

[DISCUSSION DRAFT]

JUNE 14, 2018

115TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

DIVISION A—BORDER ENFORCEMENT

Sec. 1100. Short title.

TITLE I—BORDER SECURITY

Sec. 1101. Definitions.

Subtitle A—Infrastructure and Equipment

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

Sec. 1112. Air and Marine Operations flight hours.

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

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

Sec. 1115. Border security technology program management.

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

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

Sec. 1118. Landowner and rancher security enhancement.

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

Sec. 1120. Southern border threat analysis.

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

Sec. 1122. Agent and officer technology use.

Sec. 1123. Integrated Border Enforcement Teams.

Sec. 1124. Tunnel Task Forces.

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

Sec. 1126. Foreign migration assistance.

Sec. 1127. Biometric Identification Transnational Migration Alert Program.

Subtitle B—Personnel

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

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

Sec. 1133. Anti-Border Corruption Reauthorization Act.

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

Subtitle C—Grants

Sec. 1141. Operation Stonegarden.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

Sec. 2101. Ports of entry infrastructure.

Sec. 2102. Secure communications.

Sec. 2103. Border security deployment program.

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

Sec. 2105. Non-intrusive inspection operational demonstration.

Sec. 2106. Biometric exit data system.

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

Sec. 2108. Definition.

TITLE III—VISA SECURITY AND INTEGRITY

Sec. 3101. Visa security.

Sec. 3102. Electronic passport screening and biometric matching.

Sec. 3103. Reporting of visa overstays.

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

TITLE IV—TRANSNATIONAL CRIMINAL ORGANIZATION ILLICIT SPOTTER PREVENTION AND ELIMINATION

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

TITLE V—BORDER SECURITY FUNDING

- Sec. 5101. Border Security Funding.
- Sec. 5102. Limitation on adjustment of status.

DIVISION B—IMMIGRATION REFORM

TITLE I—LAWFUL STATUS FOR CERTAIN CHILDHOOD ARRIVALS

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

TITLE II—IMMIGRANT VISA ALLOCATIONS AND PRIORITIES

- Sec. 2101. Elimination of diversity visa program.
- Sec. 2102. Numerical limitation to any single foreign state.
- Sec. 2103. Family-sponsored immigration priorities.
- Sec. 2104. Allocation of immigrant visas for contingent nonimmigrants and children of certain nonimmigrants.
- Sec. 2105. Sunset of adjustment visas for conditional nonimmigrants and children of certain nonimmigrants.
- Sec. 2106. Implementation.
- Sec. 2107. Repeal of suspension of deportation and adjustment of status for certain aliens.

TITLE III—UNACCOMPANIED ALIEN CHILDREN; INTERIOR IMMIGRATION ENFORCEMENT

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

TITLE IV—ASYLUM REFORM

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

DIVISION C—ADDITIONAL MATTERS

- Sec. 1101. Judicial review.

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

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

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

6 **TITLE I—BORDER SECURITY**

7 **SEC. 1101. DEFINITIONS.**

8 In this title:

9 (1) **ADVANCED UNATTENDED SURVEILLANCE**
 10 **SENSORS.**—The term “advanced unattended surveil-
 11 lance sensors” means sensors that utilize an onboard
 12 computer to analyze detections in an effort to dis-

1 cern between vehicles, humans, and animals, and ul-
2 timately filter false positives prior to transmission.

3 (2) COMMISSIONER.—The term “Commis-
4 sioner” means the Commissioner of U.S. Customs
5 and Border Protection.

6 (3) HIGH TRAFFIC AREAS.—The term “high
7 traffic areas” has the meaning given such term in
8 section 102(e)(1) of the Illegal Immigration Reform
9 and Immigrant Responsibility Act of 1996, as
10 amended by section 1111 of this division.

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

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

17 (6) SITUATIONAL AWARENESS.—The term “sit-
18 uational awareness” has the meaning given such
19 term in section 1092(a)(7) of the National Defense
20 Authorization Act for Fiscal Year 2017 (Public Law
21 114–328; 6 U.S.C. 223(a)(7)).

22 (7) SMALL UNMANNED AERIAL VEHICLE.—The
23 term “small unmanned aerial vehicle” has the mean-
24 ing given the term “small unmanned aircraft” in
25 section 331 of the FAA Modernization and Reform

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

3 (8) TRANSIT ZONE.—The term “transit zone”
4 has the meaning given such term in section
5 1092(a)(8) of the National Defense Authorization
6 Act for Fiscal Year 2017 (Public Law 114–328; 6
7 U.S.C. 223(a)(7)).

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

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

18 **Subtitle A—Infrastructure and** 19 **Equipment**

20 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-** 21 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

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

12 (2) in subsection (b)—

13 (A) in the subsection heading, by striking
14 “FENCING AND ROAD IMPROVEMENTS” and in-
15 serting “PHYSICAL BARRIERS”;

16 (B) in paragraph (1)—

17 (i) in subparagraph (A)—

18 (I) by striking “subsection (a)”
19 and inserting “this section”;

20 (II) by striking “roads, lighting,
21 cameras, and sensors” and inserting
22 “tactical infrastructure, and tech-
23 nology”; and

1 (III) by striking “gain” inserting
2 “achieve situational awareness and”;
3 and

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

6 “(B) PHYSICAL BARRIERS AND TACTICAL
7 INFRASTRUCTURE.—

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

17 “(ii) CONSIDERATION FOR CERTAIN
18 PHYSICAL BARRIERS AND TACTICAL INFRA-
19 STRUCTURE.—The deployment of physical
20 barriers and tactical infrastructure under
21 this subparagraph shall not apply in any
22 area or region along the border where nat-
23 ural terrain features, natural barriers, or
24 the remoteness of such area or region
25 would make any such deployment ineffec-

1 tive, as determined by the Secretary, for
2 the purposes of achieving situational
3 awareness or operational control of such
4 area or region.”;

5 (iii) in subparagraph (C)—

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

8 “(i) IN GENERAL.—In carrying out
9 this section, the Secretary of Homeland
10 Security shall consult with the Secretary of
11 the Interior, the Secretary of Agriculture,
12 appropriate representatives of Federal,
13 State, local, and tribal governments, and
14 appropriate private property owners in the
15 United States to minimize the impact on
16 the environment, culture, commerce, and
17 quality of life for the communities and
18 residents located near the sites at which
19 such physical barriers are to be con-
20 structed.”;

21 (II) by redesignating clause (ii)
22 as clause (iii);

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

1 “(ii) NOTIFICATION.—Not later than
2 60 days after the consultation required
3 under clause (i), the Secretary of Home-
4 land Security shall notify the Committee
5 on Homeland Security of the House of
6 Representatives and the Committee on
7 Homeland Security and Governmental Af-
8 fairs of the Senate of the type of physical
9 barriers, tactical infrastructure, or tech-
10 nology the Secretary has determined is
11 most practical and effective to achieve situ-
12 ational awareness and operational control
13 in a specific area or region and the other
14 alternatives the Secretary considered be-
15 fore making such a determination.”; and

16 (IV) in clause (iii), as so redesign-
17 nated—

18 (aa) in subclause (I), by
19 striking “or” after the semicolon
20 at the end;

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

23 “(II) delay the transfer of the
24 possession of property to the United
25 States or affect the validity of any

1 property acquisition by purchase or
2 eminent domain, or to otherwise affect
3 the eminent domain laws of the
4 United States or of any State; or”;
5 and

6 (cc) by adding at the end
7 the following new subclause:

8 “(III) create any right or liability
9 for any party.”; and

10 (iv) by striking subparagraph (D);

11 (C) in paragraph (2)—

12 (i) by striking “Attorney General”
13 and inserting “Secretary of Homeland Se-
14 curity”;

15 (ii) by striking “this subsection” and
16 inserting “this section”; and

17 (iii) by striking “construction of
18 fences” and inserting “the construction of
19 physical barriers”;

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

22 “(3) AGENT SAFETY.—In carrying out this sec-
23 tion, the Secretary of Homeland Security, when de-
24 signing, constructing, and deploying physical bar-
25 riers, tactical infrastructure, or technology, shall in-

1 corporate such safety features into such design, con-
2 struction, or deployment of such physical barriers,
3 tactical infrastructure, or technology, as the case
4 may be, that the Secretary determines, in the Sec-
5 retary's sole discretion, are necessary to maximize
6 the safety and effectiveness of officers or agents of
7 the Department of Homeland Security or of any
8 other Federal agency deployed in the vicinity of such
9 physical barriers, tactical infrastructure, or tech-
10 nology.”; and

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

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

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law, the Secretary of Homeland Security
17 shall have the authority to waive all legal require-
18 ments the Secretary, in the Secretary's sole discre-
19 tion, determines necessary to ensure the expeditious
20 design, testing, construction, installation, deploy-
21 ment, integration, and operation of the physical bar-
22 riers, tactical infrastructure, and technology under
23 this section. Such waiver authority shall also apply
24 with respect to any maintenance carried out on such
25 physical barriers, tactical infrastructure, or tech-

1 nology. Any such decision by the Secretary shall be
2 effective upon publication in the Federal Register.”;
3 and

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

6 “(e) TECHNOLOGY.—Not later than September 30,
7 2023, the Secretary of Homeland Security, in carrying out
8 this section, shall deploy along the United States border
9 the most practical and effective technology available for
10 achieving situational awareness and operational control of
11 the border.

12 “(f) LIMITATION ON REQUIREMENTS.—Nothing in
13 this section may be construed as requiring the Secretary
14 of Homeland Security to install tactical infrastructure,
15 technology, and physical barriers in a particular location
16 along an international border of the United States, if the
17 Secretary determines that the use or placement of such
18 resources is not the most appropriate means to achieve
19 and maintain situational awareness and operational con-
20 trol over the international border at such location.

21 “(g) 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 such term in
8 section 2(b) of the Secure Fence Act of 2006 (8
9 U.S.C. 1701 note; Public Law 109–367).

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

13 “(4) SITUATIONAL AWARENESS.—The term ‘sit-
14 uational awareness’ has the meaning given such
15 term in section 1092(a)(7) of the National Defense
16 Authorization Act for Fiscal Year 2017 (6 U.S.C.
17 223(a)(7); Public Law 114–328).

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

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

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.

13 “(H) Other border detection, communica-
14 tion, and surveillance technology.

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

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

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

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

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

11 (d) PRIMARY MISSION.—The Commissioner shall en-
12 sure that—

13 (1) the primary missions for Air and Marine
14 Operations are to directly support U.S. Border Pa-
15 trol activities along the southern border of the
16 United States and Joint Interagency Task Force
17 South operations in the transit zone; and

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

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

1 (1) identify critical flight hour requirements;
2 and

3 (2) direct Air and Marine Operations to sup-
4 port requests from Sector Chiefs as their primary
5 mission.

6 (f) SMALL UNMANNED AERIAL VEHICLES.—

7 (1) IN GENERAL.—The Chief of the U.S. Bor-
8 der Patrol shall be the executive agent for U.S. Cus-
9 toms and Border Protection’s use of small un-
10 manned aerial vehicles for the purpose of meeting
11 the U.S. Border Patrol’s unmet flight hour oper-
12 ational requirements and to achieve situational
13 awareness and operational control.

14 (2) COORDINATION.—In carrying out para-
15 graph (1), the Chief of the U.S. Border Patrol
16 shall—

17 (A) coordinate flight operations with the
18 Administrator of the Federal Aviation Adminis-
19 tration to ensure the safe and efficient oper-
20 ation of the National Airspace System; and

21 (B) coordinate with the Executive Assist-
22 ant Commissioner for Air and Marine Oper-
23 ations of U.S. Customs and Border Protection
24 to ensure the safety of other U.S. Customs and
25 Border Protection aircraft flying in the vicinity

1 of small unmanned aerial vehicles operated by
2 the U.S. Border Patrol.

3 (3) CONFORMING AMENDMENT.—Paragraph (3)
4 of section 411(e) of the Homeland Security Act of
5 2002 (6 U.S.C. 211(e)) is amended—

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

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

10 (C) by inserting after subparagraph (B)
11 the following new subparagraph:

12 “(C) carry out the small unmanned aerial
13 vehicle requirements pursuant to subsection (f)
14 of section 1112 of the Border Security for
15 America Act of 2018; and”.

16 (g) SAVING CLAUSE.—Nothing in this section shall
17 confer, transfer, or delegate to the Secretary, the Commis-
18 sioner, the Executive Assistant Commissioner for Air and
19 Marine Operations of U.S. Customs and Border Protec-
20 tion, or the Chief of the U.S. Border Patrol any authority
21 of the Secretary of Transportation or the Administrator
22 of the Federal Aviation Administration relating to the use
23 of airspace or aviation safety.

1 **SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
2 **TORS AND TRANSIT ZONE.**

3 (a) IN GENERAL.—Not later than September 30,
4 2023, the Secretary, in implementing section 102 of the
5 Illegal Immigration Reform and Immigrant Responsibility
6 Act of 1996 (as amended by section 1111 of this division),
7 and acting through the appropriate component of the De-
8 partment of Homeland Security, shall deploy to each sec-
9 tor or region of the southern border and the northern bor-
10 der, in a prioritized manner to achieve situational aware-
11 ness and operational control of such borders, the following
12 additional capabilities:

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

15 (A) Tower-based surveillance technology.

16 (B) Subterranean surveillance and detec-
17 tion technologies.

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

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

22 (ii) Unmanned aerial vehicles with
23 maritime surveillance capability.

24 (iii) U.S. Customs and Border Protec-
25 tion maritime patrol aircraft.

1 (iv) Coastal radar surveillance sys-
2 tems.

3 (v) Maritime signals intelligence capa-
4 bilities.

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) Mobile vehicle-mounted and man-port-
12 able surveillance capabilities.

13 (H) Man-portable unmanned aerial vehi-
14 cles.

15 (I) Improved agent communications capa-
16 bilities.

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

19 (A) Tower-based surveillance technology.

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

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

24 (D) Ultralight aircraft detection capabili-
25 ties.

1 (E) Advanced unattended surveillance sen-
2 sors.

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

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

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

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

11 (A) Tower-based surveillance technology.

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

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

16 (D) Advanced unattended surveillance sen-
17 sors.

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

20 (F) Mobile vehicle-mounted and man-port-
21 able surveillance systems.

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

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

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

3 (A) Tower-based surveillance technology.

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

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

9 (D) Ultralight aircraft detection capabili-
10 ties.

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

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

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

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

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

21 (A) Tower-based surveillance technology.

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

24 (C) Ultralight aircraft detection capabili-
25 ties.

1 (D) Advanced unattended surveillance sen-
2 sors.

3 (E) Mobile vehicle-mounted and man-port-
4 able surveillance systems.

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

7 (G) Mobile vehicle-mounted and man-port-
8 able surveillance capabilities.

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

11 (I) Improved agent communications capa-
12 bilities.

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

15 (A) Tower-based surveillance technology.

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

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

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

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

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

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

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

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

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

9 (A) Tower-based surveillance technology.

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

12 (C) Improved agent communications capa-
13 bilities.

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

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

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

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

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

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

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

3 (A) Tower-based surveillance technology.

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

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

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

11 (E) Ultralight aircraft detection capability.

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

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

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

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

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

22 (A) Tower-based surveillance technology.

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

1 (C) Increased flight hours for aerial detec-
2 tion, interdiction, and monitoring operations ca-
3 pability.

4 (D) Ultralight aircraft detection capability.

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

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

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

11 (H) Increased maritime interdiction capa-
12 bilities.

13 (I) Mobile vehicle-mounted and man-port-
14 able surveillance capabilities.

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

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

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

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

24 (B) Coastal radar surveillance systems.

1 (C) Increased maritime interdiction capa-
2 bilities.

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

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

7 (F) Ultralight aircraft detection capabili-
8 ties.

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

11 (H) Improved agent communications capa-
12 bilities.

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

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

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

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

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

24 (E) Ultralight aircraft detection capabili-
25 ties.

1 (F) Completion of six miles of the Bog
2 Creek road.

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

5 (H) Improved agent communications sys-
6 tems.

7 (12) HAVRE SECTOR.—For the Havre sector,
8 the following:

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

12 (B) Mobile vehicle-mounted and man-port-
13 able surveillance capabilities.

14 (C) Advanced unattended surveillance sen-
15 sors.

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

18 (E) Man-portable unmanned aerial vehi-
19 cles.

20 (F) Improved agent communications sys-
21 tems.

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

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

4 (B) Mobile vehicle-mounted and man-port-
5 able surveillance capabilities.

6 (C) Advanced unattended surveillance sen-
7 sors.

8 (D) Ultralight aircraft detection capabili-
9 ties.

10 (E) Man-portable unmanned aerial vehi-
11 cles.

12 (F) Improved agent communications sys-
13 tems.

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

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

19 (B) Coastal radar surveillance systems.

20 (C) Increased maritime interdiction capa-
21 bilities.

22 (D) Mobile vehicle-mounted and man-port-
23 able surveillance capabilities.

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

1 (F) Ultralight aircraft detection capabili-
2 ties.

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

5 (H) Improved agent communications sys-
6 tems.

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

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

12 (B) Coastal radar surveillance systems.

13 (C) Increased maritime interdiction capa-
14 bilities.

15 (D) Mobile vehicle-mounted and man-port-
16 able surveillance capabilities.

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

19 (F) Ultralight aircraft detection capabili-
20 ties.

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

23 (H) Improved agent communications sys-
24 tems.

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

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

6 (B) Mobile vehicle-mounted and man-port-
7 able surveillance capabilities.

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

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

12 (E) Man-portable unmanned aerial vehi-
13 cles.

14 (F) Improved agent communications sys-
15 tems.

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

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

21 (B) Mobile vehicle-mounted and man-port-
22 able surveillance capabilities.

23 (C) Advanced unattended surveillance sen-
24 sors.

1 (D) Ultralight aircraft detection capabili-
2 ties.

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

5 (F) Improved agent communications sys-
6 tems.

7 (18) TRANSIT ZONE.—For the transit zone, the
8 following:

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

15 (B) Increased maritime signals intelligence
16 capabilities.

17 (C) To increase maritime domain aware-
18 ness, the following:

19 (i) Unmanned aerial vehicles with
20 maritime surveillance capability.

21 (ii) Increased maritime aviation patrol
22 hours.

23 (D) Increased operational hours for mari-
24 time security components dedicated to joint
25 counter-smuggling and interdiction efforts with

1 other Federal agencies, including the
2 Deployable Specialized Forces of the Coast
3 Guard.

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

11 (b) TACTICAL FLEXIBILITY.—

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

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

23 (B) NOTIFICATION.—If the Secretary exer-
24 cises the authority described in subparagraph
25 (A), the Secretary shall, not later than 90 days

1 after such exercise, notify the Committee on
2 Homeland Security and Governmental Affairs
3 of the Senate and the Committee on Homeland
4 Security of the House of Representatives re-
5 garding the deviation under such subparagraph
6 that is the subject of such exercise. If the Sec-
7 retary makes any changes to such deviation, the
8 Secretary shall, not later than 90 days after
9 any such change, notify such committees re-
10 garding such change.

11 (2) TRANSIT ZONE.—

12 (A) NOTIFICATION.—The Secretary shall
13 notify the Committee on Homeland Security
14 and Governmental Affairs of the Senate, the
15 Committee on Commerce, Science, and Trans-
16 portation of the Senate, the Committee on
17 Homeland Security of the House of Representa-
18 tives, and the Committee on Transportation
19 and Infrastructure of the House of Representa-
20 tives regarding the capability deployments for
21 the transit zone specified in paragraph (18) of
22 subsection (a), including information relating
23 to—

24 (i) the number and types of assets
25 and personnel deployed; and

1 (ii) the impact such deployments have
2 on the capability of the Coast Guard to
3 conduct its mission in the transit zone re-
4 ferred to in paragraph (18) of subsection
5 (a).

6 (B) ALTERATION.—The Secretary may
7 alter the capability deployments referred to in
8 this section if the Secretary—

9 (i) determines, after consultation with
10 the committees referred to in subpara-
11 graph (A), that such alteration is nec-
12 essary; and

13 (ii) not later than 30 days after mak-
14 ing a determination under clause (i), noti-
15 fies the committees referred to in such
16 subparagraph regarding such alteration,
17 including information relating to—

18 (I) the number and types of as-
19 sets and personnel deployed pursuant
20 to such alteration; and

21 (II) the impact such alteration
22 has on the capability of the Coast
23 Guard to conduct its mission in the
24 transit zone referred to in paragraph
25 (18) of subsection (a).

1 (c) EXIGENT CIRCUMSTANCES.—

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

12 (2) NOTIFICATION.—The Secretary shall notify
13 the Committee on Homeland Security of the House
14 of Representative and the Committee on Homeland
15 Security and Governmental Affairs of the Senate not
16 later than 30 days after making a determination
17 under paragraph (1). Such notification shall include
18 a detailed justification regarding such determination.

19 (d) INTEGRATION.—In carrying out subsection (a),
20 the Secretary shall, to the greatest extent practicable, inte-
21 grate, within each sector or region of the southern border
22 and northern border, as the case may be, the deployed ca-
23 pabilities specified in such subsection as necessary to
24 achieve situational awareness and operational control of
25 such borders.

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

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

7 **SEC. 1115. BORDER SECURITY TECHNOLOGY PROGRAM**
8 **MANAGEMENT.**

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

12 **“SEC. 435. BORDER SECURITY TECHNOLOGY PROGRAM**
13 **MANAGEMENT.**

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

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

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

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

6 “(3) have a plan for meeting program imple-
7 mentation objectives by managing contractor per-
8 formance.

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

20 “(d) PLAN.—The Secretary, acting through the
21 Under Secretary for Management, in coordination with
22 the Under Secretary for Science and Technology and the
23 Commissioner of U.S. Customs and Border Protection,
24 shall submit to the appropriate congressional committees
25 a plan for testing, evaluating, and using independent

1 verification and validation resources for border security
2 technology. Under the plan, new border security tech-
3 nologies shall be evaluated through a series of assess-
4 ments, processes, and audits to ensure—

5 “(1) compliance with relevant departmental ac-
6 quisition policies and the Federal Acquisition Regu-
7 lation; and

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

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in section 1(b) of the Homeland Security Act of 2002 is
11 amended by inserting after the item relating to section
12 433 the following new item:

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

13 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
14 OF APPROPRIATIONS.—No additional funds are author-
15 ized to be appropriated to carry out section 435 of the
16 Homeland Security Act of 2002, as added by subsection
17 (a). Such section shall be carried out using amounts other-
18 wise authorized for such purposes.

19 **SEC. 1116. NATIONAL GUARD SUPPORT TO SECURE THE**
20 **SOUTHERN BORDER.**

21 (a) NATIONAL GUARD SUPPORT.—

22 (1) AUTHORITY TO REQUEST.—The Secretary
23 may, pursuant to chapter 15 of title 10, United
24 States Code, request that the Secretary of Defense
25 support the Secretary’s efforts to secure the south-

1 ern border of the United States. The Secretary of
2 Defense may authorize the provision of such support
3 under section 502(f) of title 32, United States Code.

4 (2) APPROVAL AND ORDER.—With the approval
5 of the Secretary and the Secretary of Defense, the
6 Governor of a State may order any units or per-
7 sonnel of the National Guard of such State to per-
8 form operations and missions under section 502(f)
9 of title 32, United States Code, for the purpose of
10 securing the southern border of the United States.

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

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

15 (2) operation of ground-based surveillance sys-
16 tems;

17 (3) deployment of manned aircraft, unmanned
18 aerial surveillance systems, and ground-based sur-
19 veillance systems to support continuous surveillance
20 of the southern border; and

21 (4) intelligence analysis support.

22 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
23 retary of Defense may deploy such materiel, equipment,
24 and logistics support as may be necessary to ensure the

1 effectiveness of the assistance provided under subsection
2 (a).

3 (d) READINESS.—To ensure that the use of units and
4 personnel of the National Guard of a State authorized
5 pursuant to this section does not degrade the training and
6 readiness of such units and personnel, the Secretary of
7 Defense shall consider the following requirements when
8 authorizing or approving support under subsection (a):

9 (1) The performance of such support may not
10 affect adversely the quality of such training or readi-
11 ness or otherwise interfere with the ability of a unit
12 or personnel of the National Guard of a State to
13 perform the military functions of such member or
14 unit.

15 (2) The performance of such support may not
16 degrade the military skills of the units or personnel
17 of the National Guard of a State performing such
18 support.

19 (e) REPORT ON READINESS.—Upon the request of
20 the Secretary, the Secretary of Defense shall provide to
21 the Secretary a report on the readiness of units and per-
22 sonnel of the National Guard that the Secretary of De-
23 fense determines are capable of providing such support.

24 (f) REIMBURSEMENT NOTIFICATION.—Prior to pro-
25 viding any support under subsection (a), the Secretary of

1 Defense shall notify the Secretary whether the requested
2 support will be reimbursed under section 277 of title 10,
3 United States Code.

4 (g) REIMBURSEMENT TO STATES.—The Secretary of
5 Defense may reimburse a State for costs incurred in the
6 deployment of any units or personnel of the National
7 Guard pursuant to subsection (a).

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

11 (i) REPORTS.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of the enactment of this Act and bian-
14 nually thereafter through December 31, 2021, the
15 Secretary of Defense shall submit to the appropriate
16 congressional defense committees (as defined in sec-
17 tion 101(a)(16) of title 10, United States Code) a
18 report regarding any support provided pursuant to
19 subsection (a) for the six month period preceding
20 each such report.

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

23 (A) the support provided; and

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

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

3 (a) PROHIBITION ON INTERFERENCE WITH U.S.
4 CUSTOMS AND BORDER PROTECTION.—

5 (1) IN GENERAL.—The Secretary concerned
6 may not impede, prohibit, or restrict activities of
7 U.S. Customs and Border Protection on covered
8 Federal land to carry out the activities described in
9 subsection (b).

10 (2) APPLICABILITY.—The authority of U.S.
11 Customs and Border Protection to conduct activities
12 described in subsection (b) on covered Federal land
13 applies without regard to whether a state of emer-
14 gency exists.

15 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
16 BORDER PROTECTION.—

17 (1) IN GENERAL.—U.S. Customs and Border
18 Protection shall have immediate access to covered
19 Federal land to conduct the activities described in
20 paragraph (2) on such land to prevent all unlawful
21 entries into the United States, including entries by
22 terrorists, unlawful aliens, instruments of terrorism,
23 narcotics, and other contraband through the south-
24 ern border or the northern border.

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

1 (A) carrying out section 102 of the Illegal
2 Immigration Reform and Immigrant Responsi-
3 bility Act of 1996 (Division C of Public Law
4 104–208; 8 U.S.C. 1103 note), as amended by
5 section 1111 of this division;

6 (B) the execution of search and rescue op-
7 erations;

8 (C) the use of motorized vehicles, foot pa-
9 trols, and horseback to patrol the border area,
10 apprehend illegal entrants, and rescue individ-
11 uals; and

12 (D) the remediation of tunnels used to fa-
13 cilitate unlawful immigration or other illicit ac-
14 tivities.

15 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
16 ITY.—

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

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

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

3 (B) The Endangered Species Act of 1973
4 (16 U.S.C. 1531 et seq.).

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

8 (D) Division A of subtitle III of title 54,
9 United States Code (54 U.S.C. 300301 et seq.)
10 (formerly known as the “National Historic
11 Preservation Act”).

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

14 (F) The Clean Air Act (42 U.S.C. 7401 et
15 seq.).

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

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

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

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

1 (K) The Comprehensive Environmental
2 Response, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.).

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

7 (M) The Antiquities Act (16 U.S.C. 431 et
8 seq.).

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

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

14 (P) The Farmland Protection Policy Act
15 (7 U.S.C. 4201 et seq.).

16 (Q) The Coastal Zone Management Act of
17 1972 (16 U.S.C. 1451 et seq.).

18 (R) The Wilderness Act (16 U.S.C. 1131
19 et seq.).

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

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

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

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

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

8 (X) The Otay Mountain Wilderness Act of
9 1999 (Public Law 106–145).

10 (Y) Sections 102(29) and 103 of the Cali-
11 fornia Desert Protection Act of 1994 (Public
12 Law 103–433).

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

16 (AA) The National Park Service General
17 Authorities Act (Public Law 91–383, 16 U.S.C.
18 1a–1 et seq.).

19 (BB) Sections 401(7), 403, and 404 of the
20 National Parks and Recreation Act of 1978
21 (Public Law 95–625).

22 (CC) Sections 301(a) through (f) of the
23 Arizona Desert Wilderness Act (Public Law
24 101–628).

1 (DD) The Rivers and Harbors Act of 1899
2 (33 U.S.C. 403).

3 (EE) The Eagle Protection Act (16 U.S.C.
4 668 et seq.).

5 (FF) The Native American Graves Protec-
6 tion and Repatriation Act (25 U.S.C. 3001 et
7 seq.).

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

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

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

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

23 (4) SAVINGS CLAUSE.—The waiver authority
24 under this subsection may not be construed as af-
25 fecting, negating, or diminishing in any manner the

1 applicability of section 552 of title 5, United States
2 Code (commonly referred to as the “Freedom of In-
3 formation Act”), in any relevant matter.

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

6 (1) authority to restrict legal uses, such as
7 grazing, hunting, mining, or recreation or the use of
8 backcountry airstrips, on land under the jurisdiction
9 of the Secretary of the Interior or the Secretary of
10 Agriculture; or

11 (2) any additional authority to restrict legal ac-
12 cess to such land.

13 (e) EFFECT ON STATE AND PRIVATE LAND.—This
14 section shall—

15 (1) have no force or effect on State lands or
16 private lands; and

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

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

23 (g) MEMORANDA OF UNDERSTANDING.—The re-
24 quirements of this section shall not apply to the extent
25 that such requirements are incompatible with any memo-

1 random of understanding or similar agreement entered
2 into between the Commissioner and a National Park Unit
3 before the date of the enactment of this Act.

4 (h) DEFINITIONS.—In this section:

5 (1) COVERED FEDERAL LAND.—The term “cov-
6 ered Federal land” includes all land under the con-
7 trol of the Secretary concerned that is located within
8 100 miles of the southern border or the northern
9 border.

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

12 (A) with respect to land under the jurisdic-
13 tion of the Department of Agriculture, the Sec-
14 retary of Agriculture; and

15 (B) with respect to land under the jurisdic-
16 tion of the Department of the Interior, the Sec-
17 retary of the Interior.

18 **SEC. 1118. LANDOWNER AND RANCHER SECURITY EN-**
19 **HANCEMENT.**

20 (a) ESTABLISHMENT OF NATIONAL BORDER SECUR-
21 ITY ADVISORY COMMITTEE.—The Secretary shall estab-
22 lish a National Border Security Advisory Committee,
23 which—

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

4 (A) verifying security claims and the bor-
5 der security metrics established by the Depart-
6 ment of Homeland Security under section 1092
7 of the National Defense Authorization Act for
8 Fiscal Year 2017 (Public Law 114–328; 6
9 U.S.C. 223); and

10 (B) discussing ways to improve the secu-
11 rity of high traffic areas along the northern
12 border and the southern border; and

13 (2) may provide, through the Secretary, rec-
14 ommendations to Congress.

15 (b) CONSIDERATION OF VIEWS.—The Secretary shall
16 consider the information, advice, and recommendations of
17 the National Border Security Advisory Committee in for-
18 mulating policy regarding matters affecting border secu-
19 rity.

20 (c) MEMBERSHIP.—The National Border Security
21 Advisory Committee shall consist of at least one member
22 from each State who—

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

1 Security of the House of Representatives and the
2 Committee on Homeland Security and Governmental
3 Affairs of the Senate a Southern border threat anal-
4 ysis.

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

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

10 (i) to unlawfully enter the United
11 States through the Southern border; or

12 (ii) to exploit security vulnerabilities
13 along the Southern border;

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

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

1 (D) the current percentage of situational
2 awareness achieved by the Department along
3 the Southern border;

4 (E) the current percentage of operational
5 control achieved by the Department on the
6 Southern border; and

7 (F) traveler crossing times and any poten-
8 tial security vulnerability associated with pro-
9 longed wait times.

10 (3) ANALYSIS REQUIREMENTS.—In compiling
11 the Southern border threat analysis required under
12 this subsection, the Secretary shall consider and ex-
13 amine—

14 (A) the technology needs and challenges,
15 including such needs and challenges identified
16 as a result of previous investments that have
17 not fully realized the security and operational
18 benefits that were sought;

19 (B) the personnel needs and challenges, in-
20 cluding such needs and challenges associated
21 with recruitment and hiring;

22 (C) the infrastructure needs and chal-
23 lenges;

1 (D) the roles and authorities of State,
2 local, and tribal law enforcement in general bor-
3 der security activities;

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

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

9 (G) the international agreements between
10 the United States and Mexico related to border
11 security.

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

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

19 (1) IN GENERAL.—Not later than 180 days
20 after the submission of the threat analysis required
21 under subsection (a) or June 30, 2019, and every
22 five years thereafter, the Secretary, acting through
23 the Chief of the U.S. Border Patrol, shall issue a
24 Border Patrol Strategic Plan.

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

4 (A) the Southern border threat analysis re-
5 quired under subsection (a), with an emphasis
6 on efforts to mitigate threats identified in such
7 threat analysis;

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

14 (C) efforts to increase situational aware-
15 ness, including—

16 (i) surveillance capabilities, including
17 capabilities developed or utilized by the
18 Department of Defense, and any appro-
19 priate technology determined to be excess
20 by the Department of Defense; and

21 (ii) the use of manned aircraft and
22 unmanned aerial systems, including cam-
23 era and sensor technology deployed on
24 such assets;

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

4 (E) efforts to detect, interdict, and disrupt
5 aliens and illicit drugs at the earliest possible
6 point;

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

11 (G) efforts to ensure that any new border
12 security technology can be operationally inte-
13 grated with existing technologies in use by the
14 Department;

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

22 (I) operational coordination unity of effort
23 initiatives of the border security components of
24 the Department, including any relevant task
25 forces of the Department;

1 (J) lessons learned from Operation
2 Jumpstart and Operation Phalanx;

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

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

20 (M) staffing requirements for all depart-
21 mental border security functions;

22 (N) a prioritized list of departmental re-
23 search and development objectives to enhance
24 the security of the Southern border;

1 (O) an assessment of training programs,
2 including training programs for—

3 (i) identifying and detecting fraudu-
4 lent documents;

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

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

12 (P) an assessment of how border security
13 operations affect border crossing times.

14 **SEC. 1121. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
15 **PROTECTION.**

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

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

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

23 (3) by inserting after paragraph (18) the fol-
24 lowing new paragraphs:

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

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

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

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

21 “(B) a port of entry vacancy rate which
22 compares the number of officers identified in
23 subparagraph (A) with the number of officers
24 at the port at which such officer is currently as-
25 signed.”.

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

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

6 “(1) the terms”;

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

10 (3) by adding at the end the following new
11 paragraph:

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

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

18 In carrying out section 102 of the Illegal Immigration
19 Reform and Immigrant Responsibility Act of 1996 (as
20 amended by section 1111 of this division) and section
21 1113 of this division, the Secretary shall, to the greatest
22 extent practicable, ensure that technology deployed to gain
23 situational awareness and operational control of the bor-
24 der be provided to front-line officers and agents of the De-
25 partment of Homeland Security.

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

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

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

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

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

14 “(1) strengthen security between designated
15 ports of entry;

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

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

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

24 “(5) enhance information-sharing, including the
25 dissemination of homeland security information
26 among such components and offices.

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

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

5 “(A) Other subcomponents of U.S. Cus-
6 toms and Border Protection.

7 “(B) U.S. Immigration and Customs En-
8 forcement, led by Homeland Security Investiga-
9 tions.

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

13 “(D) Other Department personnel, as ap-
14 propriate.

15 “(E) Other Federal departments and agen-
16 cies, as appropriate.

17 “(F) Appropriate State law enforcement
18 agencies.

19 “(G) Foreign law enforcement partners.

20 “(H) Local law enforcement agencies from
21 affected border cities and communities.

22 “(I) Appropriate tribal law enforcement
23 agencies.

24 “(2) LOCATION.—The Secretary is authorized
25 to establish IBETs in regions in which such teams

1 can contribute to IBET missions, as appropriate.
2 When establishing an IBET, the Secretary shall con-
3 sider the following:

4 “(A) Whether the region in which the
5 IBET would be established is significantly im-
6 pacted by cross-border threats.

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

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

21 “(3) DUPLICATION OF EFFORTS.—In deter-
22 mining whether to establish a new IBET or to ex-
23 pand an existing IBET in a given region, the Sec-
24 retary shall ensure that the IBET under consider-
25 ation does not duplicate the efforts of other existing

1 interagency task forces or centers within such re-
2 gion, including the Integrated Cross-Border Mari-
3 time Law Enforcement Operation Program estab-
4 lished under section 711 of the Coast Guard and
5 Maritime Transportation Act of 2012 (46 U.S.C.
6 70101 note) or the Border Enforcement Security
7 Task Force established under section 432.

8 “(d) OPERATION.—

9 “(1) IN GENERAL.—After determining the re-
10 gions in which to establish IBETs, the Secretary
11 may—

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

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

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

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

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

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

23 “(1) describes the effectiveness of IBETs in ful-
24 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) addresses ways to support joint training
5 for IBET stakeholder agencies and radio interoper-
6 ability to allow for secure cross-border radio commu-
7 nications; and

8 “(4) assesses 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 435
16 the following new item:

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

17 **SEC. 1124. 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 border of the United
21 States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 437. Foreign migration assistance.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **Subtitle B—Personnel**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(a) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(ii) that includes—

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

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

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

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

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

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

19 “(A) the Secretary determines that—

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

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

4 “(I) the Federal service; or

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

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

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

16 “(ii) that includes—

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

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

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

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

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

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

10 “(5) RULES FOR BONUSES.—

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

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

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

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

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

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

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

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

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

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

3 “(d) OPM OVERSIGHT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(3) EVALUATION.—

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

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

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

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

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

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

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

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

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

21 “(i) EXERCISE OF AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **“SEC. 5. REPORTING.**

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

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

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

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

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

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

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

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

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

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

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

20 **“SEC. 6. DEFINITIONS.**

21 “In this Act:

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

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

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

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

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

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

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

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

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

6 “(l) TRAINING AND CONTINUING EDUCATION.—

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

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

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

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

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

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

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

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

7 **Subtitle C—Grants**

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

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

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

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

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

23 “(1) shall be located in—

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

25 or

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 2009. Operation Stonegarden.”.

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

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

5 (a) ADDITIONAL PORTS OF ENTRY.—

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

11 (2) CONSULTATION.—

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

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

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

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

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

17 (d) NOTIFICATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(i) trucking industry;

12 “(ii) airport industry;

13 “(iii) airline industry;

14 “(iv) seaport industry;

15 “(v) travel industry; and

16 “(vi) biometric technology industry;

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

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

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

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

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

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

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

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

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

23 “(b) IMPLEMENTATION.—

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

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

13 “(A) How a nationwide implementation of
14 such biometric exit data system at land ports of
15 entry shall be carried out.

16 “(B) The infrastructure required to carry
17 out subparagraph (A).

18 “(C) The effects of such pilot program on
19 legitimate travel and trade.

20 “(D) The effects of such pilot program on
21 wait times, including processing times, for such
22 non-pedestrian traffic.

23 “(E) The effects of such pilot program on
24 combating terrorism.

1 “(F) The effects of such pilot program on
2 identifying visa holders who violate the terms of
3 their visas.

4 “(2) AT LAND PORTS OF ENTRY.—

5 “(A) IN GENERAL.—Not later than five
6 years after the date of the enactment of this
7 section, the Secretary shall expand the biomet-
8 ric exit data system referred to in subsection
9 (a)(2) to all land ports of entry.

10 “(B) EXTENSION.—The Secretary may ex-
11 tend for a single two-year period the date speci-
12 fied in subparagraph (A) if the Secretary cer-
13 tifies to the Committee on Homeland Security
14 and Governmental Affairs and the Committee
15 on the Judiciary of the Senate and the Com-
16 mittee on Homeland Security and the Com-
17 mittee on the Judiciary of the House of Rep-
18 resentatives that the 15 land ports of entry that
19 support the highest volume of passenger vehi-
20 cles, as determined by available Federal data,
21 do not have the physical infrastructure or char-
22 acteristics to install the systems necessary to
23 implement a biometric exit data system. Such
24 extension shall apply only in the case of non-pe-

1 destrian outbound traffic at such land ports of
2 entry.

3 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
4 later than five years after the date of the enactment
5 of this section, the Secretary shall expand the bio-
6 metric exit data system referred to in subsection
7 (a)(2) to all air and sea ports of entry.

8 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
9 TATION.—The Secretary, in consultation with appropriate
10 private sector stakeholders, shall ensure that the collection
11 of biometric data under this section causes the least pos-
12 sible disruption to the movement of people or cargo in air,
13 sea, or land transportation, while fulfilling the goals of im-
14 proving counterterrorism efforts and identifying visa hold-
15 ers who violate the terms of their visas.

16 “(d) TERMINATION OF PROCEEDING.—Notwith-
17 standing any other provision of law, the Secretary shall,
18 on the date of the enactment of this section, terminate
19 the proceeding entitled ‘Collection of Alien Biometric Data
20 Upon Exit From the United States at Air and Sea Ports
21 of Departure; United States Visitor and Immigrant Status
22 Indicator Technology Program (“US-VISIT”)', issued on
23 April 24, 2008 (73 Fed. Reg. 22065).

24 “(e) DATA-MATCHING.—The biometric exit data sys-
25 tem established under this section shall—

1 “(1) match biometric information for an indi-
2 vidual, regardless of nationality, citizenship, or im-
3 migration status, who is departing the United States
4 against biometric data previously provided to the
5 United States Government by such individual for the
6 purposes of international travel;

7 “(2) leverage the infrastructure and databases
8 of the current biometric entry and exit system estab-
9 lished pursuant to section 7208 of the Intelligence
10 Reform and Terrorism Prevention Act of 2004 (8
11 U.S.C. 1365b) for the purpose described in para-
12 graph (1); and

13 “(3) be interoperable with, and allow matching
14 against, other Federal databases that—

15 “(A) store biometrics of known or sus-
16 pected terrorists; and

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

19 “(f) SCOPE.—

20 “(1) IN GENERAL.—The biometric exit data
21 system established under this section shall include a
22 requirement for the collection of biometric exit data
23 at the time of departure for all categories of individ-
24 uals who are required by the Secretary to provide bi-
25 ometric entry data.

1 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
2 UALS.—This section shall not apply in the case of an
3 individual who exits and then enters the United
4 States on a passenger vessel (as such term is defined
5 in section 2101 of title 46, United States Code) the
6 itinerary of which originates and terminates in the
7 United States.

8 “(3) EXCEPTION FOR LAND PORTS OF
9 ENTRY.—This section shall not apply in the case of
10 a United States or Canadian citizen who exits the
11 United States through a land port of entry.

12 “(g) COLLECTION OF DATA.—The Secretary may not
13 require any non-Federal person to collect biometric data,
14 or contribute to the costs of collecting or administering
15 the biometric exit data system established under this sec-
16 tion, except through a mutual agreement.

17 “(h) MULTI-MODAL COLLECTION.—In carrying out
18 subsections (a)(1) and (b), the Secretary shall make every
19 effort to collect biometric data using multiple modes of
20 biometrics.

21 “(i) FACILITIES.—All facilities at which the biometric
22 exit data system established under this section is imple-
23 mented shall provide and maintain space for Federal use
24 that is adequate to support biometric data collection and
25 other inspection-related activity. For non-federally owned

1 facilities, such space shall be provided and maintained at
2 no cost to the Government. For all facilities at land ports
3 of entry, such space requirements shall be coordinated
4 with the Administrator of General Services.

5 “(j) NORTHERN LAND BORDER.—In the case of the
6 northern land border, the requirements under subsections
7 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through
8 the sharing of biometric data provided to the Department
9 by the Canadian Border Services Agency pursuant to the
10 2011 Beyond the Border agreement.

11 “(k) FULL AND OPEN COMPETITION.—The Sec-
12 retary shall procure goods and services to implement this
13 section via full and open competition in accordance with
14 the Federal Acquisition Regulations.

15 “(l) OTHER BIOMETRIC INITIATIVES.—Nothing in
16 this section may be construed as limiting the authority of
17 the Secretary to collect biometric information in cir-
18 cumstances other than as specified in this section.

19 “(m) CONGRESSIONAL REVIEW.—Not later than 90
20 days after the date of the enactment of this section, the
21 Secretary shall submit to the Committee on Homeland Se-
22 curity and Governmental Affairs of the Senate, the Com-
23 mittee on the Judiciary of the Senate, the Committee on
24 Homeland Security of the House of Representatives, and
25 Committee on the Judiciary of the House of Representa-

1 tives reports and recommendations regarding the Science
2 and Technology Directorate’s Air Entry and Exit Re-En-
3 gineering Program of the Department and the U.S. Cus-
4 toms and Border Protection entry and exit mobility pro-
5 gram demonstrations.

6 “(n) SAVINGS CLAUSE.—Nothing in this section shall
7 prohibit the collection of user fees permitted by section
8 13031 of the Consolidated Omnibus Budget Reconciliation
9 Act of 1985 (19 U.S.C. 58c).”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 in section 1(b) of the Homeland Security Act of 2002 is
12 amended by inserting after the item relating to section
13 415 the following new item:

“Sec. 416. Biometric entry-exit.”.

14 **SEC. 2107. SENSE OF CONGRESS ON COOPERATION BE-**
15 **TWEEN AGENCIES.**

16 (a) FINDING.—Congress finds that personnel con-
17 straints exist at land ports of entry with regard to sanitary
18 and phytosanitary inspections for exported goods.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that, in the best interest of cross-border trade and
21 the agricultural community—

22 (1) any lack of certified personnel for inspection
23 purposes at ports of entry should be addressed by
24 seeking cooperation between agencies and depart-
25 ments of the United States, whether in the form of

1 a memorandum of understanding or through a cer-
2 tification process, whereby additional existing agents
3 are authorized for additional hours to facilitate and
4 expedite the flow of legitimate trade and commerce
5 of perishable goods in a manner consistent with
6 rules of the Department of Agriculture; and

7 (2) cross designation should be available for
8 personnel who will assist more than one agency or
9 department of the United States at land ports of
10 entry to facilitate and expedite the flow of increased
11 legitimate trade and commerce.

12 **SEC. 2108. DEFINITION.**

13 In this title, the term “Secretary” means the Sec-
14 retary of Homeland Security.

15 **TITLE III—VISA SECURITY AND**
16 **INTEGRITY**

17 **SEC. 3101. VISA SECURITY.**

18 (a) VISA SECURITY UNITS AT HIGH RISK POSTS.—
19 Paragraph (1) of section 428(e) of the Homeland Security
20 Act of 2002 (6 U.S.C. 236(e)) is amended—

21 (1) by striking “The Secretary” and inserting
22 the following:

23 “(A) AUTHORIZATION.—Subject to the
24 minimum number specified in subparagraph
25 (B), the Secretary”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B) RISK-BASED ASSIGNMENTS.—

4 “(i) IN GENERAL.—In carrying out
5 subparagraph (A), the Secretary shall as-
6 sign employees of the Department to not
7 fewer than 75 diplomatic and consular
8 posts at which visas are issued. Such as-
9 signments shall be made—

10 “(I) in a risk-based manner;

11 “(II) considering the criteria de-
12 scribed in clause (iii); and

13 “(III) in accordance with Na-
14 tional Security Decision Directive 38
15 of June 2, 1982, or any superseding
16 presidential directive concerning staff-
17 ing at diplomatic and consular posts.

18 “(ii) PRIORITY CONSIDERATION.—In
19 carrying out National Security Decision
20 Directive 38 of June 2, 1982, the Sec-
21 retary of State shall ensure priority consid-
22 eration of any staffing assignment pursu-
23 ant to this subparagraph.

1 “(iii) CRITERIA DESCRIBED.—The cri-
2 teria referred to in clause (i) are the fol-
3 lowing:

4 “(I) The number of nationals of
5 a country in which any of the diplo-
6 matic and consular posts referred to
7 in clause (i) are located who were
8 identified in United States Govern-
9 ment databases related to the identi-
10 ties of known or suspected terrorists
11 during the previous year.

12 “(II) Information on the coopera-
13 tion of such country with the
14 counterterrorism efforts of the United
15 States.

16 “(III) Information analyzing the
17 presence, activity, or movement of ter-
18 rorist organizations (as such term is
19 defined in section 212(a)(3)(B)(vi) of
20 the Immigration and Nationality Act
21 (8 U.S.C. 1182(a)(3)(B)(vi))) within
22 or through such country.

23 “(IV) The number of formal ob-
24 jections based on derogatory informa-
25 tion issued by the Visa Security Advi-

1 sory Opinion Unit pursuant to para-
2 graph (10) regarding nationals of a
3 country in which any of the diplomatic
4 and consular posts referred to in
5 clause (i) are located.

6 “(V) The adequacy of the border
7 and immigration control of such coun-
8 try.

9 “(VI) Any other criteria the Sec-
10 retary determines appropriate.”.

11 (b) COUNTERTERROR VETTING AND SCREENING.—
12 Paragraph (2) of section 428(e) of the Homeland Security
13 Act of 2002 is amended—

14 (1) by redesignating subparagraph (C) as sub-
15 paragraph (D); and

16 (2) by inserting after subparagraph (B) the fol-
17 lowing new subparagraph:

18 “(C) Screen any such applications against
19 the appropriate criminal, national security, and
20 terrorism databases maintained by the Federal
21 Government.”.

22 (c) TRAINING AND HIRING.—Subparagraph (A) of
23 section 428(e)(6) of the Homeland Security Act of 2002
24 is amended by—

1 (1) striking “The Secretary shall ensure, to the
2 extent possible, that any employees” and inserting
3 “‘The Secretary, acting through the Commissioner of
4 U.S. Customs and Border Protection and the Direc-
5 tor of U.S. Immigration and Customs Enforcement,
6 shall provide training to any employees’”; and

7 (2) striking “shall be provided the necessary
8 training”.

9 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
10 AND VISA SECURITY ADVISORY OPINION UNIT.—Sub-
11 section (e) of section 428 of the Homeland Security Act
12 of 2002 is amended by adding at the end the following
13 new paragraphs:

14 “(9) REMOTE PRE-ADJUDICATED VISA SECUR-
15 ITY 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) DEADLINES.—The requirements established
8 under paragraphs (1) and (9) of section 428(e) of the
9 Homeland Security Act of 2002 (6 U.S.C. 236(e)), as
10 amended and added by this section, shall be implemented
11 not later than three years after the date of the enactment
12 of this Act.

13 (f) FUNDING.—

14 (1) ADDITIONAL VISA FEE.—

15 (A) IN GENERAL.—The Secretary of State,
16 in consultation with the Secretary of Homeland
17 Security, shall charge a fee in support of visa
18 security, to be deposited in the U.S. Immigra-
19 tion and Customs Enforcement account. Fees
20 imposed pursuant to this subsection shall be
21 available only to the extent provided in advance
22 by appropriations Acts.

23 (B) AMOUNT OF FEE.—The total amount
24 of the additional fee charged pursuant to this
25 subsection shall be equal to an amount suffi-

1 cient to cover the annual costs of the visa secu-
2 rity program established by the Secretary of
3 Homeland Security under section 428(e) of the
4 Homeland Security Act of 2002 (6 U.S.C.
5 236(e)), as amended by this section.

6 (2) USE OF FEES.—Amounts deposited in the
7 U.S. Immigration and Customs Enforcement ac-
8 count pursuant to paragraph (1) are authorized to
9 be appropriated to the Secretary of Homeland Secu-
10 rity for the funding of the visa security program re-
11 ferred to in such paragraph.

12 **SEC. 3102. ELECTRONIC PASSPORT SCREENING AND BIO-**
13 **METRIC MATCHING.**

14 (a) IN GENERAL.—Subtitle B of title IV of the
15 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
16 as amended by section 2106 of this division, is further
17 amended by adding at the end the following new sections:

18 **“SEC. 420. ELECTRONIC PASSPORT SCREENING AND BIO-**
19 **METRIC MATCHING.**

20 “(a) IN GENERAL.—Not later than one year after the
21 date of the enactment of this section, the Commissioner
22 of U.S. Customs and Border Protection shall—

23 “(1) screen electronic passports at airports of
24 entry by reading each such passport’s embedded
25 chip; and

1 “(2) to the greatest extent practicable, utilize
2 facial recognition technology or other biometric tech-
3 nology, as determined by the Commissioner, to in-
4 spect travelers at United States airports of entry.

5 “(b) APPLICABILITY.—

6 “(1) ELECTRONIC PASSPORT SCREENING.—
7 Paragraph (1) of subsection (a) shall apply to pass-
8 ports belonging to individuals who are United States
9 citizens, individuals who are nationals of a program
10 country pursuant to section 217 of the Immigration
11 and Nationality Act (8 U.S.C. 1187), and individ-
12 uals who are nationals of any other foreign country
13 that issues electronic passports.

14 “(2) FACIAL RECOGNITION MATCHING.—Para-
15 graph (2) of subsection (a) shall apply, at a min-
16 imum, to individuals who are nationals of a program
17 country pursuant to section 217 of the Immigration
18 and Nationality Act.

19 “(c) ANNUAL REPORT.—The Commissioner of U.S.
20 Customs and Border Protection, in collaboration with the
21 Chief Privacy Officer of the Department, shall issue to the
22 Committee on Homeland Security of the House of Rep-
23 resentatives and the Committee on Homeland Security
24 and Governmental Affairs of the Senate an annual report
25 through fiscal year 2022 on the utilization of facial rec-

1 ognition technology and other biometric technology pursu-
2 ant to subsection (a)(2). Each such report shall include
3 information on the type of technology used at each airport
4 of entry, the number of individuals who were subject to
5 inspection using either of such technologies at each airport
6 of entry, and within the group of individuals subject to
7 such inspection at each airport, the number of those indi-
8 viduals who were United States citizens and legal perma-
9 nent residents. Each such report shall provide information
10 on the disposition of data collected during the year covered
11 by such report, together with information on protocols for
12 the management of collected biometric data, including
13 timeframes and criteria for storing, erasing, destroying,
14 or otherwise removing such data from databases utilized
15 by the Department.

16 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
17 **AND BORDER PROTECTION.**

18 “The Commissioner of U.S. Customs and Border
19 Protection shall, in a risk based manner, continuously
20 screen individuals issued any visa, and individuals who are
21 nationals of a program country pursuant to section 217
22 of the Immigration and Nationality Act (8 U.S.C. 1187),
23 who are present, or are expected to arrive within 30 days,
24 in the United States, against the appropriate criminal, na-

1 tional security, and terrorism databases maintained by the
2 Federal Government.”.

3 (b) 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
6 419 the following new items:

“Sec. 420. Electronic passport screening and biometric matching.

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

7 **SEC. 3103. REPORTING OF VISA OVERSTAYS.**

8 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
9 is amended—

10 (1) in subsection (a)—

11 (A) by striking “Attorney General” and in-
12 serting “Secretary of Homeland Security”; and

13 (B) by inserting before the period at the
14 end the following: “, and any additional infor-
15 mation that the Secretary determines necessary
16 for purposes of the report under subsection
17 (b)”;

18 (2) by amending subsection (b) to read as fol-
19 lows:

20 “(b) ANNUAL REPORT.—Not later than September
21 30, 2019, and not later than September 30 of each year
22 thereafter, the Secretary of Homeland Security shall sub-
23 mit to the Committee on Homeland Security and the Com-
24 mittee on the Judiciary of the House of Representatives

1 and to the Committee on Homeland Security and Govern-
2 mental Affairs and the Committee on the Judiciary of the
3 Senate a report providing, for the preceding fiscal year,
4 numerical estimates (including information on the meth-
5 odology utilized to develop such numerical estimates) of—

6 “(1) for each country, the number of aliens
7 from the country who are described in subsection
8 (a), including—

9 “(A) the total number of such aliens within
10 all classes of nonimmigrant aliens described in
11 section 101(a)(15) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1101(a)(15)); and

13 “(B) the number of such aliens within each
14 of the classes of nonimmigrant aliens, as well as
15 the number of such aliens within each of the
16 subclasses of such classes of nonimmigrant
17 aliens, as applicable;

18 “(2) for each country, the percentage of the
19 total number of aliens from the country who were
20 present in the United States and were admitted to
21 the United States as nonimmigrants who are de-
22 scribed in subsection (a);

23 “(3) the number of aliens described in sub-
24 section (a) who arrived by land at a port of entry
25 into the United States;

1 “(4) the number of aliens described in sub-
2 section (a) who entered the United States using a
3 border crossing identification card (as such term is
4 defined in section 101(a)(6) of the Immigration and
5 Nationality Act (8 U.S.C. 1101(a)(6))); and

6 “(5) the number of Canadian nationals who en-
7 tered the United States without a visa whose author-
8 ized period of stay in the United States terminated
9 during the previous fiscal year, but who remained in
10 the United States.”.

11 **SEC. 3104. STUDENT AND EXCHANGE VISITOR INFORMA-**
12 **TION SYSTEM VERIFICATION.**

13 Not later than 90 days after the date of the enact-
14 ment of this Act, the Secretary of Homeland Security shall
15 ensure that the information collected under the program
16 established under section 641 of the Illegal Immigration
17 Reform and Immigrant Responsibility Act of 1996 (8
18 U.S.C. 1372) is available to officers of U.S. Customs and
19 Border Protection for the purpose of conducting primary
20 inspections of aliens seeking admission to the United
21 States at each port of entry of the United States.

22 **SEC. 3105. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

23 (a) IN GENERAL.—Subtitle C of title IV of the
24 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
25 as amended by sections 1115, 1123, and 1126 of this divi-

1 sion, is further amended by adding at the end the fol-
2 lowing new sections:

3 **“SEC. 438. SOCIAL MEDIA SCREENING.**

4 “(a) IN GENERAL.—Not later than 180 days after
5 the date of the enactment of this section, the Secretary
6 shall, to the greatest extent practicable, and in a risk
7 based manner and on an individualized basis, review the
8 social media accounts of certain visa applicants who are
9 citizens of, or who reside in, high-risk countries, as deter-
10 mined by the Secretary based on the criteria described in
11 subsection (b).

12 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
13 mining whether a country is high-risk pursuant to sub-
14 section (a), the Secretary, in consultation with the Sec-
15 retary of State, shall consider the following criteria:

16 “(1) The number of nationals of the country
17 who were identified in United States Government
18 databases related to the identities of known or sus-
19 pected terrorists during the previous year.

20 “(2) The level of cooperation of the country
21 with the counter-terrorism efforts of the United
22 States.

23 “(3) Any other criteria the Secretary deter-
24 mines appropriate.

1 “(c) COLLABORATION.—To carry out the require-
2 ments of subsection (a), the Secretary may collaborate
3 with—

4 “(1) the head of a national laboratory within
5 the Department’s laboratory network with relevant
6 expertise;

7 “(2) the head of a relevant university-based
8 center within the Department’s centers of excellence
9 network; and

10 “(3) the heads of other appropriate Federal
11 agencies.

12 “(d) WAIVER.—The Secretary, in collaboration with
13 the Secretary of State, is authorized to waive the require-
14 ments of subsection (a) as necessary to comply with inter-
15 national obligations of the United States.

16 **“SEC. 439. OPEN SOURCE SCREENING.**

17 “The Secretary shall, to the greatest extent prac-
18 ticable, and in a risk based manner, review open source
19 information of visa applicants.”

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of the Homeland Security Act of 2002, as
22 amended by this division is further amended by inserting
23 after the item relating to section 437 the following new
24 items:

“Sec. 438. Social media screening.

“Sec. 439. Open source screening.”.

1 **SEC. 3106. CANCELLATION OF ADDITIONAL VISAS.**

2 (a) IN GENERAL.—Section 222(g) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

4 (1) in paragraph (1)—

5 (A) by striking “Attorney General” and in-
6 sserting “Secretary”; and

7 (B) by inserting “and any other non-
8 immigrant visa issued by the United States that
9 is in the possession of the alien” after “such
10 visa”; and

11 (2) in paragraph (2)(A), by striking “(other
12 than the visa described in paragraph (1)) issued in
13 a consular office located in the country of the alien’s
14 nationality” and inserting “(other than a visa de-
15 scribed in paragraph (1)) issued in a consular office
16 located in the country of the alien’s nationality or
17 foreign residence”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act and shall apply to a visa issued before,
21 on, or after such date.

22 **SEC. 3107. VISA INFORMATION SHARING.**

23 (a) IN GENERAL.—Section 222(f) of the Immigration
24 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

25 (1) by striking “issuance or refusal” and insert-
26 ing “issuance, refusal, or revocation”;

1 (2) in paragraph (2), in the matter preceding
2 subparagraph (A), by striking “and on the basis of
3 reciprocity” and all that follows and inserting the
4 following “may provide to a foreign government in-
5 formation in a Department of State computerized
6 visa database and, when necessary and appropriate,
7 other records covered by this section related to infor-
8 mation in such database—”;

9 (3) in paragraph (2)(A)—

10 (A) by inserting at the beginning “on the
11 basis of reciprocity,”;

12 (B) by inserting “(i)” after “for the pur-
13 pose of”; and

14 (C) by striking “illicit weapons; or” and
15 inserting “illicit weapons, or (ii) determining a
16 person’s deportability or eligibility for a visa,
17 admission, or other immigration benefit;”;

18 (4) in paragraph (2)(B)—

19 (A) by inserting at the beginning “on the
20 basis of reciprocity,”;

21 (B) by striking “in the database” and in-
22 serting “such database”;

23 (C) by striking “for the purposes” and in-
24 serting “for one of the purposes”; and

1 (D) by striking “or to deny visas to per-
2 sons who would be inadmissible to the United
3 States.” and inserting “; or”; and

4 (5) in paragraph (2), by adding at the end the
5 following:

6 “(C) with regard to any or all aliens in the
7 database specified data elements from each
8 record, if the Secretary of State determines that
9 it is in the national interest to provide such in-
10 formation to a foreign government.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 subsection (a) shall take effect 60 days after the date of
13 the enactment of this Act.

14 **SEC. 3108. RESTRICTING WAIVER OF VISA INTERVIEWS.**

15 Section 222(h) of the Immigration and Nationality
16 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

17 (1) in paragraph (1)(C), by inserting “, in con-
18 sultation with the Secretary of Homeland Security,”
19 after “if the Secretary”;

20 (2) in paragraph (1)(C)(i), by inserting “,
21 where such national interest shall not include facili-
22 tation of travel of foreign nationals to the United
23 States, reduction of visa application processing
24 times, or the allocation of consular resources” before
25 the semicolon at the end; and

1 (3) in paragraph (2)—

2 (A) by striking “or” at the end of subpara-
3 graph (E);

4 (B) by striking the period at the end of
5 subparagraph (F) and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(G) is an individual—

8 “(i) determined to be in a class of
9 aliens determined by the Secretary of
10 Homeland Security to be threats to na-
11 tional security;

12 “(ii) identified by the Secretary of
13 Homeland Security as a person of concern;
14 or

15 “(iii) applying for a visa in a visa cat-
16 egory with respect to which the Secretary
17 of Homeland Security has determined that
18 a waiver of the visa interview would create
19 a high risk of degradation of visa program
20 integrity.”.

21 **SEC. 3109. AUTHORIZING THE DEPARTMENT OF STATE TO**
22 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
23 **APPLICANTS.**

24 (a) IN GENERAL.—Section 222(h)(1) of the Immi-
25 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is

1 amended by inserting “the alien is determined by the Sec-
2 retary of State to be ineligible for a visa based upon review
3 of the application or” after “unless”.

4 (b) GUIDANCE.—Not later than 90 days after the
5 date of the enactment of this Act, the Secretary of State
6 shall issue guidance to consular officers on the standards
7 and processes for implementing the authority to deny visa
8 applications without interview in cases where the alien is
9 determined by the Secretary of State to be ineligible for
10 a visa based upon review of the application.

11 (c) REPORTS.—Not less frequently than once each
12 quarter, the Secretary of State shall submit to the Con-
13 gress a report on the denial of visa applications without
14 interview, including—

15 (1) the number of such denials; and

16 (2) a post-by-post breakdown of such denials.

17 **SEC. 3110. PETITION AND APPLICATION PROCESSING FOR**
18 **VISAS AND IMMIGRATION BENEFITS.**

19 (a) IN GENERAL.—Chapter 2 of title II of the Immi-
20 gration and Nationality Act (8 U.S.C. 1181 et seq.) is
21 amended by inserting after section 211 the following:

22 **“SEC. 211A. PETITION AND APPLICATION PROCESSING.**

23 **“(a) SIGNATURE REQUIREMENT.—**

24 **“(1) IN GENERAL.—No petition or application**
25 **filed with the Secretary of Homeland Security or**

1 with a consular officer relating to the issuance of a
2 visa or to the admission of an alien to the United
3 States as an immigrant or as a nonimmigrant may
4 be approved unless the petition or application is
5 signed by each party required to sign such petition
6 or application.

7 “(2) APPLICATIONS FOR IMMIGRANT VISAS.—
8 Except as may be otherwise prescribed by regula-
9 tions, each application for an immigrant visa shall
10 be signed by the applicant in the presence of the
11 consular officer, and verified by the oath of the ap-
12 plicant administered by the consular officer.

13 “(b) COMPLETION REQUIREMENT.—No petition or
14 application filed with the Secretary of Homeland Security
15 or with a consular officer relating to the issuance of a visa
16 or to the admission of an alien to the United States as
17 an immigrant or as a nonimmigrant may be approved un-
18 less each applicable portion of the petition or application
19 has been completed.

20 “(c) TRANSLATION REQUIREMENT.—No document
21 submitted in support of a petition or application for a non-
22 immigrant or immigrant visa may be accepted by a con-
23 sular officer if such document contains information in a
24 foreign language, unless such document is accompanied by
25 a full English translation, which the translator has cer-

1 tified as complete and accurate, and by the translator’s
2 certification that he or she is competent to translate from
3 the foreign language into English.

4 “(d) REQUESTS FOR ADDITIONAL INFORMATION.—
5 In the case that the Secretary of Homeland Security or
6 a consular officer requests any additional information re-
7 lating to a petition or application filed with the Secretary
8 or consular officer relating to the issuance of a visa or
9 to the admission of an alien to the United States as an
10 immigrant or as a nonimmigrant, such petition or applica-
11 tion may not be approved unless all of the additional infor-
12 mation requested is provided, or is shown to have been
13 previously provided, in complete form and is provided on
14 or before any reasonably established deadline included in
15 the request.”.

16 (b) CLERICAL AMENDMENT.—The table of contents
17 for the Immigration and Nationality Act (8 U.S.C. 1101
18 et seq.) is amended by inserting after the item relating
19 to section 211 the following:

“Sec. 211A. Petition and application processing.”.

20 (c) APPLICATION.—The amendments made by this
21 section shall apply with respect to applications and peti-
22 tions filed after the date of the enactment of this Act.

23 **SEC. 3111. FRAUD PREVENTION.**

24 (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

1 (1) PLAN FOR IMPLEMENTATION.—Not later
2 than 180 days after the date of the enactment of
3 this Act, the Secretary of Homeland Security shall
4 submit to the Committee on the Judiciary of the
5 House of Representatives and the Committee on the
6 Judiciary of the Senate a plan for the use of ad-
7 vanced analytics software to ensure the proactive de-
8 tection of fraud in immigration benefits applications
9 and petitions and to ensure that any such applicant
10 or petitioner does not pose a threat to national secu-
11 rity.

12 (2) IMPLEMENTATION OF PLAN.—Not later
13 than 1 year after the date of the submission of the
14 plan under paragraph (1), the Secretary of Home-
15 land Security shall begin implementation of the plan.

16 (b) BENEFITS FRAUD ASSESSMENT.—

17 (1) IN GENERAL.—The Secretary of Homeland
18 Security, acting through the Fraud Detection and
19 Nationality Security Directorate, shall complete a
20 benefit fraud assessment by fiscal year 2021 on each
21 of the following:

22 (A) Petitions by VAWA self-petitioners (as
23 such term is defined in section 101(a)(51) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1101(a)(51)).

1 (B) Applications or petitions for visas or
2 status under section 101(a)(15)(K) of such Act
3 or under section 201(b)(2) of such Act, in the
4 case of spouses (8 U.S.C. 1101(a)(15)(K)).

5 (C) Applications for visas or status under
6 section 101(a)(27)(J) of such Act (8 U.S.C.
7 1101(a)(27)(J)).

8 (D) Applications for visas or status under
9 section 101(a)(15)(U) of such Act (8 U.S.C.
10 1101(a)(15)(U)).

11 (E) Petitions for visas or status under sec-
12 tion 101(a)(27)(C) of such Act (8 U.S.C.
13 1101(a)(27)(C)).

14 (F) Applications for asylum under section
15 208 of such Act (8 U.S.C. 1158).

16 (G) Applications for adjustment of status
17 under section 209 of such Act (8 U.S.C. 1159).

18 (H) Petitions for visas or status under sec-
19 tion 201(b) of such Act (8 U.S.C. 1151(b)).

20 (2) REPORTING ON FINDINGS.—Not later than
21 30 days after the completion of each benefit fraud
22 assessment under paragraph (1), the Secretary shall
23 submit to the Committee on the Judiciary of the
24 House of Representatives and the Committee on the
25 Judiciary of the Senate such assessment and rec-

1 ommendations on how to reduce the occurrence of
2 instances of fraud identified by the assessment.

3 **SEC. 3112. VISA INELIGIBILITY FOR SPOUSES AND CHIL-**
4 **DREN OF DRUG TRAFFICKERS.**

5 Section 212(a)(2) of the Immigration and Nationality
6 Act (8 U.S.C. 1182(a)(2)) is amended—

7 (1) in subparagraph (C)(ii), by striking “is the
8 spouse, son, or daughter” and inserting “is or has
9 been the spouse, son, or daughter”; and

10 (2) in subparagraph (H)(ii), by striking “is the
11 spouse, son, or daughter” and inserting “is or has
12 been the spouse, son, or daughter”.

13 **SEC. 3113. DNA TESTING.**

14 Section 222(b) of the Immigration and Nationality
15 Act (8 U.S.C. 1202(b)) is amended by inserting “Where
16 considered necessary, by the consular officer or immigra-
17 tion official, to establish family relationships, the immi-
18 grant shall provide DNA evidence of such a relationship
19 in accordance with procedures established for submitting
20 such evidence. The Secretary and the Secretary of State
21 may, in consultation, issue regulations to require DNA
22 evidence to establish family relationship, from applicants
23 for certain visa classifications.” after “and a certified copy
24 of all other records or documents concerning him or his
25 case which may be required by the consular officer.”.

1 **SEC. 3114. ACCESS TO NCIC CRIMINAL HISTORY DATABASE**
2 **FOR DIPLOMATIC VISAS.**

3 Subsection (a) of article V of section 217 of the Na-
4 tional Crime Prevention and Privacy Compact Act of 1998
5 (34 U.S.C. 40316(V)(a)) is amended by inserting “, ex-
6 cept for diplomatic visa applications for which only full
7 biographical information is required” before the period at
8 the end.

9 **SEC. 3115. ELIMINATION OF SIGNED PHOTOGRAPH RE-**
10 **QUIREMENT FOR VISA APPLICATIONS.**

11 Section 221(b) of the Immigration and Nationality
12 Act (8 U.S.C. 1201(b)) is amended by striking the first
13 sentence and insert the following: “Each alien who applies
14 for a visa shall be registered in connection with his or her
15 application and shall furnish copies of his or her photo-
16 graph for such use as may be required by regulation.”.

17 **SEC. 3116. ADDITIONAL FRAUD DETECTION AND PREVEN-**
18 **TION.**

19 Section 286(v)(2)(A) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

21 (1) in the matter preceding clause (i), by strik-
22 ing “at United States embassies and consulates
23 abroad”;

24 (2) by amending clause (i) to read as follows:

25 “(i) to increase the number of diplo-
26 matic security personnel assigned exclu-

1 sively or primarily to the function of pre-
2 venting and detecting visa fraud;” and

3 (3) in clause (ii), by striking “, including pri-
4 marily fraud by applicants for visas described in
5 subparagraph (H)(i), (H)(ii), or (L) of section
6 101(a)(15)”.

7 **TITLE IV—TRANSNATIONAL**
8 **CRIMINAL ORGANIZATION IL-**
9 **LICIT SPOTTER PREVENTION**
10 **AND ELIMINATION**

11 **SEC. 4101. SHORT TITLE.**

12 This title may be cited as the “Transnational Crimi-
13 nal Organization Illicit Spotter Prevention and Elimi-
14 nation Act”.

15 **SEC. 4102. ILLICIT SPOTTING.**

16 Section 1510 of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(f) Any person who knowingly transmits, by any
19 means, to another person the location, movement, or ac-
20 tivities of any officer or agent of a Federal, State, local,
21 or tribal law enforcement agency with the intent to further
22 a criminal offense under the immigration laws (as such
23 term is defined in section 101 of the Immigration and Na-
24 tionality Act), the Controlled Substances Act, or the Con-
25 trolled Substances Import and Export Act, or that relates

1 to agriculture or monetary instruments shall be fined
2 under this title or imprisoned not more than 10 years, or
3 both.”.

4 **SEC. 4103. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
5 **DER, AND CUSTOMS CONTROLS.**

6 (a) BRINGING IN AND HARBORING OF CERTAIN
7 ALIENS.—Section 274(a) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1324(a)) is amended—

9 (1) in paragraph (2), by striking “brings to or
10 attempts to” and inserting the following: “brings to
11 or attempts or conspires to”; and

12 (2) by adding at the end the following:

13 “(5) In the case of a person who has brought
14 aliens into the United States in violation of this sub-
15 section, the sentence otherwise provided for may be
16 increased by up to 10 years if that person, at the
17 time of the offense, used or carried a firearm or
18 who, in furtherance of any such crime, possessed a
19 firearm.”.

20 (b) AIDING OR ASSISTING CERTAIN ALIENS TO
21 ENTER THE UNITED STATES.—Section 277 of the Immi-
22 gration and Nationality Act (8 U.S.C. 1327) is amend-
23 ed—

1 (1) by inserting after “knowingly aids or as-
2 sists” the following: “or attempts to aid or assist”;
3 and

4 (2) by adding at the end the following: “In the
5 case of a person convicted of an offense under this
6 section, the sentence otherwise provided for may be
7 increased by up to 10 years if that person, at the
8 time of the offense, used or carried a firearm or
9 who, in furtherance of any such crime, possessed a
10 firearm.”.

11 (c) DESTRUCTION OF UNITED STATES BORDER CON-
12 TROLS.—Section 1361 of title 18, United States Code, is
13 amended—

14 (1) by striking “If the damage” and inserting
15 the following:

16 “(1) Except as otherwise provided in this sec-
17 tion, if the damage”; and

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

19 “(2) If the injury or depredation was made or
20 attempted against any fence, barrier, sensor, cam-
21 era, or other physical or electronic device deployed
22 by the Federal Government to control the border or
23 a port of entry or otherwise was intended to con-
24 struct, excavate, or make any structure intended to
25 defeat, circumvent, or evade any such fence, barrier,

1 sensor camera, or other physical or electronic device
2 deployed by the Federal Government to control the
3 border or a port of entry, by a fine under this title
4 or imprisonment for not more than 15 years, or
5 both.

6 “(3) If the injury or depredation was described
7 under paragraph (2) and, in the commission of the
8 offense, the offender used or carried a firearm or, in
9 furtherance of any such offense, possessed a firearm,
10 by a fine under this title or imprisonment for not
11 more than 20 years, or both.”

12 **TITLE V—BORDER SECURITY** 13 **FUNDING**

14 **SEC. 5101. BORDER SECURITY FUNDING.**

15 (a) FUNDING.—In addition to amounts otherwise
16 made available by this Act or any other provision of law,
17 there is hereby appropriated to the “U.S. Customs and
18 Border Protection—Procurement, Construction, and Im-
19 provements” account, out of any amounts in the Treasury
20 not otherwise appropriated, \$23,400,000,000, to be avail-
21 able as described in subsections (b) and (c), of which—

22 (1) \$16,625,000,000 shall be for a border wall
23 system along the southern border of the United
24 States, including physical barriers and associated de-
25 tection technology, roads, and lighting; and

1 (2) \$6,775,000,000 shall be for infrastructure,
2 assets, and technology to enhance border security
3 along the southern border of the United States, in-
4 cluding—

5 (A) border security technology, including
6 surveillance technology, at and between ports of
7 entry;

8 (B) new roads and improvements to exist-
9 ing roads;

10 (C) U.S. Border Patrol facilities and ports
11 of entry;

12 (D) aircraft, aircraft-based sensors and as-
13 sociated technology, vessels, spare parts, and
14 equipment to maintain such assets; and

15 (E) a biometric entry and exit system.

16 (b) AVAILABILITY OF BORDER WALL SYSTEM
17 FUNDS.—

18 (1) IN GENERAL.—Of the amount appropriated
19 in subsection (a)(1)—

20 (A) \$2,241,000,000 shall become available
21 October 1, 2018;

22 (B) \$1,808,000,000 shall become available
23 October 1, 2019;

24 (C) \$1,715,000,000 shall become available
25 October 1, 2020;

1 (D) \$2,140,000,000 shall become available
2 October 1, 2021;

3 (E) \$1,735,000,000 shall become available
4 October 1, 2022;

5 (F) \$1,746,000,000 shall become available
6 October 1, 2023;

7 (G) \$1,776,000,000 shall become available
8 October 1, 2024;

9 (H) \$1,746,000,000 shall become available
10 October 1, 2025; and

11 (I) \$1,718,000,000 shall become available
12 October 1, 2026.

13 (2) PERIOD OF AVAILABILITY.—An amount
14 made available under subparagraph (A), (B), (C),
15 (D), (E), (F), (G), (H), or (I) of paragraph (1) shall
16 remain available for five years after the date speci-
17 fied in that subparagraph.

18 (c) AVAILABILITY OF BORDER SECURITY INVEST-
19 MENT FUNDS.—

20 (1) IN GENERAL.—Of the amount appropriated
21 in subsection (a)(2)—

22 (A) \$500,000,000 shall become available
23 October 1, 2018;

24 (B) \$1,850,000,000 shall become available
25 October 1, 2019;

1 (C) \$1,950,000,000 shall become available
2 October 1, 2020;

3 (D) \$1,925,000,000 shall become available
4 October 1, 2021; and

5 (E) \$550,000,000 shall become available
6 October 1, 2022.

7 (2) PERIOD OF AVAILABILITY.—An amount
8 made available under subparagraph (A), (B), (C),
9 (D), or (E) of paragraph (1) shall remain available
10 for five years after the date specified in that sub-
11 paragraph.

12 (3) TRANSFER AUTHORITY.—

13 (A) IN GENERAL.—Notwithstanding any
14 limitation on transfer authority in any other
15 provision of law and subject to the notification
16 requirement in subparagraph (B), the Secretary
17 of Homeland Security may transfer any
18 amounts made available under paragraph (1) to
19 the “U.S. Customs and Border Protection—Op-
20 erations and Support” account only to the ex-
21 tent necessary to carry out the purposes de-
22 scribed in subsection (a)(2).

23 (B) NOTIFICATION REQUIRED.—The Sec-
24 retary shall notify the Committees on Appro-
25 priations of the Senate and the House of Rep-

1 representatives not later than 30 days before each
2 such transfer.

3 (d) **MULTI-YEAR SPENDING PLAN.**—The Secretary of
4 Homeland Security shall include in the budget justifica-
5 tion materials submitted in support of the President’s an-
6 nual budget request for fiscal year 2020 (as submitted
7 under section 1105(a) of title 31, United States Code) a
8 multi-year spending plan for the amounts made available
9 under subsection (a).

10 (e) **EXPENDITURE PLAN.**—Each amount that be-
11 comes available in accordance with subsection (b) or (c)
12 may not be obligated until the date that is 30 days after
13 the date on which the Committees on Appropriations of
14 the Senate and the House of Representatives receive a de-
15 tailed plan, prepared by the Commissioner of U.S. Cus-
16 toms and Border Protection, for the expenditure of such
17 amount.

18 (f) **QUARTERLY BRIEFING REQUIREMENT.**—Begin-
19 ning not later than 180 days after the date of the enact-
20 ment of this Act, and quarterly thereafter, the Commis-
21 sioner of U.S. Customs and Border Protection shall brief
22 the Committees on Appropriations of the Senate and the
23 House of Representatives regarding activities under and
24 progress made in carrying out this section.

1 (g) RULES OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to limit the availability of funds
3 made available by any other provision of law for carrying
4 out the requirements of this Act or the amendments made
5 by this Act. Any reference in this section to an appropria-
6 tion account shall be construed to include any successor
7 accounts.

8 **SEC. 5102. LIMITATION ON ADJUSTMENT OF STATUS.**

9 (a) IN GENERAL.—A covered alien may not be pro-
10 vided with an immigrant visa or adjusted status to that
11 of a lawful permanent resident under this Act, the Immi-
12 gration and Nationality Act, or the immigration laws (as
13 such term is defined in section 101 of the Immigration
14 and Nationality Act (8 U.S.C. 1101) if any amount under
15 section 5101 is rescinded or transferred to another ac-
16 count for use beyond the purposes specified in such sec-
17 tion.

18 (b) COVERED ALIEN.—For purposes of this section,
19 the term “covered alien” means—

20 (1) a contingent nonimmigrant (as such term is
21 defined in section 1101 of division B); or

22 (2) beginning on October 1, 2019, an alien de-
23 scribed in section 203(c)(2) of the Immigration and
24 Nationality Act (8 U.S.C. 1153(c)(2)).

1 **DIVISION B—IMMIGRATION**
2 **REFORM**
3 **TITLE I—LAWFUL STATUS FOR**
4 **CERTAIN CHILDHOOD ARRIVALS**

5 **SEC. 1101. DEFINITIONS.**

6 In this division:

7 (1) **IN GENERAL.**—Except as otherwise specifi-
8 cally provided, the terms used in this division have
9 the meanings given such terms in subsections (a)
10 and (b) of section 101 of the Immigration and Na-
11 tionality Act (8 U.S.C. 1101).

12 (2) **CONTINGENT NONIMMIGRANT.**—The term
13 “contingent nonimmigrant” means an alien who is
14 granted nonimmigrant status under this division.

15 (3) **EDUCATIONAL INSTITUTION.**—The term
16 “educational institution” means—

17 (A) an institution that is described in sec-
18 tion 102(a)(1) of the Higher Education Act of
19 1965 (20 U.S.C. 1002(a)(1)) except an institu-
20 tion described in subparagraph (C) of such sec-
21 tion;

22 (B) an elementary, primary, or secondary
23 school within the United States; or

24 (C) an educational program assisting stu-
25 dents either in obtaining a high school equiva-

1 lency diploma, certificate, or its recognized
2 equivalent under State law, or in passing a
3 General Educational Development exam or
4 other equivalent State-authorized exam or other
5 applicable State requirements for high school
6 equivalency.

7 (4) SECRETARY.—Except as otherwise specifi-
8 cally provided, the term “Secretary” means the Sec-
9 retary of Homeland Security.

10 (5) SEXUAL ASSAULT.—The term “sexual as-
11 sault” means—

12 (A) conduct constituting a criminal offense
13 of rape, as described in section 101(a)(43)(A)
14 of the Immigration and Nationality Act (8
15 U.S.C. 1101(a)(43)(A)), or conduct punishable
16 under section 2241 (relating to aggravated sex-
17 ual abuse), section 2242 (relating to sexual
18 abuse), or section 2243 (relating to sexual
19 abuse of a minor or ward) of title 18, United
20 States Code;

21 (B) conduct constituting a criminal offense
22 of statutory rape, or any offense of a sexual na-
23 ture involving a victim under the age of 18
24 years, as described in section 101(a)(43)(A) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(43)(A));

3 (C) conduct punishable under section 2251
4 or 2251A (relating to the sexual exploitation of
5 children and the selling or buying of children),
6 or section 2252 or 2252A (relating to certain
7 activities relating to material involving the sex-
8 ual exploitation of minors or relating to mate-
9 rial constituting or containing child pornog-
10 raphy) of title 18, United States Code; or

11 (D) conduct constituting the elements of
12 any other Federal or State sexual offense re-
13 quiring a defendant, if convicted, to register on
14 a sexual offender registry (except that this pro-
15 vision shall not apply to convictions solely for
16 urinating or defecating in public).

17 (6) VICTIM.—The term “victim” has the mean-
18 ing given the term in section 503(e) of the Victims’
19 Rights and Restitution Act of 1990 (42 U.S.C.
20 10607(e)).

21 **SEC. 1102. CONTINGENT NONIMMIGRANT STATUS ELIGI-**
22 **BILITY AND APPLICATION.**

23 (a) IN GENERAL.—Notwithstanding any other provi-
24 sion of law, the Secretary may grant contingent non-
25 immigrant status to an alien who—

1 (1) meets the eligibility requirements set forth
2 in subsection (b);

3 (2) submits a completed application before the
4 end of the period set forth in subsection (c)(2); and

5 (3) has paid the fees required under subsection
6 (c)(5).

7 (b) ELIGIBILITY REQUIREMENTS.—

8 (1) IN GENERAL.—An alien is eligible for con-
9 tingent nonimmigrant status if the alien establishes
10 by clear and convincing evidence that the alien
11 meets the requirements set forth in this subsection.

12 (2) GENERAL REQUIREMENTS.—The require-
13 ments under this paragraph are that the alien—

14 (A) is physically present in the United
15 States on the date on which the alien submits
16 an application for contingent nonimmigrant sta-
17 tus;

18 (B) was physically present in the United
19 States on June 15, 2007;

20 (C) was younger than 16 years of age on
21 the date the alien initially entered the United
22 States;

23 (D) is a person of good moral character;

24 (E) was under 31 years of age on June 15,
25 2012;

1 (F) has maintained continuous physical
2 presence in the United States from June 15,
3 2012, until the date on which the alien is grant-
4 ed contingent nonimmigrant status under this
5 section;

6 (G) had no lawful immigration status on
7 June 15, 2012; and

8 (H) has requested the release to the De-
9 partment of Homeland Security of all records
10 regarding their being adjudicated delinquent in
11 State or local juvenile court proceedings, and
12 the Department has obtained all such records.

13 (3) EDUCATION REQUIREMENT.—

14 (A) IN GENERAL.—An alien may not be
15 granted contingent nonimmigrant status under
16 this section unless the alien establishes by clear
17 and convincing evidence that the alien—

18 (i) is enrolled in, and is in regular
19 full-time attendance at, an educational in-
20 stitution within the United States; or

21 (ii) has acquired a diploma or degree
22 from a high school in the United States or
23 the equivalent of such a diploma as recog-
24 nized under State law (such as a general

1 equivalency diploma, certificate of comple-
2 tion, or certificate of attendance).

3 (B) EVIDENCE.—An alien shall dem-
4 onstrate compliance with clause (i) or (ii) of
5 subparagraph (A) by providing a valid certified
6 transcript or diploma from the educational in-
7 stitution the alien is enrolled in or from which
8 the alien has acquired a diploma or certificate.

9 (C) DISABILITY WAIVER.—Subparagraph
10 (A) shall not apply in the case of an alien if the
11 Secretary determines on a case by case basis
12 that the alien is unable because of a physical or
13 developmental disability or mental impairment
14 to meet the requirement of such subparagraph.

15 (4) GROUNDS FOR INELIGIBILITY.—An alien is
16 ineligible for contingent nonimmigrant status if the
17 Secretary determines that the alien—

18 (A) has a conviction for—

19 (i) an offense classified as a felony in
20 the convicting jurisdiction;

21 (ii) an aggravated felony (except that
22 in applying such term for purposes of this
23 paragraph, subparagraph (N) of section
24 101(a)(43) does not apply);

1 (iii) an offense classified as a mis-
2 demenor in the convicting jurisdiction
3 which involved—

4 (I) domestic violence (as such
5 term is defined in section 40002(a) of
6 the Violence Against Women Act of
7 1994 (34 U.S.C. 12291(a)));

8 (II) child abuse or neglect (as
9 such term is defined in section
10 40002(a) of the Violence Against
11 Women Act of 1994 (34 U.S.C.
12 12291(a)));

13 (III) assault resulting in bodily
14 injury (as such term is defined in sec-
15 tion 2266 of title 18, United States
16 Code); or

17 (IV) the violation of a protection
18 order (as such term is defined in sec-
19 tion 2266 of title 18, United States
20 Code);

21 (iv) one or more offenses classified as
22 a misdemeanor in the convicting jurisdic-
23 tion which involved driving while intoxi-
24 cated or driving under the influence (as

1 such terms are defined in section
2 164(a)(2) of title 23, United States Code);

3 (v) two or more misdemeanors (ex-
4 cluding minor traffic offenses that did not
5 involve driving while intoxicated or driving
6 under the influence, or that did not subject
7 any individual other than the alien to bod-
8 ily injury); or

9 (vi) any offense under foreign law, ex-
10 cept for a purely political offense, which, if
11 the offense had been committed in the
12 United States, would render the alien inad-
13 missible under section 212(a) of the Immi-
14 gration and Nationality Act (8 U.S.C.
15 1182(a)) or deportable under section
16 237(a) of such Act (8 U.S.C. 1227(a));

17 (B) has been adjudicated delinquent in a
18 State or local juvenile court proceeding for an
19 offense equivalent to—

20 (i) an offense relating to murder,
21 manslaughter, homicide, rape (whether the
22 victim was conscious or unconscious), stat-
23 utory rape, or any offense of a sexual na-
24 ture involving a victim under the age of 18
25 years, as described in section

1 101(a)(43)(A) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1101(a)(43)(A));

3 (ii) a crime of violence, as such term
4 is defined in section 16 of title 18, United
5 States Code; or

6 (iii) an offense punishable under sec-
7 tion 401 of the Controlled Substances Act
8 (21 U.S.C. 841);

9 (C) has a conviction for any other criminal
10 offense, with regard to which the alien has not
11 satisfied any requirement to pay restitution or
12 any civil legal judgements awarded to any vic-
13 tims (or family members of victims) of the
14 crime;

15 (D) is described in section 212(a)(2)(N) of
16 the Immigration and Nationality Act (8 U.S.C.
17 1882(a)(2)) (relating to aliens associated with
18 criminal gangs);

19 (E) is inadmissible under section 212(a) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1182(a)), except that in determining an alien's
22 inadmissibility, paragraphs (5)(A), (6)(A),
23 (6)(D), (6)(G), (7), (9)(B), and (9)(C)(i)(I) of
24 such section shall not apply;

1 (F) is deportable under section 237(a) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1227(a)), except that in determining an alien's
4 deportability—

5 (i) subparagraph (A) of section
6 237(a)(1) of such Act shall not apply with
7 respect to grounds of inadmissibility that
8 do not apply pursuant to subparagraph (C)
9 of such section; and

10 (ii) subparagraphs (B) through (D) of
11 section 237(a)(1) and section 237(a)(3)(A)
12 of such Act shall not apply;

13 (G) was, on the date of the enactment of
14 this Act—

15 (i) an alien lawfully admitted for per-
16 manent residence;

17 (ii) an alien admitted as a refugee
18 under section 207 of the Immigration and
19 Nationality Act (8 U.S.C. 1157), or grant-
20 ed asylum under section 208 of the Immi-
21 gration and Nationality Act (8 U.S.C.
22 1157 and 1158); or

23 (iii) an alien who, according to the
24 records of the Secretary or the Secretary
25 of State, is lawfully present in the United

1 States in any nonimmigrant status (other
2 than an alien considered to be a non-
3 immigrant solely due to the application of
4 section 244(f)(4) of the Immigration and
5 Nationality Act (8 U.S.C. 1254a(f)(4)) or
6 the amendment made by section 702 of the
7 Consolidated Natural Resources Act of
8 2008 (Public Law 110-229)), notwith-
9 standing any unauthorized employment or
10 other violation of nonimmigrant status;

11 (H) has failed to comply with the require-
12 ments of any removal order or voluntary depar-
13 ture agreement;

14 (I) has been ordered removed in absentia
15 pursuant to section 240(b)(5)(A) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1229a(b)(5)(A)), unless the case has been re-
18 opened;

19 (J) if over the age of 18, has failed to
20 demonstrate that he or she is able to maintain
21 himself or herself at an annual income that is
22 not less than 125 percent of the Federal pov-
23 erty level throughout the period of admission as
24 a contingent nonimmigrant, unless the alien has
25 demonstrated that the alien is enrolled in, and

1 is in regular full-time attendance at, an edu-
2 cational institution within the United States,
3 except that the requirement under this subpara-
4 graph shall not apply in the case of an alien if
5 the Secretary determines on a case by case
6 basis that the alien—

7 (i) is unable because of a physical or
8 developmental disability or mental impair-
9 ment to meet the requirement of such sub-
10 paragraph; or

11 (ii) is the primary caregiver of—

12 (I) a child under 18 years of age;

13 or

14 (II) a child 18 years of age or
15 over, spouse, parent, grandparent, or
16 sibling, who is incapable of self-care
17 because of a mental or physical dis-
18 ability or who has a serious injury or
19 illness (as such term is defined in sec-
20 tion 101(18) of the Family and Med-
21 ical Leave Act of 1993 (29 U.S.C.
22 2611(18)));

23 (K) has not attested that such alien is not
24 delinquent with respect to any Federal, State,
25 or local income or property tax liability, and

1 has not attested that such alien does not have
2 income that would result in tax liability under
3 section 1 of the Internal Revenue Code of 1986
4 and that was not reported to the Internal Rev-
5 enue Service; or

6 (L) has at any time been convicted of sex-
7 ual assault.

8 (5) TREATMENT OF CERTAIN BREAKS IN PRES-
9 ENCE.—For purposes of paragraph (2), any period
10 of travel outside the United States by an alien that
11 was authorized by the Secretary may not be consid-
12 ered to interrupt any period of continuous physical
13 presence.

14 (c) APPLICATION PROCEDURES.—

15 (1) IN GENERAL.—An alien may apply for con-
16 tingent nonimmigrant status by submitting a com-
17 pleted application form via electronic filing to the
18 Secretary during the application period set forth in
19 paragraph (2), in accordance with the interim final
20 rule made by the Secretary under section 1107.

21 (2) APPLICATION PERIOD.—The Secretary may
22 only accept applications for contingent non-
23 immigrant status from aliens in the United States
24 during the 1-year period beginning on the date on

1 which the interim final rule is published in the Fed-
2 eral Register pursuant to section 1107.

3 (3) APPLICATION FORM.—

4 (A) REQUIRED INFORMATION.—The appli-
5 cation form referred to in paragraph (1) shall
6 collect such information as the Secretary deter-
7 mines to be necessary and appropriate in order
8 to determine whether an alien meets the eligi-
9 bility requirements set forth in subsection (b).
10 The Secretary shall by rule require applicants
11 to provide substantiating information necessary
12 to evaluate the attestation of the alien relevant
13 to the grounds of ineligibility under subsection
14 (b)(4)(K), including, as applicable, tax returns
15 and return information available to the appli-
16 cant under section 6103(e) of the Internal Rev-
17 enue Code of 1986 (26 U.S.C. 6103(e)), evi-
18 dence of tax refunds, and receipts of taxes paid.

19 (B) INTERVIEW.—The Secretary may con-
20 duct an in-person interview of each applicant
21 for contingent nonimmigrant status under this
22 section as part of the determination as to
23 whether the alien meets the eligibility require-
24 ments set forth in subsection (b).

1 (4) DOCUMENTARY REQUIREMENTS.—An appli-
2 cation filed by an alien under this section shall in-
3 clude the following:

4 (A) One or more of the following docu-
5 ments demonstrating the alien's identity:

6 (i) A passport (or national identity
7 document) from the alien's country of ori-
8 gin.

9 (ii) A certified birth certificate along
10 with photo identification.

11 (iii) A State-issued identification card
12 bearing the alien's name and photograph.

13 (iv) An Armed Forces identification
14 card issued by the Department of Defense.

15 (v) A Coast Guard identification card
16 issued by the Department of Homeland Se-
17 curity.

18 (vi) A document issued by the Depart-
19 ment of Homeland Security.

20 (vii) A travel document issued by the
21 Department of State.

22 (B) A certified copy of the alien's birth
23 certificate or certified school transcript dem-
24 onstrating that the alien satisfies the require-
25 ment of subsection (b)(2)(C) and (E).

1 (C) A certified school transcript dem-
2 onstrating that the alien satisfies the require-
3 ments of subsection (b)(3).

4 (5) FEES.—

5 (A) STANDARD PROCESSING FEE.—

6 (i) IN GENERAL.—Aliens applying for
7 contingent nonimmigrant status under this
8 section shall pay a processing fee to the
9 Department of Homeland Security in an
10 amount determined by the Secretary.

11 (ii) RECOVERY OF COSTS.—The pro-
12 cessing fee authorized under clause (i) shall
13 be set at a level that is, at a minimum,
14 sufficient to recover the full costs of pro-
15 cessing the application, including any costs
16 incurred—

17 (I) to adjudicate the application;

18 (II) to take and process bio-
19 metrics;

20 (III) to perform national security
21 and criminal checks;

22 (IV) to prevent and investigate
23 fraud; and

24 (V) to administer the collection
25 of such fee.

1 (iii) DEPOSIT AND USE OF PROC-
2 ESSING FEES.—Fees collected under clause
3 (i) shall be deposited into the Immigration
4 Examinations Fee Account pursuant to
5 section 286(m) of the Immigration and
6 Nationality Act (8 U.S.C. 1356(m)).

7 (B) BORDER SECURITY FEE.—

8 (i) IN GENERAL.—Aliens applying for
9 contingent nonimmigrant status under this
10 section shall pay a one-time border security
11 fee to the Department of Homeland Secu-
12 rity in an amount of \$1,000.

13 (ii) USE OF BORDER SECURITY
14 FEES.—Fees collected under clause (i)
15 shall be available, to the extent provided in
16 advance in appropriation Acts, to the Sec-
17 retary of Homeland Security for the pur-
18 poses of carrying out division A, and the
19 amendments made by that division.

20 (6) ALIENS APPREHENDED BEFORE OR DURING
21 THE APPLICATION PERIOD.—If an alien who is ap-
22 prehended during the period beginning on the date
23 of the enactment of this Act and ending on the last
24 day of the application period described in paragraph
25 (2) appears prima facie eligible for contingent non-

1 immigrant status, to the satisfaction of the Sec-
2 retary, the Secretary—

3 (A) shall provide the alien with a reason-
4 able opportunity to file an application under
5 this section during such application period; and

6 (B) may not remove the individual until
7 the Secretary has denied the application, unless
8 the Secretary, in the Secretary's sole and
9 unreviewable discretion, determines that expedi-
10 tious removal of the alien is in the national se-
11 curity, public safety, or foreign policy interests
12 of the United States, or the Secretary will be
13 required for constitutional reasons or court
14 order to release the alien from detention.

15 (7) SUSPENSION OF REMOVAL DURING APPLI-
16 CATION PERIOD.—

17 (A) ALIENS IN REMOVAL PROCEEDINGS.—

18 Notwithstanding any other provision of this di-
19 vision, if the Secretary determines that an
20 alien, during the period beginning on the date
21 of the enactment of this Act and ending on the
22 last day of the application period described in
23 subsection (c)(2), is in removal, deportation, or
24 exclusion proceedings before the Executive Of-
25 fice for Immigration Review and is prima facie

1 eligible for contingent nonimmigrant status
2 under this section—

3 (i) the Secretary shall provide the
4 alien with the opportunity to file an appli-
5 cation for such status; and

6 (ii) upon motion by the alien and with
7 the consent of the Secretary, the Executive
8 Office for Immigration Review shall—

9 (I) provide the alien a reasonable
10 opportunity to apply for such status;
11 and

12 (II) if the alien applies within the
13 time frame provided, suspend such
14 proceedings until the Secretary has
15 made a determination on the applica-
16 tion.

17 (B) ALIENS ORDERED REMOVED.—If an
18 alien who meets the eligibility requirements set
19 forth in subsection (b) is present in the United
20 States and has been ordered excluded, deported,
21 or removed, or ordered to depart voluntarily
22 from the United States pursuant to section
23 212(a)(6)(A)(i) or 237(a)(1)(B) or (C) of the
24 Immigration and Nationality Act (8 U.S.C.
25 1182(a)(6)(A)(i), 1227(a)(1)(B) or (C)), the

1 Secretary shall provide the alien with the oppor-
2 tunity to file an application for contingent non-
3 immigrant status provided that the alien has
4 not failed to comply with any order issued pur-
5 suant to section 239 or 240B of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1229,
7 1229c).

8 (C) PERIOD PENDING ADJUDICATION OF
9 APPLICATION.—During the period beginning on
10 the date on which an alien applies for contin-
11 gent nonimmigrant status under subsection (c)
12 and ending on the date on which the Secretary
13 makes a determination regarding such applica-
14 tion, an otherwise removable alien may not be
15 removed from the United States unless—

16 (i) the Secretary makes a prima facie
17 determination that such alien is, or has be-
18 come, ineligible for contingent non-
19 immigrant status under subsection (b); or

20 (ii) the Secretary, in the Secretary's
21 sole and unreviewable discretion, deter-
22 mines that removal of the alien is in the
23 national security, public safety, or foreign
24 policy interest of the United States.

1 (8) SECURITY AND LAW ENFORCEMENT CLEAR-
2 ANCES.—

3 (A) BIOMETRIC AND BIOGRAPHIC DATA.—

4 The Secretary may not grant contingent non-
5 immigrant status to an alien under this section
6 unless such alien submits biometric and bio-
7 graphic data in accordance with procedures es-
8 tablished by the Secretary.

9 (B) ALTERNATIVE PROCEDURES.—The
10 Secretary may provide an alternative procedure
11 for applicants who cannot provide the biometric
12 data required under subparagraph (A) due to a
13 physical impairment.

14 (C) CLEARANCES.—

15 (i) DATA COLLECTION.—The Sec-
16 retary shall collect, from each alien apply-
17 ing for status under this section, biometric,
18 biographic, and other data that the Sec-
19 retary determines to be appropriate—

20 (I) to conduct national security
21 and law enforcement checks; and

22 (II) to determine whether there
23 are any factors that would render an
24 alien ineligible for such status.

1 (ii) ADDITIONAL SECURITY SCREEN-
2 ING.—The Secretary, in consultation with
3 the Secretary of State and the heads of
4 other agencies as appropriate, shall con-
5 duct an additional security screening upon
6 determining, in the Secretary’s opinion
7 based upon information related to national
8 security, that an alien is or was a citizen
9 or resident of a region or country known to
10 pose a threat, or that contains groups or
11 organizations that pose a threat, to the na-
12 tional security of the United States.

13 (iii) PREREQUISITE.—The required
14 clearances and screenings described in
15 clauses (i)(I) and (ii) shall be completed
16 before the alien may be granted contingent
17 nonimmigrant status.

18 **SEC. 1103. TERMS AND CONDITIONS OF CONDITIONAL NON-**
19 **IMMIGRANT STATUS.**

20 (a) DURATION OF STATUS AND EXTENSION.—The
21 initial period of contingent nonimmigrant status—

22 (1) shall be 6 years unless revoked pursuant to
23 subsection (d); and

24 (2) may be extended for additional 6-year terms
25 if—

1 (A) the alien remains eligible for contin-
2 gent nonimmigrant status under paragraphs
3 (1), (2), and (4) of section 1102(b) (other than
4 with regard to the requirement under para-
5 graph (4)(J) of such subsection);

6 (B) the alien again passes background
7 checks equivalent to the background checks de-
8 scribed in section 1102(c)(9); and

9 (C) such status was not revoked by the
10 Secretary for any reason.

11 (b) TERMS AND CONDITIONS OF CONTINGENT NON-
12 IMMIGRANT STATUS.—

13 (1) WORK AUTHORIZATION.—The Secretary
14 shall grant employment authorization to an alien
15 granted contingent nonimmigrant status who dem-
16 onstrates economic necessity.

17 (2) TRAVEL OUTSIDE THE UNITED STATES.—

18 (A) IN GENERAL.—The status of a contin-
19 gent nonimmigrant who is absent from the
20 United States without authorization shall be
21 subject to revocation under subsection (d).

22 (B) AUTHORIZATION.—The Secretary may
23 authorize a contingent nonimmigrant to travel
24 outside the United States and shall grant the

1 contingent nonimmigrant reentry provided that
2 the contingent nonimmigrant—

3 (i) was not absent from the United
4 States for a continuous period in excess of
5 180 days during each 6-year period that
6 the alien is in contingent nonimmigrant
7 status, unless the contingent non-
8 immigrant's failure to return was due to
9 extenuating circumstances beyond the indi-
10 vidual's control or as part of the alien's ac-
11 tive duty service in the Armed Forces of
12 the United States; and

13 (ii) is otherwise admissible to the
14 United States, except as provided in sec-
15 tion 1102(b)(4)(E).

16 (C) STUDY ABROAD.—For purposes of
17 subparagraph (B)(i), in the case of a contingent
18 nonimmigrant who was absent from the United
19 States for participation in a study abroad pro-
20 gram offered by an institution of higher edu-
21 cation (as such term is defined in section 101
22 of the Higher Education Act of 1965 (20
23 U.S.C. 1001)), 60 of such days shall not be
24 counted towards the period described in such
25 subparagraph.

1 (3) INELIGIBILITY FOR HEALTH CARE SUB-
2 SIDIES AND REFUNDABLE TAX CREDITS.—

3 (A) HEALTH CARE SUBSIDIES.—A contin-
4 gent nonimmigrant—

5 (i) is not entitled to the premium as-
6 sistance tax credit authorized under sec-
7 tion 36B of the Internal Revenue Code of
8 1986 and shall be subject to the rules ap-
9 plicable to individuals who are not lawfully
10 present set forth in subsection (e) of such
11 section; and

12 (ii) shall be subject to the rules appli-
13 cable to individuals who are not lawfully
14 present set forth in section 1402(e) of the
15 Patient Protection and Affordable Care
16 Act (42 U.S.C. 18071(e)).

17 (B) REFUNDABLE TAX CREDITS.—A con-
18 tingent nonimmigrant shall not be allowed any
19 credit under sections 24 and 32 of the Internal
20 Revenue Code of 1986.

21 (4) FEDERAL, STATE, AND LOCAL PUBLIC BEN-
22 EFITS.—For purposes of title IV of the Personal Re-
23 sponsibility and Work Opportunity Reconciliation
24 Act of 1996 (8 U.S.C. 1601 et seq.), a contingent
25 nonimmigrant shall not be considered a qualified

1 alien under the Immigration and Nationality Act (8
2 U.S.C. 1101 et seq.).

3 (5) MILITARY SERVICE.—

4 (A) AUTHORIZATION FOR ENLISTMENT.—

5 Section 504(b)(1) of title 10, United States
6 Code, is amended by adding at the end the fol-
7 lowing new subparagraph:

8 “(D) A contingent nonimmigrant (as such
9 term is defined in section 1101 of division B of
10 the Border Security and Immigration Reform
11 Act of 2018).”.

12 (B) LIMITATION ON NATURALIZATION.—

13 Sections 328 and 329 of the Immigration and
14 Nationality Act does not apply in the case of an
15 alien who enlists in the Armed Forces under
16 section 504(b)(1)(D) of title 10, United States
17 Code.

18 (c) REVOCATION.—

19 (1) IN GENERAL.—The Secretary shall revoke
20 the status of a contingent nonimmigrant at any time
21 if the alien—

22 (A) no longer meets the eligibility require-
23 ments set forth in section 1102(b)(2)(D), (3),
24 (4)(A) through (D), (4)(E) through (I), and
25 (4)(N);

1 (B) knowingly uses documentation issued
2 under this section for an unlawful or fraudulent
3 purpose; or

4 (C) was absent from the United States at
5 any time without authorization after being
6 granted contingent nonimmigrant status.

7 (2) ADDITIONAL EVIDENCE.—In determining
8 whether to revoke an alien’s status under paragraph
9 (1), the Secretary may require the alien—

10 (A) to submit additional evidence; or

11 (B) to appear for an in-person interview.

12 (3) INVALIDATION OF DOCUMENTATION.—If an
13 alien’s contingent nonimmigrant status is revoked
14 under paragraph (1), any documentation issued by
15 the Secretary to such alien under this section shall
16 automatically be rendered invalid for any purpose
17 except for departure from the United States.

18 **SEC. 1104. ADJUSTMENT OF STATUS.**

19 Beginning on the date that is 5 years after an alien
20 becomes a contingent nonimmigrant, if that alien retains
21 status as a contingent nonimmigrant, then in applying
22 section 245 of the Immigration and Nationality Act (8
23 U.S.C. 1255(a)) to the alien—

24 (1) such alien shall be deemed to have been in-
25 spected and admitted into the United States; and

1 (2) in determining the alien's admissibility as
2 an immigrant, paragraphs (5)(A), (6)(A), (6)(D),
3 (6)(G), (7), (9)(B), and (9)(C)(i)(I) of section
4 212(a) of the Immigration and Nationality Act (8
5 U.S.C. 1182(a)) shall not apply.

6 **SEC. 1105. ADMINISTRATIVE AND JUDICIAL REVIEW.**

7 (a) **EXCLUSIVE ADMINISTRATIVE REVIEW.**—Admin-
8 istrative review of a determination of an application for
9 status, extension of status, or revocation of status under
10 this division shall be conducted solely in accordance with
11 this section.

12 (b) **ADMINISTRATIVE APPELLATE REVIEW.**—

13 (1) **ESTABLISHMENT OF ADMINISTRATIVE AP-**
14 **PELLATE AUTHORITY.**—The Secretary shall estab-
15 lish or designate an appellate authority to provide
16 for a single level of administrative appellate review
17 of a determination with respect to applications for
18 status, extension of status, or revocation of status
19 under this division.

20 (2) **SINGLE APPEAL FOR EACH ADMINISTRA-**
21 **TIVE DECISION.**—

22 (A) **IN GENERAL.**—An alien in the United
23 States whose application for status under this
24 division has been denied or revoked may file
25 with the Secretary not more than 1 appeal, pur-

1 suant to this subsection, of each decision to
2 deny or revoke such status.

3 (B) NOTICE OF APPEAL.—A notice of ap-
4 peal filed under this subparagraph shall be filed
5 not later than 30 calendar days after the date
6 of service of the decision of denial or revocation.

7 (3) RECORD FOR REVIEW.—Administrative ap-
8 pellate review under this subsection shall be de novo
9 and based only on—

10 (A) the administrative record established
11 at the time of the determination on the applica-
12 tion; and

13 (B) any additional newly discovered or pre-
14 viously unavailable evidence.

15 (c) JUDICIAL REVIEW.—

16 (1) APPLICABLE PROVISIONS.—Judicial review
17 of an administratively final denial or revocation of,
18 or failure to extend, an application for status under
19 this division shall be governed only by chapter 158
20 of title 28, except as provided in paragraphs (2) and
21 (3) of this subsection, and except that a court may
22 not order the taking of additional evidence under
23 section 2347(c) of such chapter.

24 (2) SINGLE APPEAL FOR EACH ADMINISTRA-
25 TIVE DECISION.—An alien in the United States

1 whose application for status under this division has
2 been denied, revoked, or failed to be extended, may
3 file not more than 1 appeal, pursuant to this sub-
4 section, of each decision to deny or revoke such sta-
5 tus.

6 (3) LIMITATION ON CIVIL ACTIONS.—

7 (A) CLASS ACTIONS.—No court may cer-
8 tify a class under Rule 23 of the Federal Rules
9 of Civil Procedure in any civil action filed after
10 the date of the enactment of this Act pertaining
11 to the administration or enforcement of the ap-
12 plication for status under this division.

13 (B) REQUIREMENTS FOR AN ORDER
14 GRANTING PROSPECTIVE RELIEF AGAINST THE
15 GOVERNMENT.—If a court determines that pro-
16 spective relief should be ordered against the
17 Government in any civil action pertaining to the
18 administration or enforcement of the applica-
19 tion for status under this division, the court
20 shall—

21 (i) limit the relief to the minimum
22 necessary to correct the violation of law;

23 (ii) adopt the least intrusive means to
24 correct the violation of law;

1 (iii) minimize, to the greatest extent
2 practicable, the adverse impact on national
3 security, border security, immigration ad-
4 ministration and enforcement, and public
5 safety;

6 (iv) provide for the expiration of the
7 relief on a specific date, which allows for
8 the minimum practical time needed to rem-
9 edy the violation; and

10 (v) limit the relief to the case at issue
11 and shall not extend any prospective relief
12 to include any other application for status
13 under this division pending before the Sec-
14 retary or in a Federal court (whether in
15 the same or another jurisdiction).

16 **SEC. 1106. PENALTIES AND SIGNATURE REQUIREMENTS.**

17 (a) **PENALTIES FOR FALSE STATEMENTS IN APPLI-**
18 **CATIONS.**—Whoever files an initial or renewal application
19 for contingent nonimmigrant status under this division
20 and knowingly and willfully falsifies, misrepresents, con-
21 ceals, or covers up a material fact or makes any false, ficti-
22 tious, or fraudulent statements or representations, or
23 makes or uses any false writing or document knowing the
24 same to contain any false, fictitious, or fraudulent state-
25 ment or entry, shall be fined in accordance with title 18,

1 United States Code, or imprisoned not more than 5 years,
2 or both.

3 (b) **SIGNATURE REQUIREMENTS.**—An applicant
4 under this division shall sign their application, and the sig-
5 nature shall be an original signature, including an elec-
6 tronically submitted signature. A parent or legal guardian
7 may sign for a child or for an applicant whose physical
8 or developmental disability or mental impairment prevents
9 the applicant from being competent to sign. In such a
10 case, the filing shall include evidence of parentage or legal
11 guardianship.

12 **SEC. 1107. RULEMAKING.**

13 Not later than June 1, 2019, the Secretary shall
14 make interim final rules to implement this title.

15 **SEC. 1108. STATUTORY CONSTRUCTION.**

16 Except as specifically provided, nothing in this divi-
17 sion may be construed to create any substantive or proce-
18 dural right or benefit that is legally enforceable by any
19 party against the United States or its agencies or officers
20 or any other person.

21 **SEC. 1109. ADDITION OF DEFINITION.**

22 Section 101(a) of the Immigration and Nationality
23 Act (8 U.S.C. 1101(a)) is amended by adding at the end
24 the following:

1 “(54) The term ‘contingent nonimmigrant’ has
2 the meaning given that term in section 1101(b)(2)
3 of division B of the Border Security and Immigra-
4 tion Reform Act of 2018.”.

5 **TITLE II—IMMIGRANT VISA**
6 **ALLOCATIONS AND PRIORITIES**

7 **SEC. 2101. ELIMINATION OF DIVERSITY VISA PROGRAM.**

8 (a) **IN GENERAL.**—Section 203 of the Immigration
9 and Nationality Act (8 U.S.C. 1153) is amended by strik-
10 ing subsection (c).

11 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
12 The Immigration and Nationality Act (8 U.S.C. 1101 et
13 seq.) is amended—

14 (1) in section 201—

15 (A) in subsection (a), by striking para-
16 graph (3);

17 (B) by striking subsection (e);

18 (2) in section 203—

19 (A) in subsection (b)(2)(B)(ii)(IV), by
20 striking “section 203(b)(2)(B)” each place such
21 term appears and inserting “clause (i)”;

22 (B) in subsection (d), by striking “sub-
23 section (a), (b), or (c)” and inserting “sub-
24 section (a) or (b)”;

1 (C) in subsection (e), by striking para-
2 graph (2);

3 (D) in subsection (f), by striking “sub-
4 section (a), (b), or (c) of this section” and in-
5 serting “subsection (a) or (b)”;

6 (E) in subsection (g), by striking “sub-
7 sections (a), (b), and (c)” and inserting “sub-
8 sections (a) and (b)”;

9 (F) in subsection (h)(2)(B), by striking
10 “subsection (a), (b), or (c)” and inserting “sub-
11 section (a) or (b)”;

12 (3) in section 204(a)(1), by striking subpara-
13 graph (I).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on October 1, 2019.

16 **SEC. 2102. NUMERICAL LIMITATION TO ANY SINGLE FOR-**
17 **EIGN STATE.**

18 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
19 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
20 amended—

21 (1) in the paragraph heading, by striking “AND
22 EMPLOYMENT-BASED”;

23 (2) by striking “(3), (4), and (5),” and insert-
24 ing “(3) and (4),”;

1 (3) by striking “subsections (a) and (b) of sec-
2 tion 203” and inserting “section 203(a)”;

3 (4) by striking “7” and inserting “15”; and

4 (5) by striking “such subsections” and inserting
5 “such section”.

6 (b) CONFORMING AMENDMENTS.—Section 202 of the
7 Immigration and Nationality Act (8 U.S.C. 1152) is
8 amended—

9 (1) in subsection (a)(3), by striking “both sub-
10 sections (a) and (b) of section 203” and inserting
11 “section 203(a)”;

12 (2) in subsection (a)(4), by striking subpara-
13 graph (D);

14 (3) by striking subsection (a)(5); and

15 (4) by amending subsection (e) to read as fol-
16 lows:

17 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—

18 If it is determined that the total number of immigrant
19 visas made available under section 203(a) to natives of
20 any single foreign state or dependent area will exceed the
21 numerical limitation specified in subsection (a)(2) in any
22 fiscal year, in determining the allotment of immigrant visa
23 numbers to natives under section 203(a), visa numbers
24 with respect to natives of that state or area shall be allo-
25 cated (to the extent practicable and otherwise consistent

1 with this section and section 203) in a manner so that,
2 except as provided in subsection (a)(4), the proportion of
3 the visa numbers made available under each of paragraphs
4 (1) and (2) of section 203(a) is equal to the ratio of the
5 total number of visas made available under the respective
6 paragraph to the total number of visas made available
7 under section 203(a).”.

8 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
9 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
10 note) is amended—

11 (1) in subsection (a), by striking “subsection
12 (e))” and inserting “subsection (d))”; and

13 (2) by striking subsection (d) and redesignating
14 subsection (e) as subsection (d).

15 (d) TRANSITION RULES FOR EMPLOYMENT-BASED
16 IMMIGRANTS.—

17 (1) IN GENERAL.—Subject to the succeeding
18 paragraphs of this subsection and notwithstanding
19 title II of the Immigration and Nationality Act (8
20 U.S.C. 1151 et seq.), the following rules shall apply:

21 (A) For fiscal year 2019, 15 percent of the
22 immigrant visas made available under each of
23 paragraphs (2) and (3) of section 203(b) of
24 such Act (8 U.S.C. 1153(b)) shall be allotted to
25 immigrants who are natives of a foreign state

1 or dependent area that was not one of the two
2 states with the largest aggregate numbers of
3 natives obtaining immigrant visas during fiscal
4 year 2018 under such paragraphs.

5 (B) For fiscal year 2020, 10 percent of the
6 immigrant visas made available under each of
7 such paragraphs shall be allotted to immigrants
8 who are natives of a foreign state or dependent
9 area that was not one of the two states with the
10 largest aggregate numbers of natives obtaining
11 immigrant visas during fiscal year 2019 under
12 such paragraphs.

13 (C) For fiscal year 2021, 10 percent of the
14 immigrant visas made available under each of
15 such paragraphs shall be allotted to immigrants
16 who are natives of a foreign state or dependent
17 area that was not one of the two states with the
18 largest aggregate numbers of natives obtaining
19 immigrant visas during fiscal year 2020 under
20 such paragraphs.

21 (2) PER-COUNTRY LEVELS.—

22 (A) RESERVED VISAS.—With respect to
23 the visas reserved under each of subparagraphs
24 (A) through (C) of paragraph (1), the number
25 of such visas made available to natives of any

1 single foreign state or dependent area in the ap-
2 propriate fiscal year may not exceed 25 percent
3 (in the case of a single foreign state) or 2 per-
4 cent (in the case of a dependent area) of the
5 total number of such visas.

6 (B) UNRESERVED VISAS.—With respect to
7 the immigrant visas made available under each
8 of paragraphs (2) and (3) of section 203(b) of
9 such Act (8 U.S.C. 1153(b)) and not reserved
10 under paragraph (1), for each of fiscal years
11 2019, 2020, and 2021, not more than 85 per-
12 cent shall be allotted to immigrants who are na-
13 tives of any single foreign state.

14 (3) SPECIAL RULE TO PREVENT UNUSED
15 VISAS.—If, with respect to fiscal year 2019, 2020, or
16 2021, the operation of paragraphs (1) and (2) of
17 this subsection would prevent the total number of
18 immigrant visas made available under paragraph (2)
19 or (3) of section 203(b) of such Act (8 U.S.C.
20 1153(b)) from being issued, such visas may be
21 issued during the remainder of such fiscal year with-
22 out regard to paragraphs (1) and (2) of this sub-
23 section.

24 (4) RULES FOR CHARGEABILITY.—Section
25 202(b) of such Act (8 U.S.C. 1152(b)) shall apply

1 in determining the foreign state to which an alien is
2 chargeable for purposes of this subsection.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect as if enacted on September
5 30, 2018, and shall apply to fiscal years beginning with
6 fiscal year 2019.

7 **SEC. 2103. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

8 (a) IN GENERAL.—Section 203(a) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1153(a)) is amended—
10 (1) in paragraph (1), by striking “paragraph
11 (4)” and inserting “paragraph (2)”; and
12 (2) by striking paragraphs (3) and (4).

13 (b) CONFORMING AMENDMENTS.—

14 (1) PROCEDURE FOR GRANTING IMMIGRANT
15 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
16 is amended—

17 (A) in subsection (a)(1)—

18 (i) in subparagraph (A)(i), by striking
19 “paragraph (1), (3), or (4)” and inserting
20 “paragraph (1)”;

21 (ii) in subparagraph (B)(i), by redesi-
22 gnating the second subclause (I) as sub-
23 clause (II); and

1 (iii) in subparagraph (D)(i)(I), by
2 striking “paragraph (1), (2), or (3)” and
3 inserting “paragraph (1) or (2)”; and

4 (B) in subsection (f)(1), by striking “,
5 203(a)(1), or 203(a)(3)” and inserting “or
6 203(a)(1)”.

7 (2) WAIVERS OF INADMISSIBILITY.—Section
8 212 of such Act (8 U.S.C. 1182) is amended in sub-
9 section (d)(11), by striking “(other than paragraph
10 (4) thereof)”.

11 (3) RULES FOR DETERMINING WHETHER CER-
12 TAIN ALIENS ARE IMMEDIATE RELATIVES.—Section
13 201(f) of such Act (8 U.S.C. 1151(f)) is amended—

14 (A) by striking paragraph (3);

15 (B) by redesignating paragraph (4) as
16 paragraph (3); and

17 (C) in paragraph (3), as redesignated, by
18 striking “(1) through (3)” and inserting “(1)
19 and (2)”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on October 1, 2019.

1 “(B) initially entered the United States
2 aged less than 16 years as a dependent of the
3 parent described in subparagraph (A) while the
4 parent was in such status;

5 “(C) maintained—

6 “(i) lawful status for the 10-year pe-
7 riod prior to the date of the enactment of
8 the Border Security and Immigration Re-
9 form Act of 2018; and

10 “(ii) continuous physical presence in
11 the United States (except in accordance
12 with the terms of the alien’s visa or lawful
13 status) for the period described in clause
14 (i); and

15 “(D) was not in an unlawful immigration
16 status on the date on which the alien submits
17 a petition for an immigrant visa under section
18 204(a)(1)(I).

19 “(3) POINT SYSTEM.—An alien seeking to be
20 classified as an immigrant under this subsection
21 shall submit a petition, in such form and manner as
22 the Secretary of Homeland Security may require,
23 setting forth such information as the Secretary may
24 require in order to make awards of points for that
25 petitioner in each of the following categories:

1 “(A) EDUCATION.—A petitioner shall be
2 awarded points for a single degree, equal to the
3 highest point award of the following for which
4 the petitioner is eligible:

5 “(i) 4 points for a diploma or degree
6 from a foreign school that is comparable to
7 a high school in the United States.

8 “(ii) 6 points for a diploma or degree
9 from a high school in the United States, or
10 the equivalent of such a diploma as recog-
11 nized under State law (such as a general
12 equivalency diploma, certificate of comple-
13 tion, or certificate of attendance).

14 “(iii) 8 points for an associate’s de-
15 gree (or the equivalent) from a foreign in-
16 stitution that is comparable to an institu-
17 tion of higher education in the United
18 States.

19 “(iv) 10 points for an associate’s de-
20 gree from an institution of higher edu-
21 cation in the United States.

22 “(v) 12 points for a bachelor’s degree
23 (or the equivalent) from a foreign institu-
24 tion that is comparable to an institution of
25 higher education in the United States.

1 “(vi) 15 points for a degree from for
2 a recognized postsecondary credential (as
3 defined in section 3 of the Workforce Inno-
4 vation and Opportunity Act (29 U.S.C.
5 3102), including a certificate of completion
6 of an apprenticeship (including an appren-
7 ticeships registered under the Act of Au-
8 gust 16, 1937 (commonly known as the
9 ‘National Apprenticeship Act’; 50 Stat.
10 664, chapter 663; 29 U.S.C. 50 et seq.)),
11 except that such term does not include an
12 associate’s or bachelor’s degree).

13 “(vii) 15 points for a bachelor’s de-
14 gree from an institution of higher edu-
15 cation in the United States.

16 “(viii) 15 points for a graduate or
17 professional degree (or the equivalent)
18 from a foreign institution that is com-
19 parable to an institution of higher edu-
20 cation in the United States.

21 “(ix) 17 points for a degree described
22 in clause (v), which is in a field of science,
23 technology, engineering, or mathematics.

1 “(x) 17 points for a graduate or pro-
2 fessional degree from an institution of
3 higher education in the United States.

4 “(xi) 22 points for a degree described
5 in clause (vii), which is in a field of
6 science, technology, engineering, or mathe-
7 matics.

8 “(xii) 24 points for a degree described
9 in clause (viii) or (x), which is in a field of
10 science, technology, engineering, or mathe-
11 matics.

12 “(xiii) 26 points for a doctoral degree
13 (or the equivalent) from a foreign institu-
14 tion that is comparable to an institution of
15 higher education in the United States.

16 “(xiv) 28 points for a doctoral degree
17 from an institution of higher education in
18 the United States.

19 “(xv) 30 points for a degree described
20 in clause (x), which is in a field of science,
21 technology, engineering, or mathematics
22 from a covered institution.

23 “(xvi) 30 points for a doctorate of
24 medicine (or the equivalent) from a foreign
25 graduate medical school that is comparable

1 to a graduate medical school at an institu-
2 tion of higher education in the United
3 States.

4 “(xvii) 34 points for a degree de-
5 scribed in clause (xiii) or (xiv), which is in
6 a field of science, technology, engineering,
7 or mathematics.

8 “(xviii) 34 points for a doctorate of
9 medicine from graduate medical school at
10 an institution of higher education in the
11 United States.

12 “(xix) 40 points for a degree de-
13 scribed in clause (xiv), which is in a field
14 of science, technology, engineering, or
15 mathematics from a covered institution.

16 “(B) EMPLOYMENT.—A petitioner shall be
17 awarded points for each 2-year period in which
18 the petitioner is employed on a full-time basis,
19 equal to $\frac{1}{3}$ of the points awarded under sub-
20 paragraph (A) for the lowest degree that is re-
21 quired for any position held during such period.
22 A single period of not more than 2 weeks dur-
23 ing which a petitioner is unemployed, but is in
24 receipt of a job offer, shall not be considered to
25 interrupt a period of employment.

1 “(C) MILITARY SERVICE.—A petitioner
2 shall be awarded points for service in the
3 Armed Forces equal to 30 points for any alien
4 who served as a member of a regular or reserve
5 component of the Armed Forces in an active
6 duty status for not less than 3 years, and, if
7 discharged, received a discharge other than dis-
8 honorable.

9 “(D) ENGLISH LANGUAGE PROFICIENCY.—
10 A petitioner shall be awarded points for English
11 proficiency equal to the highest of the following
12 for which the petitioner is eligible:

13 “(i) 2 points for a score in the 5th
14 decile on an English language proficiency
15 test.

16 “(ii) 6 points for a score in the 6th
17 decile on an English language proficiency
18 test.

19 “(iii) 7 points for a score in the 7th
20 decile on an English language proficiency
21 test.

22 “(iv) 8 points for a score in the 8th
23 decile on an English language proficiency
24 test.

1 “(v) 9 points for a score in the 9th
2 decile on an English language proficiency
3 test.

4 “(vi) 10 points for a score in the 10th
5 decile on an English language proficiency
6 test.

7 “(4) TOTAL POINT SCORE; SUBSEQUENT SUB-
8 MISSIONS; VERIFICATION.—

9 “(A) TOTAL POINT SCORE.—The total
10 point score for a petitioner is equal to sum of
11 the points awarded under each of subpara-
12 graphs (A), (B), (C), and (D) of paragraph (3).

13 “(B) SUBSEQUENT SUBMISSIONS.—The
14 alien may amend the petition under this sub-
15 section at any point after the initial filing to
16 provide information for purposes of new point
17 awards for which the alien may be eligible.

18 “(C) DURATION OF PETITION VALIDITY.—
19 A petition under this subsection shall be valid
20 until the date on which the petition is granted
21 or denied, without regard to the date and fiscal
22 year of the initial filing.

23 “(D) VERIFICATION.—Prior to the
24 issuance of any visa under this subsection, the
25 Secretary shall verify that the information in

1 the petition remains accurate as of the time of
2 the visa issuance.

3 “(5) DEFINITIONS.—

4 “(A) IELTS.—The term ‘IELTS’ means
5 the International English Language Testing
6 System.

7 “(B) TOEFL.—The term ‘TOEFL’ means
8 the Test of English as a Foreign Language.

9 “(C) ENGLISH LANGUAGE PROFICIENCY
10 TEST.—The term ‘English language proficiency
11 test’ means—

12 “(i) the International English Lan-
13 guage Testing System (IELTS), as admin-
14 istered by a partnership between the Brit-
15 ish Council, IDP Education, and Cam-
16 bridge English Language Assessment;

17 “(ii) the Test of English as a Foreign
18 Language (TOEFL), as administered by
19 the Educational Testing Service; or

20 “(iii) any other test to measure
21 English proficiency that has been approved
22 by the Commissioner of U.S. Citizenship
23 and Immigration Services that meets the
24 standards of English-language ability

1 measurement and anti-fraud integrity set
2 by the IELTS or the TOEFL.

3 “(D) FIELD OF SCIENCE, TECHNOLOGY,
4 ENGINEERING, OR MATHEMATICS.—The term
5 ‘field of science, technology, engineering, or
6 mathematics’ means a field included in the De-
7 partment of Education’s Classification of In-
8 structional Programs taxonomy within the sum-
9 mary groups of computer and information
10 sciences and support services, engineering, bio-
11 logical and biomedical sciences, mathematics
12 and statistics, physical sciences, and the series
13 geography and cartography (series 45.07), ad-
14 vanced/graduate dentistry and oral sciences (se-
15 ries 51.05) and nursing (series 51.38).

16 “(E) HIGH SCHOOL.—The term ‘high
17 school’ has the meaning given such term in sec-
18 tion 8101 of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C. 7801).

20 “(F) INSTITUTION OF HIGHER EDU-
21 CATION.—The term ‘institution of higher edu-
22 cation’ has the meaning given that term in sec-
23 tion 102(a)(1) of the Higher Education Act of
24 1965 (20 U.S.C. 1002(a)(1)), except that such
25 term does not include an institution outside the

1 United States described in subparagraph (C) of
2 such section.

3 “(G) COVERED INSTITUTION.—The term
4 ‘covered institution’ means an institution that—

5 “(i) is an institution of higher edu-
6 cation;

7 “(ii) as classified by the Carnegie
8 Foundation for the Advancement of Teach-
9 ing on January 1, 2019, as a doctorate-
10 granting university with a very high or
11 high level of research activity or classified
12 by the National Science Foundation after
13 the date of enactment of this paragraph,
14 pursuant to an application by the institu-
15 tion, as having equivalent research activity
16 to those institutions that had been classi-
17 fied by the Carnegie Foundation as being
18 doctorate-granting universities with a very
19 high or high level of research activity; and

20 “(iii) has been in existence for at least
21 10 years.

22 “(H) FULL-TIME.—The term ‘full-time’
23 means—

1 “(i) in the case of an individual who
2 is not described in clause (ii), not less than
3 35 hours per week; or

4 “(ii) in the case of an individual who
5 is enrolled in and is in regular attendance
6 at a high school or institution of education
7 within the United States, or who is the pri-
8 mary caregiver of—

9 “(I) a child under 18 years of
10 age; or

11 “(II) a child 18 years of age or
12 over, spouse, parent, grandparent, or
13 sibling, who is incapable of self-care
14 because of a mental or physical dis-
15 ability or who has a serious injury or
16 illness (as such term is defined in sec-
17 tion 101(18) of the Family and Med-
18 ical Leave Act of 1993 (29 U.S.C.
19 2611(18))),

20 not less than 20 hours per week.”; and

21 (2) in subsection (e), by inserting after para-
22 graph (1), the following:

23 “(2) Immigrant visas made available under sub-
24 section (c) shall be issued in accordance with the fol-
25 lowing:

1 “(A) The Secretary of Homeland Security
2 shall, periodically but not less than once each
3 fiscal year, make final determinations with re-
4 gard to that period of the point values allocated
5 to applicants in accordance with subsection
6 (c)(3) through (5).

7 “(B) The Secretary shall first determine
8 the applicant who is described under subsection
9 (c)(2) who is the son or daughter of an alien
10 admitted under section 101(a)(15)(E)(i) or (ii)
11 and who has the highest total point score great-
12 er than 12 calculated for that period under sub-
13 section (c)(4)(A) of all such applicants, and
14 shall issue a visa to such applicant.

15 “(C) The Secretary shall next determine
16 the applicant who is described under subsection
17 (c)(2) who is the son or daughter of an alien
18 admitted under section 101(a)(15)(H)(i)(b) and
19 who has the highest total point score greater
20 than 12 calculated for that period under sub-
21 section (c)(4)(A) of all such applicants, and
22 shall issue a visa to such applicant.

23 “(D) The Secretary shall next determine
24 the applicant who is described under subsection
25 (c)(2) who is the son or daughter of an alien

1 admitted under section 101(a)(15)(L) and who
2 has the highest total point score greater than
3 12 calculated for that period under subsection
4 (c)(4)(A) of all such applicants, and shall issue
5 a visa to such applicant.

6 “(E) The Secretary shall next determine
7 the applicant who is described under subsection
8 (c)(2) who is a contingent nonimmigrant and
9 who has the highest total point score greater
10 than 12 calculated for that period under sub-
11 section (c)(4)(A) of all such applicants, and
12 shall issue a visa to such applicant.

13 “(F) The Secretary shall then repeat the
14 process specified in subparagraphs (B) through
15 (E) until all visas made available for that pe-
16 riod have been issued. If no applicants remain
17 for any such category, the Secretary shall ex-
18 clude that category from further consideration
19 for that period.

20 “(G) In any case in which more than one
21 petitioner in a category under this paragraph
22 has the same total point score, the Secretary
23 shall issue the visa to the applicant whose peti-
24 tion was filed earliest.

1 “(H) No petitioner with a total point score
2 which is less than 12 may be issued a visa
3 under this paragraph.”.

4 (b) **WORLDWIDE LEVEL.**—Section 201 of the Immi-
5 gration and Nationality Act (8 U.S.C. 1151), as amended
6 by this title, is further amended—

7 (1) in subsection (a), by inserting after para-
8 graph (2) the following:

9 “(3) for fiscal years beginning with fiscal year
10 2025, immigrants who are aliens described in section
11 203(c) in a number not to exceed in any fiscal year
12 the number specified in subsection (e) for that year,
13 and not to exceed in any of the first 3 quarters of
14 any fiscal year 27 percent of the worldwide level
15 under such subsection for all of such fiscal year.”.

16 (2) by inserting after subsection (d) the fol-
17 lowing:

18 “(e) **WORLDWIDE LEVEL FOR CONTINGENT NON-**
19 **IMMIGRANTS AND CERTAIN CHILDREN OF NON-**
20 **IMMIGRANTS.**—The worldwide level of immigrants who
21 may receive a visa under section 203(c) is equal to—

22 “(1) 470,000 for fiscal year 2025; and

23 “(2) 78,400 for each fiscal year thereafter, plus
24 any visas under this subsection for the prior fiscal
25 year that are unused.”.

1 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
2 TUS.—Section 204(a)(1) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1154(a)(1)), as amended by this title,
4 is further amended by inserting after subparagraph (H)
5 the following:

6 “(I)(i) A contingent nonimmigrant or an
7 alien described in section 203(c)(2) desiring to
8 be provided an immigrant visa under section
9 203(c) may file a petition during the period de-
10 scribed in clause (ii) at the place determined by
11 the Secretary of Homeland Security by regula-
12 tion.

13 “(ii)(I) A contingent nonimmigrant may
14 file a petition for an immigrant visa under sec-
15 tion 203(c) during the period beginning on the
16 date on which the alien obtained contingent
17 nonimmigrant status under section 1103(a) of
18 the Border Security and Immigration Reform
19 Act of 2018, and ending on the date that is 5
20 years after such date.

21 “(II) An alien described in section
22 203(c)(2) may file a petition for an immigrant
23 visa under section 203(c) during the period be-
24 ginning on October 1, 2019, and ending on Oc-
25 tober 1, 2020.”.

1 (d) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect on October
3 1, 2019.

4 **SEC. 2105. SUNSET OF ADJUSTMENT VISAS FOR CONDI-**
5 **TIONAL NONIMMIGRANTS AND CHILDREN OF**
6 **CERTAIN NONIMMIGRANTS.**

7 (a) SUNSET.—

8 (1) IN GENERAL.—Section 203 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1153) is amend-
10 ed by striking subsection (c).

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENTS.—The Immigration and Nationality Act (8
13 U.S.C. 1101 et seq.) is amended—

14 (A) in section 201—

15 (i) in subsection (a)—

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

18 (II) by striking paragraph (3);

19 and

20 (ii) by striking subsection (e);

21 (B) in section 203(e), by striking para-
22 graph (2) and redesignating paragraph (3) as
23 paragraph (2); and

24 (C) in section 204—

1 (i) in subsection (a)(1), by striking
2 subparagraph (I); and

3 (ii) in subsection (e), by striking “sub-
4 section (a), (b), or (c) of section 203” and
5 inserting “subsection (a) or (b) of section
6 203”.

7 (3) EFFECTIVE DATE.—This subsection and the
8 amendments made by this subsection shall take ef-
9 fect on the first day of the first full fiscal year after
10 the date on which no alien has a petition for an im-
11 migrant visa or adjustment of status under section
12 203(c) of the Immigration and Nationality Act (8
13 U.S.C. 1153(c)), or any appeal thereto, pending.

14 (4) ESCROW FOR PENDING APPLICATIONS.—

15 (A) IN GENERAL.—On the date of the ef-
16 fective date of this subsection, a number of im-
17 migrant visas equal to the number of aliens in
18 contingent nonimmigrant status as of such date
19 shall be made available for award to covered
20 aliens in accordance with section 203(e) of the
21 Immigration and Nationality Act, as in effect,
22 prior to the effective date of this subsection.

23 (B) COVERED ALIEN.—For purposes of
24 this paragraph, the term “covered alien” means
25 an alien who—

1 (i) on the date on which the applica-
2 tion period under section 204(a)(1)(I) of
3 the Immigration and Nationality Act, as in
4 effect on the day prior to the effective date
5 of this subsection, ended had an applica-
6 tion pending for contingent nonimmigrant
7 status; and

8 (ii) was granted contingent non-
9 immigrant status on or after the effective
10 date of this subsection.

11 (b) REALLOCATION OF 4TH PRIORITY FAMILY VISAS
12 TO EMPLOYMENT CATEGORIES.—

13 (1) WORLDWIDE LEVEL OF EMPLOYMENT-
14 BASED IMMIGRANTS.—Section 201(d) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1151(d)) is
16 amended to read as follows:

17 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED
18 IMMIGRANTS.—The worldwide level of employment-based
19 immigrants under this subsection for a fiscal year is equal
20 to 205,000 (except that for fiscal year 2020, such level
21 is equal to 175,000).”.

22 (2) PREFERENCE ALLOCATION FOR EMPLOY-
23 MENT-BASED IMMIGRANTS.—Section 203(b) of the
24 Immigration and Nationality Act (8 U.S.C. 1153(b))
25 is amended—

1 (A) in paragraph (1), in the matter pre-
2 ceding subparagraph (A), by striking “28.6 per-
3 cent of such worldwide level” and inserting
4 “60,040 (except that for fiscal year 2020, such
5 number is equal to 50,040)”;

6 (B) in paragraph (2)(A), by striking “28.6
7 percent of such worldwide level” and inserting
8 “60,040 (except that for fiscal year 2020, such
9 number is equal to 50,040)”;

10 (C) in paragraph (3)(A), by striking “28.6
11 percent of such worldwide level” and inserting
12 “60,040 (except that for fiscal year 2020, such
13 number is equal to 50,040)”;

14 (D) in paragraph (4), by striking “7.1 per-
15 cent of such worldwide level” and inserting
16 “14,940”; and

17 (E) in paragraph (5)(A), by striking “7.1
18 percent of such worldwide level” and inserting
19 “9,940”.

20 (3) EFFECTIVE DATE.—This subsection and the
21 amendments made by this subsection shall take ef-
22 fect beginning on October 1, 2019.

1 **SEC. 2106. IMPLEMENTATION.**

2 Not later than September 30, 2019, the Secretary of
3 Homeland Security shall publish interim final rules imple-
4 menting this title and the amendments made by this title.

5 **SEC. 2107. REPEAL OF SUSPENSION OF DEPORTATION AND**

6 **ADJUSTMENT OF STATUS FOR CERTAIN**

7 **ALIENS.**

8 (a) REPEAL OF TEMPORARY REDUCTION OF
9 VISAS.—Section 203 of the Nicaraguan Adjustment and
10 Central American Relief Act is amended—

11 (1) by striking subsection (d) (8 U.S.C. 1151
12 note); and

13 (2) by striking subsection (e) (8 U.S.C. 1153
14 note).

15 (b) REPEAL OF CERTAIN TRANSITION RULE.—Sec-
16 tion 309 of the Illegal Immigration Reform and Immi-
17 grant Responsibility Act of 1996 (Public Law 104-208;
18 division C; 8 U.S.C. 1101 note) is amended—

19 (1) in subsection (c)(5), by striking subpara-
20 graph (C);

21 (2) by striking subsection (f);

22 (3) by striking subsection (g); and

23 (4) by striking subsection (h).

24 (c) REPEAL OF EXCEPTION FOR CERTAIN ALIENS
25 FROM ANNUAL LIMITATION ON CANCELLATION OF RE-
26 MOVALS.—Paragraph (3) of section 240A(e) of the Immi-

1 gration and Nationality Act (8 U.S.C. 1229b(e)) is
2 amended to read as follows:

3 “(3) EXCEPTION FOR CERTAIN ALIENS.—Para-
4 graph (1) shall not apply to aliens in deportation
5 proceedings prior to April 1, 1997, who applied for
6 suspension of deportation under section 244(a)(3)
7 (as in effect before the date of the enactment of the
8 Illegal Immigration Reform and Immigrant Respon-
9 sibility Act of 1996).”.

10 (d) TRANSITION RULE.—The amendments made by
11 this section shall take effect on October 1, 2019.

12 **TITLE III—UNACCOMPANIED**
13 **ALIEN CHILDREN; INTERIOR**
14 **IMMIGRATION ENFORCE-**
15 **MENT**

16 **SEC. 3101. REPATRIATION OF UNACCOMPANIED ALIEN**
17 **CHILDREN.**

18 (a) IN GENERAL.—Section 235 of the William Wil-
19 berforce Trafficking Victims Protection Reauthorization
20 Act of 2008 (8 U.S.C. 1232) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (2)—

23 (i) by amending the heading to read
24 as follows: “RULES FOR UNACCOMPANIED
25 ALIEN CHILDREN.—”;

1 (ii) in subparagraph (A)—

2 (I) in the matter preceding clause
3 (i), by striking “who is a national or
4 habitual resident of a country that is
5 contiguous with the United States”;

6 (II) in clause (i), by inserting
7 “and” at the end;

8 (III) in clause (ii), by striking “;
9 and” and inserting a period; and

10 (IV) by striking clause (iii);

11 (iii) in subparagraph (B)—

12 (I) in the matter preceding clause
13 (i), by striking “(8 U.S.C. 1101 et
14 seq.) may—” and inserting “(8
15 U.S.C. 1101 et seq.)—”;

16 (II) in clause (i), by inserting be-
17 fore “permit such child to withdraw”
18 the following: “may”; and

19 (III) in clause (ii), by inserting
20 before “return such child” the fol-
21 lowing: “shall”; and

22 (iv) in subparagraph (C)—

23 (I) by amending the heading to
24 read as follows: “AGREEMENTS WITH
25 FOREIGN COUNTRIES.—”; and

1 (II) in the matter preceding
2 clause (i), by striking “The Secretary
3 of State shall negotiate agreements
4 between the United States and coun-
5 tries contiguous to the United States”
6 and inserting “The Secretary of State
7 may negotiate agreements between the
8 United States and any foreign country
9 that the Secretary determines appro-
10 priate”;

11 (B) by redesignating paragraphs (3)
12 through (5) as paragraphs (4) through (6), re-
13 spectively, and inserting after paragraph (2) the
14 following:

15 “(3) SPECIAL RULES FOR INTERVIEWING UNAC-
16 COMPANIED ALIEN CHILDREN.—An unaccompanied
17 alien child shall be interviewed by a dedicated U.S.
18 Citizenship and Immigration Services immigration
19 officer with specialized training in interviewing child
20 trafficking victims. Such officer shall be in plain
21 clothes and shall not carry a weapon. The interview
22 shall occur in a private room.”; and

23 (C) in paragraph (6)(D) (as so redesi-
24 gnated)—

1 (i) in the matter preceding clause (i),
2 by striking “, except for an unaccompanied
3 alien child from a contiguous country sub-
4 ject to exceptions under subsection (a)(2),”
5 and inserting “who does not meet the cri-
6 teria listed in paragraph (2)(A)”; and

7 (ii) in clause (i), by inserting before
8 the semicolon at the end the following: “,
9 which shall include a hearing before an im-
10 migration judge not later than 14 days
11 after being screened under paragraph (4)”;
12

(2) in subsection (b)—

13 (A) in paragraph (2)—

14 (i) in subparagraph (A), by inserting
15 before the semicolon the following: “be-
16 lieved not to meet the criteria listed in sub-
17 section (a)(2)(A)”; and

18 (ii) in subparagraph (B), by inserting
19 before the period the following: “and does
20 not meet the criteria listed in subsection
21 (a)(2)(A)”; and

22 (B) in paragraph (3), by striking “an un-
23 accompanied alien child in custody shall” and
24 all that follows, and inserting the following: “an
25 unaccompanied alien child in custody—

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

8 “(B) in the case of child who meets the
9 criteria listed in subsection (a)(2)(A), may
10 transfer the custody of such child to the Sec-
11 retary of Health and Human Services after de-
12 termining that such child is an unaccompanied
13 alien child who meets such criteria.”; and

14 (3) in subsection (c)—

15 (A) in paragraph (3), by inserting at the
16 end the following:

17 “(D) INFORMATION ABOUT INDIVIDUALS
18 WITH WHOM CHILDREN ARE PLACED.—

19 “(i) INFORMATION TO BE PROVIDED
20 TO HOMELAND SECURITY.—Before placing
21 a child with an individual, the Secretary of
22 Health and Human Services shall provide
23 to the Secretary of Homeland Security, re-
24 garding the individual with whom the child
25 will be placed, the following information:

1 “(I) The name of the individual.

2 “(II) The social security number
3 of the individual, if available.

4 “(III) The date of birth of the in-
5 dividual.

6 “(IV) The location of the individ-
7 ual’s residence where the child will be
8 placed.

9 “(V) The immigration status of
10 the individual, if known.

11 “(VI) Contact information for
12 the individual.

13 “(ii) SPECIAL RULE.—In the case of a
14 child who was apprehended on or after the
15 effective date of this clause, and before the
16 date of the enactment of this subpara-
17 graph, who the Secretary of Health and
18 Human Services placed with an individual,
19 the Secretary shall provide the information
20 listed in clause (i) to the Secretary of
21 Homeland Security not later than 90 days
22 after such date of enactment.”; and

23 (B) in paragraph (5)—

1 (i) by inserting after “to the greatest
2 extent practicable” the following: “(at no
3 expense to the Government)”; and

4 (ii) by striking “have counsel to rep-
5 resent them” and inserting “have access to
6 counsel to represent them”.

7 (b) **EFFECTIVE DATE.**—The amendments made by
8 this section shall apply to any unaccompanied alien child
9 apprehended on or after the date of enactment.

10 **SEC. 3102. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
11 **TENTION.**

12 (a) **IN GENERAL.**—Section 235 of the William Wil-
13 berforce Trafficking Victims Protection Reauthorization
14 Act of 2008 (8 U.S.C. 1232) is amended by adding at
15 the end the following:

16 “(j) **CONSTRUCTION.**—

17 “(1) **IN GENERAL.**—Notwithstanding any other
18 provision of law, judicial determination, consent de-
19 cree, or settlement agreement, the detention of any
20 alien child who is not an unaccompanied alien child
21 shall be governed by sections 217, 235, 236, and
22 241 of the Immigration and Nationality Act (8
23 U.S.C. 1187, 1225, 1226, and 1231). There exists
24 no presumption that an alien child who is not an un-
25 accompanied alien child should not be detained, and

1 all such determinations shall be in the discretion of
2 the Secretary of Homeland Security.

3 “(2) RELEASE OF MINORS OTHER THAN UNAC-
4 COMPANIED ALIENS.—In no circumstances shall an
5 alien minor who is not an unaccompanied alien child
6 be released by the Secretary of Homeland Security
7 other than to a parent or legal guardian.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect on the date of the enact-
10 ment of this Act and shall apply to all actions that occur
11 before, on, or after the date of the enactment of this Act.

12 **SEC. 3103. DETENTION OF DANGEROUS ALIENS.**

13 Section 241(a) of the Immigration and Nationality
14 Act (8 U.S.C. 1231(a)) is amended—

15 (1) by striking “Attorney General” each place
16 it appears, except for the first reference in para-
17 graph (4)(B)(i), and inserting “Secretary of Home-
18 land Security”;

19 (2) in paragraph (1), by amending subpara-
20 graph (B) to read as follows:

21 “(B) BEGINNING OF PERIOD.—The re-
22 moval period begins on the latest of the fol-
23 lowing:

24 “(i) The date the order of removal be-
25 comes administratively final.

1 “(ii) If the alien is not in the custody
2 of the Secretary on the date the order of
3 removal becomes administratively final, the
4 date the alien is taken into such custody.

5 “(iii) If the alien is detained or con-
6 fined (except under an immigration proc-
7 ess) on the date the order of removal be-
8 comes administratively final, the date the
9 alien is taken into the custody of the Sec-
10 retary, after the alien is released from such
11 detention or confinement.”;

12 (3) in paragraph (1), by amending subpara-
13 graph (C) to read as follows:

14 “(C) SUSPENSION OF PERIOD.—

15 “(i) EXTENSION.—The removal period
16 shall be extended beyond a period of 90
17 days and the Secretary may, in the Sec-
18 retary’s sole discretion, keep the alien in
19 detention during such extended period if—

20 “(I) the alien fails or refuses to
21 make all reasonable efforts to comply
22 with the removal order, or to fully co-
23 operate with the Secretary’s efforts to
24 establish the alien’s identity and carry
25 out the removal order, including mak-

1 ing timely application in good faith
2 for travel or other documents nec-
3 essary to the alien’s departure or con-
4 spires or acts to prevent the alien’s
5 removal that is subject to an order of
6 removal;

7 “(II) a court, the Board of Immi-
8 gration Appeals, or an immigration
9 judge orders a stay of removal of an
10 alien who is subject to an administra-
11 tively final order of removal;

12 “(III) the Secretary transfers
13 custody of the alien pursuant to law
14 to another Federal agency or a State
15 or local government agency in connec-
16 tion with the official duties of such
17 agency; or

18 “(IV) a court or the Board of
19 Immigration Appeals orders a remand
20 to an immigration judge or the Board
21 of Immigration Appeals, during the
22 time period when the case is pending
23 a decision on remand (with the re-
24 moval period beginning anew on the

1 date that the alien is ordered removed
2 on remand).

3 “(ii) RENEWAL.—If the removal pe-
4 riod has been extended under subpara-
5 graph (C)(i), a new removal period shall be
6 deemed to have begun on the date—

7 “(I) the alien makes all reason-
8 able efforts to comply with the re-
9 moval order, or to fully cooperate with
10 the Secretary’s efforts to establish the
11 alien’s identity and carry out the re-
12 moval order;

13 “(II) the stay of removal is no
14 longer in effect; or

15 “(III) the alien is returned to the
16 custody of the Secretary.

17 “(iii) MANDATORY DETENTION FOR
18 CERTAIN ALIENS.—In the case of an alien
19 described in subparagraphs (A) through
20 (D) of section 236(c)(1), the Secretary
21 shall keep that alien in detention during
22 the extended period described in clause (i).

23 “(iv) SOLE FORM OF RELIEF.—An
24 alien may seek relief from detention under
25 this subparagraph only by filing an appli-

1 cation for a writ of habeas corpus in ac-
2 cordance with chapter 153 of title 28,
3 United States Code. No alien whose period
4 of detention is extended under this sub-
5 paragraph shall have the right to seek re-
6 lease on bond.”;

7 (4) in paragraph (3)—

8 (A) by adding after “If the alien does not
9 leave or is not removed within the removal pe-
10 riod” the following: “or is not detained pursu-
11 ant to paragraph (6) of this subsection”; and

12 (B) by striking subparagraph (D) and in-
13 serting the following:

14 “(D) to obey reasonable restrictions on the
15 alien’s conduct or activities that the Secretary
16 prescribes for the alien, in order to prevent the
17 alien from absconding, for the protection of the
18 community, or for other purposes related to the
19 enforcement of the immigration laws.”;

20 (5) in paragraph (4)(A), by striking “paragraph
21 (2)” and inserting “subparagraph (B)”; and

22 (6) by striking paragraph (6) and inserting the
23 following:

24 “(6) ADDITIONAL RULES FOR DETENTION OR
25 RELEASE OF CERTAIN ALIENS.—

1 “(A) DETENTION REVIEW PROCESS FOR
2 COOPERATIVE ALIENS ESTABLISHED.—For an
3 alien who is not otherwise subject to mandatory
4 detention, who has made all reasonable efforts
5 to comply with a removal order and to cooper-
6 ate fully with the Secretary of Homeland Secu-
7 rity’s efforts to establish the alien’s identity and
8 carry out the removal order, including making
9 timely application in good faith for travel or
10 other documents necessary to the alien’s depar-
11 ture, and who has not conspired or acted to
12 prevent removal, the Secretary shall establish
13 an administrative review process to determine
14 whether the alien should be detained or released
15 on conditions. The Secretary shall make a de-
16 termination whether to release an alien after
17 the removal period in accordance with subpara-
18 graph (B). The determination shall include con-
19 sideration of any evidence submitted by the
20 alien, and may include consideration of any
21 other evidence, including any information or as-
22 sistance provided by the Secretary of State or
23 other Federal official and any other information
24 available to the Secretary of Homeland Security
25 pertaining to the ability to remove the alien.

1 “(B) AUTHORITY TO DETAIN BEYOND RE-
2 MOVAL PERIOD.—

3 “(i) IN GENERAL.—The Secretary of
4 Homeland Security, in the exercise of the
5 Secretary’s sole discretion, may continue to
6 detain an alien for 90 days beyond the re-
7 moval period (including any extension of
8 the removal period as provided in para-
9 graph (1)(C)). An alien whose detention is
10 extended under this subparagraph shall
11 have no right to seek release on bond.

12 “(ii) SPECIFIC CIRCUMSTANCES.—The
13 Secretary of Homeland Security, in the ex-
14 ercise of the Secretary’s sole discretion,
15 may continue to detain an alien beyond the
16 90 days authorized in clause (i)—

17 “(I) until the alien is removed, if
18 the Secretary, in the Secretary’s sole
19 discretion, determines that there is a
20 significant likelihood that the alien—

21 “(aa) will be removed in the
22 reasonably foreseeable future; or

23 “(bb) would be removed in
24 the reasonably foreseeable future,
25 or would have been removed, but

1 for the alien's failure or refusal
2 to make all reasonable efforts to
3 comply with the removal order,
4 or to cooperate fully with the
5 Secretary's efforts to establish
6 the alien's identity and carry out
7 the removal order, including
8 making timely application in
9 good faith for travel or other doc-
10 uments necessary to the alien's
11 departure, or conspires or acts to
12 prevent removal;

13 “(II) until the alien is removed,
14 if the Secretary of Homeland Security
15 certifies in writing—

16 “(aa) in consultation with
17 the Secretary of Health and
18 Human Services, that the alien
19 has a highly contagious disease
20 that poses a threat to public safe-
21 ty;

22 “(bb) after receipt of a writ-
23 ten recommendation from the
24 Secretary of State, that release
25 of the alien is likely to have seri-

1 ous adverse foreign policy con-
2 sequences for the United States;
3 “(cc) based on information
4 available to the Secretary of
5 Homeland Security (including
6 classified, sensitive, or national
7 security information, and without
8 regard to the grounds upon
9 which the alien was ordered re-
10 moved), that there is reason to
11 believe that the release of the
12 alien would threaten the national
13 security of the United States; or
14 “(dd) that the release of the
15 alien will threaten the safety of
16 the community or any person,
17 conditions of release cannot rea-
18 sonably be expected to ensure the
19 safety of the community or any
20 person, and either (AA)—
21 “(AA) the alien has
22 been convicted of (aaa) one
23 or more aggravated felonies
24 (as defined in section
25 101(a)(43)(A)), (bbb) one or

1 more crimes identified by
2 the Secretary of Homeland
3 Security by regulation, if the
4 aggregate term of imprison-
5 ment for such crimes is at
6 least 5 years, or (ccc) one or
7 more attempts or conspir-
8 acies to commit any such
9 aggravated felonies or such
10 identified crimes, if the ag-
11 gregate term of imprison-
12 ment for such attempts or
13 conspiracies is at least 5
14 years; or

15 “(BB) the alien has
16 committed one or more vio-
17 lent crimes (as referred to in
18 section 101(a)(43)(F), but
19 not including a purely polit-
20 ical offense) and, because of
21 a mental condition or per-
22 sonality disorder and behav-
23 ior associated with that con-
24 dition or disorder, the alien

1 is likely to engage in acts of
2 violence in the future; or

3 “(III) pending a certification
4 under subclause (II), so long as the
5 Secretary of Homeland Security has
6 initiated the administrative review
7 process not later than 30 days after
8 the expiration of the removal period
9 (including any extension of the re-
10 moval period, as provided in para-
11 graph (1)(C)).

12 “(iii) NO RIGHT TO BOND HEARING.—
13 An alien whose detention is extended under
14 this subparagraph shall have no right to
15 seek release on bond, including by reason
16 of a certification under clause (ii)(II).

17 “(C) RENEWAL AND DELEGATION OF CER-
18 TIFICATION.—

19 “(i) RENEWAL.—The Secretary of
20 Homeland Security may renew a certifi-
21 cation under subparagraph (B)(ii)(II)
22 every 6 months, after providing an oppor-
23 tunity for the alien to request reconsider-
24 ation of the certification and to submit
25 documents or other evidence in support of

1 that request. If the Secretary does not
2 renew a certification, the Secretary may
3 not continue to detain the alien under sub-
4 paragraph (B)(ii)(II).

5 “(ii) DELEGATION.—Notwithstanding
6 section 103, the Secretary of Homeland
7 Security may not delegate the authority to
8 make or renew a certification described in
9 item (bb), (cc), or (dd) of subparagraph
10 (B)(ii)(II) below the level of the Director
11 of Immigration and Customs Enforcement.

12 “(iii) HEARING.—The Secretary of
13 Homeland Security may request that the
14 Attorney General or the Attorney General’s
15 designee provide for a hearing to make the
16 determination described in item (dd)(BB)
17 of subparagraph (B)(ii)(II).

18 “(D) RELEASE ON CONDITIONS.—If it is
19 determined that an alien should be released
20 from detention by a Federal court, the Board of
21 Immigration Appeals, or if an immigration
22 judge orders a stay of removal, the Secretary of
23 Homeland Security, in the exercise of the Sec-
24 retary’s discretion, may impose conditions on
25 release as provided in paragraph (3).

1 “(E) REDETENTION.—The Secretary of
2 Homeland Security, in the exercise of the Sec-
3 retary’s discretion, without any limitations
4 other than those specified in this section, may
5 again detain any alien subject to a final re-
6 moval order who is released from custody, if re-
7 moval becomes likely in the reasonably foresee-
8 able future, the alien fails to comply with the
9 conditions of release, or to continue to satisfy
10 the conditions described in subparagraph (A),
11 or if, upon reconsideration, the Secretary, in
12 the Secretary’s sole discretion, determines that
13 the alien can be detained under subparagraph
14 (B). This section shall apply to any alien re-
15 turned to custody pursuant to this subpara-
16 graph, as if the removal period terminated on
17 the day of the redetention.

18 “(F) REVIEW OF DETERMINATIONS BY
19 SECRETARY.—A determination by the Secretary
20 under this paragraph shall not be subject to re-
21 view by any other agency.”.

22 **SEC. 3104. DEFINITION OF AGGRAVATED FELONY.**

23 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1101(a)(43)) is
25 amended to read as follows:

1 “(43) Notwithstanding any other provision of
2 law, the term ‘aggravated felony’ means any offense,
3 whether in violation of Federal, State, or foreign
4 law, that is described in this paragraph. An offense
5 described in this paragraph is—

6 “(A) homicide (including murder in any
7 degree, manslaughter, and vehicular man-
8 slaughter), rape (whether the victim was con-
9 scious or unconscious), statutory rape, sexual
10 assault or battery, or any offense of a sexual
11 nature involving an intended victim under the
12 age of 18 years (including offenses in which the
13 intended victim was a law enforcement officer);

14 “(B)(i) illicit trafficking in a controlled
15 substance (as defined in section 102 of the Con-
16 trolled Substances Act), including a drug traf-
17 ficking crime (as defined in section 924(c) of
18 title 18, United States Code); or

19 “(ii) any offense under State law relating
20 to a controlled substance (as so classified under
21 State law) which is classified as a felony in that
22 State regardless of whether the substance is
23 classified as a controlled substance under sec-
24 tion 102 of the Controlled Substances Act (21
25 U.S.C. 802);

1 “(C) illicit trafficking in firearms or de-
2 structive devices (as defined in section 921 of
3 title 18, United States Code) or in explosive
4 materials (as defined in section 841(e) of that
5 title);

6 “(D) an offense described in section 1956
7 of title 18, United States Code (relating to
8 laundering of monetary instruments) or section
9 1957 of that title (relating to engaging in mon-
10 etary transactions in property derived from spe-
11 cific unlawful activity) if the amount of the
12 funds exceeded \$10,000;

13 “(E) an offense described in—

14 “(i) section 842 or 844 of title 18,
15 United States Code (relating to explosive
16 materials offenses);

17 “(ii) section 922 or 924 of title 18,
18 United States Code (relating to firearms
19 offenses); or

20 “(iii) section 5861 of the Internal
21 Revenue Code of 1986 (relating to fire-
22 arms offenses);

23 “(F) a violent crime for which the term of
24 imprisonment is at least 1 year, including—

1 “(i) any offense that has an element
2 the use, attempted use, or threatened use
3 of physical force against the person or
4 property of another; or

5 “(ii) any other offense in which the
6 record of conviction establishes that the of-
7 fender used physical force against the per-
8 son or property of another in the course of
9 committing the offense;

10 “(G)(i) theft (including theft by deceit,
11 theft by fraud, embezzlement, motor vehicle
12 theft, unauthorized use of a vehicle, or receipt
13 of stolen property), regardless of whether the
14 intended deprivation was temporary or perma-
15 nent, for which the term of imprisonment is at
16 least 1 year; or

17 “(ii) burglary for which the term of impris-
18 onment is at least 1 year;

19 “(H) an offense described in section 875,
20 876, 877, or 1202 of title 18, United States
21 Code (relating to the demand for or receipt of
22 ransom);

23 “(I) an offense involving child pornography
24 or sexual exploitation of a minor (including any

1 offense described in section 2251, 2251A, or
2 2252 of title 18, United States Code);

3 “(J) an offense described in section 1962
4 of title 18, United States Code (relating to
5 racketeer influenced corrupt organizations), or
6 an offense described in section 1084 (if it is a
7 second or subsequent offense) or 1955 of that
8 title (relating to gambling offenses);

9 “(K) an offense that—

10 “(i) relates to the owning, controlling,
11 managing, or supervising of a prostitution
12 business;

13 “(ii) is described in section 2421,
14 2422, or 2423 of title 18, United States
15 Code (relating to transportation for the
16 purpose of prostitution) if committed for
17 commercial advantage; or

18 “(iii) is described in any of sections
19 1581–1585 or 1588–1591 of title 18,
20 United States Code (relating to peonage,
21 slavery, involuntary servitude, and traf-
22 ficking in persons);

23 “(L) an offense described in—

24 “(i) section 793 (relating to gathering
25 or transmitting national defense informa-

1 tion), 798 (relating to disclosure of classi-
2 fied information), 2153 (relating to sabo-
3 tage) or 2381 or 2382 (relating to treason)
4 of title 18, United States Code;

5 “(ii) section 601 of the National Secu-
6 rity Act of 1947 (50 U.S.C. 421) (relating
7 to protecting the identity of undercover in-
8 telligence agents);

9 “(iii) section 601 of the National Se-
10 curity Act of 1947 (relating to protecting
11 the identity of undercover agents);

12 “(iv) section 175 (relating to biologi-
13 cal weapons) of title 18, United States
14 Code;

15 “(v) sections 792 (harboring or con-
16 cealing persons who violated sections 793
17 or 794 of title 18, United States Code),
18 794 (gathering or delivering defense infor-
19 mation to aid foreign government), 795
20 (photographing and sketching defense in-
21 stallations), 796 (use of aircraft for
22 photographing defense installations), 797
23 (publication and sale of photographs of de-
24 fense installations), 799 (violation of

1 NASA regulations for protection of facili-
2 ties) of title 18, United States Code;

3 “(vi) sections 831 (prohibited trans-
4 actions involving nuclear materials) and
5 832 (participation in nuclear and weapons
6 of mass destruction threats to the United
7 States) of title 18, United States Code;

8 “(vii) sections 2332a-d, f-h (relating
9 to terrorist activities) of title 18, United
10 States Code;

11 “(viii) sections 2339 (relating to har-
12 boring or concealing terrorists), 2339A (re-
13 lating to material support to terrorists),
14 2339B (relating to material support or re-
15 sources to designated foreign terrorist or-
16 ganizations), 2339C (relating to financing
17 of terrorism), 2339D (relating to receiving
18 military-type training from a terrorist or-
19 ganization) of title 18, United States Code;

20 “(ix) section 1705 of the International
21 Emergency Economic Powers Act (50
22 U.S.C. 1705); or

23 “(x) section 38 of the Arms Export
24 Control Act (22 U.S.C. 2778);

25 “(M) an offense that—

1 “(i) involves fraud or deceit in which
2 the loss to the victim or victims exceeds
3 \$10,000; or

4 “(ii) is described in section 7201 of
5 the Internal Revenue Code of 1986 (relat-
6 ing to tax evasion) in which the revenue
7 loss to the Government exceeds \$10,000;

8 “(N) an offense described in section 274(a)
9 (relating to alien smuggling);

10 “(O) an offense described in section 275 or
11 276 for which the term of imprisonment is at
12 least 1 year;

13 “(P) an offense which is described in chap-
14 ter 75 of title 18, United States Code, and for
15 which the term of imprisonment is at least 1
16 year;

17 “(Q) an offense relating to a failure to ap-
18 pear by a defendant for service of sentence if
19 the underlying offense is punishable by impris-
20 onment for a term of 5 years or more;

21 “(R) an offense relating to commercial
22 bribery, counterfeiting, forgery, or trafficking in
23 vehicles the identification numbers of which
24 have been altered for which the term of impris-
25 onment is at least one year;

1 “(S) an offense relating to obstruction of
2 justice, perjury or subornation of perjury, or
3 bribery of a witness;

4 “(T) an offense relating to a failure to ap-
5 pear before a court pursuant to a court order
6 to answer to or dispose of a charge of a felony
7 for which a sentence of 2 years’ imprisonment
8 or more may be imposed;

9 “(U) any offense for which the term of im-
10 prisonment imposed was 2 years or more;

11 “(V) an offense relating to terrorism or
12 national security (including a conviction for a
13 violation of any provision of chapter 113B of
14 title 18, United States Code; or

15 “(W)(i) a single conviction for driving
16 while intoxicated (including a conviction for
17 driving while under the influence of or impair-
18 ment by alcohol or drugs), when such impaired
19 driving was a cause of the serious bodily injury
20 or death of another person; or

21 “(ii) a second or subsequent conviction for
22 driving while intoxicated (including a conviction
23 for driving under the influence of or impaired
24 by alcohol or drugs); or

1 “(X) an attempt or conspiracy to commit
2 an offense described in this paragraph or aid-
3 ing, abetting, counseling, procuring, com-
4 manding, inducing, facilitating, or soliciting the
5 commission of such an offense.

6 Any determinations under this paragraph shall be
7 made on the basis of the record of conviction. For
8 purposes of this paragraph, a person shall be consid-
9 ered to have committed an aggravated felony if that
10 person has been convicted for 3 or more mis-
11 demeanors not arising out the traffic laws (except
12 for any conviction for driving under the influence or
13 an offense that results in the death or serious bodily
14 injury of another person) or felonies for which the
15 aggregate term of imprisonment imposed was 3
16 years or more, regardless of whether the convictions
17 were all entered pursuant to a single trial or the of-
18 fenses arose from a single pattern or scheme of con-
19 duct.”.

20 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
21 MENTS.—

22 (1) IN GENERAL.—The amendments made by
23 subsection (a)—

24 (A) shall take effect on the date of the en-
25 actment of this Act; and

1 (B) shall apply to any act or conviction
2 that occurred before, on, or after such date.

3 (2) APPLICATION OF IIRIRA AMENDMENTS.—

4 The amendments to section 101(a)(43) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1101(a)(43))
6 made by section 321 of the Illegal Immigration Re-
7 form and Immigrant Responsibility Act of 1996 (di-
8 vision C of Public Law 104–208; 110 Stat. 3009–
9 627) shall continue to apply, whether the conviction
10 was entered before, on, or after September 30, 1996.

11 **SEC. 3105. CRIME OF VIOLENCE.**

12 Section 16 of title 18, United States Code, is amend-
13 ed to read as follows:

14 **“§ 16. Crime of violence defined**

15 “(a) The term ‘crime of violence’ means an offense
16 that—

17 “(1)(A) is murder, voluntary manslaughter, as-
18 sault, sexual abuse or aggravated sexual abuse, abu-
19 sive sexual contact, child abuse, kidnapping, robbery,
20 carjacking, firearms use, burglary, arson, extortion,
21 communication of threats, coercion, unauthorized
22 use of a vehicle, fleeing, interference with flight crew
23 members and attendants, domestic violence, hostage
24 taking, stalking, human trafficking, or using weap-
25 ons of mass destruction; or

1 “(B) involves use or unlawful possession of ex-
2 plosives or destructive devices described in 5845(f)
3 of the Internal Revenue Code of 1986;

4 “(2) has as an element the use, attempted use,
5 or threatened use of physical force against the per-
6 son or property of another; or

7 “(3) is an attempt to commit, conspiracy to
8 commit, solicitation to commit, or aiding and abet-
9 ting any of the offenses set forth in paragraphs (1)
10 and (2).

11 “(b) In this section:

12 “(1) The term ‘abusive sexual contact’ means
13 conduct described in section 2244(a)(1) and (a)(2).

14 “(2) The terms ‘aggravated sexual abuse’ and
15 ‘sexual abuse’ mean conduct described in sections
16 2241 and 2242. For purposes of such conduct, the
17 term ‘sexual act’ means conduct described in section
18 2246(2), or the knowing and lewd exposure of geni-
19 talia or masturbation, to any person, with an intent
20 to abuse, humiliate, harass, degrade, or arouse or
21 gratify the sexual desire of any person.

22 “(3) The term ‘assault’ means conduct de-
23 scribed in section 113(a), and includes conduct com-
24 mitted recklessly, knowingly, or intentionally.

1 “(4) The term ‘arson’ means conduct described
2 in section 844(i) or unlawfully or willfully damaging
3 or destroying any building, inhabited structure, vehi-
4 cle, vessel, or real property by means of fire or ex-
5 plosive.

6 “(5) The term ‘burglary’ means an unlawful or
7 unprivileged entry into, or remaining in, a building
8 or structure, including any nonpermanent or mobile
9 structure that is adapted or used for overnight ac-
10 commodation or for the ordinary carrying on of busi-
11 ness, and, either before or after entering, the per-
12 son—

13 “(A) forms the intent to commit a crime;

14 or

15 “(B) commits or attempts to commit a
16 crime.

17 “(6) The term ‘carjacking’ means conduct de-
18 scribed in section 2119, or the unlawful taking of a
19 motor vehicle from the immediate actual possession
20 of a person against his will, by means of actual or
21 threatened force, or violence or intimidation, or by
22 sudden or stealthy seizure or snatching, or fear of
23 injury.

24 “(7) The term ‘child abuse’ means the unlawful
25 infliction of physical injury or the commission of any

1 sexual act against a child under fourteen by any per-
2 son eighteen years of age or older.

3 “(8) The term ‘communication of threats’
4 means conduct described in section 844(e), or the
5 transmission of any communications containing any
6 threat of use of violence to—

7 “(A) demand or request for a ransom or
8 reward for the release of any kidnapped person;
9 or

10 “(B) threaten to kidnap or injure the per-
11 son of another.

12 “(9) The term ‘coercion’ means causing the
13 performance or non-performance of any act by an-
14 other person which under such other person has a
15 legal right to do or to abstain from doing, through
16 fraud or by the use of actual or threatened force, vi-
17 olence, or fear thereof, including the use, or an ex-
18 press or implicit threat of use, of violence to cause
19 harm, or threats to cause injury to the person, rep-
20 utation or property of any person.

21 “(10) The term ‘domestic violence’ means any
22 assault committed by a current or former spouse,
23 parent, or guardian of the victim, by a person with
24 whom the victim shares a child in common, by a per-
25 son who is cohabiting with or has cohabited with the

1 victim as a spouse, parent, or guardian, or by a per-
2 son similarly situated to a spouse, parent, or guard-
3 ian of the victim

4 “(11) The term ‘extortion’ means conduct de-
5 scribed in section 1951(b)(2)), but not extortion
6 under color of official right or fear of economic loss.

7 “(12) The term ‘firearms use’ means conduct
8 described in section 924(c) or 929(a), if the firearm
9 was brandished, discharged, or otherwise possessed,
10 carried, or used as a weapon and the crime of vio-
11 lence or drug trafficking crime during and in rela-
12 tion to which the firearm was possessed, carried, or
13 used was subject to prosecution in any court of the
14 United States, State court, military court or tri-
15 bunal, or tribal court. Such term also includes un-
16 lawfully possessing a firearm described in section
17 5845(a) of the Internal Revenue Code of 1986 (such
18 as a sawed-off shotgun or sawed-off rifle, silencer,
19 bomb, or machine gun), possession of a firearm de-
20 scribed in section 922(g)(1), 922(g)(2) and
21 922(g)(4), possession of a firearm with the intent to
22 use such firearm unlawfully, or reckless discharge of
23 a firearm at a dwelling.

24 “(13) The term ‘fleeing’ means knowingly oper-
25 ating a motor vehicle and, following a law enforce-

1 ment officer's signal to bring the motor vehicle to a
2 stop—

3 “(A) failing or refusing to comply; or

4 “(B) fleeing or attempting to elude a law
5 enforcement officer.

6 “(14) The term ‘force’ means the level of force
7 needed or intended to overcome resistance.

8 “(15) The term ‘hostage taking’ means conduct
9 described in section 1203.

10 “(16) The term ‘human trafficking’ means con-
11 duct described in section 1589, 1590, and 1591.

12 “(17) The term ‘interference with flight crew
13 members and attendants’ means conduct described
14 in section 46504 of title 49, United States Code.

15 “(18) The term ‘kidnapping’ means conduct de-
16 scribed in section 1201(a)(1) or seizing, confining,
17 inveigling, decoying, abducting, or carrying away
18 and holding for ransom or reward or otherwise any
19 person.

20 “(19) The term ‘murder’ means conduct de-
21 scribed as murder in the first degree or murder in
22 the second degree described in section 1111.

23 “(20) the term ‘robbery’ means conduct de-
24 scribed in section 1951(b)(1), or the unlawful taking
25 or obtaining of personal property from the person or

1 in the presence of another, against his will, by
2 means of actual or threatened force, or violence or
3 intimidation, or by sudden or stealthy seizure or
4 snatching, or fear of injury, immediate or future, to
5 his person or property, or property in his custody or
6 possession, or the person or property of a relative or
7 member of his family or of anyone in his company
8 at the time of the taking or obtaining.

9 “(21) The term ‘stalking’ means conduct de-
10 scribed in section 2261A.

11 “(22) The term ‘unauthorized use of a motor
12 vehicle’ means the intentional or knowing operation
13 of another person’s boat, airplane, or motor vehicle
14 without the consent of the owner.

15 “(23) The term ‘using weapons of mass de-
16 struction’ means conduct described in section 2332a.

17 “(24) the term ‘voluntary manslaughter’ means
18 conduct described in section 1112(a).

19 “(c) For purposes of this section, in the case of any
20 reference in subsection (b) to an offense under this title,
21 such reference shall include conduct that constitutes an
22 offense under State or tribal law or under the Uniform
23 Code of Military Justice, if such conduct would be an of-
24 fense under this title if a circumstance giving rise to Fed-
25 eral jurisdiction had existed.”.

1 **SEC. 3106. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)) is amended by inserting after paragraph (52) the
6 following:

7 “(53)(A) The term ‘criminal gang’ means an ongoing
8 group, club, organization, or association of 5 or more per-
9 sons—

10 “(i) that has as one of its primary purposes the
11 commission of 1 or more of the criminal offenses de-
12 scribed in subparagraph (B) and the members of
13 which engage, or have engaged within the past 5
14 years, in a continuing series of such offenses; or

15 “(ii) that has been designated as a criminal
16 gang by the Secretary of Homeland Security, in con-
17 sultation with the Attorney General, as meeting
18 these criteria.

19 “(B) The offenses described, whether in violation of
20 Federal or State law or foreign law and regardless of
21 whether the offenses occurred before, on, or after the date
22 of the enactment of this paragraph, are the following:

23 “(i) A ‘felony drug offense’ (as defined in sec-
24 tion 102 of the Controlled Substances Act (21
25 U.S.C. 802)).

1 “(ii) A felony offense involving firearms or ex-
2 plosives or in violation of section 931 of title 18,
3 United States Code (relating to purchase, ownership,
4 or possession of body armor by violent felons).

5 “(iii) An offense under section 274 (relating to
6 bringing in and harboring certain aliens), section
7 277 (relating to aiding or assisting certain aliens to
8 enter the United States), or section 278 (relating to
9 importation of alien for immoral purpose), except
10 that this clause does not apply in the case of an or-
11 ganization described in section 501(c)(3) of the In-
12 ternal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
13 which is exempt from taxation under section 501(a)
14 of such Code.

15 “(iv) A violent crime described in section
16 101(a)(43)(F).

17 “(v) A crime involving obstruction of justice,
18 tampering with or retaliating against a witness, vic-
19 tim, or informant, or perjury or subornation of per-
20 jury.

21 “(vi) Any conduct punishable under sections
22 1028A and 1029 of title 18, United States Code (re-
23 lating to aggravated identity theft or fraud and re-
24 lated activity in connection with identification docu-
25 ments or access devices), sections 1581 through

1 1594 of such title (relating to peonage, slavery, and
2 trafficking in persons), section 1951 of such title
3 (relating to interference with commerce by threats or
4 violence), section 1952 of such title (relating to
5 interstate and foreign travel or transportation in aid
6 of racketeering enterprises), section 1956 of such
7 title (relating to the laundering of monetary instru-
8 ments), section 1957 of such title (relating to engag-
9 ing in monetary transactions in property derived
10 from specified unlawful activity), or sections 2312
11 through 2315 of such title (relating to interstate
12 transportation of stolen motor vehicles or stolen
13 property).

14 “(vii) An attempt or conspiracy to commit an
15 offense described in this paragraph or aiding, abet-
16 ting, counseling, procuring, commanding, inducing,
17 facilitating, or soliciting the commission of an of-
18 fense described in clauses (i) through (vi).”.

19 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
20 (8 U.S.C. 1182(a)(2)) is amended—

21 (1) in subparagraph (A)(i)—

22 (A) in subclause (I), by striking “or” at
23 the end;

24 (B) by inserting after subclause (II) the
25 following:

1 “(III) a violation of (or a con-
2 spiracy or attempt to violate) any law
3 or regulation of a State, the United
4 States, or a foreign country relating
5 to participation or membership in a
6 criminal gang, or

7 “(IV) any felony or misdemeanor
8 offense for which the alien received a
9 sentencing enhancement predicated on
10 gang membership or conduct that pro-
11 moted, furthered, aided, or supported
12 the illegal activity of the criminal
13 gang.”.

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

15 “(N) ALIENS ASSOCIATED WITH CRIMINAL
16 GANGS.—

17 “(i) ALIENS NOT PHYSICALLY
18 PRESENT IN THE UNITED STATES.—In the
19 case of an alien who is not physically
20 present in the United States:

21 “(I) That alien is inadmissible if
22 a consular officer, an immigration of-
23 ficer, the Secretary of Homeland Se-
24 curity, or the Attorney General knows
25 or has reason to believe—

1 “(aa) to be or to have been
2 a member of a criminal gang (as
3 defined in section 101(a)(53)); or

4 “(bb) to have participated in
5 the activities of a criminal gang
6 (as defined in section
7 101(a)(53)), knowing or having
8 reason to know that such activi-
9 ties will promote, further, aid, or
10 support the illegal activity of the
11 criminal gang.

12 “(II) That alien is inadmissible if
13 a consular officer, an immigration of-
14 ficer, the Secretary of Homeland Se-
15 curity, or the Attorney General has
16 reasonable grounds to believe the alien
17 has participated in, been a member of,
18 promoted, or conspired with a crimi-
19 nal gang, either inside or outside of
20 the United States.

21 “(III) That alien is inadmissible
22 if a consular officer, an immigration
23 officer, the Secretary of Homeland Se-
24 curity, or the Attorney General has
25 reasonable grounds to believe seeks to

1 enter the United States or has en-
2 tered the United States in furtherance
3 of the activities of a criminal gang, ei-
4 ther inside or outside of the United
5 States.

6 “(ii) ALIENS PHYSICALLY PRESENT IN THE
7 UNITED STATES.—In the case of an alien who
8 is physically present in the United States, that
9 alien is inadmissible if the alien—

10 “(I) is a member of a criminal gang
11 (as defined in section 101(a)(53)); or

12 “(II) has participated in the activities
13 of a criminal gang (as defined in section
14 101(a)(53)), knowing or having reason to
15 know that such activities will promote, fur-
16 ther, aid, or support the illegal activity of
17 the criminal gang.”.

18 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
19 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
20 amended by adding at the end the following:

21 “(H) ALIENS ASSOCIATED WITH CRIMINAL
22 GANGS.—Any alien is deportable who—

23 “(i) is or has been a member of a
24 criminal gang (as defined in section
25 101(a)(53));

1 “(ii) has participated in the activities
2 of a criminal gang (as so defined), knowing
3 or having reason to know that such activi-
4 ties will promote, further, aid, or support
5 the illegal activity of the criminal gang;

6 “(iii) has been convicted of a violation
7 of (or a conspiracy or attempt to violate)
8 any law or regulation of a State, the
9 United States, or a foreign country relat-
10 ing to participation or membership in a
11 criminal gang; or

12 “(iv) any felony or misdemeanor of-
13 fense for which the alien received a sen-
14 tencing enhancement predicated on gang
15 membership or conduct that promoted,
16 furthered, aided, or supported the illegal
17 activity of the criminal gang.”.

18 (d) DESIGNATION.—

19 (1) IN GENERAL.—Chapter 2 of title II of the
20 Immigration and Nationality Act (8 U.S.C. 1182) is
21 amended by inserting after section 219 the fol-
22 lowing:

23 “DESIGNATION OF CRIMINAL GANG

24 “SEC. 220.

25 “(a) DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary of Homeland Se-
2 curity, in consultation with the Attorney General, may
3 designate a group, club, organization, or association of 5
4 or more persons as a criminal gang if the Secretary finds
5 that their conduct is described in section 101(a)(53).

6 “(2) PROCEDURE.—

7 “(A) NOTIFICATION.—Seven days before mak-
8 ing a designation under this subsection, the Sec-
9 retary shall, by classified communication, notify the
10 Speaker and Minority Leader of the House of Rep-
11 resentatives, the President pro tempore, Majority
12 Leader, and Minority Leader of the Senate, and the
13 members of the relevant committees of the House of
14 Representatives and the Senate, in writing, of the
15 intent to designate a group, club, organization, or
16 association of 5 or more persons under this sub-
17 section and the factual basis therefor.

18 “(B) PUBLICATION IN THE FEDERAL REG-
19 ISTER.—The Secretary shall publish the designation
20 in the Federal Register seven days after providing
21 the notification under subparagraph (A).

22 “(3) RECORD.—

23 “(A) IN GENERAL.—In making a designation
24 under this subsection, the Secretary shall create an
25 administrative record.

1 “(B) CLASSIFIED INFORMATION.—The Sec-
2 retary may consider classified information in making
3 a designation under this subsection. Classified infor-
4 mation shall not be subject to disclosure for such
5 time as it remains classified, except that such infor-
6 mation may be disclosed to a court ex parte and in
7 camera for purposes of judicial review under sub-
8 section (c).

9 “(4) PERIOD OF DESIGNATION.—

10 “(A) IN GENERAL.—A designation under this
11 subsection shall be effective for all purposes until re-
12 voked under paragraph (5) or (6) or set aside pursu-
13 ant to subsection (c).

14 “(B) REVIEW OF DESIGNATION UPON PETI-
15 TION.—

16 “(i) IN GENERAL.—The Secretary shall re-
17 view the designation of a criminal gang under
18 the procedures set forth in clauses (iii) and (iv)
19 if the designated group, club, organization, or
20 association of 5 or more persons files a petition
21 for revocation within the petition period de-
22 scribed in clause (ii).

23 “(ii) PETITION PERIOD.—For purposes of
24 clause (i)—

1 “(I) if the designated group, club, or-
2 ganization, or association of 5 or more per-
3 sons has not previously filed a petition for
4 revocation under this subparagraph, the
5 petition period begins 2 years after the
6 date on which the designation was made;
7 or

8 “(II) if the designated group, club, or-
9 ganization, or association of 5 or more per-
10 sons has previously filed a petition for rev-
11 ocation under this subparagraph, the peti-
12 tion period begins 2 years after the date of
13 the determination made under clause (iv)
14 on that petition.

15 “(iii) PROCEDURES.—Any group, club, or-
16 ganization, or association of 5 or more persons
17 that submits a petition for revocation under
18 this subparagraph of its designation as a crimi-
19 nal gang must provide evidence in that petition
20 that it is not described in section 101(a)(53).

21 “(iv) DETERMINATION.—

22 “(I) IN GENERAL.—Not later than
23 180 days after receiving a petition for rev-
24 ocation submitted under this subpara-

1 graph, the Secretary shall make a deter-
2 mination as to such revocation.

3 “(II) CLASSIFIED INFORMATION.—
4 The Secretary may consider classified in-
5 formation in making a determination in re-
6 sponse to a petition for revocation. Classi-
7 fied information shall not be subject to dis-
8 closure for such time as it remains classi-
9 fied, except that such information may be
10 disclosed to a court ex parte and in camera
11 for purposes of judicial review under sub-
12 section (c).

13 “(III) PUBLICATION OF DETERMINA-
14 TION.—A determination made by the Sec-
15 retary under this clause shall be published
16 in the Federal Register.

17 “(IV) PROCEDURES.—Any revocation
18 by the Secretary shall be made in accord-
19 ance with paragraph (6).

20 “(C) OTHER REVIEW OF DESIGNATION.—

21 “(i) IN GENERAL.—If in a 5-year period no
22 review has taken place under subparagraph (B),
23 the Secretary shall review the designation of the
24 criminal gang in order to determine whether

1 such designation should be revoked pursuant to
2 paragraph (6).

3 “(ii) PROCEDURES.—If a review does not
4 take place pursuant to subparagraph (B) in re-
5 sponse to a petition for revocation that is filed
6 in accordance with that subparagraph, then the
7 review shall be conducted pursuant to proce-
8 dures established by the Secretary. The results
9 of such review and the applicable procedures
10 shall not be reviewable in any court.

11 “(iii) PUBLICATION OF RESULTS OF RE-
12 VIEW.—The Secretary shall publish any deter-
13 mination made pursuant to this subparagraph
14 in the Federal Register.

15 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
16 gress, by an Act of Congress, may block or revoke a des-
17 ignation made under paragraph (1).

18 “(6) REVOCATION BASED ON CHANGE IN CIR-
19 CUMSTANCES.—

20 “(A) IN GENERAL.—The Secretary may revoke
21 a designation made under paragraph (1) at any
22 time, and shall revoke a designation upon completion
23 of a review conducted pursuant to subparagraphs
24 (B) and (C) of paragraph (4) if the Secretary finds
25 that—

1 “(i) the group, club, organization, or asso-
2 ciation of 5 or more persons that has been des-
3 ignated as a criminal gang is no longer de-
4 scribed in section 101(a)(53); or

5 “(ii) the national security or the law en-
6 forcement interests of the United States war-
7 rants a revocation.

8 “(B) PROCEDURE.—The procedural require-
9 ments of paragraphs (2) and (3) shall apply to a
10 revocation under this paragraph. Any revocation
11 shall take effect on the date specified in the revoca-
12 tion or upon publication in the Federal Register if
13 no effective date is specified.

14 “(7) EFFECT OF REVOCATION.—The revocation of a
15 designation under paragraph (5) or (6) shall not affect
16 any action or proceeding based on conduct committed
17 prior to the effective date of such revocation.

18 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
19 ING.—If a designation under this subsection has become
20 effective under paragraph (2) an alien in a removal pro-
21 ceeding shall not be permitted to raise any question con-
22 cerning the validity of the issuance of such designation
23 as a defense or an objection.

24 “(b) AMENDMENTS TO A DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary may amend
2 a designation under this subsection if the Secretary
3 finds that the group, club, organization, or associa-
4 tion of 5 or more persons has changed its name,
5 adopted a new alias, dissolved and then reconsti-
6 tuted itself under a different name or names, or
7 merged with another group, club, organization, or
8 association of 5 or more persons.

9 “(2) PROCEDURE.—Amendments made to a
10 designation in accordance with paragraph (1) shall
11 be effective upon publication in the Federal Register.
12 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
13 section (a) shall also apply to an amended designa-
14 tion.

15 “(3) ADMINISTRATIVE RECORD.—The adminis-
16 trative record shall be corrected to include the
17 amendments as well as any additional relevant infor-
18 mation that supports those amendments.

19 “(4) CLASSIFIED INFORMATION.—The Sec-
20 retary may consider classified information in amend-
21 ing a designation in accordance with this subsection.
22 Classified information shall not be subject to disclo-
23 sure for such time as it remains classified, except
24 that such information may be disclosed to a court ex

1 parte and in camera for purposes of judicial review
2 under subsection (c) of this section.

3 “(c) JUDICIAL REVIEW OF DESIGNATION.—

4 “(1) IN GENERAL.—Not later than 30 days
5 after publication in the Federal Register of a des-
6 ignation, an amended designation, or a determina-
7 tion in response to a petition for revocation, the des-
8 ignated group, club, organization, or association of 5
9 or more persons may seek judicial review in the
10 United States Court of Appeals for the District of
11 Columbia Circuit.

12 “(2) BASIS OF REVIEW.—Review under this
13 subsection shall be based solely upon the administra-
14 tive record, except that the Government may submit,
15 for ex parte and in camera review, classified infor-
16 mation used in making the designation, amended
17 designation, or determination in response to a peti-
18 tion for revocation.

19 “(3) SCOPE OF REVIEW.—The Court shall hold
20 unlawful and set aside a designation, amended des-
21 ignation, or determination in response to a petition
22 for revocation the court finds to be—

23 “(A) arbitrary, capricious, an abuse of dis-
24 cretion, or otherwise not in accordance with
25 law;

1 “(B) contrary to constitutional right,
2 power, privilege, or immunity;

3 “(C) in excess of statutory jurisdiction, au-
4 thority, or limitation, or short of statutory
5 right;

6 “(D) lacking substantial support in the ad-
7 ministrative record taken as a whole or in clas-
8 sified information submitted to the court under
9 paragraph (2); or

10 “(E) not in accord with the procedures re-
11 quired by law.

12 “(4) JUDICIAL REVIEW INVOKED.—The pend-
13 ency of an action for judicial review of a designation,
14 amended designation, or determination in response
15 to a petition for revocation shall not affect the appli-
16 cation of this section, unless the court issues a final
17 order setting aside the designation, amended des-
18 ignation, or determination in response to a petition
19 for revocation.

20 “(d) DEFINITIONS.—As used in this section—

21 “(1) the term ‘classified information’ has the
22 meaning given that term in section 1(a) of the Clas-
23 sified Information Procedures Act (18 U.S.C. App.);

1 “(2) the term ‘national security’ means the na-
2 tional defense, foreign relations, or economic inter-
3 ests of the United States;

4 “(3) the term ‘relevant committees’ means the
5 Committees on the Judiciary of the Senate and of
6 the House of Representatives; and

7 “(4) the term ‘Secretary’ means the Secretary
8 of Homeland Security, in consultation with the At-
9 torney General.”.

10 (2) CLERICAL AMENDMENT.—The table of con-
11 tents for such Act is amended by inserting after the
12 item relating to section 219 the following:

“Sec. 220. Designation.”.

13 (e) MANDATORY DETENTION OF CRIMINAL GANG
14 MEMBERS.—

15 (1) IN GENERAL.—Section 236(c)(1) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1226(c)(1)), as amended by this division, is further
18 amended—

19 (A) in subparagraph (E), by striking “or”
20 at the end;

21 (B) in subparagraph (F), by inserting “or”
22 at the end; and

23 (C) by inserting after subparagraph (F)
24 the following:

1 “(G) is inadmissible under section
2 212(a)(2)(N) or deportable under section
3 237(a)(2)(H),”.

4 (2) ANNUAL REPORT.—Not later than March 1
5 of each year (beginning 1 year after the date of the
6 enactment of this Act), the Secretary of Homeland
7 Security, after consultation with the appropriate
8 Federal agencies, shall submit a report to the Com-
9 mittees on the Judiciary of the House of Represent-
10 atives and of the Senate on the number of aliens de-
11 tained under the amendments made by paragraph
12 (1).

13 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
14 ATION.—

15 (1) INAPPLICABILITY OF RESTRICTION ON RE-
16 MOVAL TO CERTAIN COUNTRIES.—Section
17 241(b)(3)(B) of the Immigration and Nationality
18 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
19 matter preceding clause (i), by inserting “who is de-
20 scribed in section 212(a)(2)(N)(i) or section
21 237(a)(2)(H)(i) or who is” after “to an alien”.

22 (2) INELIGIBILITY FOR ASYLUM.—Section
23 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
24 is amended—

1 (A) in clause (v), by striking “or” at the
2 end;

3 (B) by redesignating clause (vi) as clause
4 (vii); and

5 (C) by inserting after clause (v) the fol-
6 lowing:

7 “(vi) the alien is described in section
8 212(a)(2)(N)(i) or section 237(a)(2)(H)(i);
9 or”.

10 (g) TEMPORARY PROTECTED STATUS.—Section 244
11 of such Act (8 U.S.C. 1254a) is amended—

12 (1) by striking “Attorney General” each place
13 it appears and inserting “Secretary of Homeland Se-
14 curity”;

15 (2) in subparagraph (c)(2)(B)—

16 (A) in clause (i), by striking “or” at the
17 end;

18 (B) in clause (ii), by striking the period
19 and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) the alien is, or at any time has
22 been, described in section 212(a)(2)(N) or
23 section 237(a)(2)(H).”; and

24 (3) in subsection (d)—

25 (A) by striking paragraph (3); and

1 (B) in paragraph (4), by adding at the end
2 the following: “The Secretary of Homeland Se-
3 curity may detain an alien provided temporary
4 protected status under this section whenever
5 appropriate under any other provision of law.”.

6 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
7 101(a)(27)(J)(iii) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

9 (1) in subclause (I), by striking “and”;

10 (2) in subclause (II), by adding “and” at the
11 end; and

12 (3) by adding at the end the following:

13 “(III) no alien who is, or at any
14 time has been, described in section
15 212(a)(2)(N) or section 237(a)(2)(H)
16 shall be eligible for any immigration
17 benefit under this subparagraph;”.

18 (i) PAROLE.—An alien described in section
19 212(a)(2)(N) of the Immigration and Nationality Act, as
20 added by subsection (b), shall not be eligible for parole
21 under section 212(d)(5)(A) of such Act unless—

22 (1) the alien is assisting or has assisted the
23 United States Government in a law enforcement
24 matter, including a criminal investigation; and

1 (2) the alien’s presence in the United States is
2 required by the Government with respect to such as-
3 sistance.

4 (j) **EFFECTIVE DATE.**—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act and shall apply to acts that occur before, on,
7 or after the date of the enactment of this Act.

8 **SEC. 3107. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
9 **MIGRANTS UNABLE TO REUNITE WITH EI-**
10 **THER PARENT.**

11 Section 101(a)(27)(J)(i) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
13 striking “1 or both of the immigrant’s parents” and in-
14 serting “either of the immigrant’s parents”.

15 **SEC. 3108. CLARIFICATION OF AUTHORITY REGARDING DE-**
16 **TERMINATIONS OF CONVICTIONS.**

17 Section 101(a)(48) of the Immigration and National
18 Act (8 U.S.C. 1101(a)(48)) is amended by adding at the
19 end the following:

20 “(C) In making a determination as to
21 whether a conviction is for—

22 “(i) a crime under section 212(a)(2),

23 or

24 “(ii) a crime under 237(a)(2),

1 such determination shall be determined on the
2 basis of the record of conviction and any facts
3 established within the record of conviction.

4 “(D) Any reversal, vacatur, expungement,
5 or modification to a conviction, sentence, or
6 conviction record that was granted to amelio-
7 rate the immigration consequences of the con-
8 viction, sentence, or conviction record, or was
9 granted for rehabilitative purposes shall have no
10 effect on the immigration consequences result-
11 ing from the original conviction. The alien shall
12 have the burden of proving that the reversal,
13 vacatur, expungement, or modification was not
14 for such purposes. In no case in which a rever-
15 sal, vacatur, expungement, or modification was
16 granted for a procedural or substantive defect
17 in the criminal proceedings. Whether an alien
18 has been convicted of a crime for which a sen-
19 tence of one year or longer may be imposed or
20 whether the alien has been convicted for a
21 crime where the maximum penalty possible did
22 not exceed one year shall be determined based
23 on the maximum penalty allowed by the statute
24 of conviction as of the date the offense was
25 committed. Subsequent changes in State or

1 Federal law which increase or decrease the sen-
2 tence that may be imposed for a given crime
3 shall not be considered.”.

4 **SEC. 3109. ADDING ATTEMPT AND CONSPIRACY TO COMMIT**
5 **TERRORISM-RELATED INADMISSIBILITY**
6 **GROUNDS ACTS TO THE DEFINITION OF EN-**
7 **GAGING IN TERRORIST ACTIVITY.**

8 Section 212(a)(3)(B)(iv) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended—

10 (1) in subclause (VI), by striking the period
11 and inserting “; or”; and

12 (2) by adding at the end the following:

13 “(VII) an attempt or conspiracy
14 to do any of the foregoing.”.

15 **SEC. 3110. CLARIFYING THE AUTHORITY OF ICE DETAIN-**
16 **ERS.**

17 (a) IN GENERAL.—Section 287(d) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1357(d)) is amended
19 to read as follows:

20 “(d) DETAINDER OF INADMISSIBLE OR DEPORTABLE
21 ALIENS.—

22 “(1) IN GENERAL.—In the case of an individual
23 who is arrested by any Federal, State, or local law
24 enforcement official or other personnel for the al-
25 leged violation of any criminal or motor vehicle law

1 relating to driving while intoxicated or driving under
2 the influence (including driving while under the in-
3 fluence of or impairment by alcohol or drugs), the
4 Secretary may issue a detainer regarding the indi-
5 vidual to any Federal, State, or local law enforce-
6 ment entity, official, or other personnel if the Sec-
7 retary has probable cause to believe that the indi-
8 vidual is an inadmissible or deportable alien.

9 “(2) PROBABLE CAUSE.—Probable cause is
10 deemed to be established if—

11 “(A) the individual who is the subject of
12 the detainer matches, pursuant to biometric
13 confirmation or other Federal database records,
14 the identity of an alien who the Secretary has
15 reasonable grounds to believe to be inadmissible
16 or deportable;

17 “(B) the individual who is the subject of
18 the detainer is the subject of ongoing removal
19 proceedings, including matters where a charg-
20 ing document has already been served;

21 “(C) the individual who is the subject of
22 the detainer has previously been ordered re-
23 moved from the United States and such an
24 order is administratively final;

1 “(D) the individual who is the subject of
2 the detainer has made voluntary statements or
3 provided reliable evidence that indicate that
4 they are an inadmissible or deportable alien; or

5 “(E) the Secretary otherwise has reason-
6 able grounds to believe that the individual who
7 is the subject of the detainer is an inadmissible
8 or deportable alien.

9 “(3) TRANSFER OF CUSTODY.—If the Federal,
10 State, or local law enforcement entity, official, or
11 other personnel to whom a detainer is issued com-
12 plies with the detainer and detains for purposes of
13 transfer of custody to the Department of Homeland
14 Security the individual who is the subject of the de-
15 tainer, the Department may take custody of the in-
16 dividual within 48 hours (excluding weekends and
17 holidays), but in no instance more than 96 hours,
18 following the date that the individual is otherwise to
19 be released from the custody of the relevant Federal,
20 State, or local law enforcement entity.”.

21 (b) IMMUNITY.—

22 (1) IN GENERAL.—A State or a political sub-
23 division of a State (and the officials and personnel
24 of the State or subdivision acting in their official ca-
25 pacities), and a nongovernmental entity (and its per-

1 sonnel) contracted by the State or political subdivi-
2 sion for the purpose of providing detention, acting in
3 compliance with a Department of Homeland Secu-
4 rity detainer issued pursuant to this section who
5 temporarily holds an alien in its custody pursuant to
6 the terms of a detainer so that the alien may be
7 taken into the custody of the Department of Home-
8 land Security, shall be considered to be acting under
9 color of Federal authority for purposes of deter-
10 mining their liability and shall be held harmless for
11 their compliance with the detainer in any suit seek-
12 ing any punitive, compensatory, or other monetary
13 damages.

14 (2) FEDERAL GOVERNMENT AS DEFENDANT.—
15 In any civil action arising out of the compliance with
16 a Department of Homeland Security detainer by a
17 State or a political subdivision of a State (and the
18 officials and personnel of the State or subdivision
19 acting in their official capacities), or a nongovern-
20 mental entity (and its personnel) contracted by the
21 State or political subdivision for the purpose of pro-
22 viding detention, the United States Government
23 shall be the proper party named as the defendant in
24 the suit in regard to the detention resulting from
25 compliance with the detainer.

1 (3) BAD FAITH EXCEPTION.—Paragraphs (1)
2 and (2) shall not apply to any mistreatment of an
3 individual by a State or a political subdivision of a
4 State (and the officials and personnel of the State
5 or subdivision acting in their official capacities), or
6 a nongovernmental entity (and its personnel) con-
7 tracted by the State or political subdivision for the
8 purpose of providing detention.

9 (c) PRIVATE RIGHT OF ACTION.—

10 (1) CAUSE OF ACTION.—Any individual, or a
11 spouse, parent, or child of that individual (if the in-
12 dividual is deceased), who is the victim of an offense
13 that is murder, rape, or sexual abuse of a minor, for
14 which an alien (as defined in section 101(a)(3) of
15 the Immigration and Nationality Act (8 U.S.C.
16 1101(a)(3))) has been convicted and sentenced to a
17 term of imprisonment of at least 1 year, may bring
18 an action against a State or political subdivision of
19 a State or public official acting in an official capac-
20 ity in the appropriate Federal court if the State or
21 political subdivision, except as provided in paragraph
22 (3)—

23 (A) released the alien from custody prior
24 to the commission of such crime as a con-
25 sequence of the State or political subdivision's

1 declining to honor a detainer issued pursuant to
2 section 287(d)(1) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1357(d)(1));

4 (B) has in effect a statute, policy, or prac-
5 tice not in compliance with section 642 of the
6 Illegal Immigration Reform and Immigrant Re-
7 sponsibility Act of 1996 (8 U.S.C. 1373) as
8 amended, and as a consequence of its statute,
9 policy, or practice, released the alien from cus-
10 tody prior to the commission of such crime; or

11 (C) has in effect a statute, policy, or prac-
12 tice requiring a subordinate political subdivision
13 to decline to honor any or all detainers issued
14 pursuant to section 287(d)(1) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1357(d)(1)),
16 and, as a consequence of its statute, policy or
17 practice, the subordinate political subdivision
18 declined to honor a detainer issued pursuant to
19 such section, and as a consequence released the
20 alien from custody prior to the commission of
21 such crime.

22 (2) LIMITATIONS ON BRINGING ACTION.—An
23 action may not be brought under this subsection
24 later than 10 years following the occurrence of the

1 crime, or death of a person as a result of such
2 crime, whichever occurs later.

3 (3) PROPER DEFENDANT.—If a political sub-
4 division of a State declines to honor a detainer
5 issued pursuant to section 287(d)(1) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1357(d)) as
7 a consequence of the State or another political sub-
8 division with jurisdiction over the subdivision prohib-
9 iting the subdivision through a statute or other legal
10 requirement of the State or other political subdivi-
11 sion—

12 (A) from honoring the detainer; or

13 (B) fully complying with section 642 of the
14 Illegal Immigration Reform and Immigrant Re-
15 sponsibility Act of 1996 (8 U.S.C. 1373),

16 and, as a consequence of the statute or other legal
17 requirement of the State or other political subdivi-
18 sion, the subdivision released the alien referred to in
19 paragraph (1) from custody prior to the commission
20 of the crime referred to in that paragraph, the State
21 or other political subdivision that enacted the statute
22 or other legal requirement, shall be deemed to be the
23 proper defendant in a cause of action under this
24 subsection, and no such cause of action may be

1 maintained against the political subdivision which
2 declined to honor the detainer.

3 (4) ATTORNEY’S FEE AND OTHER COSTS.—In
4 any action or proceeding under this subsection the
5 court shall allow a prevailing plaintiff a reasonable
6 attorneys fee as part of the costs, and include expert
7 fees as part of the attorneys fee.

8 **TITLE IV—ASYLUM REFORM**

9 **SEC. 4101. CREDIBLE FEAR INTERVIEWS.**

10 Section 235(b)(1)(B)(v) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
12 striking “claim” and all that follows, and inserting “claim,
13 as determined pursuant to section 208(b)(1)(B)(iii), and
14 such other facts as are known to the officer, that the alien
15 could establish eligibility for asylum under section 208,
16 and it is more probable than not that the statements made
17 by, and on behalf of, the alien in support of the alien’s
18 claim are true.”.

19 **SEC. 4102. JURISDICTION OF ASYLUM APPLICATIONS.**

20 Section 208(b)(3) of the Immigration and Nationality
21 Act (8 U.S.C. 1158) is amended by striking subparagraph
22 (C).

1 **SEC. 4103. RECORDING EXPEDITED REMOVAL AND CRED-**
2 **IBLE FEAR INTERVIEWS.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity shall establish quality assurance procedures and take
5 steps to effectively ensure that questions by employees of
6 the Department of Homeland Security exercising expe-
7 dited removal authority under section 235(b) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
9 in a uniform manner, to the extent possible, and that both
10 these questions and the answers provided in response to
11 them are recorded in a uniform fashion.

12 (b) FACTORS RELATING TO SWORN STATEMENTS.—
13 Where practicable, any sworn or signed written statement
14 taken of an alien as part of the record of a proceeding
15 under section 235(b)(1)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
17 panied by a recording of the interview which served as the
18 basis for that sworn statement.

19 (c) INTERPRETERS.—The Secretary shall ensure that
20 a competent interpreter, not affiliated with the govern-
21 ment of the country from which the alien may claim asy-
22 lum, is used when the interviewing officer does not speak
23 a language understood by the alien.

24 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
25 There shall be an audio or audio visual recording of inter-
26 views of aliens subject to expedited removal. The recording

1 shall be included in the record of proceeding and shall be
2 considered as evidence in any further proceedings involv-
3 ing the alien.

4 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
5 section shall be construed to create any right, benefit,
6 trust, or responsibility, whether substantive or procedural,
7 enforceable in law or equity by a party against the United
8 States, its departments, agencies, instrumentalities, enti-
9 ties, officers, employees, or agents, or any person, nor does
10 this section create any right of review in any administra-
11 tive, judicial, or other proceeding.

12 **SEC. 4104. SAFE THIRD COUNTRY.**

13 Section 208(a)(2)(A) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

15 (1) by striking “Attorney General” each place
16 it appears and inserting “Secretary of Homeland Se-
17 curity”; and

18 (2) by striking “removed, pursuant to a bilat-
19 eral or multilateral agreement, to” and inserting
20 “removed to”.

21 **SEC. 4105. RENUNCIATION OF ASYLUM STATUS PURSUANT**
22 **TO RETURN TO HOME COUNTRY.**

23 (a) IN GENERAL.—Section 208(c) of the Immigration
24 and Nationality Act (8 U.S.C. 1158(c)) is amended by
25 adding at the end the following new paragraph:

1 “(4) RENUNCIATION OF STATUS PURSUANT TO
2 RETURN TO HOME COUNTRY.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B) , any alien who is granted
5 asylum status under this Act, who, absent
6 changed country conditions, subsequently re-
7 turns to the country of such alien’s nationality
8 or, in the case of an alien having no nationality,
9 returns to any country in which such alien last
10 habitually resided, and who applied for such
11 status because of persecution or a well-founded
12 fear of persecution in that country on account
13 of race, religion, nationality, membership in a
14 particular social group, or political opinion,
15 shall have his or her status terminated.

16 “(B) WAIVER.—The Secretary has discre-
17 tion to waive subparagraph (A) if it is estab-
18 lished to the satisfaction of the Secretary that
19 the alien had a compelling reason for the re-
20 turn. The waiver may be sought prior to depar-
21 ture from the United States or upon return.”.

22 (b) CONFORMING AMENDMENT.—Section 208(e)(3)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(e)(3)) is amended by inserting after “paragraph
25 (2)” the following: “or (4)”.

1 **SEC. 4106. 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; and” and
12 inserting a semicolon;

13 (3) in subparagraph (B), by striking the period
14 and inserting “; and”; and

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

16 “(C) ensure that a written warning ap-
17 pears on the asylum application advising the
18 alien of the consequences of filing a frivolous
19 application and serving as notice to the alien of
20 the consequence of filing a frivolous applica-
21 tion.”.

22 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(d)(6)) is amended by striking “If the” and all that
25 follows and inserting:

1 “(A) If the Secretary of Homeland Secu-
2 rity or the Attorney General determines that an
3 alien has knowingly made a frivolous applica-
4 tion for asylum and the alien has received the
5 notice under paragraph (4)(C), the alien shall
6 be permanently ineligible for any benefits under
7 this chapter, effective as the date of the final
8 determination of such an application;

9 “(B) An application is frivolous if the Sec-
10 retary of Homeland Security or the Attorney
11 General determines, consistent with subpara-
12 graph (C), that—

13 “(i) it is so insufficient in substance
14 that it is clear that the applicant know-
15 ingly filed the application solely or in part
16 to delay removal from the United States,
17 to seek employment authorization as an
18 applicant for asylum pursuant to regula-
19 tions issued pursuant to paragraph (2), or
20 to seek issuance of a Notice to Appeal in
21 order to pursue Cancellation of Removal
22 under section 240A(b); or

23 “(ii) any of the material elements are
24 knowingly fabricated.

1 “(C) In determining that an application is
2 frivolous, the Secretary or the Attorney Gen-
3 eral, must be satisfied that the applicant, dur-
4 ing the course of the proceedings, has had suffi-
5 cient opportunity to clarify any discrepancies or
6 implausible aspects of the claim.

7 “(D) For purposes of this section, a find-
8 ing that an alien filed a frivolous asylum appli-
9 cation shall not preclude the alien from seeking
10 withholding of removal under section
11 241(b)(3).) or protection pursuant to the Con-
12 vention Against Torture.”.

13 **SEC. 4107. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

14 (a) **ASYLUM CREDIBILITY DETERMINATIONS.**—Sec-
15 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
16 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
17 after “all relevant factors” the following: “, including
18 statements made to, and investigative reports prepared by,
19 immigration authorities and other government officials”.

20 (b) **RELIEF FOR REMOVAL CREDIBILITY DETER-**
21 **MINATIONS.**—Section 240(c)(4)(C) of the Immigration
22 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
23 by inserting after “all relevant factors” the following: “,
24 including statements made to, and investigative reports

1 prepared by, immigration authorities and other govern-
2 ment officials”.

3 **SEC. 4108. PENALTIES FOR ASYLUM FRAUD.**

4 Section 1001 of title 18 is amended by inserting at
5 the end of the paragraph—

6 “(d) Whoever, in any matter before the Secretary of
7 Homeland Security or the Attorney General pertaining to
8 asylum under section 208 of the Immigration and Nation-
9 ality Act or withholding of removal under section
10 241(b)(3) of such Act, knowingly and willfully—

11 “(1) makes any materially false, fictitious, or
12 fraudulent statement or representation; or

13 “(2) makes or uses any false writings or docu-
14 ment knowing the same to contain any materially
15 false, fictitious, or fraudulent statement or entry;
16 shall be fined under this title or imprisoned not more than
17 10 years, or both.”.

18 **SEC. 4109. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

19 Section 3291 of title 18 is amended—

20 (1) by striking “1544,” and inserting “1544,
21 and section 1546,”;

22 (2) by striking “offense.” and inserting “of-
23 fense or within 10 years after the fraud is discov-
24 ered.”.

1 **SEC. 4110. TECHNICAL AMENDMENTS.**

2 Section 208 of the Immigration and Nationality Act
3 (8 U.S.C. 1158) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (2)(D), by inserting
6 “Secretary of Homeland Security or the” before
7 “Attorney General”; and

8 (B) in paragraph (3), by inserting “Sec-
9 retary of Homeland Security or the” before
10 “Attorney General”;

11 (2) in subsection (b)(2), by inserting “Secretary
12 of Homeland Security or the” before “Attorney Gen-
13 eral” each place such term appears;

14 (3) in subsection (c)—

15 (A) in paragraph (1), by striking “Attor-
16 ney General” each place such term appears and
17 inserting “Secretary of Homeland Security”;

18 (B) in paragraph (2), in the matter pre-
19 ceeding subparagraph (A), by by inserting “Sec-
20 retary of Homeland Security or the” before
21 “Attorney General”; and

22 (C) in paragraph (3), by inserting “Sec-
23 retary of Homeland Security or the” before
24 “Attorney General”; and

25 (4) in subsection (d)—

1 (A) in paragraph (1), by inserting “Sec-
2 retary of Homeland Security or the” before
3 “Attorney General” each place such term ap-
4 pears;

5 (B) in paragraph (2), by striking “Attor-
6 ney General” and inserting “Secretary of
7 Homeland Security”; and

8 (C) in paragraph (5)—

9 (i) in subparagraph (A), by striking
10 “Attorney General” and inserting “Sec-
11 retary of Homeland Security”; and

12 (ii) in subparagraph (B), by inserting
13 “Secretary of Homeland Security or the”
14 before “Attorney General”.

15 **DIVISION C—ADDITIONAL** 16 **MATTERS**

17 **SEC. 1101. JUDICIAL REVIEW.**

18 In any action seeking judicial review of final agency
19 action under the authority of this division A, division B,
20 or the amendments made by such divisions, to the extent
21 necessary to decision and when presented, the reviewing
22 court shall determine the meaning or applicability of the
23 terms of an agency action and decide de novo all relevant
24 questions of law, including the interpretation of constitu-
25 tional and statutory provisions, and rules made by agen-

1 cies. If the reviewing court determines that a statutory
2 or regulatory provision relevant to its decision contains a
3 gap or ambiguity, the court shall not interpret that gap
4 or ambiguity as an implicit delegation to the agency of
5 legislative rule making authority and shall not rely on such
6 gap or ambiguity as a justification either for interpreting
7 agency authority expansively or for deferring to the agen-
8 cy's interpretation on the question of law.