 428(c)
20 of the Homeland Security Act of 2002 (6 U.S.C. 236)”
21 after “United States,”.

1 **CHAPTER 5—VISA FRAUD AND SECURITY**
2 **IMPROVEMENT ACT OF 2017**

3 **SEC. 1561. SHORT TITLE.**

4 This chapter may be cited as the “Visa Fraud and
5 Security Improvement Act of 2017”.

6 **SEC. 1562. EXPANDED USAGE OF FRAUD PREVENTION AND**
7 **DETECTION FEES.**

8 Section 286(v)(2)(A) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

10 (1) in the matter preceding clause (i), by strik-
11 ing “at United States embassies and consulates
12 abroad”;

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

14 “(i) to increase the number of diplo-
15 matic security personnel assigned exclu-
16 sively or primarily to the function of pre-
17 venting and detecting visa fraud;” and

18 (3) in clause (ii), by striking “, including pri-
19 marily fraud by applicants for visas described in
20 subparagraph (H)(i), (H)(ii), or (L) of section
21 101(a)(15)”.

22 **SEC. 1563. VISA INFORMATION SHARING.**

23 Section 222(f) of the Immigration and Nationality
24 Act (8 U.S.C. 1202(f)) is amended—

1 (1) in the matter preceding paragraph (1), by
2 striking “issuance or refusal” and inserting
3 “issuance, refusal, or revocation”;

4 (2) in paragraph (1), by striking the period at
5 the end and inserting “; and”; and

6 (3) by amending paragraph (2) to read as fol-
7 lows:

8 “(2) the Secretary of State, in the Secretary’s
9 discretion, may provide to a foreign government in-
10 formation in a Department of State computerized
11 visa database and, when necessary and appropriate,
12 other records described in this section related to in-
13 formation in such database—

14 “(A) on the basis of reciprocity, with re-
15 gard to individual aliens, at any time on a case-
16 by-case basis for the purpose of—

17 “(i) preventing, investigating, or pun-
18 ishing acts that would constitute a crime
19 in the United States, including, but not
20 limited to, terrorism or trafficking in con-
21 trolled substances, persons, or illicit weap-
22 ons; or

23 “(ii) determining a person’s remov-
24 ability or eligibility for a visa, admission,
25 or other immigration benefit;

1 “(B) on the basis of reciprocity, with re-
2 gard to any or all aliens in such database, pur-
3 suant to such conditions as the Secretary of
4 State shall establish in an agreement with the
5 foreign government in which that government
6 agrees to use such information and records for
7 1 of the purposes described in subparagraph
8 (A); or

9 “(C) with regard to any or all aliens in
10 such database, if the Secretary of State deter-
11 mines that it is in the national interest to pro-
12 vide such information to a foreign govern-
13 ment.”.

14 **SEC. 1564. INADMISSIBILITY OF SPOUSES AND CHILDREN**
15 **OF TRAFFICKERS.**

16 Section 212(a)(2) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a)(2)) is amended—

18 (1) in subparagraph (C)(ii), by inserting “, or
19 has been,” after “is”; and

20 (2) in subparagraph (H)(ii), by inserting “, or
21 has been,” after “is”.

22 **SEC. 1565. DNA TESTING.**

23 Section 222(b) of the Immigration and Nationality
24 Act (8 U.S.C. 1202(b)) is amended by inserting after the
25 second sentence the following: “Where considered nec-

1 essary by the consular officer or immigration official, to
2 establish the bona fides of a family relationship, the immi-
3 grant shall provide DNA evidence of such relationship in
4 accordance with procedures established by the Secretary,
5 in consultation with the Secretary of State. The Secretary
6 and the Secretary of State may issue regulations to re-
7 quire the submission of DNA evidence to establish family
8 relationship, from applicants for certain visa classifica-
9 tions.”.

10 **SEC. 1566. ACCESS TO NCIC CRIMINAL HISTORY DATABASE**
11 **FOR DIPLOMATIC VISAS.**

12 Subsection (a) of article V of section 217 of the Na-
13 tional Crime Prevention and Privacy Compact Act of 1998
14 (34 U.S.C. 40316(V)(a)) is amended by inserting “, ex-
15 cept for diplomatic visa applications for which only full
16 biographical information is required” before the period at
17 the end.

18 **SEC. 1567. ELIMINATION OF SIGNED PHOTOGRAPH RE-**
19 **QUIREMENT FOR VISA APPLICATIONS.**

20 Section 221(b) of the Immigration and Nationality
21 Act (8 U.S.C. 1201(b)) is amended by striking the first
22 sentence and insert the following: “Each alien who applies
23 for a visa shall be registered in connection with his or her
24 application and shall furnish copies of his or her photo-
25 graph for such use as may be required by regulation.”.

1 **CHAPTER 6—OTHER MATTERS**

2 **SEC. 1571. REQUIREMENT FOR COMPLETION OF BACK-**
3 **GROUND CHECKS.**

4 (a) IN GENERAL.—Section 103 of Immigration and
5 Nationality Act (8 U.S.C. 1103) is amended by adding
6 at the end the following:

7 “(h) COMPLETION OF BACKGROUND AND SECURITY
8 CHECKS.—

9 “(1) REQUIREMENT TO COMPLETE.—Notwith-
10 standing any other provision of law (statutory or
11 nonstatutory), including section 309 of the En-
12 hanced Border Security and Visa Entry Reform Act
13 of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of
14 title 28, United States Code, and section 706(1) of
15 title 5, United States Code, the Secretary and the
16 Attorney General may not approve or grant to an
17 alien any status, relief, protection from removal, em-
18 ployment authorization, or any other benefit under
19 the immigration laws, including an adjustment of
20 status to lawful permanent residence or a grant of
21 United States citizenship or issue to the alien any
22 documentation evidencing a status or grant of any
23 status, relief, protection from removal, employment
24 authorization, or other benefit under the immigra-
25 tion laws until—

1 “(A) all background and security checks
2 required by statute or regulation or deemed
3 necessary by the Secretary or the Attorney
4 General, in his or her sole and unreviewable dis-
5 cretion, for the alien have been completed; and

6 “(B) the Secretary or the Attorney Gen-
7 eral has determined that the results of such
8 checks do not preclude the approval or grant of
9 any status, relief, protection from removal, em-
10 ployment authorization, or any other benefit
11 under the immigration laws or approval, grant,
12 or the issuance of any documentation evidenc-
13 ing such status, relief, protection, authorization,
14 or benefit.

15 “(2) PROHIBITION ON JUDICIAL ACTION.—No
16 court shall have authority to order the approval of,
17 grant, mandate or require any action in a certain
18 time period, or award any relief for the Secretary’s
19 or Attorney General’s failure to complete or delay in
20 completing any action to provide any status, relief,
21 protection from removal, employment authorization,
22 or any other benefit under the immigration laws, in-
23 cluding an adjustment of status to lawful permanent
24 residence, naturalization, or a grant of United
25 States citizenship for an alien until—

1 “(A) all background and security checks
2 for the alien have been completed; and

3 “(B) the Secretary or the Attorney Gen-
4 eral has determined that the results of such
5 checks do not preclude the approval or grant of
6 such status, relief, protection, authorization, or
7 benefit, or issuance of any documentation evi-
8 dencing such status, relief, protection, author-
9 ization, or benefit.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 subsection (a) shall take effect on the date of the enact-
12 ment of this Act and shall apply to any application, peti-
13 tion, or request for any benefit or relief or any other case
14 or matter under the immigration laws pending with on or
15 filed with the Secretary of Homeland Security, the Attor-
16 ney General, the Secretary of State, the Secretary of
17 Labor, or a consular officer on or after such date of enact-
18 ment.

19 **SEC. 1572. WITHHOLDING OF ADJUDICATION.**

20 (a) **IN GENERAL.**—Section 103 of Immigration and
21 Nationality Act (8 U.S.C. 1103), as amended by sections
22 1112 and 1571, is further amended by adding at the end
23 the following:

24 “(i) **WITHHOLDING OF ADJUDICATION.**—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (i)(4), nothing in this Act or in any other
3 law, including section 1361 and 1651 of title 28,
4 United States Code, may be construed to require,
5 and no court can order, the Secretary, the Attorney
6 General, the Secretary of State, the Secretary of
7 Labor, or a consular officer to grant any application,
8 approve any petition, or grant or continue any relief,
9 protection from removal, employment authorization,
10 or any other status or benefit under the immigration
11 laws by, to, or on behalf of any alien with respect
12 to whom a criminal proceeding or investigation is
13 open or pending (including the issuance of an arrest
14 warrant or indictment), if such proceeding or inves-
15 tigation is deemed by such official to be material to
16 the alien’s eligibility for the status, relief, protection,
17 or benefit sought.

18 “(2) WITHHOLDING OF ADJUDICATION.—The
19 Secretary, the Attorney General, the Secretary of
20 State, or the Secretary of Labor may, in his or her
21 discretion, withhold adjudication any application, pe-
22 tition, request for relief, request for protection from
23 removal, employment authorization, status or benefit
24 under the immigration laws pending final resolution
25 of the criminal or other proceeding or investigation.

1 “(3) JURISDICTION.—Notwithstanding any
2 other provision of law (statutory or nonstatutory),
3 including section 309 of the Enhanced Border Secu-
4 rity and Visa Entry Reform Act of 2002 (8 U.S.C.
5 1738), sections 1361 and 1651 of title 28, United
6 States Code, and section 706(1) of title 5, United
7 States Code, no court shall have jurisdiction to re-
8 view a decision to withhold adjudication pursuant to
9 this subsection.

10 “(4) WITHHOLDING OF REMOVAL AND TOR-
11 TURE CONVENTION.—This subsection does not limit
12 or modify the applicability of section 241(b)(3) or
13 the United Nations Convention Against Torture and
14 Other Cruel, Inhuman or Degrading Treatment or
15 Punishment, subject to any reservations, under-
16 standings, declarations and provisos contained in the
17 United States Senate resolution of ratification of the
18 Convention, as implemented by section 2242 of the
19 Foreign Affairs Reform and Restructuring Act of
20 1998 (Public Law 105-277) with respect to an alien
21 otherwise eligible for protection under such provi-
22 sions.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on the date of the enact-
25 ment of this Act and shall apply to any application, peti-

1 tion, or request for any benefit or relief or any other case
 2 or matter under the immigration laws pending with or
 3 filed with the Secretary of Homeland Security on or after
 4 such date of enactment.

5 **SEC. 1573. ACCESS TO THE NATIONAL CRIME INFORMATION**
 6 **CENTER INTERSTATE IDENTIFICATION**
 7 **INDEX.**

8 (a) **CRIMINAL JUSTICE ACTIVITIES.**—Section 104 of
 9 the Immigration and Nationality Act (8 U.S.C. 1104) is
 10 amended by adding at the end the following:

11 “(f) Notwithstanding any other provision of law, any
 12 Department of State personnel with authority to grant or
 13 refuse visas or passports may carry out activities that have
 14 a criminal justice purpose.”.

15 (b) **LIAISON WITH INTERNAL SECURITY OFFICERS;**
 16 **DATA EXCHANGE.**—Section 105 of the Immigration and
 17 Nationality Act (8 U.S.C. 1105) is amended by striking
 18 subsections (b) and (c) and inserting the following:

19 “(b) **ACCESS TO NCIC-III.**—

20 “(1) **IN GENERAL.**—Notwithstanding any other
 21 provision of law, the Attorney General and the Di-
 22 rector of the Federal Bureau of Investigation shall
 23 provide to the Department of Homeland Security
 24 and the Department of State access to the criminal
 25 history record information contained in the National

1 Crime Information Center's Interstate Identification
2 Index (NCIC-III) and the Wanted Persons File and
3 to any other files maintained by the National Crime
4 Information Center for the purpose of determining
5 whether an applicant or petitioner for a visa, admis-
6 sion, or any benefit, relief, or status under the immi-
7 gration laws, or any beneficiary of an application,
8 petition, relief, or status under the immigration
9 laws, has a criminal history record indexed in the
10 file.

11 “(2) AUTHORIZED ACTIVITIES.—

12 “(A) IN GENERAL.—The Secretary and the
13 Secretary of State—

14 “(i) shall have direct access, without
15 any fee or charge, to the information de-
16 scribed in paragraph (1) to conduct name-
17 based searches, file number searches, and
18 any other searches that any criminal jus-
19 tice or other law enforcement officials are
20 entitled to conduct; and

21 “(ii) may contribute to the records
22 maintained by the National Crime Infor-
23 mation Center.

24 “(B) SECRETARY OF HOMELAND SECU-
25 RITY.—The Secretary shall receive, upon re-

1 quest, access to the information described in
 2 paragraph (1) by means of extracts of the
 3 records for placement in the appropriate data-
 4 base without any fee or charge.

5 “(c) **CRIMINAL JUSTICE AND LAW ENFORCEMENT**
 6 **PURPOSES.**—Notwithstanding any other provision of law,
 7 adjudication of eligibility for benefits, relief, or status
 8 under the immigration laws and other purposes relating
 9 to citizenship and immigration services, shall be consid-
 10 ered to be criminal justice or law enforcement purposes
 11 with respect to access to or use of any information main-
 12 tained by the National Crime Information Center or other
 13 criminal history information or records.”.

14 **SEC. 1574. APPROPRIATE REMEDIES FOR IMMIGRATION**
 15 **LITIGATION.**

16 (a) **LIMITATION ON CLASS ACTIONS.**—

17 (1) **IN GENERAL.**—Except as provided in para-
 18 graph (2), no court may certify a class under Rule
 19 23 of the Federal Rules of Civil Procedure in any
 20 civil action that—

21 (A) is filed after the date of the enactment
 22 of this Act; and

23 (B) pertains to the administration or en-
 24 forcement of the immigration laws.

1 (2) EXCEPTION.—A court may certify a class
2 upon a motion by the Government if the Govern-
3 ment is requesting such a certification to ensure effi-
4 ciency in case management or uniformity in applica-
5 tion of precedent decisions or interpretations of laws
6 when there is a nationwide class.

7 (b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
8 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

9 (1) IN GENERAL.—If a court determines that
10 prospective relief should be ordered against the Gov-
11 ernment in any civil action pertaining to the admin-
12 istration or enforcement of the immigration laws,
13 the court shall—

14 (A) limit the relief to the minimum nec-
15 essary to correct the violation of law;

16 (B) adopt the least intrusive means to cor-
17 rect the violation of law;

18 (C) minimize, to the greatest extent prac-
19 ticable, the adverse impact on national security,
20 border security, immigration administration and
21 enforcement, and public safety; and

22 (D) provide for the expiration of the relief
23 on a specific date, which is not later than the
24 earliest date necessary for the Government to
25 remedy the violation.

1 (2) WRITTEN EXPLANATION.—The require-
2 ments described in paragraph (1) shall be discussed
3 and explained in writing in the order granting pro-
4 spective relief and shall be sufficiently detailed to
5 allow review by another court.

6 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE
7 RELIEF.—Preliminary injunctive relief granted
8 under paragraph (1) shall automatically expire on
9 the date that is 90 days after the date on which
10 such relief is entered, unless the court—

11 (A) finds that such relief meets the re-
12 quirements described in subparagraphs (A)
13 through (D) of paragraph (1) for the entry of
14 permanent prospective relief; and

15 (B) orders the preliminary relief to become
16 a final order granting prospective relief before
17 the expiration of such 90-day period.

18 (c) PROCEDURE FOR MOTION AFFECTING ORDER
19 GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERN-
20 MENT.—

21 (1) IN GENERAL.—A court shall promptly rule
22 on a motion made by the United States Government
23 to vacate, modify, dissolve, or otherwise terminate
24 an order granting prospective relief in any civil ac-

1 tion pertaining to the administration or enforcement
2 of the immigration laws.

3 (2) AUTOMATIC STAYS.—

4 (A) IN GENERAL.—A motion to vacate,
5 modify, dissolve, or otherwise terminate an
6 order granting prospective relief made by the
7 United States Government in any civil action
8 pertaining to the administration or enforcement
9 of the immigration laws shall automatically, and
10 without further order of the court, stay the
11 order granting prospective relief on the date
12 that is 15 days after the date on which such
13 motion is filed unless the court previously has
14 granted or denied the Government’s motion.

15 (B) DURATION OF AUTOMATIC STAY.—An
16 automatic stay under subparagraph (A) shall
17 continue until the court enters an order grant-
18 ing or denying the Government’s motion.

19 (C) POSTPONEMENT.—The court, for good
20 cause, may postpone an automatic stay under
21 subparagraph (A) for not longer than 15 days.

22 (D) ORDERS BLOCKING AUTOMATIC
23 STAYS.—Any order staying, suspending, delay-
24 ing, or otherwise barring the effective date of
25 the automatic stay described in subparagraph

1 (A), other than an order to postpone the effec-
2 tive date of the automatic stay for not longer
3 than 15 days under subparagraph (C)—

4 (i) shall be treated as an order refus-
5 ing to vacate, modify, dissolve, or otherwise
6 terminate an injunction; and

7 (ii) shall be immediately appealable
8 under section 1292(a)(1) of title 28,
9 United States Code.

10 (d) SETTLEMENTS.—

11 (1) CONSENT DECREES.—In any civil action
12 pertaining to the administration or enforcement of
13 the immigration laws of the United States, the court
14 may not enter, approve, or continue a consent decree
15 that does not comply with the requirements under
16 subsection (b)(1).

17 (2) PRIVATE SETTLEMENT AGREEMENTS.—

18 Nothing in this subsection may be construed to pre-
19 clude parties from entering into a private settlement
20 agreement that does not comply with subsection
21 (b)(1).

22 (e) EXPEDITED PROCEEDINGS.—It shall be the duty
23 of every court to advance on the docket and to expedite
24 the disposition of any civil action or motion considered
25 under this section.

1 (f) CONSENT DECREE DEFINED.—In this section,
2 the term “consent decree”—

3 (1) means any relief entered by the court that
4 is based in whole or in part on the consent or acqui-
5 escence of the parties; and

6 (2) does not include private settlements.

7 **SEC. 1575. USE OF 1986 IRCA LEGALIZATION INFORMATION**
8 **FOR NATIONAL SECURITY PURPOSES.**

9 (a) SPECIAL AGRICULTURAL WORKERS.—Section
10 210(b)(6) of the Immigration and Nationality Act (8
11 U.S.C. 1160(b)(6)) is amended—

12 (1) by striking “Attorney General” each place
13 that term appears and inserting “Secretary”;

14 (2) in subparagraph (A), in the matter pre-
15 ceding clause (i), by striking “Justice” and inserting
16 “Homeland Security”;

17 (3) by redesignating subparagraphs (C) and
18 (D) as subparagraphs (D) and (E), respectively;

19 (4) inserting after subparagraph (B) the fol-
20 lowing:

21 “(C) AUTHORIZED DISCLOSURES.—

22 “(i) CENSUS PURPOSE.—The Sec-
23 retary may provide, in the Secretary’s dis-
24 cretion, for the furnishing of information
25 furnished under this section in the same

1 manner and circumstances as census infor-
2 mation may be disclosed under section 8 of
3 title 13, United States Code.”.

4 “(ii) NATIONAL SECURITY PUR-
5 POSE.—The Secretary may provide, in the
6 Secretary’s discretion, for the furnishing,
7 use, publication, or release of information
8 furnished under this section in any inves-
9 tigation, case, or matter, or for any pur-
10 pose, relating to terrorism, national intel-
11 ligence or the national security.

12 “(iii) SUBSEQUENT APPLICATIONS
13 FOR IMMIGRATION BENEFITS.—The Sec-
14 retary may use the information furnished
15 under this section to adjudicate subsequent
16 applications, petitions, or requests for im-
17 migration benefits filed by the alien

18 “(iv) ALIEN CONSENT.—The Sec-
19 retary may use the information furnished
20 under this section for any purpose when
21 the alien consents to its disclosure or use
22 by the Secretary.

23 “(v) OTHER CIRCUMSTANCES.—The
24 Secretary may use the information fur-
25 nished under this section for other pur-

1 poses and in other circumstances in which
2 disclosure of the information is not related
3 to removal of the alien from the United
4 States.”; and

5 (5) in subparagraph (D), as redesignated, strik-
6 ing “Service” and inserting “Department of Home-
7 land Security”.

8 (b) ADJUSTMENT OF STATUS.—Section 245A(c)(5)
9 of the Immigration and Nationality Act (8 U.S.C.
10 1255a(c)(5)) is amended—

11 (1) by striking “Attorney General” each place
12 that term appears and inserting “Secretary”;

13 (2) in subparagraph (A), in the matter pre-
14 ceding clause (i), by striking “Justice” and inserting
15 “Homeland Security”; and

16 (3) by amending subparagraph (C) to read as
17 follows:

18 “(C) AUTHORIZED DISCLOSURES.—

19 “(i) CENSUS PURPOSE.—The Sec-
20 retary may provide, in the Secretary’s dis-
21 cretion, for the furnishing of information
22 furnished under this section in the same
23 manner and circumstances as census infor-
24 mation may be disclosed under section 8 of
25 title 13, United States Code.

1 “(ii) NATIONAL SECURITY PUR-
2 POSE.—The Secretary may provide, in the
3 Secretary’s discretion, for the furnishing,
4 use, publication, or release of information
5 furnished under this section in any inves-
6 tigation, case, or matter, or for any pur-
7 pose, relating to terrorism, national intel-
8 ligence or the national security.”.

9 **SEC. 1576. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
10 **TAIN IMMIGRATION, NATURALIZATION, AND**
11 **PEONAGE OFFENSES.**

12 Section 3291 of title 18, United States Code, is
13 amended to read as follows:

14 **“§ 3291. Nationality, citizenship and passports**

15 “No person shall be prosecuted, tried, or punished
16 for a violation of any section of chapter 69 (relating to
17 nationality and citizenship offenses) or 75 (relating to
18 passport, visa, and immigration offenses), for a violation
19 of any criminal provision of sections 243, 274, 275, 276,
20 277, or 278 of the Immigration and Nationality Act (8
21 U.S.C. 1253, 1324, 1325, 1326, 1327, and 1328), or for
22 an attempt or conspiracy to violate any such section, un-
23 less the indictment is returned or the information is filed
24 within 10 years after the commission of the offense.”.

1 **SEC. 1577. CONFORMING AMENDMENT TO THE DEFINITION**
2 **OF RACKETEERING ACTIVITY.**

3 Section 1961(1) of title 18, United States Code, is
4 amended by striking “section 1542” and all that follows
5 through “section 1546 (relating to fraud and misuse of
6 visas, permits, and other documents)” and inserting “sec-
7 tions 1541 through 1547 (relating to passports and
8 visas)”.

9 **SEC. 1578. VALIDITY OF ELECTRONIC SIGNATURES.**

10 (a) CIVIL CASES.—

11 (1) IN GENERAL.—Chapter 9 of title II of the
12 Immigration and Nationality Act (8 U.S.C. 1351 et
13 seq.), as amended by section 1126(a), is further
14 amended by adding at the end the following:

15 **“SEC. 296. VALIDITY OF SIGNATURES.**

16 “(a) IN GENERAL.—In any proceeding, adjudication,
17 or any other matter arising under the immigration laws,
18 an individual’s hand written or electronic signature on any
19 petition, application, or any other document executed or
20 provided for any purpose under the immigration laws es-
21 tablishes a rebuttable presumption that the signature exe-
22 cuted is that of the individual signing, that the individual
23 is aware of the contents of the document, and intends to
24 sign it.”.

25 “(b) RECORD INTEGRITY.—The Secretary shall es-
26 tablish procedures to ensure that when any electronic sig-

1 nature is captured for any petition, application, or other
 2 document submitted for purposes of obtaining an immi-
 3 gration benefit, the identity of the person is verified and
 4 authenticated, and the record of such identification and
 5 verification is preserved for litigation purposes.”.

6 (2) CLERICAL AMENDMENT.—The table of con-
 7 tents in the first section of the Immigration and Na-
 8 tionality Act is amended by inserting after the item
 9 relating to section 295, as added by section
 10 1126(a)(2), the following:

“Sec. 296. Validity of signatures.”.

11 (b) CRIMINAL CASES.—

12 (1) IN GENERAL.—Chapter 223 of title 18,
 13 United States Code, is amended by adding at the
 14 end the following:

15 **“§ 3513. Signatures relating to immigration matters**

16 “In a criminal proceeding in a court of the United
 17 States, if an individual’s handwritten or electronic signa-
 18 ture appears on a petition, application, or other document
 19 executed or provided for any purpose under the immigra-
 20 tion laws (as defined in section 101(a)(17) of the Immi-
 21 gration and Nationality Act (8 U.S.C. 1101(a)(17)), the
 22 trier of fact may infer that the document was signed by
 23 that individual, and that the individual knew the contents
 24 of the document and intended to sign the document.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for chapter 223 of title 18, United States
 3 Code, is amended by inserting after the item relating
 4 to section 3512 the following:

“3513. Signatures relating to immigration matters.”.

5 **Subtitle F—Prohibition on Terror-**
 6 **ists Obtaining Lawful Status in**
 7 **the United States**

8 **CHAPTER 1—PROHIBITION ON ADJUST-**
 9 **MENT TO LAWFUL PERMANENT RESI-**
 10 **DENT STATUS**

11 **SEC. 1601. LAWFUL PERMANENT RESIDENTS AS APPLI-**
 12 **CANTS FOR ADMISSION.**

13 Section 101(a)(13)(C) of the Immigration and Na-
 14 tionality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

15 (1) in clause (v), by striking the “, or” and in-
 16 serting a semicolon;

17 (2) in clause (vi), by striking the period at the
 18 end and inserting “; or” and

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

20 “(vii) is described in section 212(a)(3) or
 21 237(a)(4).”.

22 **SEC. 1602. DATE OF ADMISSION FOR PURPOSES OF ADJUST-**
 23 **MENT OF STATUS.**

24 (a) APPLICANTS FOR ADMISSION.—Section
 25 101(a)(13) of the Immigration and Nationality Act, as

1 amended by section 1601, is further amended by adding
2 at the end the following:

3 “(D) Notwithstanding subparagraph (A), adjustment
4 of status of an alien to that of an alien lawfully admitted
5 for permanent residence under section 245 or under any
6 other provision of law is an admission of the alien.”.

7 (b) ELIGIBILITY TO BE REMOVED FOR A CRIME IN-
8 VOLVING MORAL TURPITUDE.—Section
9 237(a)(2)(A)(i)(I) of the Immigration and Nationality Act
10 (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking
11 “date of admission,” inserting “alien’s most recent date
12 of admission;”.

13 **SEC. 1603. PRECLUDING ASYLEE AND REFUGEE ADJUST-**
14 **MENT OF STATUS FOR CERTAIN GROUNDS OF**
15 **INADMISSIBILITY AND DEPORTABILITY.**

16 (a) GROUNDS OF INADMISSIBILITY.—Section 209(c)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1159(c)) is amended by striking “(other than paragraph
19 (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph
20 (3))”, and inserting “(other than subparagraph (C) or (G)
21 of paragraph (2) or subparagraph (A), (B), (C), (E), (F),
22 or (G) of paragraph (3))”.

23 (b) GROUNDS OF DEPORTABILITY.—Section 209 of
24 the Immigration and Nationality Act, as amended by sub-

1 section (a), is further amended by adding at the end the
2 following:

3 “(d) An alien’s status may not be adjusted under this
4 section if the alien is deportable under any provision of
5 section 237 (except subsections (a)(5) of such section).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to—

8 (1) any act that occurred before, on, or after
9 the date of the enactment of this Act; and

10 (2) all aliens who are required to establish ad-
11 missibility on or after such date, and in all removal,
12 deportation, or exclusion proceedings that are filed,
13 pending, or reopened, on or after such date.

14 **SEC. 1604. REVOCATION OF LAWFUL PERMANENT RESI-**
15 **DENT STATUS FOR HUMAN RIGHTS VIOLA-**
16 **TORS.**

17 Section 240(b)(5) of the Immigration and Nationality
18 Act (8 U.S.C. 1229a(b)(5)) is amended by inserting at
19 the end the following:

20 “(F) ADDITIONAL APPLICATION TO CER-
21 TAIN ALIENS OUTSIDE THE UNITED STATES
22 WHO ARE ASSOCIATED WITH HUMAN RIGHTS
23 VIOLATIONS.—Subparagraphs (A) through (E)
24 shall apply to any alien placed in proceedings
25 under this section who—

1 “(i) is outside of the United States;

2 “(ii) has received notice of pro-
3 ceedings under section 240(a) (either with-
4 in or outside of the United States); and

5 “(iii) is described in section
6 212(a)(2)(G) (officials who have committed
7 particularly severe violations of religious
8 freedom), 212(a)(3)(E) (Nazi persecution,
9 genocide, extrajudicial killing, or torture),
10 or 212(a)(3)(G) (recruitment or use of
11 child soldiers).”.

12 **SEC. 1605. REMOVAL OF CONDITION ON LAWFUL PERMA-**
13 **NENT RESIDENT STATUS PRIOR TO NATU-**
14 **RALIZATION.**

15 Chapter 2 of title II of the Immigration and Nation-
16 ality Act (8 U.S.C. 1181 et seq.) is amended—

17 (1) in section 216(e) (8 U.S.C. 1186a(e)), by
18 inserting “, if the alien has had the conditional basis
19 removed pursuant to this section” before the period
20 at the end; and

21 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by
22 inserting “, if the alien has had the conditional basis
23 removed pursuant to this section” before the period
24 at the end.

1 **SEC. 1606. PROHIBITION ON TERRORISTS AND ALIENS WHO**
 2 **POSE A THREAT TO NATIONAL SECURITY OR**
 3 **PUBLIC SAFETY FROM RECEIVING AN AD-**
 4 **JUSTMENT OF STATUS.**

5 (a) APPLICATION FOR ADJUSTMENT OF STATUS IN
 6 THE UNITED STATES.—

7 (1) IN GENERAL.—Section 245 of the Immigra-
 8 tion and Nationality Act (8 U.S.C. 1255) is amend-
 9 ed by striking the section heading and subsection (a)
 10 and inserting the following:

11 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERSON**
 12 **ADMITTED FOR PERMANENT RESIDENCE.**

13 “(a) IN GENERAL.—

14 “(1) ELIGIBILITY FOR ADJUSTMENT.—The sta-
 15 tus of an alien who was inspected and admitted or
 16 paroled into the United States or the status of any
 17 other alien having an approved petition for classi-
 18 fication as a VAWA self-petitioner may be adjusted
 19 by the Secretary or the Attorney General, in the dis-
 20 cretion of the Secretary or the Attorney General,
 21 and under such regulations as the Secretary or the
 22 Attorney General may prescribe, to that of an alien
 23 lawfully admitted for permanent residence if—

24 “(A) the alien makes an application for
 25 such adjustment;

1 “(B) the alien is eligible to receive an im-
2 migrant visa, is admissible to the United States
3 for permanent residence, and is not subject to
4 exclusion, deportation, or removal from the
5 United States; and

6 “(C) an immigrant visa is immediately
7 available to the alien at the time the alien’s ap-
8 plication is filed.

9 “(2) IMMEDIATELY AVAILABLE.—For purposes
10 of this section, the term ‘immediately available’
11 means that on the date of filing of the application
12 for adjustment of status, the visa category under
13 which the alien is seeking permanent residence is
14 current as determined by the Secretary of State and
15 reflected in the Department of State’s visa bulletin
16 for the month in which the application for adjust-
17 ment of status is filed.

18 “(3) REQUIREMENT TO OBTAIN AN IMMIGRANT
19 VISA OUTSIDE THE UNITED STATES.—Notwith-
20 standing any other provision in this section, if the
21 Secretary determines that an alien may be a threat
22 to national security or public safety or if the Sec-
23 retary determines that a favorable exercise of discre-
24 tion to allow an alien to seek to adjust his or her
25 status in the United States rather than to obtain an

1 immigrant visa outside of the United States is not
2 warranted, the Secretary, in the Secretary's sole and
3 unreviewable discretion, may—

4 “(A) prohibit the alien from seeking an ad-
5 justment of status under paragraph (1) while
6 the alien is present in the United States; and

7 “(B) require the alien to seek permanent
8 residence by applying for an immigrant visa at
9 a United States embassy or consulate in the
10 alien's home country or other foreign country,
11 as designated by the Secretary of State.”.

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents in the first section of the Immigration and Na-
14 tionality Act is amended by striking the item relat-
15 ing to section 245 and inserting the following:

“Sec. 245. Adjustment of status to that of a person admitted for permanent residence.”.

16 (b) PROHIBITION ON TERRORISTS AND ALIENS WHO
17 POSE A THREAT TO NATIONAL SECURITY OR PUBLIC
18 SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESI-
19 DENT STATUS.—Section 245(c) of the Immigration and
20 Nationality Act (8 U.S.C. 1255(c)) is amended to read
21 as follows:

22 “(c) ALIENS NOT ELIGIBLE FOR ADJUSTMENT OF
23 STATUS.—Except for an alien having an approved petition

1 for classification as a VAWA self-petitioner, subsection (a)
2 shall not apply to—

3 “(1) an alien crewman;

4 “(2) subject to subsection (k), any alien (other
5 than an immediate relative defined in section 201(b)
6 or a special immigrant described in subparagraph
7 (H), (I), (J), or (K) of section 101(a)(27)) who—

8 “(A) continues in or accepts unauthorized
9 employment before filing an application for ad-
10 justment of status;

11 “(B) is in unlawful immigration status on
12 the date he or she files an application for ad-
13 justment of status; or

14 “(C) has failed (other than through no
15 fault of his or her own or for technical reasons)
16 to maintain continuously a lawful status since
17 entry into the United States;

18 “(3) any alien admitted in transit without visa
19 under section 212(d)(4)(C);

20 “(4) an alien (other than an immediate relative
21 as defined in section 201(b)) who was admitted as
22 a nonimmigrant visitor without a visa under section
23 212(l) or section 217;

24 “(5) an alien who was admitted as a non-
25 immigrant under section 101(a)(15)(S);

1 “(6) an alien described in subparagraph (B),
2 (F), or (G) of section 237(a)(4);

3 “(7) any alien who seeks adjustment of status
4 to that of an immigrant under section 203(b) and is
5 not in a lawful nonimmigrant status;

6 “(8) any alien who has committed, ordered, in-
7 cited, assisted, or otherwise participated in the per-
8 secution of any person on account of race, religion,
9 nationality, membership in a particular social group,
10 or political opinion; or

11 “(9) any alien who—

12 “(A) was employed while the alien was an
13 unauthorized alien (as defined in section
14 274A(h)(3)); or

15 “(B) has otherwise violated the terms of a
16 nonimmigrant visa.”.

17 **SEC. 1607. TREATMENT OF APPLICATIONS FOR ADJUST-**
18 **MENT OF STATUS DURING PENDING**
19 **DENATURALIZATION PROCEEDINGS.**

20 Section 245 of the Immigration and Nationality Act
21 (8 U.S.C. 1451), as amended by section 1606, is further
22 amended by adding at the end the following:

23 “(n) An application for adjustment of status may not
24 be considered or approved by the Secretary or the Attor-
25 ney General, and no court may order the approval of an

1 application for adjustment of status if the approved peti-
2 tion for classification under section 204 that is the under-
3 lying basis for the application for adjustment of status was
4 filed by an individual who has a judicial proceeding pend-
5 ing against him or her that would result in the revocation
6 of the individual's naturalization under section 340.”.

7 **SEC. 1608. EXTENSION OF TIME LIMIT TO PERMIT RESCIS-**
8 **SION OF PERMANENT RESIDENT STATUS.**

9 Section 246 of the Immigration and Nationality Act
10 (8 U.S.C. 1256(a)) is amended—

11 (1) in subsection (a)—

12 (A) by inserting “(1)” after “(a)”;

13 (B) by striking “within five years” and in-
14 serting “within 10 years”;

15 (C) by striking “Attorney General” each
16 place that term appears and inserting “Sec-
17 retary”; and

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

19 “(2) In any removal proceeding involving an alien
20 whose status has been rescinded under this subsection, the
21 determination by the Secretary that the alien was not eli-
22 gible for adjustment of status is not subject to review or
23 reconsideration during such proceedings.”.

24 (2) by redesignating subsection (b) as sub-
25 section (c); and

1 (3) by inserting after subsection (a) the fol-
2 lowing:

3 “(b) Nothing in subsection (a) may be construed to
4 require the Secretary to rescind the alien’s status before
5 the commencement of removal proceedings under section
6 240. The Secretary may commence removal proceedings
7 at any time against any alien who is removable, including
8 aliens whose status was adjusted to that of an alien law-
9 fully admitted for permanent residence under section 245
10 or 249 or under any other provision of law. There is no
11 statute of limitations with respect to the commencement
12 of removal proceedings under section 240. An order of re-
13 moval issued by an immigration judge shall be sufficient
14 to rescind the alien’s status.”.

15 **SEC. 1609. BARRING PERSECUTORS AND TERRORISTS**
16 **FROM REGISTRY.**

17 Section 249 of the Immigration and Nationality Act
18 (8 U.S.C. 1259) is amended to read as follows:

19 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESI-**
20 **DENCE IN THE CASE OF CERTAIN ALIENS**
21 **WHO ENTERED THE UNITED STATES PRIOR**
22 **TO JANUARY 1, 1972.**

23 “(a) IN GENERAL.—The Secretary, in the discretion
24 of the Secretary and under such regulations as the Sec-
25 retary may prescribe, may enter a record of lawful admis-

1 sion for permanent residence in the case of any alien, if
2 no such record is otherwise available and the alien—

3 “(1) entered the United States before January
4 1, 1972;

5 “(2) has continuously resided in the United
6 States since such entry;

7 “(3) has been a person of good moral character
8 since such entry;

9 “(4) is not ineligible for citizenship;

10 “(5) is not described in paragraph (1)(A)(iv),
11 (2), (3), (6)(C), (6)(E), (8), or (9)(C) of section
12 212(a);

13 “(6) is not described in paragraph (1)(E),
14 (1)(G), (2), (4) of section 237(a); and

15 “(7) did not, at any time, without reasonable
16 cause, fail or refuse to attend or remain in attend-
17 ance at a proceeding to determine the alien’s inad-
18 missibility or deportability.

19 “(b) RECORDATION DATE OF PERMANENT RESI-
20 DENCE.—The record of an alien’s lawful admission for
21 permanence residence shall be the date on which the Sec-
22 retary approves the application for such status under this
23 section.”.

1 **CHAPTER 2—PROHIBITION ON NATU-**
2 **RALIZATION AND UNITED STATES**
3 **CITIZENSHIP**

4 **SEC. 1621. BARRING TERRORISTS FROM BECOMING NATU-**
5 **RALIZED UNITED STATES CITIZENS.**

6 (a) IN GENERAL.—Section 316 of the Immigration
7 and Nationality Act (8 U.S.C. 1427) is amended by add-
8 ing at the end the following:

9 “(g)(1)(A) Except as provided in subparagraph (B),
10 no person may be naturalized if the Secretary makes a
11 determination, in the discretion of the Secretary, that the
12 alien is described in section 212(a)(3) or 237(a)(4) at any
13 time, including any period before or after the filing of an
14 application for naturalization.

15 “(B) Subparagraph (A) shall not apply to an alien
16 described in section 212(a)(3) if—

17 “(i) the alien received an exemption under sec-
18 tion 212(d)(3)(B)(i); and

19 “(ii) the only conduct or actions by the alien
20 that are described in section 212(a)(3) (and would
21 bar the alien from naturalization under this para-
22 graph) are specifically covered by the exemption re-
23 ferred to in clause (i).

1 “(2) A determination under paragraph (1) may be
2 based upon any relevant information or evidence, includ-
3 ing classified, sensitive, or national security information.”.

4 (b) APPLICABILITY TO CITIZENSHIP THROUGH NAT-
5 URALIZATION OF PARENT OR SPOUSE.—Section 340(d) of
6 the Immigration and Nationality Act (8 U.S.C. 1451(e))
7 is amended—

8 (1) by striking the first sentence and inserting
9 the following:

10 “(1) A person who claims United States citizenship
11 through the naturalization of a parent or spouse shall be
12 deemed to have lost his or her citizenship, and any right
13 or privilege of citizenship which he or she may have ac-
14 quired, or may hereafter acquire by virtue of the natu-
15 ralization of such parent or spouse, if the order granting
16 citizenship to such parent or spouse is revoked and set
17 aside under the provisions of—

18 “(A) subsection (a) on the ground that the
19 order and certificate of naturalization were procured
20 by concealment of a material fact or by willful mis-
21 representation; or

22 “(B) subsection (e) pursuant to a conviction
23 under section 1425 of title 18, United States
24 Code.”.

1 (2) by striking “Any person” and inserting the
2 following:

3 “(2) Any person”.

4 **SEC. 1622. TERRORIST BAR TO GOOD MORAL CHARACTER.**

5 (a) DEFINITION OF GOOD MORAL CHARACTER.—

6 Section 101(f) of the Immigration and Nationality Act (8
7 U.S.C. 1101(f)), as amended by sections 1510(e) and
8 1512, is further amended—

9 (1) in paragraph (8), by inserting “, regardless
10 of whether the crime was classified as an aggravated
11 felony at the time of conviction” before the semi-
12 colon at the end;

13 (2) by inserting after paragraph (10), as added
14 by section 1510(e)(3), the following:

15 “(11) one who the Secretary or the Attorney
16 General determines, in the unreviewable discretion of
17 the Secretary or the Attorney General, to have been
18 an alien described in section 212(a)(3) or 237(a)(4),
19 which determination—

20 “(A) may be based upon any relevant in-
21 formation or evidence, including classified, sen-
22 sitive, or national security information; and

23 “(B) shall be binding upon any court re-
24 gardless of the applicable standard of review.”;

25 and

1 (3) in the undesignated matter at the end, by
2 striking the first sentence and inserting following:

3 “The fact that a person is not within any of the foregoing
4 classes shall not preclude a discretionary finding for other
5 reasons that such a person is or was not of good moral
6 character. The Secretary or the Attorney General shall not
7 be limited to the applicant’s conduct during the period for
8 which good moral character is required, but may take into
9 consideration as a basis for determination the applicant’s
10 conduct and acts at any time. The Secretary or the Attor-
11 ney General, in the unreviewable discretion of the Sec-
12 retary or the Attorney General, may determine that para-
13 graph (8) shall not apply to a single aggravated felony
14 conviction (other than murder, manslaughter, homicide,
15 rape, or any sex offense when the victim of such sex of-
16 fense was a minor) for which completion of the term of
17 imprisonment or the sentence (whichever is later) occurred
18 15 years or longer before the date on which the person
19 filed an application under this Act.”.

20 (b) AGGRAVATED FELONS.—Section 509(b) of the
21 Immigration Act of 1990 (Public Law 101–649; 8 U.S.C.
22 1101 note) is amended by striking “convictions” and all
23 that follows and inserting “convictions occurring before,
24 on, or after such date.”.

25 (c) EFFECTIVE DATES; APPLICATION.—

1 (1) SUBSECTIONS (a).—The amendments made
2 by subsection (a) shall take effect on the date of the
3 enactment of this Act, shall apply to any act that oc-
4 curred before, on, or after such date of enactment,
5 and shall apply to any application for naturalization
6 or any other benefit or relief, or any other case or
7 matter under the immigration laws pending on or
8 filed after such date of enactment.

9 (2) SUBSECTION (b).—The amendment made
10 by subsection (b) shall take effect as if included in
11 the enactment of the Intelligence Reform and Ter-
12 rorism Prevention Act of 2004 (Public Law 108–
13 458).

14 **SEC. 1623. PROHIBITION ON JUDICIAL REVIEW OF NATU-**
15 **RALIZATION APPLICATIONS FOR ALIENS IN**
16 **REMOVAL PROCEEDINGS.**

17 Section 318 of the Immigration and Nationality Act
18 (8 U.S.C. 1429) is amended to read as follows:

19 **“SEC. 318. PREREQUISITE TO NATURALIZATION; BURDEN**
20 **OF PROOF.**

21 “(a) IN GENERAL.—Except as otherwise provided in
22 this chapter, no person may be naturalized unless he or
23 she has been lawfully admitted to the United States for
24 permanent residence in accordance with all applicable pro-
25 visions of this chapter.

1 “(b) BURDEN OF PROOF.—Such person shall have
2 the burden of proof to show that he or she entered the
3 United States lawfully, and the time, place, and manner
4 of such entry into the United States, but in presenting
5 such proof the person shall be entitled to the production
6 of his or her immigrant visa, if any, or of other entry docu-
7 ment, if any, and of any other documents and records,
8 not considered by the Secretary to be confidential, per-
9 taining to such entry, in the custody of the Department
10 of Homeland Security.

11 “(c) LIMITATIONS ON REVIEW.—Notwithstanding
12 section 405(b), and except as provided in sections 328 and
13 329—

14 “(1) no person may be naturalized against
15 whom there is outstanding a final finding of re-
16 moval, exclusion, or deportation;

17 “(2) no application for naturalization may be
18 considered by the Secretary or by any court if there
19 is pending against the applicant any removal pro-
20 ceeding or other proceeding to determine whether
21 the applicant’s lawful permanent resident status
22 should be rescinded, regardless of when such pro-
23 ceeding was commenced; and

24 “(3) the findings of the Attorney General in
25 terminating removal proceedings or in cancelling the

1 removal of an alien pursuant to this Act may not be
2 deemed binding in any way upon the Secretary with
3 respect to the question of whether such person has
4 established his or her eligibility for naturalization
5 under this Act.”.

6 **SEC. 1624. LIMITATION ON JUDICIAL REVIEW WHEN AGEN-**
7 **CY HAS NOT MADE DECISION ON NATU-**
8 **RALIZATION APPLICATION AND ON DENIALS.**

9 (a) **LIMITATION ON REVIEW OF PENDING NATU-**
10 **RALIZATION APPLICATIONS.**—Section 336(b) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1447(b)) is amend-
12 ed to read as follows:

13 “(b) **REQUEST FOR HEARING BEFORE DISTRICT**
14 **COURT.**—If no final administrative determination is made
15 on an application for naturalization under section 335 be-
16 fore the end of the 180-day period beginning on the date
17 on which the Secretary completes all examinations and
18 interviews under such section (as such terms are defined
19 by the Secretary, by regulation), the applicant may apply
20 to the district court for the district in which the applicant
21 resides for a hearing on the matter. Such court shall only
22 have jurisdiction to review the basis for delay and remand
23 the matter to the Secretary for the Secretary’s determina-
24 tion on the application.”.

1 (b) LIMITATIONS ON REVIEW OF DENIAL.—Section
2 310(c) of the Immigration and Nationality Act (8 U.S.C.
3 1421(c)) is amended to read as follows:

4 “(c) JUDICIAL REVIEW.—

5 “(1) JUDICIAL REVIEW OF DENIAL.—A person
6 whose application for naturalization under this title
7 is denied may, not later than 120 days after the
8 date of the Secretary’s administratively final deter-
9 mination on the application and after a hearing be-
10 fore an immigration officer under section 336(a),
11 seek review of such denial before the United States
12 district court for the district in which such person
13 resides in accordance with chapter 7 of title 5,
14 United States Code.

15 “(2) BURDEN OF PROOF.—The petitioner shall
16 have burden of proof to show that the Secretary’s
17 denial of the application for naturalization was not
18 supported by facially legitimate and bona fide rea-
19 sons.

20 “(3) LIMITATIONS ON REVIEW.—Except in a
21 proceeding under section 340, and notwithstanding
22 any other provision of law, including section 2241 of
23 title 28, United States Code, any other habeas cor-
24 pus provision, and sections 1361 and 1651 of such
25 title, no court shall have jurisdiction to determine, or

1 to review a determination of the Secretary made at
2 any time regarding, whether, for purposes of an ap-
3 plication for naturalization, an alien—

4 “(A) is a person of good moral character;

5 “(B) understands and is attached to the
6 principles of the Constitution of the United
7 States; or

8 “(C) is well disposed to the good order and
9 happiness of the United States.”.

10 (c) EFFECTIVE DATE; APPLICATION.—The amend-
11 ments made by this section—

12 (1) shall take effect on the date of the enact-
13 ment of this Act;

14 (2) shall apply to any act that occurred before,
15 on, or after such date of enactment; and

16 (3) shall apply to any application for natu-
17 ralization or any other case or matter under the im-
18 migration laws that is pending on, or filed after,
19 such date of enactment.

20 **SEC. 1625. CLARIFICATION OF DENATURALIZATION AU-**
21 **THORITY.**

22 Section 340 of the Immigration and Nationality Act
23 (8 U.S.C. 1451) is amended—

1 (1) in subsection (a), by striking “United
2 States attorneys for the respective districts” and in-
3 serting “Attorney General”; and

4 (2) by amending subsection (c) to read as fol-
5 lows:

6 “(c) The Government shall have the burden of proof
7 to establish, by clear, unequivocal, and convincing evi-
8 dence, that an order granting citizenship to an alien
9 should be revoked and a certificate of naturalization can-
10 celled because such order and certificate were illegally pro-
11 cured or were procured by concealment of a material fact
12 or by willful misrepresentation.”.

13 **SEC. 1626. DENATURALIZATION OF TERRORISTS.**

14 (a) DENATURALIZATION FOR TERRORISTS ACTIVI-
15 TIES.—Section 340 of the Immigration and Nationality
16 Act, as amended by section 1625, is further amended—

17 (1) by redesignating subsections (d) through (h)
18 as subsections (f) through (j), respectively; and

19 (2) by inserting after subsection (c) the fol-
20 lowing:

21 “(d)(1) If a person who has been naturalized, during
22 the 15-year period after such naturalization, participates
23 in any act described in paragraph (2)—

24 “(A) such act shall be considered prima facie
25 evidence that such person was not attached to the

1 principles of the Constitution of the United States
2 and was not well disposed to the good order and
3 happiness of the United States at the time of natu-
4 ralization; and

5 “(B) in the absence of countervailing evidence,
6 such act shall be sufficient in the proper proceeding
7 to authorize the revocation and setting aside of the
8 order admitting such person to citizenship and the
9 cancellation of the certificate of naturalization as
10 having been obtained by concealment of a material
11 fact or by willful misrepresentation; and

12 “(C) such revocation and setting aside of the
13 order admitting such person to citizenship and such
14 canceling of certificate of naturalization shall be ef-
15 fective as of the original date of the order and cer-
16 tificate, respectively.

17 “(2) The acts described in this paragraph that shall
18 subject a person to a revocation and setting aside of his
19 or her naturalization under paragraph (1)(B) are—

20 “(A) any activity a purpose of which is the op-
21 position to, or the control or overthrow of, the Gov-
22 ernment of the United States by force, violence, or
23 other unlawful means;

24 “(B) engaging in a terrorist activity (as defined
25 in clauses (iii) and (iv) of section 212(a)(3)(B));

1 “(C) incitement of terrorist activity under cir-
2 cumstances indicating an intention to cause death or
3 serious bodily harm; and

4 “(D) receiving military-type training (as defined
5 in section 2339D(e)(1) of title 18, United States
6 Code) from or on behalf of any organization that, at
7 the time the training was received, was a terrorist
8 organization (as defined in section
9 212(a)(3)(B)(vi)).”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 subsection (a) shall take effect on the date of the enact-
12 ment of this Act and shall apply to acts that occur on
13 or after such date.

14 **SEC. 1627. TREATMENT OF PENDING APPLICATIONS DUR-**
15 **ING DENATURALIZATION PROCEEDINGS.**

16 (a) **IN GENERAL.**—Section 204(b) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1154(b)) is amended—

18 (1) by striking “After” and inserting “(1) Ex-
19 cept as provided in paragraph (2), after”; and

20 (2) by adding at the end the following:

21 “(2) The Secretary may not adjudicate or approve
22 any petition filed under this section by an individual who
23 has a judicial proceeding pending against him or her that
24 would result in the individual’s denaturalization under sec-
25 tion 340 until—

1 “(A) such proceedings have concluded; and

2 “(B) the period for appeal has expired or any
3 appeals have been finally decided, if applicable.”.

4 (b) WITHHOLDING OF IMMIGRATION BENEFITS.—
5 Section 340 of the Immigration and Nationality Act (8
6 U.S.C. 1451), as amended by section 1626, is further
7 amended by inserting after subsection (d), as added by
8 section 1626(a)(2), the following:

9 “(e) The Secretary may not approve any application,
10 petition, or request for any immigration benefit from an
11 individual against whom there is a judicial proceeding
12 pending that would result in the individual’s
13 denaturalization under this section until—

14 “(1) such proceedings have concluded; and

15 “(2) the period for appeal has expired or any
16 appeals have been finally decided, if applicable.”.

17 **SEC. 1628. NATURALIZATION DOCUMENT RETENTION.**

18 (a) IN GENERAL.—Chapter 2 of title III of the Immi-
19 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
20 amended by inserting after section 344 the following:

21 **“SEC. 345. NATURALIZATION DOCUMENT RETENTION.**

22 “(a) IN GENERAL.—The Secretary shall retain all
23 documents described in subsection (b) for a minimum of
24 7 years for law enforcement and national security inves-
25 tigations and for litigation purposes, regardless of whether

1 such documents are scanned into U.S. Citizenship and Im-
 2 migration Services' electronic immigration system or
 3 stored in any electronic format.

4 “(b) DOCUMENTS TO BE RETAINED.—The docu-
 5 ments described in this subsection are—

6 “(1) the original paper naturalization applica-
 7 tion and all supporting paper documents submitted
 8 with the application at the time of filing, subsequent
 9 to filing, and during the course of the naturalization
 10 interview; and

11 “(2) any paper documents submitted in connec-
 12 tion with an application for naturalization that is
 13 filed electronically.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
 15 in the first section of the Immigration and Nationality Act
 16 is amended by inserting after the item relating to section
 17 344 the following:

“Sec. 345. Naturalization document retention.”.

18 **CHAPTER 3—FORFEITURE OF PROCEEDS**
 19 **FROM PASSPORT AND VISA OFFENSES,**
 20 **AND PASSPORT REVOCATION.**

21 **SEC. 1631. FORFEITURE OF PROCEEDS FROM PASSPORT**
 22 **AND VISA OFFENSES.**

23 Section 981(a)(1) of title 18, United States Code, is
 24 amended by adding at the end the following:

1 “(J) Any property, real or personal, that has
2 been used to commit or facilitate the commission of
3 a violation of chapter 75, the gross proceeds of such
4 violation, and any property traceable to any such
5 property or proceeds.”.

6 **SEC. 1632. PASSPORT REVOCATION ACT.**

7 (a) **SHORT TITLE.**—This section may be cited as the
8 “Passport Revocation Act”.

9 (b) **REVOCATION OR DENIAL OF PASSPORTS AND**
10 **PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILI-**
11 **ATED WITH FOREIGN TERRORIST ORGANIZATIONS.**—The
12 Act entitled “An Act to regulate the issue and validity of
13 passports, and for other purposes”, approved July 3, 1926
14 (22 U.S.C. 211a et seq.), which is commonly known as
15 the “Passport Act of 1926”, is amended by adding at the
16 end the following:

17 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
18 **PASSPORT CARD.**

19 “(a) **INELIGIBILITY.**—

20 “(1) **ISSUANCE.**—Except as provided under
21 subsection (b), the Secretary of State shall refuse to
22 issue a passport or passport card to any individual—

23 “(A) who has been convicted under chapter
24 113B of title 18, United States Code; or

1 “(B)(i) whom the Secretary has deter-
2 mined is a member of or is otherwise affiliated
3 with an organization the Secretary has des-
4 ignated as a foreign terrorist organization pur-
5 suant to section 219 of the Immigration and
6 Nationality Act (8 U.S.C. 1189); or

7 “(ii) has aided, abetted, or provided mate-
8 rial support to such an organization.

9 “(2) REVOCATION.—The Secretary of State
10 shall revoke a passport previously issued to any indi-
11 vidual described in paragraph (1).

12 “(b) EXCEPTIONS.—

13 “(1) EMERGENCY CIRCUMSTANCES, HUMANI-
14 TARIAN REASONS, AND LAW ENFORCEMENT PUR-
15 POSES.—Notwithstanding subsection (a), the Sec-
16 retary of State may issue, or decline to revoke, a
17 passport of an individual described in such sub-
18 section in emergency circumstances, for humani-
19 tarian reasons, or for law enforcement purposes.

20 “(2) LIMITATION FOR RETURN TO UNITED
21 STATES.—Notwithstanding subsection (a)(2), the
22 Secretary of State, before revocation, may—

23 “(A) limit a previously issued passport for
24 use only for return travel to the United States;
25 or

1 “(B) issue a limited passport that only
2 permits return travel to the United States.

3 “(c) RIGHT OF REVIEW.—Any individual who, in ac-
4 cordance with this section, is denied issuance of a passport
5 by the Secretary of State, or whose passport is revoked
6 or otherwise limited by the Secretary of State, may re-
7 quest a hearing before the Secretary of State not later
8 than 60 days after receiving notice of such denial, revoca-
9 tion, or limitation.

10 “(d) REPORT.—If the Secretary of State denies,
11 issues, limits, or declines to revoke a passport or passport
12 card under subsection (b), the Secretary, not later than
13 30 days after such denial, issuance, limitation, or revoca-
14 tion, shall submit a report to Congress that describes such
15 denial, issuance, limitation, or revocation, as the case may
16 be.”.

17 **TITLE II—ASYLUM REFORM AND**
18 **BORDER PROTECTION ACT**
19 **OF 2017**

20 **SEC. 2001. SHORT TITLE.**

21 This title may be cited as the “Asylum Reform and
22 Border Protection Act of 2017”.

1 **SEC. 2002. CLARIFICATION OF INTENT REGARDING TAX-**
2 **PAYER-PROVIDED COUNSEL.**

3 Section 292 of the Immigration and Nationality Act
4 (8 U.S.C. 1362) is amended—

5 (1) by striking “(at no expense to the Govern-
6 ment)”; and

7 (2) by adding at the end the following: “Not-
8 withstanding any other provision of law, the Govern-
9 ment may not bear any expense for counsel for any
10 person in removal proceedings or in any appeal pro-
11 ceedings before the Attorney General from any such
12 removal proceedings.”.

13 **SEC. 2003. UNACCOMPANIED ALIEN CHILD DEFINED.**

14 (a) **IN GENERAL.**—Section 462(g)(2) of the Home-
15 land Security Act of 2002 (6 U.S.C. 279(g)(2)) is amend-
16 ed to read as follows:

17 “(2) the term ‘unaccompanied alien child’—

18 “(A) means an alien who—

19 “(i) has no lawful immigration status
20 in the United States;

21 “(ii) has not attained 18 years of age;

22 and

23 “(iii) with respect to whom—

24 “(I) there is no parent or legal
25 guardian in the United States;

1 “(II) no parent or legal guardian
2 in the United States is available to
3 provide care and physical custody; or

4 “(III) no sibling older than 18
5 years of age and no aunt, uncle,
6 grandparent, or cousin older than 18
7 years of age is available to provide
8 care and physical custody; and

9 “(B) does not include an alien if, at any
10 time, the alien’s parent, legal guardian, sibling
11 older than 18 years of age, or aunt, uncle,
12 grandparent, or cousin older than 18 years of
13 age is found in the United States and is avail-
14 able to provide care and physical custody.”.

15 (b) REVOCATION OF DESIGNATION.—The Secretary
16 of Homeland Security and the Secretary of Health and
17 Human Services shall revoke any designation of an alien
18 as an unaccompanied alien child under section 462(g)(2)
19 of the Homeland Security Act of 2002, as amended by
20 subsection (a), upon the discovery of a relative of such
21 alien described in subparagraph (B) of such section.

1 **SEC. 2004. MODIFICATIONS TO PREFERENTIAL AVAIL-**
2 **ABILITY FOR ASYLUM FOR UNACCOMPANIED**
3 **ALIEN MINORS.**

4 Section 208 of the Immigration and Nationality Act
5 (8 U.S.C. 1158) is amended—

6 (1) in subsection (a)(2), by striking subpara-
7 graph (E); and

8 (2) in subsection (b)(3), by striking subpara-
9 graph (C).

10 **SEC. 2005. INFORMATION SHARING BETWEEN THE DEPART-**
11 **MENT OF HEALTH AND HUMAN SERVICES**
12 **AND THE DEPARTMENT OF HOMELAND SECU-**
13 **RITY.**

14 Section 235(b) of the William Wilberforce Trafficking
15 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
16 1232(b)) is amended by adding at the end the following:

17 “(5) INFORMATION SHARING.—The Secretary
18 of Health and Human Services shall share with the
19 Secretary of Homeland Security any information re-
20 quested on a child who has been determined to be
21 an unaccompanied alien child and who is or has
22 been in the custody of the Secretary of Health and
23 Human Services, including the location of the child
24 and any person to whom custody of the child has
25 been transferred, for any legitimate law enforcement

1 objective, including enforcement of the immigration
2 laws.”.

3 **SEC. 2006. REPORTS.**

4 (a) IN GENERAL.—Not later than 6 months after the
5 date of the enactment of this Act, and annually thereafter,
6 the Secretary of State and the Secretary of Health and
7 Human Services, with assistance from the Secretary of
8 Homeland Security, shall submit a report to the Com-
9 mittee on the Judiciary of the Senate and the Committee
10 on the Judiciary of the House of Representatives that de-
11 scribes efforts to improve repatriation programs for unac-
12 companied alien children (as defined in section 462(g)(2)
13 of the Homeland Security Act of 2002 (6 U.S.C.
14 279(g)(2)), including—

15 (1) the average time such a child is detained
16 after apprehension until removal;

17 (2) the number of such children detained im-
18 properly beyond the required periods described in
19 paragraphs (2) and (3) of section 235(b) of the Wil-
20 liam Wilberforce Trafficking Victims Protection Re-
21 authorization Act of 2008 (8 U.S.C. 1232(b)); and

22 (3) a statement of the funds used to effectuate
23 the repatriation of such children, including any
24 funds that were reallocated from foreign assistance
25 accounts as of the date of the enactment of this Act.

1 (b) EFFECTIVE DATE.—This section shall take effect
2 on the date of the enactment of this Act and shall apply
3 with respect to any unaccompanied alien child (as defined
4 in section 462(g)(2) of the Homeland Security Act of 2002
5 (6 U.S.C. 279(g)(2)) apprehended on or after such date.

6 **SEC. 2007. TERMINATION OF ASYLUM STATUS PURSUANT**
7 **TO RETURN TO HOME COUNTRY.**

8 (a) TERMINATION OF STATUS.—Except as provided
9 in subsections (b) and (c), any alien who is granted asylum
10 or refugee status under the Immigration and Nationality
11 Act (8 U.S.C. 1101 et seq.) shall have his or her asylum
12 status terminated if the alien—

13 (1) applied for such status because of persecu-
14 tion or a well-founded fear of persecution in that
15 country on account of race, religion, nationality,
16 membership in a particular social group, or political
17 opinion; and

18 (2) without a compelling reason, as determined
19 by the Secretary of Homeland Security—

20 (A) subsequently returns to the country of
21 such alien's nationality; or

22 (B) in the case of an alien having no na-
23 tionality, subsequently returns to any country
24 in which such alien last habitually resided.

1 (b) WAIVER.—The Secretary may waive the applica-
2 tion of subsection (a) if the Secretary determines that the
3 alien had a compelling reason for a return described in
4 subsection (a). The waiver may be sought before the
5 alien’s departure from the United States or upon the
6 alien’s return to the United States.

7 (c) EXCEPTION FOR CERTAIN ALIENS FROM
8 CUBA.—Subsection (a) shall not apply to an alien who is
9 eligible for adjustment to the status of an alien lawfully
10 admitted for permanent residence pursuant to the Cuban
11 Adjustment Act of 1966 (Public Law 89–732).

12 **SEC. 2008. ASYLUM CASES FOR HOME SCHOOLERS.**

13 (a) IN GENERAL.—Section 101(a)(42) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1101(a)(42)) is
15 amended by adding at the end the following: “For pur-
16 poses of determinations under this Act, a person who has
17 been persecuted for failure or refusal to comply with any
18 law or regulation that prevents the exercise of the indi-
19 vidual right of that person to direct the upbringing and
20 education of a child of that person (including any law or
21 regulation preventing homeschooling), or for other resist-
22 ance to such a law or regulation, shall be deemed to have
23 been persecuted on account of membership in a particular
24 social group, and a person who has a well founded fear
25 that he or she will be subject to persecution for such fail-

1 ure, refusal, or resistance shall be deemed to have a well
2 founded fear of persecution on account of membership in
3 a particular social group.”.

4 (b) NUMERICAL LIMITATION.—Section 207(a) of the
5 Immigration and Nationality Act (8 U.S.C. 1157(a)) is
6 amended by adding at the end the following:

7 “(5) For any fiscal year, not more than 500 aliens
8 may be admitted under this section, or granted asylum
9 under section 208, pursuant to a determination under sec-
10 tion 101(a)(42) that the alien is described in the last sen-
11 tence of section 101(a)(42), as added by section 2008 of
12 the Asylum Reform and Border Protection Act of 2017.”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendment made by
15 subsection (a) shall take effect on the date of the en-
16 actment of this Act and shall apply to failure or re-
17 fusals to comply with a law or regulation, or other re-
18 sistance to a law or regulation, occurring before, on,
19 or after such date.

20 (2) NUMERICAL LIMITATION.—The amendment
21 made by subsection (b) shall take effect beginning
22 on the first day of the first fiscal year beginning
23 after the date of the enactment of this Act.

1 **SEC. 2009. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
2 **PLICATIONS:.**

3 (a) **IN GENERAL.**—Section 208(d)(4) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
5 amended—

6 (1) in the matter preceding subparagraph (A),
7 by inserting “the Secretary of Homeland Security
8 or” before “the Attorney General”;

9 (2) in subparagraph (A), by striking “and of
10 the consequences, under paragraph (6), of knowingly
11 filing a frivolous application for asylum”;

12 (3) in subparagraph (B), by striking the period
13 and inserting “; and”; and

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

15 “(C) ensure that a written warning ap-
16 pears on the asylum application advising the
17 alien of the consequences of filing a frivolous
18 application and serving as notice to the alien of
19 the consequences of filing a frivolous applica-
20 tion.”.

21 (b) **CONFORMING AMENDMENT.**—Section 208(d)(6)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1158(d)(6)) is amended by striking “paragraph (4)(A)”
24 and inserting “paragraph (4)(C)”.

1 **SEC. 2010. TERMINATION OF ASYLUM STATUS.**

2 Section 208(c) of the Immigration and Nationality
3 Act (8 U.S.C. 1158(c)) is amended by adding at the end
4 the following:

5 “(4) If an alien’s asylum status is subject to
6 termination under paragraph (2), the immigration
7 judge shall—

8 “(A) determine whether the conditions
9 specified under paragraph (2) have been met;
10 and

11 “(B) if such conditions have been met, ter-
12minate the alien’s asylum status before consid-
13ering whether the alien is eligible for adjust-
14ment of status under section 209.”.

15 **SEC. 2011. TIME LIMITS FOR APPLYING FOR ASYLUM.**

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

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

20 “(B) TIME LIMIT.—Subject to subpara-
21graph (D), paragraph (1) shall not apply to an
22alien unless the alien demonstrates, by clear
23and convincing evidence, that the alien filed an
24application for asylum not later than 6 months
25after the date of the alien’s arrival in the
26United States.”;

1 (2) by amending subparagraph (D) to read as
2 follows:

3 “(D) EXCEPTION.—

4 “(i) IN GENERAL.—The Secretary of
5 Homeland Security, in the Secretary’s dis-
6 cretion, may permit an alien to apply for
7 asylum outside of the time limit prescribed
8 under subparagraph (B) if the Secretary
9 determines that there has been such an ex-
10 traordinary and material change in cir-
11 cumstances that the alien’s life or freedom
12 would be threatened, because of the alien’s
13 race, religion, nationality, or membership
14 in a particular social group, or political
15 opinion, if the alien were returned to his or
16 her country of origin, nationality, or citi-
17 zenship.

18 “(ii) JUDICIAL REVIEW.—Notwith-
19 standing any other provision of law (statu-
20 tory or nonstatutory), including section
21 2241 of title 28, United States Code, or
22 any other habeas corpus provisions, and
23 sections 1361 and 1651 of such title, no
24 court shall have jurisdiction to review a de-

1 cision by the Secretary under clause (i).”;

2 and

3 (3) by striking subparagraph (E).

4 **SEC. 2012. LIMITS ON CONTINUANCES IN REMOVAL PRO-**

5 **CEEDINGS. Section 240(c) of the Immigration**

6 **and Nationality Act (8 U.S.C. 1229a(c)) is amend-**

7 **ed by adding at the end the following:**

8 “(8) MOTION FOR CONTINUANCE.—

9 “(A) IN GENERAL.—An immigration judge
10 may grant a motion for continuance in a case
11 if the immigration judge determines that there
12 are emergent or extraordinary circumstances
13 justifying such a continuance.

14 “(B) LIMITATIONS.—Not more than 2 con-
15 tinuances may be granted in a specific alien’s
16 case. Each continuance shall be limited to a pe-
17 riod of not longer than 180 days.”.

18 **TITLE III—E—VERIFY**

19 **SEC. 3001. PERMANENT REAUTHORIZATION.**

20 Section 401(b) of the Illegal Immigration Reform and
21 Immigrant Responsibility Act of 1996 (division C of Pub-
22 lic Law 104–208; 8 U.S.C. 1324a note) is amended by
23 striking “Unless the Congress otherwise provides, the Sec-
24 retary of Homeland Security shall terminate a pilot pro-
25 gram on September 30, 2015.”.

1 **SEC. 3002. PREEMPTION; LIABILITY.**

2 Section 402 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
4 note) is amended by adding at the end the following:

5 “(g) **LIMITATION ON STATE AUTHORITY.**—

6 “(1) **PREEMPTION.**—A State or local govern-
7 ment may not prohibit a person or other entity from
8 verifying the employment authorization of new hires
9 or current employees through E-Verify.

10 “(2) **LIABILITY.**—A person or other entity that
11 participates in E-Verify may not be held liable under
12 any Federal, State, or local law for any employment-
13 related action taken with respect to the wrongful
14 termination of an individual in good faith reliance on
15 information provided through E-Verify.”.

16 **SEC. 3003. INFORMATION SHARING.**

17 The Commissioner of Social Security, the Secretary
18 of Homeland Security, and the Secretary of the Treasury
19 shall jointly establish a program to share information
20 among their respective agencies that could lead to the
21 identification of unauthorized aliens (as defined in section
22 274A(h)(3) of the Immigration and Nationality Act (8
23 U.S.C. 1324a(h)(3)), including no-match letters and any
24 information in the earnings suspense file.

1 **SEC. 3004. SMALL BUSINESS DEMONSTRATION PROGRAM.**

2 Section 403 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
4 note) is amended—

5 (1) by redesignating subsection (d) as sub-
6 section (e); and

7 (2) by inserting after subsection (e) the fol-
8 lowing:

9 “(d) SMALL BUSINESS DEMONSTRATION PRO-
10 GRAM.—Not later than 9 months after the date of the en-
11 actment of the SECURE Act of 2017, the Director of U.S.
12 Citizenship and Immigration Services shall establish a
13 demonstration program that assists small businesses in
14 rural areas or areas without internet capabilities to verify
15 the employment eligibility of newly hired employees solely
16 through the use of publicly accessible internet terminals.”.

17 **SEC. 3005. FRAUD PREVENTION.**

18 (a) BLOCKING MISUSED SOCIAL SECURITY ACCOUNT
19 NUMBERS.—The Secretary of Homeland Security, in con-
20 sultation with the Commissioner of Social Security, shall
21 establish a program in which Social Security account num-
22 bers that have been identified to be subject to unusual
23 multiple use in the employment eligibility verification sys-
24 tem established under section 274A(d) of the Immigration
25 and Nationality Act (8 U.S.C. 1324a(d)), or that are oth-
26 erwise suspected or determined to have been compromised

1 by identity fraud or other misuse, shall be blocked from
2 use for such system purposes unless the individual using
3 such number is able to establish, through secure and fair
4 additional security procedures, that the individual is the
5 legitimate holder of the number.

6 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
7 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
8 Homeland Security, in consultation with the Commis-
9 sioner of Social Security, shall establish a program that
10 provides a reliable, secure method by which victims of
11 identity fraud and other individuals may suspend or limit
12 the use of their Social Security account number or other
13 identifying information for purposes of the employment
14 eligibility verification system established under section
15 274A(d) of the Immigration and Nationality Act (8 U.S.C.
16 1324a(d)). The Secretary may implement the program on
17 a limited pilot program basis before making it fully avail-
18 able to all individuals.

19 (c) ALLOWING PARENTS TO PREVENT THEFT OF
20 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
21 Security, in consultation with the Commissioner of Social
22 Security, shall establish a program that provides a reli-
23 able, secure method by which parents or legal guardians
24 may suspend or limit the use of the Social Security ac-
25 count number or other identifying information of a minor

1 under their care for the purposes of the employment eligi-
2 bility verification system established under 274A(d) of the
3 Immigration and Nationality Act (8 U.S.C. 1324a(d)).
4 The Secretary may implement the program on a limited
5 pilot program basis before making it fully available to all
6 individuals.

7 **SEC. 3006. IDENTITY AUTHENTICATION EMPLOYMENT ELI-**
8 **GIBILITY VERIFICATION PILOT PROGRAMS.**

9 (a) IN GENERAL.—Not later than 2 years after the
10 date of the enactment of this Act, the Secretary of Home-
11 land Security, after consultation with the Commissioner
12 of Social Security and the Director of the National Insti-
13 tute of Standards and Technology, shall establish, by reg-
14 ulation, not fewer than 2 Identity Authentication Employ-
15 ment Eligibility Verification pilot programs (referred to in
16 this section as the “Authentication Pilots”), each of which
17 shall use a separate and distinct technology.

18 (b) PURPOSE.—The purpose of the Authentication
19 Pilots shall be to provide for identity authentication and
20 employment eligibility verification with respect to enrolled
21 new employees to any employer that elects to participate
22 in an Authentication Pilot.

23 (c) CANCELLATION.—Any participating employer
24 may cancel the employer’s participation in an Authentica-

1 tion Pilot after 1 year after electing to participate without
2 prejudice to future participation.

3 (d) REPORT.—Not later than 12 months after com-
4 mencement of the Authentication Pilots, the Secretary
5 shall submit a report to the Committee on the Judiciary
6 of the Senate and the Committee on the Judiciary of the
7 House of Representatives that includes the Secretary’s
8 findings on the Authentication Pilots and the authentica-
9 tion technologies chosen.

10 **TITLE IV—BRIDGE ACT**

11 **SEC. 4001. SHORT TITLE.**

12 This title may be cited as the “Bar Removal of Indi-
13 viduals who Dream and Grow our Economy Act” or the
14 “BRIDGE Act”.

15 **SEC. 4002. PROVISIONAL PROTECTED PRESENCE FOR** 16 **YOUNG INDIVIDUALS.**

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

20 **“SEC. 244A. PROVISIONAL PROTECTED PRESENCE.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) DACA RECIPIENT.—The term ‘DACA re-
23 cipient’ means an alien who is in deferred action sta-
24 tus on the date of the enactment of this section pur-

1 suant to the Deferred Action for Childhood Arrivals
2 (‘DACA’) Program announced on June 15, 2012.

3 “(2) FELONY.—The term ‘felony’ means a Fed-
4 eral, State, or local criminal offense (excluding a
5 State or local offense for which an essential element
6 was the alien’s immigration status) punishable by
7 imprisonment for a term exceeding 1 year.

8 “(3) MISDEMEANOR.—The term ‘misdemeanor’
9 means a Federal, State, or local criminal offense
10 (excluding a State or local offense for which an es-
11 sential element was the alien’s immigration status, a
12 significant misdemeanor, and a minor traffic of-
13 fense) for which—

14 “(A) the maximum term of imprisonment
15 is greater than 5 days and not greater than 1
16 year; and

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

19 “(4) SECRETARY.—The term ‘Secretary’ means
20 the Secretary of Homeland Security.

21 “(5) SIGNIFICANT MISDEMEANOR.—The term
22 ‘significant misdemeanor’ means a Federal, State, or
23 local criminal offense (excluding a State or local of-
24 fense for which an essential element was the alien’s
25 immigration status), for which the maximum term of

1 imprisonment is greater than 5 days and not greater
2 than 1 year, that—

3 “(A) regardless of the sentence imposed, is
4 a crime of domestic violence (as defined in sec-
5 tion 237(a)(2)(E)(i)) or an offense of sexual
6 abuse or exploitation, burglary, unlawful posses-
7 sion or use of a firearm, drug distribution or
8 trafficking, or driving under the influence if the
9 State law requires, as an element of the offense,
10 the operation of a motor vehicle and a finding
11 of impairment or a blood alcohol content of .08
12 or higher; or

13 “(B) resulted in a sentence of time in cus-
14 tody of more than 90 days, excluding an offense
15 for which the sentence was suspended.

16 “(6) THREAT TO NATIONAL SECURITY.—An
17 alien is a ‘threat to national security’ if the alien
18 is—

19 “(A) inadmissible under section 212(a)(3);

20 or

21 “(B) deportable under section 237(a)(4).

22 “(7) THREAT TO PUBLIC SAFETY.—An alien is
23 a ‘threat to public safety’ if the alien—

24 “(A) has been convicted of an offense for
25 which an element was participation in a crimi-

1 nal street gang (as defined in section 521(a) of
2 title 18, United States Code); or

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

7 “(b) AUTHORIZATION.—The Secretary—

8 “(1) shall grant provisional protected presence
9 to any alien who files an application demonstrating
10 that he or she meets the eligibility criteria under
11 subsection (c) and pays the appropriate application
12 fee;

13 “(2) may not remove an alien described in
14 paragraph (1) from the United States during the pe-
15 riod in which such provisional protected presence is
16 in effect unless such status is rescinded pursuant to
17 subsection (g); and

18 “(3) shall provide an alien granted provisional
19 protected presence with employment authorization.

20 “(c) ELIGIBILITY CRITERIA.—An alien is eligible for
21 provisional protected presence under subsection (b)(1) and
22 employment authorization under subsection (b)(3) if the
23 alien—

24 “(1) was born after June 15, 1981;

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

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

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

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

11 “(6) on the date on which the alien files an ap-
12 plication for provisional protected presence—

13 “(A) is enrolled in school or in an edu-
14 cation program assisting students in obtaining
15 a regular high school diploma or its recognized
16 equivalent under State law, or in passing a gen-
17 eral educational development exam or other
18 State-authorized exam;

19 “(B) has graduated or obtained a certifi-
20 cate of completion from high school;

21 “(C) has obtained a general educational
22 development certificate; or

23 “(D) is an honorably discharged veteran of
24 the Coast Guard or Armed Forces of the
25 United States;

1 “(7) has not been convicted of—

2 “(A) a felony;

3 “(B) a significant misdemeanor; or

4 “(C) 3 or more misdemeanors not occur-
5 ring on the same date and not arising out of
6 the same act, omission, or scheme of mis-
7 conduct; and

8 “(8) does not otherwise pose a threat to na-
9 tional security or a threat to public safety.

10 “(d) DURATION OF PROVISIONAL PROTECTED PRES-
11 ENCE AND EMPLOYMENT AUTHORIZATION.—Provisional
12 protected presence and the employment authorization pro-
13 vided under this section shall be effective until the date
14 that is 3 years after the date of the enactment of this
15 section.

16 “(e) STATUS DURING PERIOD OF PROVISIONAL PRO-
17 TECTED PRESENCE.—

18 “(1) IN GENERAL.—An alien granted provi-
19 sional protected presence is not considered to be un-
20 lawfully present in the United States during the pe-
21 riod beginning on the date such status is granted
22 and ending on the date described in subsection (d).

23 “(2) STATUS OUTSIDE PERIOD.—The granting
24 of provisional protected presence under this section

1 does not excuse previous or subsequent periods of
2 unlawful presence.

3 “(f) APPLICATION.—

4 “(1) AGE REQUIREMENT.—

5 “(A) IN GENERAL.—An alien who has
6 never been in removal proceedings, or whose
7 proceedings have been terminated before mak-
8 ing a request for provisional protected presence,
9 shall be at least 15 years of age on the date on
10 which the alien submits an application under
11 this section.

12 “(B) EXCEPTION.—The age requirement
13 set forth in subparagraph (A) shall not apply to
14 an alien who, on the date on which the alien ap-
15 plies for provisional protected presence, is in re-
16 moval proceedings, has a final removal order, or
17 has a voluntary departure order.

18 “(2) APPLICATION FEE.—

19 “(A) IN GENERAL.—The Secretary may re-
20 quire aliens applying for provisional protected
21 presence and employment authorization under
22 this section to pay a reasonable fee that is com-
23 mensurate with the cost of processing the appli-
24 cation.

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

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

6 “(II) received total income during the
7 12-month period immediately preceding the
8 date on which the alien files an application
9 under this section that is less than 150
10 percent of the United States poverty level;
11 and

12 “(III) is in foster care or otherwise
13 lacking any parental or other familial sup-
14 port;

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

17 “(iii)(I) cannot care for himself or
18 herself because of a serious, chronic dis-
19 ability; and

20 “(II) received total income during the
21 12-month period immediately preceding the
22 date on which the alien files an application
23 under this section that is less than 150
24 percent of the United States poverty level;
25 or

1 “(iv)(I) as of the date on which the
2 alien files an application under this sec-
3 tion, has accumulated \$10,000 or more in
4 debt in the past 12 months as a result of
5 unreimbursed medical expenses incurred by
6 the alien or an immediate family member
7 of the alien; and

8 “(II) received total income during the
9 12-month period immediately preceding the
10 date on which the alien files an application
11 under this section that is less than 150
12 percent of the United States poverty level.

13 “(3) REMOVAL STAYED WHILE APPLICATION
14 PENDING.—The Secretary may not remove an alien
15 from the United States who appears *prima facie* eli-
16 gible for provisional protected presence while the
17 alien’s application for provisional protected presence
18 is pending.

19 “(4) ALIENS NOT IN IMMIGRATION DETEN-
20 TION.—An alien who is not in immigration deten-
21 tion, but who is in removal proceedings, is the sub-
22 ject of a final removal order, or is the subject of a
23 voluntary departure order, may apply for provisional
24 protected presence under this section if the alien ap-

1 appears prima facie eligible for provisional protected
2 presence.

3 “(5) ALIENS IN IMMIGRATION DETENTION.—
4 The Secretary shall provide any alien in immigration
5 detention, including any alien who is in removal pro-
6 ceedings, is the subject of a final removal order, or
7 is the subject of a voluntary departure order, who
8 appears prima facie eligible for provisional protected
9 presence, upon request, with a reasonable oppor-
10 tunity to apply for provisional protected presence
11 under this section.

12 “(6) CONFIDENTIALITY.—

13 “(A) IN GENERAL.—The Secretary shall
14 protect information provided in applications for
15 provisional protected presence under this sec-
16 tion and in requests for consideration of DACA
17 from disclosure to U.S. Immigration and Cus-
18 toms Enforcement and U.S. Customs and Bor-
19 der Protection for the purpose of immigration
20 enforcement proceedings.

21 “(B) REFERRALS PROHIBITED.—The Sec-
22 retary may not refer individuals whose cases
23 have been deferred pursuant to DACA or who
24 have been granted provisional protected pres-

1 ence under this section to U.S. Immigration
2 and Customs Enforcement.

3 “(C) LIMITED EXCEPTION.—The informa-
4 tion submitted in applications for provisional
5 protected presence under this section and in re-
6 quests for consideration of DACA may be
7 shared with national security and law enforce-
8 ment agencies—

9 “(i) for assistance in the consideration
10 of the application for provisional protected
11 presence;

12 “(ii) to identify or prevent fraudulent
13 claims;

14 “(iii) for national security purposes;
15 and

16 “(iv) for the investigation or prosecu-
17 tion of any felony not related to immigra-
18 tion status.

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

24 “(g) RESCISSION OF PROVISIONAL PROTECTED
25 PRESENCE.—The Secretary may not rescind an alien’s

1 provisional protected presence or employment authoriza-
2 tion granted under this section unless the Secretary deter-
3 mines that the alien—

4 “(1) has been convicted of—

5 “(A) a felony;

6 “(B) a significant misdemeanor; or

7 “(C) 3 or more misdemeanors not occur-
8 ring on the same date and not arising out of
9 the same act, omission, or scheme of mis-
10 conduct;

11 “(2) poses a threat to national security or a
12 threat to public safety;

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

15 “(4) has ceased to continuously reside in the
16 United States.

17 “(h) TREATMENT OF BRIEF, CASUAL, AND INNO-
18 CENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

19 For purposes of subsections (c)(3) and (g)(4), an alien
20 shall not be considered to have failed to continuously re-
21 side in the United States due to—

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

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

4 “(i) TREATMENT OF EXPUNGED CONVICTIONS.—For
5 purposes of subsections (e)(7) and (g)(1), an expunged
6 conviction shall not automatically be treated as a disquali-
7 fying felony, significant misdemeanor, or misdemeanor,
8 but shall be evaluated on a case-by-case basis according
9 to the nature and severity of the offense to determine
10 whether, under the particular circumstances, the alien
11 should be eligible for provisional protected presence under
12 this section.

13 “(j) EFFECT OF DEFERRED ACTION UNDER DE-
14 FERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

15 “(1) PROVISIONAL PROTECTED PRESENCE.—A
16 DACA recipient is deemed to have provisional pro-
17 tected presence under this section through the expi-
18 ration date of the alien’s deferred action status, as
19 specified by the Secretary in conjunction with the
20 approval of the alien’s DACA application.

21 “(2) EMPLOYMENT AUTHORIZATION.—If a
22 DACA recipient has been granted employment au-
23 thorization by the Secretary in addition to deferred
24 action, the employment authorization shall continue
25 through the expiration date of the alien’s deferred

1 action status, as specified by the Secretary in con-
2 junction with the approval of the alien’s DACA ap-
3 plication.

4 “(3) EFFECT OF APPLICATION.—If a DACA re-
5 cipient files an application for provisional protected
6 presence under this section not later than the expi-
7 ration date of the alien’s deferred action status, as
8 specified by the Secretary in conjunction with the
9 approval of the alien’s DACA application, the alien’s
10 provisional protected presence, and any employment
11 authorization, shall remain in effect pending the ad-
12 judication of such application.”.

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

 “Sec. 244A. Provisional protected presence.”.

17 **TITLE V—REFORMING AMER-**
18 **ICAN IMMIGRATION FOR A**
19 **STRONG ECONOMY ACT**

20 **SEC. 5001. SHORT TITLE.**

21 This title may be cited as the “Reforming American
22 Immigration for a Strong Economy Act” or the “RAISE
23 Act”.

1 **SEC. 5002. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

2 (a) REDEFINITION OF IMMEDIATE RELATIVE.—The
3 Immigration and Nationality Act (8 U.S.C. 1101 et seq.)
4 is amended—

5 (1) in section 101(b)(1), in the matter pre-
6 ceding subparagraph (A), by striking “under twenty-
7 one years of age who” and inserting “who is younger
8 than 18 years of age and”; and

9 (2) in section 201 (8 U.S.C. 1151)—

10 (A) in subsection (b)(2)(A)—

11 (i) in clause (i), by striking “children,
12 spouses, and parents of a citizen of the
13 United States, except that, in the case of
14 parents, such citizens shall be at least 21
15 years of age.” and inserting “children and
16 spouse of a citizen of the United States.”;
17 and

18 (ii) in clause (ii), by striking “such an
19 immediate relative” and inserting “the im-
20 mediate relative spouse of a United States
21 citizen”;

22 (B) by amending subsection (c) to read as
23 follows:

24 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
25 IMMIGRANTS.—(1) The worldwide level of family-spon-
26 sored immigrants under this subsection for a fiscal year

1 is equal to 39 percent of 226,000 minus the number com-
2 puted under paragraph (2).

3 “(2) The number computed under this paragraph for
4 a fiscal year is the number of aliens who were paroled into
5 the United States under section 212(d)(5) in the second
6 preceding fiscal year who—

7 “(A) did not depart from the United States
8 (without advance parole) within 1 year; and

9 “(B)(i) did not acquire the status of an alien
10 lawfully admitted to the United States for perma-
11 nent residence during the 2 preceding fiscal years;
12 or

13 “(ii) acquired such status during such period
14 under a provision of law (other than subsection (b))
15 that exempts adjustment to such status from the nu-
16 merical limitation on the worldwide level of immigra-
17 tion under this section.”; and

18 (C) in subsection (f)—

19 (i) in paragraph (2), by striking “sec-
20 tion 203(a)(2)(A)” and inserting “section
21 203(a)”;

22 (ii) by striking paragraph (3);

23 (iii) by redesignating paragraph (4) as
24 paragraph (3); and

1 (iv) in paragraph (3), as redesignated,
2 by striking “(1) through (3)” and inserting
3 “(1) and (2)”.

4 (b) FAMILY-BASED VISA PREFERENCES.—Section
5 203(a) of the Immigration and Nationality Act (8 U.S.C.
6 1153(a)) is amended to read as follows:

7 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
8 NENT RESIDENT ALIENS.—Family-sponsored immigrants
9 described in this subsection are qualified immigrants who
10 are the spouse or a child of an alien lawfully admitted
11 for permanent residence.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) DEFINITION OF V NONIMMIGRANT.—Section
14 101(a)(15)(V) of the Immigration and Nationality
15 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-
16 ing “section 203(a)(2)(A)” each place such term ap-
17 pears and inserting “section 203(a)”.

18 (2) NUMERICAL LIMITATION TO ANY SINGLE
19 FOREIGN STATE.—Section 202 of such Act (8
20 U.S.C. 1152) is amended—

21 (A) in subsection (a)(4)—

22 (i) by striking subparagraphs (A) and
23 (B) and inserting the following:

24 “(A) 75 PERCENT OF FAMILY-SPONSORED
25 IMMIGRANTS NOT SUBJECT TO PER COUNTRY

1 LIMITATION.—Of the visa numbers made avail-
2 able under section 203(a) in any fiscal year, 75
3 percent shall be issued without regard to the
4 numerical limitation under paragraph (2).

5 “(B) TREATMENT OF REMAINING 25 PER-
6 CENT FOR COUNTRIES SUBJECT TO SUB-
7 SECTION (e).—

8 “(i) IN GENERAL.—Of the visa num-
9 bers made available under section 203(a)
10 in any fiscal year, 25 percent shall be
11 available, in the case of a foreign state or
12 dependent area that is subject to sub-
13 section (e) only to the extent that the total
14 number of visas issued in accordance with
15 subparagraph (A) to natives of the foreign
16 state or dependent area is less than the
17 subsection (e) ceiling.

18 “(ii) SUBSECTION (e) CEILING DE-
19 FINED.—In clause (i), the term ‘subsection
20 (e) ceiling’ means, for a foreign state or
21 dependent area, 77 percent of the max-
22 imum number of visas that may be made
23 available under section 203(a) to immi-
24 grants who are natives of the state or area,
25 consistent with subsection (e).”; and

1 (ii) by striking subparagraphs (C) and
2 (D); and
3 (B) in subsection (e)—

4 (i) in paragraph (1), by adding “and”
5 at the end;

6 (ii) by striking paragraph (2);

7 (iii) by redesignating paragraph (3) as
8 paragraph (2); and

9 (iv) in the undesignated matter after
10 paragraph (2), as redesignated, by striking
11 “, respectively,” and all that follows and
12 inserting a period.

13 (3) RULES FOR DETERMINING WHETHER CER-
14 TAIN ALIENS ARE CHILDREN.—Section 203(h) of
15 such Act (8 U.S.C. 1153(h)) is amended by striking
16 “(a)(2)(A)” each place such term appears and in-
17 serting “(a)(2)”.

18 (4) PROCEDURE FOR GRANTING IMMIGRANT
19 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
20 is amended—

21 (A) in subsection (a)(1)—

22 (i) in subparagraph (A)(i), by striking
23 “to classification by reason of a relation-
24 ship described in paragraph (1), (3), or (4)
25 of section 203(a) or”;

1 (ii) in subparagraph (B)—

2 (I) in clause (i), by redesignating
3 the second subclause (I) as subclause
4 (II); and

5 (II) by striking “203(a)(2)(A)”
6 each place such term appears and in-
7 serting “203(a)”; and

8 (iii) in subparagraph (D)(i)(I), by
9 striking “a petitioner” and all that follows
10 through “(a)(1)(B)(iii).” and inserting “an
11 individual younger than 21 years of age for
12 purposes of adjudicating such petition and
13 for purposes of admission as an immediate
14 relative under section 201(b)(2)(A)(i) or a
15 family-sponsored immigrant under section
16 203(a), as appropriate, notwithstanding
17 the actual age of the individual.”;

18 (B) in subsection (f)(1), by striking “,
19 203(a)(1), or 203(a)(3), as appropriate”; and

20 (C) by striking subsection (k).

21 (5) WAIVERS OF INADMISSIBILITY.—Section
22 212 of such Act (8 U.S.C. 1182) is amended—

23 (A) in subsection (a)(6)(E)(ii), by striking
24 “section 203(a)(2)” and inserting “section
25 203(a)”; and

1 (B) in subsection (d)(11), by striking
2 “(other than paragraph (4) thereof)”.

3 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
4 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
5 1184(q)(1)(B)(i)) is amended by striking “section
6 203(a)(2)(A)” each place such term appears and in-
7 serting “section 203(a)”.

8 (7) DEFINITION OF ALIEN SPOUSE.—Section
9 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
10 is amended by striking “section 203(a)(2)” and in-
11 serting “section 203(a)”.

12 (8) CLASSES OF DEPORTABLE ALIENS.—Sec-
13 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
14 1227(a)(1)(E)(ii)) is amended by striking “section
15 203(a)(2)” and inserting “section 203(a)”.

16 (d) CREATION OF NONIMMIGRANT CLASSIFICATION
17 FOR ALIEN PARENTS OF ADULT UNITED STATES CITI-
18 ZENS.—

19 (1) IN GENERAL.—Section 101(a)(15) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1101(a)(15)) is amended—

22 (A) in subparagraph (T)(ii)(III), by strik-
23 ing the period at the end and inserting a semi-
24 colon;

1 (B) in subparagraph (U)(iii), by striking
2 “or” at the end;

3 (C) in subparagraph (V)(ii)(II), by striking
4 the period at the end and inserting “; or”; and

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

6 “(W) Subject to section 214(s), an alien who is
7 a parent of a citizen of the United States, if the cit-
8 izen is at least 21 years of age.”.

9 (2) CONDITIONS ON ADMISSION.—Section 214
10 of such Act (8 U.S.C. 1184) is amended by adding
11 at the end the following:

12 “(s)(1) The initial period of authorized admission for
13 a nonimmigrant described in section 101(a)(15)(W) shall
14 be 5 years, but may be extended by the Secretary of
15 Homeland Security for additional 5-year periods if the
16 United States citizen son or daughter of the nonimmigrant
17 is still residing in the United States.

18 “(2) A nonimmigrant described in section
19 101(a)(15)(W)—

20 “(A) is not authorized to be employed in the
21 United States; and

22 “(B) is not eligible for any Federal, State, or
23 local public benefit.

24 “(3) Regardless of the resources of a nonimmigrant
25 described in section 101(a)(15)(W), the United States cit-

1 izen son or daughter who sponsored the nonimmigrant
2 parent shall be responsible for the nonimmigrant's support
3 while the nonimmigrant resides in the United States.

4 “(4) An alien is ineligible to receive a visa or to be
5 admitted into the United States as a nonimmigrant de-
6 scribed in section 101(a)(15)(W) unless the alien provides
7 satisfactory proof that the United States citizen son or
8 daughter has arranged for health insurance coverage for
9 the alien, at no cost to the alien, during the anticipated
10 period of the alien's residence in the United States.”.

11 (e) EFFECTIVE DATE; APPLICABILITY.—

12 (1) EFFECTIVE DATE.—The amendments made
13 by this section shall take effect on the first day of
14 the first fiscal year that begins after the date of the
15 enactment of this Act.

16 (2) VALID OFFER OF ADMISSION.—Notwith-
17 standing the termination by this Act of the family-
18 sponsored and employment-based immigrant visa
19 categories, any alien who was granted admission to
20 the United States under subsection (a) or (b) of sec-
21 tion 203 of the Immigration and Nationality Act, as
22 in effect on the day before the date of the enactment
23 of this Act, and is scheduled to receive an immigrant
24 visa in the applicable preference category not later
25 than 1 year after the date of the enactment of this

1 Act, shall be entitled to such visa if the alien enters
2 the United States not later than 1 year after such
3 date of enactment.

4 **TITLE VI—OTHER MATTERS**

5 **SEC. 6001. OTHER IMMIGRATION AND NATIONALITY ACT** 6 **AMENDMENTS.**

7 (a) NOTICE OF ADDRESS CHANGE.—Section 265(a)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1305(a)) is amended to read as follows:

10 “(a) Each alien required to be registered under this
11 Act who is physically present in the United States shall
12 notify the Secretary of Homeland Security of each change
13 of address and new address not later than 10 days after
14 the date of such change and shall furnish such notice in
15 the manner prescribed by the Secretary.”.

16 (b) PHOTOGRAPHS FOR NATURALIZATION CERTIFI-
17 CATES.—Section 333 of the Immigration and Nationality
18 Act (8 U.S.C. 1444) is amended—

19 (1) in subsection (b)—

20 (A) by redesignating paragraphs (1)
21 through (7) as subparagraphs (A) through (G);

22 (B) by inserting “(1)” after “(b)”; and

23 (C) by striking the undesignated matter at
24 the end and inserting the following:

1 “(2) Of the photographs furnished pursuant to para-
 2 graph (1)—

3 “(A) 1 shall be affixed to each certificate issued
 4 by the Attorney General; and

5 “(B) 1 shall be affixed to the copy of such cer-
 6 tificate retained by the Department.”; and

7 (2) by adding at the end the following:

8 “(c) The Secretary may modify the technical require-
 9 ments under this section in the Secretary’s discretion and
 10 as the Secretary may consider necessary to provide for
 11 photographs to be furnished and used in a manner that
 12 is efficient, secure, and consistent with the latest develop-
 13 ments in technology.”.

14 **SEC. 6002. EXEMPTION FROM THE ADMINISTRATIVE PRO-**
 15 **CEDURE ACT.**

16 Except for regulations promulgated pursuant to this
 17 Act, section 552 of title 5, United States Code (commonly
 18 known as the “Freedom of Information Act” (5 U.S.C.
 19 522)), and section 552a of such title (commonly known
 20 as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title
 21 5, United States Code (commonly known as the “Adminis-
 22 trative Procedures Act”), and any other law relating to
 23 rulemaking, information collection, or publication in the
 24 Federal Register, shall not apply to any action to imple-
 25 ment this Act or the amendments made by this Act, to

1 the extent the Secretary, the Secretary of State, or the
2 Attorney General determines that compliance with any
3 such law would impede the expeditious implementation of
4 this Act or the amendments made by this Act.

5 **SEC. 6003. EXEMPTION FROM THE PAPERWORK REDUC-**
6 **TION ACT.**

7 Chapter 35 of title 44, United States Code, shall not
8 apply to any action to implement this Act or the amend-
9 ments made by this Act to the extent the Secretary of
10 Homeland Security, the Secretary of State, or the Attor-
11 ney General determines that compliance with such law
12 would impede the expeditious implementation of this Act
13 or the amendments made by this Act.

14 **SEC. 6004. ABILITY TO FILL AND RETAIN DEPARTMENT OF**
15 **HOMELAND SECURITY POSITIONS IN UNITED**
16 **STATES TERRITORIES.**

17 (a) IN GENERAL.—Section 530C of title 28, United
18 States Code, is amended—

19 (1) in subsection (a), in the matter preceding
20 paragraph (1)—

21 (A) by inserting “or the Department of
22 Homeland Security” after “Department of Jus-
23 tice”; and

24 (B) by inserting “or the Secretary of
25 Homeland Security” after “Attorney General”;

1 (2) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in the matter preceding subpara-
4 graph (A), by inserting “or to the Sec-
5 retary of Homeland Security” after “At-
6 torney General”; and

7 (ii) in subparagraph (K)—

8 (I) in clause (i)—

9 (aa) by inserting “or within
10 United States territories or com-
11 monwealths” after “outside
12 United States”; and

13 (bb) by inserting “or the
14 Secretary of Homeland Security”
15 after “Attorney General”;

16 (II) in clause (ii), by inserting
17 “or the Secretary of Homeland Secu-
18 rity” after “Attorney General”;

19 (B) in paragraph (2)—

20 (i) in subparagraph (A), by striking
21 “for the Drug Enforcement Administra-
22 tion, and for the Immigration and Natu-
23 ralization Service” and inserting “and for
24 the Drug Enforcement Administration”;
25 and

1 (ii) in subparagraph (B), in the mat-
2 ter preceding clause (i), by striking “the
3 Immigration and Naturalization Service”
4 and inserting “the Department of Home-
5 land Security”;

6 (C) in paragraph (5), by striking “IMMI-
7 GRATION AND NATURALIZATION SERVICE.—
8 Funds available to the Attorney General” and
9 replacing with “DEPARTMENT OF HOMELAND
10 SECURITY.—Funds available to the Secretary of
11 Homeland Security”; and

12 (D) in paragraph (7)—

13 (i) by inserting “or the Secretary of
14 Homeland Security” after “Attorney Gen-
15 eral”; and

16 (ii) by striking “the Immigration and
17 Naturalization Service” and inserting
18 “U.S. Immigration and Customs Enforce-
19 ment”; and

20 (3) in subsection (d), by inserting “or the De-
21 partment of Homeland Security” after “Department
22 of Justice”.

23 **SEC. 6005. SEVERABILITY.**

24 If any provision of this Act or any amendment made
25 by this Act, or any application of such provision or amend-

1 ment to any person or circumstance, is held to be uncon-
2 stitutional, the remainder of the provisions of this Act and
3 the amendments made by this Act and the application of
4 the provision or amendment to any other person or cir-
5 cumstance shall not be affected.

6 **SEC. 6006. FUNDING.**

7 (a) IMPLEMENTATION.—The Director of the Office of
8 Management and Budget shall determine and identify—

9 (1) the appropriation accounts which have un-
10 obligated funds that could be rescinded and used to
11 fund the provisions of this Act; and

12 (2) the amount of the rescission that shall be
13 applied to each such account.

14 (b) REPORT.—Not later than 60 days after the date
15 of the enactment of this Act, the Director of the Office
16 of Management and Budget shall submit a report to Con-
17 gress and to the Secretary of the Treasury that describes
18 the accounts and amounts determined and identified for
19 rescission pursuant to subsection (a).

20 (c) EXCEPTIONS.—This section shall not apply to un-
21 obligated funds of—

22 (1) the Department of Homeland Security;

23 (2) the Department of Defense; or

24 (3) the Department of Veterans Affairs.

1 **TITLE VII—TECHNICAL**
2 **AMENDMENTS**

3 **SEC. 7001. REFERENCES TO THE IMMIGRATION AND NA-**
4 **TIONALITY ACT.**

5 Except as otherwise expressly provided, whenever in
6 this title an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a
9 section or other provision of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101 et seq.).

11 **SEC. 7002. TECHNICAL AMENDMENTS TO TITLE I OF THE**
12 **IMMIGRATION AND NATIONALITY ACT.**

13 (a) SECTION 101.—

14 (1) DEPARTMENT.—Section 101(a)(8) (8
15 U.S.C. 1101(a)(8)) is amended to read as follows:

16 “(8) The term ‘Department’ means the Department
17 of Homeland Security.”.

18 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C.
19 1101(a)(15)) is amended—

20 (A) in subparagraph (F)(i)—

21 (i) by striking the term “Attorney
22 General” each place that term appears and
23 inserting “Secretary”; and

24 (ii) by striking “214(l)” and inserting
25 “214(m)”;

1 (B) in subparagraph (H)(i)—

2 (i) in subclause (b), by striking “cer-
3 tifies to the Attorney General that the in-
4 tending employer has filed with the Sec-
5 retary” and inserting “certifies to the Sec-
6 retary of Homeland Security that the in-
7 tending employer has filed with the Sec-
8 retary of Labor”; and

9 (ii) in subclause (c), by striking “cer-
10 tifies to the Attorney General” and insert-
11 ing “certifies to the Secretary of Homeland
12 Security”; and

13 (C) in subparagraph (M)(i), by striking the
14 term “Attorney General” each place that term
15 appears and inserting “Secretary”.

16 (3) IMMIGRATION OFFICER.—Section
17 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
18 striking “Service or of the United States designated
19 by the Attorney General,” and inserting “Depart-
20 ment or of the United States designated by the Sec-
21 retary,”.

22 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C.
23 1101(a)(34)) is amended to read as follows:

1 “(34) The term ‘Secretary’ means the Secretary of
2 Homeland Security, except as provided in section
3 219(d)(4).”.

4 (5) SPECIAL IMMIGRANT.—Section
5 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
6 amended by adding “; or” at the end.

7 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPAC-
8 ITY.—Section 101(a)(44)(C) (8 U.S.C.
9 1101(a)(44)(C)) is amended by striking “Attorney
10 General” and inserting “Secretary”.

11 (7) ORDER OF REMOVAL.—Section
12 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amend-
13 ed to read as follows:

14 “(A) The term ‘order of removal’ means the
15 order of the immigration judge, or other such ad-
16 ministrative officer to whom the Attorney General or
17 the Secretary has delegated the responsibility for de-
18 termining whether an alien is removable, concluding
19 that the alien is removable or ordering removal.”.

20 (8) TITLE I AND II DEFINITIONS.—Section
21 101(b) (8 U.S.C. 1101(b)) is amended—

22 (A) in paragraph (1)(F)(i), by striking
23 “Attorney General” and inserting “Secretary”;
24 and

1 (B) in paragraph (4), by striking “Immi-
2 gration and Naturalization Service.” and insert-
3 ing “Department.”.

4 (b) SECTION 103.—

5 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103)
6 is amended by striking the section heading and sub-
7 section (a)(1) and inserting the following:

8 **“SEC. 103. POWERS AND DUTIES.**

9 “(a)(1) The Secretary shall be charged with the ad-
10 ministration and enforcement of this Act and all other
11 laws relating to the immigration and naturalization of
12 aliens, except insofar as this Act or such laws relate to
13 the powers, functions, and duties conferred upon the
14 President, the Attorney General, the Secretary of Labor,
15 the Secretary of Agriculture, the Secretary of Health and
16 Human Services, the Commissioner of Social Security, the
17 Secretary of State, the officers of the Department of
18 State, or diplomatic or consular officers. A determination
19 and ruling by the Attorney General with respect to all
20 questions of law shall be controlling.”.

21 (2) TECHNICAL AND CONFORMING CORREC-
22 TIONS.—Section 103 (8 U.S.C. 1103), as amended
23 by paragraph (1), is further amended—

24 (A) in subsection (a)—

- 1 (i) in paragraph (2), by striking “He”
2 and inserting “The Secretary”;
- 3 (ii) in paragraph (3)—
- 4 (I) by striking “He” and insert-
5 ing “The Secretary”;
- 6 (II) by striking “he” and insert-
7 ing “the Secretary”; and
- 8 (III) by striking “his authority”
9 and inserting “the authority of the
10 Secretary”;
- 11 (iii) in paragraph (4)—
- 12 (I) by striking “He” and insert-
13 ing “The Secretary”; and
- 14 (II) by striking “Service or the
15 Department of Justice” and insert the
16 “Department”;
- 17 (iv) in paragraph (5)—
- 18 (I) by striking “He” and insert-
19 ing “The Secretary”;
- 20 (II) by striking “his discretion,”
21 and inserting “the discretion of the
22 Secretary,” and
- 23 (III) by striking “him” and in-
24 serting “the Secretary”;
- 25 (v) in paragraph (6)—

1 (I) by striking “He” and insert-
2 ing “The Secretary”;

3 (II) by striking “Department”
4 and inserting “agency, department,”;
5 and

6 (III) by striking “Service.” and
7 inserting “Department or upon con-
8 sular officers with respect to the
9 granting or refusal of visas”;

10 (vi) in paragraph (7)—

11 (I) by striking “He” and insert-
12 ing “The Secretary”;

13 (II) by striking “countries;” and
14 inserting “countries”;

15 (III) by striking “he” and insert-
16 ing “the Secretary”; and

17 (IV) by striking “his judgment”
18 and inserting “the judgment of the
19 Secretary”;

20 (vii) in paragraph (8), by striking
21 “Attorney General” and inserting “Sec-
22 retary”;

23 (viii) in paragraph (10), by striking
24 “Attorney General” each place that term
25 appears and inserting “Secretary”; and

1 (ix) in paragraph (11), by striking
2 “Attorney General,” and inserting “Sec-
3 retary,”;

4 (B) by amending subsection (c) to read as
5 follows:

6 “(c) SECRETARY; APPOINTMENT.—The Secretary
7 shall be a citizen of the United States and shall be ap-
8 pointed by the President, by and with the advice and con-
9 sent of the Senate. The Secretary shall be charged with
10 any and all responsibilities and authority in the adminis-
11 tration of the Department and of this Act. The Secretary
12 may enter into cooperative agreements with State and
13 local law enforcement agencies for the purpose of assisting
14 in the enforcement of the immigration laws.”;

15 (C) in subsection (e)—

16 (i) in paragraph (1), by striking
17 “Commissioner” and inserting “Sec-
18 retary”; and

19 (ii) in paragraph (2), by striking
20 “Service” and inserting “U.S. Citizenship
21 and Immigration Services”;

22 (D) in subsection (f)—

23 (i) by striking “Attorney General”
24 and inserting “Secretary”;

1 (ii) by striking “Immigration and
2 Naturalization Service” and inserting “De-
3 partment”; and

4 (iii) by striking “Service,” and insert-
5 ing “Department,”; and

6 (E) in subsection (g)(1), by striking “Im-
7 migration Reform, Accountability and Security
8 Enhancement Act of 2002” and inserting
9 “Homeland Security Act of 2002 (Public Law
10 107–296; 116 Stat. 2135)”.

11 (3) CLERICAL AMENDMENT.—The table of con-
12 tents in the first section is amended by striking the
13 item relating to section 103 and inserting the fol-
14 lowing:

“Sec. 103. Powers and duties.”.

15 (c) SECTION 105.—Section 105(a) is amended (8
16 U.S.C. 1105(a)) by striking “Commissioner” each place
17 that term appears and inserting “Secretary”.

18 **SEC. 7003. TECHNICAL AMENDMENTS TO TITLE II OF THE**
19 **IMMIGRATION AND NATIONALITY ACT.**

20 (a) SECTION 202.—Section 202(a)(1)(B) (8 U.S.C.
21 1152(a)(1)(B)) is amended by inserting “the Secretary
22 or” after “the authority of”.

23 (b) SECTION 203.—Section 203 (8 U.S.C. 1153) is
24 amended—

25 (1) in subsection (b)(2)(B)(ii)—

1 (A) in subclause (II)—

2 (i) by inserting “the Secretary or” be-
3 fore “the Attorney General”; and

4 (ii) by moving such subclause 4 ems
5 to the left; and

6 (B) by moving subclauses (III) and (IV) 4
7 ems to the left; and

8 (2) in subsection (g)—

9 (A) by striking “Secretary’s” and inserting
10 “Secretary of State’s”; and

11 (B) by inserting “of State” after “but the
12 Secretary”.

13 (c) SECTION 204.—Section 204 (8 U.S.C. 1154) is
14 amended—

15 (1) in subsection (a)(1)—

16 (A) in subparagraph (B)(i)—

17 (i) by redesignating the second sub-
18 clause (I), as added by section
19 402(a)(3)(B) of the Adam Walsh Child
20 Protection and Safety Act of 2006 (Public
21 Law 109–248), as subclause (II); and

22 (ii) indenting the left margin of such
23 subclause two ems from the left margin;
24 and

1 (B) in subparagraph (G)(ii), by inserting
2 “of State” after “by the Secretary”;

3 (2) in subsection (c), by inserting “the Sec-
4 retary or” before “the Attorney General” each place
5 that term appears; and

6 (3) in subsection (e), by inserting “to” after
7 “admitted”.

8 (d) SECTION 208.—Section 208 (8 U.S.C. 1158) is
9 amended—

10 (1) in subsection (a)(2)—

11 (A) by inserting “the Secretary or” before
12 “Attorney General” in subparagraph (A);

13 (B) by inserting “the Secretary or” before
14 “Attorney General” in subparagraph (D);

15 (2) in subsection (b)(2) by inserting “the Sec-
16 retary or” before “Attorney General” wherever the
17 term appears;

18 (3) in subsection (c)—

19 (A) in paragraph (1), by striking “the At-
20 torney General” and inserting “the Secretary”;

21 (B) in paragraphs (2) and (3), by inserting
22 “the Secretary or” before “Attorney General”
23 each place that term appears; and

24 (4) in subsection (d)—

1 (A) in paragraph (1), by inserting “the
2 Secretary or” before “the Attorney General”,

3 (B) in paragraph (2), by striking “Attor-
4 ney General” and inserting “Secretary”;

5 (C) in paragraph (3)—

6 (i) by striking “Attorney General”
7 each place that term appears and inserting
8 “Secretary”; and

9 (ii) by striking “Attorney General’s”
10 and inserting “Secretary’s”; and

11 (D) in paragraphs (4) through (6), by in-
12 serting “the Secretary or” before “the Attorney
13 General”; and

14 (e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C.
15 1159(a)(1)(A)) is amended by striking “Secretary of
16 Homeland Security or the Attorney General” each place
17 that term appears and inserting “Secretary”.

18 (f) SECTION 212.—Section 212 (8 U.S.C. 1182) is
19 amended—

20 (1) in subsection (a)—

21 (A) in paragraph (2), in subparagraphs
22 (C), (H)(ii), and (I), by inserting “, the Sec-
23 retary,” before “or the Attorney General” each
24 place that term appears;

25 (B) in paragraph (3)—

1 (i) in subparagraphs (A) and
2 (B)(ii)(II), by inserting “, the Secretary,”
3 before “or the Attorney General” each
4 place that term appears; and

5 (ii) in subparagraph (D), by inserting
6 “the Secretary or” before “the Attorney
7 General” each place that term appears;
8 (C) in paragraph (4)—

9 (i) in subparagraph (A), by inserting
10 “the Secretary or” before “the Attorney
11 General”; and

12 (ii) in subparagraph (B), by inserting
13 “, the Secretary,” before “or the Attorney
14 General” each place that term appears;

15 (D) in paragraph (5)(C), by striking “or,
16 in the case of an adjustment of status, the At-
17 torney General, a certificate from the Commis-
18 sion on Graduates of Foreign Nursing Schools,
19 or a certificate from an equivalent independent
20 credentialing organization approved by the At-
21 torney General” and inserting “or, in the case
22 of an adjustment of status, the Secretary or the
23 Attorney General, a certificate from the Com-
24 mission on Graduates of Foreign Nursing
25 Schools, or a certificate from an equivalent

1 independent credentialing organization ap-
2 proved by the Secretary”;

3 (E) in paragraph (9)—

4 (i) in subparagraph (B)(v)—

5 (I) by inserting “or the Sec-
6 retary” after “Attorney General” each
7 place that term appears; and

8 (II) by striking “has sole discre-
9 tion” and inserting “have discretion”;

10 and

11 (ii) in subparagraph (C)(iii), by in-
12 serting “or the Attorney General” after
13 “Secretary of Homeland Security”; and

14 (F) in paragraph (10)(C), in clauses
15 (ii)(III) and (iii)(II), by striking “Secretary’s”
16 and inserting “Secretary of State’s”;

17 (2) in subsection (d), in paragraphs (11) and
18 (12), by inserting “or the Secretary” after “Attor-
19 ney General” each place that term appears;

20 (3) in subsection (e), by striking the first pro-
21 viso and inserting the following: “Provided, That
22 upon the favorable recommendation of the Director,
23 pursuant to the request of an interested United
24 States Government agency (or, in the case of an
25 alien described in clause (iii), pursuant to the re-

1 quest of a State Department of Public Health, or its
2 equivalent), or of the Secretary after the Secretary
3 has determined that departure from the United
4 States would impose exceptional hardship upon the
5 alien's spouse or child (if such spouse or child is a
6 citizen of the United States or a lawfully resident
7 alien), or that the alien cannot return to the country
8 of his or her nationality or last residence because the
9 alien would be subject to persecution on account of
10 race, religion, or political opinion, the Secretary may
11 waive the requirement of such two-year foreign resi-
12 dence abroad in the case of any alien whose admis-
13 sion to the United States is found by the Secretary
14 to be in the public interest except that in the case
15 of a waiver requested by a State Department of
16 Public Health, or its equivalent, or in the case of a
17 waiver requested by an interested United States
18 Government agency on behalf of an alien described
19 in clause (iii), the waiver shall be subject to the re-
20 quirements under section 214(l)";

21 (4) in subsections (g), (h), (i), and (k), by in-
22 sserting "or the Secretary" after "Attorney General"
23 each place that term appears;

1 (5) in subsection (m)(2)(E)(iv), by inserting “of
2 Labor” after “Secretary” the second and third place
3 that term appears;

4 (6) in subsection (n), by inserting “of Labor”
5 after “Secretary” each place that term appears, ex-
6 cept that this amendment shall not apply to ref-
7 erences to the “Secretary of Labor”; and

8 (7) in subsection (s), by inserting “, the Sec-
9 retary,” before “or the Attorney General”.

10 (g) SECTION 213A.—Section 213A (8 U.S.C. 1183a)
11 is amended—

12 (1) in subsection (a)(1), in the matter pre-
13 ceding paragraph (1), by inserting “, the Secretary,”
14 after “the Attorney General”; and

15 (2) in subsection (f)(6)(B), by inserting “the
16 Secretary,” after “The Secretary of State,”.

17 (h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C.
18 1184(c)(9)(A) is amended, in the matter preceding clause
19 (i), by striking “before”.

20 (i) SECTION 217.—Section 217 (8 U.S.C. 1187) is
21 amended—

22 (1) in subsection (e)(3)(A), by inserting a
23 comma after “Regulations”;

1 (2) in subsection (f)(2)(A), by striking “section
2 (c)(2)(C),” and inserting “subsection (c)(2)(C),”;
3 and

4 (3) in subsection (h)(3)(A), by striking “the
5 alien” and inserting “an alien”.

6 (j) SECTION 218.—Section 218 (8 U.S.C. 1188) is
7 amended—

8 (1) by inserting “of Labor” after “Secretary”
9 each place that term appears, except that this
10 amendment shall not apply to references to the
11 “Secretary of Labor” or to the “Secretary of Agri-
12 culture”;

13 (2) in subsection (c)(3)(B)(iii), by striking
14 “Secretary’s” and inserting “Secretary of Labor’s”;
15 and

16 (3) in subsection (g)(4), by striking “Sec-
17 retary’s” and inserting “Secretary of Agriculture’s”.

18 (k) SECTION 219.—Section 219 (8 U.S.C. 1189) is
19 amended—

20 (1) in subsection (a)(1)(B)—

21 (A) by inserting a close parenthesis after
22 “section 212(a)(3)(B)”;

23 (B) by striking the close parenthesis before
24 the semicolon;

1 (2) in subsection (c)(3)(D), by striking “(2),”
2 and inserting “(2);”; and

3 (3) in subsection (d)(4), by striking “the Sec-
4 retary of the Treasury” and inserting “the Secretary
5 of Homeland Security, the Secretary of the Treas-
6 ury,”.

7 (l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

8 (1) by inserting “or the Secretary” after “Sec-
9 retary of State” each place that term appears; and

10 (2) in subsection (f)—

11 (A) in the matter preceding paragraph (1),
12 by inserting “, the Department,” after “De-
13 partment of State”; and

14 (B) in paragraph (2), by striking “Sec-
15 retary’s” and inserting “their”.

16 (m) SECTION 231.—Section 231 (8 U.S.C. 1221) is
17 amended—

18 (1) in subsection (c)(10), by striking “Attorney
19 General,” and inserting “Secretary,”;

20 (2) in subsection (f), by striking “Attorney
21 General” each place that term appears and inserting
22 “Secretary”;

23 (3) in subsection (g)—

1 (A) by striking “Attorney General” each
2 places that term appears and inserting “Sec-
3 retary”;

4 (B) by striking “Commissioner” each place
5 that term appears and inserting “Secretary”;
6 and

7 (4) in subsection (h), by striking “Attorney
8 General” each place that term appears and inserting
9 “Secretary”.

10 (n) SECTION 236.—Section 236 (8 U.S.C. 1226) is
11 amended—

12 (1) in subsection (a)(2)(A), by inserting “the
13 Secretary or” before “the Attorney General” the
14 third place that term appears; and

15 (2) in subsection (e)—

16 (A) by striking “review.” and inserting
17 “review, other than administrative review by the
18 Attorney General pursuant to the authority
19 granted under section 103(g).”; and

20 (B) by inserting “the Secretary or” before
21 “the Attorney General under”.

22 (o) SECTION 236A.—Section 236A(a)(4) (8 U.S.C.
23 1226a(a)(4)) is amended by striking “Deputy Attorney
24 General” both places that term appears and inserting
25 “Deputy Secretary of Homeland Security”.

1 (p) SECTION 237.—Section 237(a) (8 U.S.C.
2 1227(a)) is amended—

3 (1) in the matter preceding paragraph (1), by
4 inserting “following the initiation by the Secretary
5 of removal proceedings” after “upon the order of the
6 Attorney General”; and

7 (2) in paragraph (2)(E), in the subparagraph
8 heading, by striking “, CRIMES AGAINST CHILDREN
9 AND” and inserting “; CRIMES AGAINST CHILDREN”.

10 (q) SECTION 238.—Section 238 (8 U.S.C. 1228) is
11 amended—

12 (1) in subsection (a)—

13 (A) in paragraph (2), by striking “Attor-
14 ney General” each place that term appears and
15 inserting “Secretary”; and

16 (B) in paragraphs (3) and (4)(A), by in-
17 serting “and the Secretary” after “Attorney
18 General” each place that term appears; and

19 (2) in subsection (e), as redesignated by section
20 1503(a)(4)—

21 (A) by striking “Commissioner” each place
22 that term appears and inserting “Secretary”;

23 (B) by striking “Attorney General” each
24 place that term appears and inserting “Sec-
25 retary”; and

1 (C) in subparagraph (D)(iv), by striking
2 “Attorney General” and inserting “United
3 States Attorney”.

4 (r) SECTION 239.—Section 239(a)(1) (8 U.S.C.
5 1229(a)(1)) is amended by inserting “and the Secretary”
6 after “Attorney General” each place that term appears.

7 (s) SECTION 240.—Section 240 (8 U.S.C. 1229a) is
8 amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by inserting “, with
11 the concurrence of the Secretary with respect to
12 employees of the Department” after “Attorney
13 General”; and

14 (B) in paragraph (5)(A), by inserting “the
15 Secretary or” before “the Attorney General”;
16 and

17 (2) in subsection (c)—

18 (A) in paragraph (2), by inserting “, the
19 Secretary of State, or the Secretary” before “to
20 be confidential”; and

21 (B) in paragraph (7)(C)(iv)(I), by striking
22 “240A(b)(2)” and inserting “section
23 240A(b)(2)”.

24 (t) SECTION 240A.—Section 240A(b) (8 U.S.C.
25 1229b(b)) is amended—

1 (1) in paragraph (3), by striking “Attorney
2 General shall” and inserting “Secretary shall”; and

3 (2) in paragraph (4)(A), by striking “Attorney
4 General” and inserting “Secretary”.

5 (u) SECTION 240B.—Section 240B (8 U.S.C. 1229c)
6 is amended—

7 (1) in subsection (a), in paragraphs (1) and
8 (3), by inserting “or the Secretary” after “Attorney
9 General” each place that term appears; and

10 (2) in subsection (c), by inserting “and the Sec-
11 retary” after “Attorney General”.

12 (v) SECTION 241.—Section 241 (8 U.S.C. 1231) is
13 amended—

14 (1) in subsection (a)(4)(B)(i), by inserting a
15 close parenthesis after “(L)”;

16 (2) in subsection (g)(2)—

17 (A) by striking the paragraph heading and
18 inserting “DETENTION FACILITIES OF THE DE-
19 PARTMENT OF HOMELAND SECURITY.—”; and

20 (B) by striking “Service, the Commis-
21 sioner” and inserting “Department, the Sec-
22 retary”.

23 (w) SECTION 242.—Section 242(g) (8 U.S.C.
24 1252(g)) is amended by inserting “the Secretary or” be-
25 fore “the Attorney General”.

1 (x) SECTION 243.—Section 243 (8 U.S.C. 1253) is
2 amended—

3 (1) in subsection (c)(1)—

4 (A) by striking “Attorney General” each
5 place that term appears and inserting “Sec-
6 retary”; and

7 (B) by striking “Commissioner” each place
8 that term appears and inserting “Secretary”;
9 and

10 (2) in subsection (d), by inserting “of State”
11 after “notifies the Secretary”.

12 (y) SECTION 244.—Section 244 (8 U.S.C. 1254a) is
13 amended—

14 (1) in subsection (c)(2), by inserting “or the
15 Secretary” after “Attorney General” each place the
16 term appears; and

17 (2) in subsection (g), by inserting “or the Sec-
18 retary” after “Attorney General”.

19 (z) SECTION 245.—Section 245 (8 U.S.C. 1255) is
20 amended—

21 (1) by inserting “or the Secretary” after “At-
22 torney General” each place that term appears except
23 in subsections (j) (other than the first reference), (l),
24 and (m);

1 (2) in subsection (c)(5), by striking the comma
2 after “section 101(a)(15)(S)” and inserting a semi-
3 colon;

4 (3) in subsection (k)(1), adding an “and” at
5 the end;

6 (4) in subsection (l)—

7 (A) in paragraph (1), by inserting a
8 comma after “appropriate”; and

9 (B) in paragraph (2)—

10 (i) in the matter preceding paragraph
11 (1), by striking “Attorney General’s” and
12 inserting “Secretary’s”; and

13 (ii) in subparagraph (B), by striking
14 “(10(E))” and inserting “(10(E))”.

15 (aa) SECTION 245A.—Section 245A (8 U.S.C.
16 1255a) is amended—

17 (1) in subsection (c)(7), by striking subpara-
18 graph (C); and

19 (2) in subsection (h)—

20 (A) in paragraph (4)(C), by striking “The
21 The” and inserting “The”; and

22 (B) in paragraph (5), by striking “(Public
23 Law 96–122),” and inserting “(8 U.S.C. 1522
24 note),”.

1 (bb) SECTION 246.—Section 246(a) (8 U.S.C.
2 1256(a)) is amended—

3 (1) by inserting “or the Secretary” after “of
4 the Attorney General”;

5 (2) by inserting “or the Secretary” after “sta-
6 tus, the Attorney General”; and

7 (3) by striking “Attorney General to rescind”
8 and inserting “Secretary to rescind”.

9 (cc) SECTION 249.—Section 249 (8 U.S.C. 1259) is
10 amended by inserting “or the Secretary” after “Attorney
11 General” each place that term appears.

12 (dd) SECTION 251.—Section 251(d) (8 U.S.C.
13 1281(d)) is amended—

14 (1) by striking “Attorney General” each place
15 that term appears and inserting “Secretary”; and

16 (2) by striking “Commissioner” each place that
17 term appears and inserting “Secretary”.

18 (ee) SECTION 254.—Section 254(a) (8 U.S.C.
19 1284(a)) is amended by striking “Commissioner” each
20 place that term appears and inserting “Secretary”.

21 (ff) SECTION 255.—Section 255 (8 U.S.C. 1285) is
22 amended by striking “Commissioner” each place that term
23 appears and inserting “Secretary”.

24 (gg) SECTION 256.—Section 256 (8 U.S.C. 1286) is
25 amended—

1 (1) by striking “Commissioner” each place that
2 term appears and inserting “Secretary”;

3 (2) in the first and second sentences, by strik-
4 ing “Attorney General” each place that term ap-
5 pears and inserting “Secretary”.

6 (hh) SECTION 258.—Section 258 (8 U.S.C. 1288) is
7 amended—

8 (1) by inserting “of Labor” after “Secretary”
9 each place that term appears (except for in sub-
10 section (e)(2)), except that this amendment shall not
11 apply to references to the “Secretary of Labor”,
12 “the Secretary of State”;

13 (2) in subsection (d)(2)(A), by striking “at”
14 after “while”; and

15 (3) in subsection (e)(2), by striking “the Sec-
16 retary shall” and inserting “the Secretary of State
17 shall”.

18 (ii) SECTION 264.—Section 264(f) (8 U.S.C.
19 1304(f)) is amended by striking “Attorney General is”
20 and inserting “Attorney General and the Secretary are”.

21 (jj) SECTION 272.—Section 272 (8 U.S.C. 1322) is
22 amended by striking “Commissioner” each place that term
23 appears and inserting “Secretary”.

24 (kk) SECTION 273.—Section 273 (8 U.S.C. 1323) is
25 amended—

1 (1) by striking “Commissioner” each place that
2 term appears and inserting “Secretary”; and

3 (2) by striking “Attorney General” each place
4 that term appears (except in subsection (e), in the
5 matter preceding paragraph (1)) and inserting “Sec-
6 retary”.

7 (ll) SECTION 274.—Section 274(b)(2) (8 U.S.C.
8 1324(b)(2)) is amended by striking “Secretary of the
9 Treasury” and inserting “Secretary”.

10 (mm) SECTION 274B.—Section 274B(f)(2) (8 U.S.C.
11 1324b(f)(2)) is amended by striking “subsection” and in-
12 serting “section”.

13 (nn) SECTION 274C.—Section 274C(d)(2)(A) (8
14 U.S.C. 1324c(d)(2)(A)) is amended by inserting “or the
15 Secretary” after “subsection (a), the Attorney General”.

16 (oo) SECTION 274D.—Section 274D(a)(2) (8 U.S.C.
17 1324d(a)(2)) is amended by striking “Commissioner” and
18 inserting “Secretary”.

19 (pp) SECTION 286.—Section 286 (8 U.S.C. 1356) is
20 amended—

21 (1) in subsection (q)(1)(B), by striking “, in
22 consultation with the Secretary of the Treasury,”;

23 (2) in subsection (r)(2), by striking “section
24 245(i)(3)(b)” and inserting “section 245(i)(3)(B)”;

25 (3) in subsection (s)(5)—

1 (A) by striking “5 percent” and inserting
2 “USE OF FEES FOR DUTIES RELATING TO PETI-
3 TIONS.—Five percent”; and

4 (4) by striking “paragraph (1) (C) or (D) of
5 section 204” and inserting “subparagraph (C) or
6 (D) of section 204(a)(1)”; and

7 (5) in subsection (v)(2)(A)(i), by adding “of”
8 after “number”.

9 (qq) SECTION 294.—Section 294 (8 U.S.C. 1363a)
10 is amended—

11 (1) in subsection (a), in the undesignated mat-
12 ter following paragraph (4), by striking “Commis-
13 sioner, in consultation with the Deputy Attorney
14 General,” and inserting “Secretary”; and

15 (2) in subsection (d), by striking “Deputy At-
16 torney General” and inserting “Secretary”.

17 **SEC. 7004. TECHNICAL AMENDMENTS TO TITLE III OF THE**
18 **IMMIGRATION AND NATIONALITY ACT.**

19 (a) SECTION 316.—Section 316 (8 U.S.C. 1427) is
20 amended—

21 (1) in subsection (d), by inserting “or by the
22 Secretary” after “Attorney General”; and

23 (2) in subsection (f)(1), by striking “Intel-
24 ligence, the Attorney General and the Commissioner

1 of Immigration” and inserting “Intelligence and the
2 Secretary”.

3 (b) SECTION 322.—Section 322(a)(1) (8 U.S.C.
4 1433(a)(1)) is amended—

5 (1) by inserting “is” before “(or,”; and

6 (2) by striking “is” before “a citizen”.

7 (c) SECTION 342.—

8 (1) SECTION HEADING.—

9 (A) IN GENERAL.—Section 342 (8 U.S.C.
10 1453) is amended by striking the section head-
11 ing and inserting “**CANCELLATION OF CER-**
12 **TIFICATES; ACTION NOT TO AFFECT CITI-**
13 **ZENSHIP STATUS**”.

14 (B) CLERICAL AMENDMENT.—The table of
15 contents in the first section is amended by
16 striking the item relating to section 342 and in-
17 serting the following:

“Sec. 342. Cancellation of certificates; action not to affect citizenship status.”.

18 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453)
19 is amended—

20 (A) by striking “heretofore issued or made
21 by the Commissioner or a Deputy Commis-
22 sioner or hereafter made by the Attorney Gen-
23 eral”; and

24 (B) by striking “practiced upon, him or
25 the Commissioner or a Deputy Commissioner;”.

1 **SEC. 7005. TECHNICAL AMENDMENT TO TITLE IV OF THE**
2 **IMMIGRATION AND NATIONALITY ACT.**

3 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i))
4 is amended by striking “insure” and inserting “ensure”.

5 **SEC. 7006. TECHNICAL AMENDMENTS TO TITLE V OF THE**
6 **IMMIGRATION AND NATIONALITY ACT.**

7 (a) SECTION 504.—Section 504 (8 U.S.C. 1534) is
8 amended—

9 (1) in subsection (a)(1)(A), by striking “a” be-
10 fore “removal proceedings”;

11 (2) in subsection (i), by striking “Attorney Gen-
12 eral” inserting “Government”; and

13 (3) in subsection (k)(2), by striking “by”.

14 (b) SECTION 505.—Section 505(e)(2) (8 U.S.C.
15 1535(e)(2)) is amended by inserting “and the Secretary”
16 after “Attorney General”.

17 **SEC. 7007. OTHER AMENDMENTS.**

18 (a) CORRECTION OF COMMISSIONER OF IMMIGRA-
19 TION AND NATURALIZATION.—

20 (1) IN GENERAL.—The Immigration and Na-
21 tionality Act (8 U.S.C. 1101 et seq.) as amended by
22 this Act, is further amended by striking “Commis-
23 sioner” and “Commissioner of Immigration and
24 Naturalization” each place those terms appear and
25 inserting “Secretary”.

1 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL
2 SECURITY.—The amendment made by paragraph (1)
3 shall not apply to any reference to the “Commis-
4 sioner of Social Security”.

5 (b) CORRECTION OF IMMIGRATION AND NATU-
6 RALIZATION SERVICE.—The Immigration and Nationality
7 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is
8 further amended by striking “Service” and “Immigration
9 and Naturalization Service” each place those terms appear
10 and inserting “Department”.

11 (c) CORRECTION OF DEPARTMENT OF JUSTICE.—

12 (1) IN GENERAL.—The Immigration and Na-
13 tionality Act (8 U.S.C. 1101 et seq.), as amended by
14 this Act, is further amended by striking “Depart-
15 ment of Justice” each place that term appears and
16 inserting “Department”.

17 (2) EXCEPTIONS.—The amendment made by
18 paragraph (1) shall not apply in—

19 (A) subsections (d)(3)(A) and (r)(5)(A) of
20 section 214 (8 U.S.C. 1184);

21 (B) section 274B(c)(1) (8 U.S.C.
22 1324b(c)(1)); or

23 (C) title V (8 U.S.C. 1531 et seq.).

24 (d) CORRECTION OF ATTORNEY GENERAL.—The Im-
25 migration and Nationality Act (8 U.S.C. 1101 et seq.) as

1 amended by this Act, is further amended by striking “At-
2 torney General” each place that term appears and insert-
3 ing “Secretary”, except for in the following:

4 (1) Any joint references to the “Attorney Gen-
5 eral and the Secretary of Homeland Security” or
6 “the Secretary of Homeland Security and the Attor-
7 ney General”.

8 (2) Section 101(a)(5).

9 (3) Subparagraphs (S), (T), and (V) of section
10 101(a)(15).

11 (4) Section 101(a)(47)(A).

12 (5) Section 101(b)(4).

13 (6) Subsections (a)(1) and (g) of section 103.

14 (7) Subsections (b)(1) and (c) of section 105.

15 (8) Section 204(c).

16 (9) Section 208.

17 (10) Subparagraphs (C), (H), and (I) of section
18 212(a)(2).

19 (11) Subparagraphs (A), (B)(ii)(II), and (D) of
20 section 212(a)(3).

21 (12) Section 212(a)(9)(C)(iii).

22 (13) Paragraphs (11) and (12) of section
23 212(d).

24 (14) Subsections (g), (h), (i), (k), and (s) of
25 section 212.

- 1 (15) Subsections (a)(1) and (f)(6)(B) of section
2 213A.
- 3 (16) Section 216(d)(2)(c).
- 4 (17) Section 219(d)(4).
- 5 (18) Section 235(b)(1)(B)(iii)(III).
- 6 (19) The second sentence of section 236(e).
- 7 (20) Section 237.
- 8 (21) Paragraphs (1), (3), and (4)(A) of section
9 238(a).
- 10 (22) Paragraphs (1) and (5) of section 238(b).
- 11 (23) Section 238(c)(2)(D)(iv).
- 12 (24) Subsections (a) and (b) of section 239.
- 13 (25) Section 240.
- 14 (26) Section 240A.
- 15 (27) Subsections (a)(1), (a)(3), (b), and (c) of
16 section 240B.
- 17 (28) The first reference in section
18 241(a)(4)(B)(i).
- 19 (29) Section 241(b)(3) (except for the first ref-
20 erence in subparagraph (A), to which the amend-
21 ment shall apply).
- 22 (30) Section 241(i) (except for paragraph
23 (3)(B)(i), to which the amendment shall apply).
- 24 (31) Section 242(a)(2)(B).

1 (32) Section 242(b) (except for paragraph (8),
2 to which the amendment shall apply).

3 (33) Section 242(g).

4 (34) Subsections (a)(3)(C), (c)(2), (e), and (g)
5 of section 244.

6 (35) Section 245 (except for subsection
7 (i)(1)(B)(i), subsection (i)(3)) and the first reference
8 to the Attorney General in subsection 245(j)).

9 (36) Section 245A(a)(1)(A).

10 (37) Section 246(a).

11 (38) Section 249.

12 (39) Section 264(f).

13 (40) Section 274(e).

14 (41) Section 274A.

15 (42) Section 274B.

16 (43) Section 274C.

17 (44) Section 292.

18 (45) Subsections (d) and (f)(1) of section 316.

19 (46) Section 342.

20 (47) Section 412(f)(1)(A).

21 (48) Title V (except for subsections 506(a)(1)
22 and 507(b), (c), and (d) (first reference), to which
23 the amendment shall apply).

24 **SEC. 7008. REPEALS; RULE OF CONSTRUCTION.**

25 (a) REPEALS.—

1 (1) IMMIGRATION AND NATURALIZATION SERV-
2 ICE.—

3 (A) IN GENERAL.—Section 4 of the Act of
4 February 14, 1903 (32 Stat. 826, chapter 552;
5 8 U.S.C. 1551) is repealed.

6 (B) 8 U.S.C. 1551.—The language of the
7 compilers set out in section 1551 of title 8 of
8 the United States Code shall be removed from
9 the compilation of such title 8.

10 (2) COMMISSIONER OF IMMIGRATION AND NAT-
11 URALIZATION; OFFICE.—

12 (A) IN GENERAL.—Section 7 of the Act of
13 March 3, 1891 (26 Stat. 1085, chapter 551; 8
14 U.S.C. 1552) is repealed.

15 (B) 8 U.S.C. 1552.—The language of the
16 compilers set out in section 1552 of title 8 of
17 the United States Code shall be removed from
18 the compilation of such title 8.

19 (3) ASSISTANT COMMISSIONERS AND DISTRICT
20 DIRECTOR; COMPENSATION AND SALARY GRADE.—
21 Title II of the Department of Justice Appropriation
22 Act, 1957 (70 Stat. 307, chapter 414; 8 U.S.C.
23 1553) is amended, in the matter under the heading
24 “Immigration and Naturalization Service” and
25 under the subheading “SALARIES AND EX-

1 PENSES”, by striking “That the compensation of
2 the five assistant commissioners and one district di-
3 rector shall be at the rate of grade GS–16: Provided
4 further”.

5 (4) SPECIAL IMMIGRANT INSPECTORS AT WASH-
6 INGTON.—The Act of March 2, 1895 (28 Stat. 780,
7 chapter 177; 8 U.S.C. 1554) is amended in the mat-
8 ter following the heading “Bureau of Immigration:”
9 by striking “That hereafter special immigrant in-
10 spectors, not to exceed three, may be detailed for
11 duty in the Bureau at Washington: And provided
12 further,”.

13 (b) RULE OF CONSTRUCTION.—Nothing in this title
14 may be construed to repeal or limit the applicability of
15 sections 462 and 1512 of the Homeland Security Act of
16 2002 (6 U.S.C. 279 and 552) with respect to any provi-
17 sion of law or matter not specifically addressed by the
18 amendments made by this title.

19 **SEC. 7009. MISCELLANEOUS TECHNICAL CORRECTION.**

20 Section 7 of the Central Intelligence Agency Act of
21 1949 (50 U.S.C. 3508) is amended by striking “Commis-
22 sioner of Immigration” and inserting “Secretary of Home-
23 land Security”.

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115TH CONGRESS
1ST Session

S. 2192

A BILL

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

DECEMBER 6, 2017

Read the second time and placed on the calendar